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Shifting Imageries: Artificial Intelligence and Journalism in African Legacy Media

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ABSTRACT: In newsrooms of the past, legacy media (Newspaper, Radio & Television) journalists and producers were jacks of all trades. Their multifaceted approach was inherently present in their dedication to telling an objective story and acting as the voice of the voiceless. The traditional journalist went through analogic, ethical, and human processes to produce a good story. They were voicepieces to the camera, sounds behind the narrative, fingers on the keyboard, faces on the screen. The newsroom operations fully relied on these human figures to deliver the stories and keep the audience informed. This image of how we understood journalism is quickly shifting with the entry of Artificial Intelligence-aided news production. In the African context, technological advancements have progressed in a couple of decades. But during the last ten years, Artificial Intelligence (AI) has greatly impacted and advanced technological processes. Leading this wave are China and the United States, both of which are advancing at a strong but different rate. Therefore, understanding the dominant attitudes and practices surrounding AI on Chinese social media is crucial to understanding how AI will develop going forward (Xinhuanet 2019). As a check on political power and a significant influencer of public opinion throughout history, the media has been referred to as the "fourth pillar" (Chen 2013). However, as technology advances, the media enters a new era marked by the digital dissemination of information and the fusion of multiple media formats. With the use of artificial intelligence (AI) synthetic anchors and 5G connectivity, AI technology is becoming more and more prevalent in a variety of industries, including the media. Even with AI's advancements in media production, it will be difficult for technology to fully replace human hosts/journalists in virtual environments due to the highly involved and demanding nature of media labor. Through a systematic literature review of global media landscapes, the paper will explore the juxtaposition of old imageries in the African newsroom and AI-imposed imaginings. The paper looks at the value system of the traditional human newsreaders/producers as well as the tactics media practitioners must apply to deal with the effects of AI-driven advancements. It highlights how AI is changing the media industry and how important it is to raise the level of proficiency among media professionals.

KEYWORDS: Shifting Imageries, Artificial intelligence, Journalism in Africa, Legacy Media

Introduction

Journalism practice in Africa spans over 50 years, hinged on educational pedagogies that produced journalists aligned with traditional news production processes. The structures emphasized the inverted pyramid and pyramid formats for the formulation of stories. Ogola (2015) exposition on African journalism portrays an industry that has creatively and proactively appropriated a range of new media technologies. He argues that these adaptations have become an inalienable part of the continent's journalism. Journalists across the continent, including Kenya, Uganda, Zimbabwe and South Africa, have integrated technological changes in their newsrooms that are part and parcel of news everyday practices. The author distinguishes the ability of professionally trained journalists to apply a variety of skills in the practice, sustaining the imagery of 'a jack of all trades'. In other instances, media houses have employed non-trained celebrities and actors without basic journalism training, the result is a waterdown on the quality of content and unbridled flaunt on ethics. As a matter of journalistic creed, ethics is central to objective and professional reporting. All journalists must operate within the provided ethical tenets and principles measured within the frame of news values. The values are determined within a rigid criterion for selection that adopts Galtung and Ruge's (1965) concepts on news values. The classical work on news values set precedence in the framing of news along frequency, meaning,

relevance, negativity, and human interest. The basic model of framing news is relevant and advanced in Berger and Freeman (2011). The authors added a dimension that enhanced the interpretability of news within the cultural framework. The frequency in the span of unfolding events, personal aspects of information that define the context of the story i.e., a focus on *human interest*, provide a high potency in the connection of the event to people, their actions, and interactions. These formats have been aligned in training of journalism in Africa, mostly addressing the needs and priorities within legacy media. In their survey of African media, Barrat and Berger (2007) expose the level of performativity within journalism practice. They extol the intricacies of journalism within African contexts that chronicle stories demonstrating endless possibilities in the context and value of an African narrative. It's a story of courage, risk, and resilience, yet told under the bludgeoning weight of limited resources, incapacity in tools of trade, and technological ineptness.

Literature Review

AI and Shifts in Journalism Practice

It is on the backdrop of journalism practice in Africa that AI presents a possibility to create shifts in the production and storytelling processes. Artificial Intelligence, sometimes called machine intelligence, is associated with the intellect capabilities of machines in contrast to humanistic intelligence measured through Intelligence Quotient (IQ) and sometimes Emotional Quotient (EQ). Machine powered intelligence can perform activities such as speech recognition, learning, planning, and problem-solving. AI displays human cognitive abilities, including thinking, reasoning, comprehending facts, judgment, and deduction. The origins of AI can be traced to the 20th century with the processing of digital computers. However, its prominence in usage and discourse has been a recent affair. The interest in AI, however, has a long precedence from Turing's (1950) questioning of whether machines had a philosophical and logical orientation, in his famous question, 'Can machines think?' (Golatz, Beer, Katzenbach 2018). Turing devised the Turing Test consisting of a group of people conversing with Artificial Intelligence systems with the goal of identifying human beings from robots based only on their interactions. It's interesting to note that in several trials, people mistook machines for humans. Then, after John McCarthy coined the term "Artificial Intelligence" and developed the LISP programming language (Manning 2020). Beyond the 20th century, humans began to exploit naturally occurring non-living objects to create artificial intelligence (AI) that mimicked the appearance and behavior of nearby organisms.

Digital computers and Artificial Intelligence were innovations that both specialists and lay people came to understand. Although computers play a major role in Artificial Intelligence these days, intelligence was traditionally predominantly found in a range of instruments. In journalism education, AI tools are akin to interactive storytelling and teaching students to leverage AI for engaging news narratives. Journalism practitioners can use AI for data-driven journalism to analyze data, check facts, and advance research skills. In the age of technology, students of journalism are not walking about with manual portfolios to show case their work, but are creating content through effective podcasting forums, YouTube and Tik Tok applications. Familiarizing journalism students with AI-powered writing and editing tools is a selling skillset that makes them ideal for the highly competitive and ever-changing market.

AI Interactions in Journalism Training and Practice

The shifts in human-machine interactions have become common discourse in the practice of journalism. This puts pressure on journalism training in institutions of higher learning to re-invent, adopt, or risk lagging. While most journalists in Africa are graduates of local training programmes, others are graduates of media studies programmes across the globe. Initially, formal training did

not provide a solid foundation for journalism, particularly for African journalism. That has changed with the opening of journalism schools throughout the continent. Training has not been limited to official institutions, especially in Africa. There are many different training programmes available; some are funded by non-state actors, some are journalism schools that have been established, but the most popular one is the growing need to place journalism education in respectable journalism programmes housed in accredited universities. Prioritized efforts have selected these programmes with the goal of strategically boosting their capacities. Because of changing social and cultural circumstances, changes in the media industry, and technological advancements over the past three decades, journalism practice has seen a shift in the news dynamics. In light that, newsrooms are currently strategically positioned to provide high-quality journalism on the continent.

Over time, journalism in Africa has become dependent on tertiary-level training and institutions of higher learning for professionally trained practitioners. The institutions offer both theoretical and practical courses aimed at equipping future journalists with skills to operate in the everchanging and dynamic media environment. Early recordings of journalism training in East Africa, for example, can be traced to the 1960s. Most of the journalism practice in the pre-independence period highly relied on Western theories and formats of production. Therefore, the establishment of institutions dedicated to training journalists was aimed at Africanizing the mass media; this was also synonymous with the waves of independence struggles that characterized the 1960s. Perhaps an expectation of media that would voice African issues post-independence. Between 1963 and 1968, journalists from Anglo-phone countries went through a series of training in media. To continue these programs, for example, in Kenya, UNESCO through the initiation of the Ministry of Education in 1968, set up a more pedagogical media training program integrated into the University of Nairobi. This gave birth to the University's School of Journalism and Mass Communication that served as a UNESCO regional project with funds from Denmark, Norway, and Austria to cater to students from Eastern and Central Africa (UoN 2024). In addition, journalism training in Africa put emphasis on hands on practical skills like newswriting, typewriting photography, film production, broadcast engineering, video and audio production. Presently, the market is moving from an all-rounded multi-media journalist to a tech-savvy, algorithm and data analyst, critical content creator, conversant with electronic, print and digital formats. With these qualities, it is evident that although AI is a welcome entrant, it, however, cannot surpass the human touch that comes out of the seasoned practice of individuals harnessed to perform multi-faceted tasks.

Shifting Imageries Amidst Technological Disruptions

The media remains a check on global socio-economic and technological dynamics, and a significant influencer of public opinion. Throughout history, the media has set trends in technological adaptations, and so must journalists respond to evident trends in AI. As technology advances, the media enters a new era of digital dissemination of information and the fusion of multiple media formats. Therefore, media houses must rethink new production models synchronous and asynchronous, to gear up for this technological shift. The 1990s registered significant remain transformations in African journalism. This period, commonly referred to as that of liberalization of airwaves, coincided with the adoption of political pluralism in many African countries, an era that was attended by the broader liberalization of African economies (Ogola 2015). The media sector, once state-dominated, was finally opened to private enterprise. The growth further witnessed the expansion of the media space, that has presented exponential opportunities for journalism graduates and has contributed to many institutions of higher learning focusing on including journalism or media-related courses in their curriculums. Fast forward to the 2010s, witnessed notions of incrementalism, shallow rhetoric and unapologetic 'innovation exhaustion' (Caswell 2023). The release of ChatGPT in November of 2022 opened floodgates of

possibilities and angst over the risk that the application with capabilities to script and construct ideas would revolutionize the way media production. According to Caswell (2023), the better half of 2023 was preoccupied with the quest to understand, embrace and accept AI-assisted media processes. In 2024, the industry is preoccupied with AI knowledge production, pondering if machines will replace humans in the newsrooms. With the use of AI synthetic anchors and 5G connectivity, AI technology will remain prevalent in a variety of industries, including the media. Journalists of the future have a unique niche in re-imagining AI-aided media labor. Despite AI's advancements in media production, technology cannot fully replace humans in virtual environments.

The Japanese Concept of SHU-HA-RI for AI Adaptation

The Japanese concept of SHU-HA-RI, with roots in the Japanese Noh theater, prescribes a deeper understanding that connects with expertise and excellence in any field of practice. In the *Heart of Agile*, Alistair Cockburn (2016) explains that Shu” roughly translates to ‘*follow*’, and conjures the stage of learning in where the novice learns through copying a master or a recipe. In essence, Shu is the commencement stage - “*learn one technique*.” “Ha” roughly translates to ‘*detach*’. It captures the second stage of learning, in which the person, whether acquiring new techniques or intrinsically intrigued by the depths and realms of the technique, submerges into a search for understanding – “*to collect a technique*”. The last stage Ri stands for ‘*leave*’. It is a phase of practice where the actor applies the whole physique to ever-changing situations, doing something different every time. At the Ri-level, people generally cannot say how they decide on a technique at the moment, because it is so ingrained and immediate. Essentially, Ri relates to “*Invent and blend techniques*”. Another author Duncan Miller (2018) has related *Shu* to the foundational principles of journalism, acquired during training, demanding foundational levels and principles that explicate professionalism. *Ha* refers to human intelligence and judgment. It calls for actors to rise above principles and disruptions and to arrive at a higher level of essence through observation, creativity and intuition. At the *Ri* stage, the journalist must demonstrate in practice how the adopted skills are utilized in producing an objective, balanced and truthful account. Whilst Artificial Intelligence has been likened to a fast-paced production of intellect, attributes like Emotional Intelligence (EI) and human capabilities surpass the abstract formulations of machines. That is why crucially there has been constant debate of who a journalist is. In foundational journalism classes, the idea of a professional person who can use a nose for news, wit, principles of practice and ethics to gather news can only apply to individuals who have stepped in a journalism class. Over time, this position is being challenged with the rise of citizen journalism as an alternative to mainstream news production and sources of continuous news content. Traditional notions of journalism are quickly fading, and perhaps the solution lies within models of training that are both adaptive and flexible to malliate floodgates of disruptive technologies. The integration of AI for technological quality is crucial, and cannot be ignored, but human aspects of the practice are key for journalism not turn into an abstract construct. The SHU-HA-RI concept might help unpack the elusive gap between knowledge and true mastery of any discipline. With this symbiotic connection between foundational principles of journalism (SHU), Human Intelligence and Knowledge (HA) and and technological enabling (RI), facilitates the positive pursuits of journalism.

Journalism Practice in Africa Legacy Media and the Need for a Shift

The journalism profession serves society through the production and dissemination of content that mirrors society. Information access is a right that supports democracy and responsible government. Critically speaking, the importance of accurate and balanced information cannot be overstated. Good journalism is vital to the governance and well-being of society. While there are many different sources of journalism training across the continent, legacy media houses have more structured programmes. It is crucial that journalism institutions invest in production facilities

that provide the most crucial and necessary practical and technological preparation of future journalists. In Africa, however many public as well as private media houses have limited funds and do not have sustainable technological support. Even so, the adaptation of new technological approaches in journalism practice is often financially handicapped and made worse by gaps in technological adaptations. Other internal incapacities have to do with knowledge base of adage technical know-how present in formats that are maladaptive to new technologies. Some of the journalists are new in the field or come from other subject areas and may not adequately stimulate emerging trends in journalism practice. Africa is largely affected by the legislative environment regulatory agencies that exist in the country. Article 19 of the United Nations Declaration on Human Rights (UNDHR 1945) establishes spaces for press freedom and fights against restrictive mechanisms within specific countries. The article lays emphasis on media freedom, freedom of expression and access to information. These tenets have, in the past decade, enabled a more liberal space for media practice. The enactment of the laws provides a robust environment for practice and should be a motivation for journalism practice alert to the current trends in the marketplace. Through technological innovations, AI is central for automated content creation, where AI tools are transforming news writing and content generation. AI enables in-depth analysis of large data sets for investigative journalism, while AI algorithms customize news content for individual readers. With the incorporation of AI tools in journalism, the market will be equipped with professionals of the future significant in creating a robust media for democracy, advancement of a country and raising people's levels of living.

AI Convergence in Journalism Practice

Journalism practice can benefit from the technological advancement in production, creativity and efficiency available with promising effects of Artificial Intelligence. However, there are fractures brought about in machine interfaces into an occupation that was generally humanistic. According to Elmas (2003), AI will have a greater impact on the web in the near future since it can produce information that helps websites identify the most relevant material. Çüçen (2001) claims that AI has been used in the following ways: Expert systems, which use computer systems to process vast amounts of data on real-world occurrences to facilitate decision-making, Artificial Neural Networks (ANNs) are utilized in speech translation, natural language processing solutions (which use AI to transcribe, interpret, and understand a language), natural language processing, voice recognition, and optical character recognition. Computer games where players fight against AI programmes in strategic games like backgammon and chess because the AI can perform a variety of calculations moves quickly, robot software that recognizes user interests and compiles related content from multiple online sources, and online chatbots that are used by websites to assist with customer care. It communicates with computer users in a manner like to that of a human and provides prompt answers to inquiries. Artificial intelligence has been used in media to run searches, scan photos from the archives, filter out objectionable and unpleasant content, and customise content for different audience groups. Radio automation has benefited from programmes like Radio Computing Systems (RCS), which offer services like music archiving, daily broadcast stream preparation, song rotation management (removing the need for DJs), and statistical data that is essential for guiding broadcast strategy. AI can be adequately utilized in curriculum development through designing courses to incorporate AI in journalism education. It can offer technical competences through equipping students with AI skills relevant to news reporting. However, all these processes must go hand in hand with the integration of ethics and AI practices into journalism training.

Detriments of Artificial Intelligence and Alternatives

One major benefit of artificial intelligence is that people using computers will be able to converse in their native tongues regardless of their educational background. Additionally, it will make it possible for computers to make decisions, acquire information, and solve issues. These will speed

up information processing and lessen the amount of information that is processed too quickly. One drawback is that purchasing computers will cost more, and for the software to function, it will need to be developed by professionals and operated by trained individuals. Other negative associations with include: i) diagonal mitigations, where AI raises concerns about algorithmic bias in news reporting; ii) transparency, where there are ethical considerations in using AI for news production and dissemination; iii) accountability, where journalists must ensure the responsible use of AI in journalism to maintain trust. In addition, AI should be applied in a manner that maintains journalists' integrity through fact-checking automation, where AI can be used in verifying information and combating misinformation; preserving authenticity, this can be achieved through balancing AI use with the preservation of journalistic integrity. In all these process of journalistic processes AI should be applied within the framework of journalistic standards.

Methodology

This paper used a systematic literature review of AI applications in global media scopes, to determine emerging constructs and gaps of interactions in journalism training. Interviews were done using a social media format with select journalism experts that included university professors and journalism lecturers, active practitioners in the field of journalists and journalist experts from the legacy media context. The paper employs a descriptive research design. The methodological approach is qualitative deriving a thematic analysis from interview transcripts. Serry & Liamputtong (2013) place qualitative research methods as relevant in understanding processes, meaning, and purposes. The research method is significant in addressing internal realities and ways in which the world can be experienced in multiple ways. It is predicated on the idea that there may be several interpretations of a phenomenon that is witnessed in order to comprehend the meaning that individuals derive from their experiences and the world around them (Creswell 2012). This work utilized WhatsApp platforms to conduct chat interviews with journalism trainers, practitioners, and experts. Traditional qualitative methods applied face-to-face individual interviews and Focused Group Discussions (FGDs). However, increasingly Computer Mediated Communication (CMC) has become relevant in qualitative ethnographic. Chen and Neo (2019) study explored the potential of smartphone-based mobile messaging apps like WhatsApp as a novel method. The study is an indication of the potential of WhatsApp's for qualitative research. The authors further point to the usefulness of WhatsApp in eliciting group-level insights. In a similar vein, Singer et al. (2020) point out that WhatsApp can be used as a research tool to assist interviews—more specifically, group interviews—in environments with limited resources, which has real-world ramifications for data collecting, data quality, and data analysis. They stress the importance of maintaining ethical standards in carrying out qualitative research on social media applications. For this paper, the identity of the correspondents is hidden, while confidentiality and consent to use the data were attained. The interview questions were constructed to respond to gaps that explore the juxtaposition of old imageries of training in African Journalism institutions and AI imaginings of journalists of the future. Polkinghorne (1989) suggests that between 5 to 25 participants are sufficient for a qualitative in-depth interview. Qualitative data derived from select journalism trainers, experts and practitioners authorize significant angst and futuristic forecast of what journalism practice will look like in the phase of AI. The paper underscores AI's fostered changes in the media industry and imperatives to raise levels of training in Journalism institutions of higher learning in Kenya.

Qualitative Analysis

The analysis of qualitative data from in-depth interviews was done descriptively. The in-depth interviews were transcribed, and their analysis followed Marsh and White's (2006) steps that included: the identification of respondents, gathering of data through in-depth interviews with trainers, journalists, and experts, recording and transcription, thematic categorization,

interpretation of meanings, analysis, and presentation of findings, making conclusions. After transcription of data from respondents was treated as one data set, the analysis was shaped in three phases; *line by line*; *thematically*; and *holistically* by hand (Galloway et al. 2017). In the line-by-line analysis, major themes began to emerge, including unimagined possibilities in AI, challenges of AI in the African news context, AI functionality and efficiency, a futuristic gaze of journalism with AI, setbacks in AI applications in journalism training and Western-oriented origins of AI technology. The next step was to identify excerpts that descriptively fit within the thematic codes identified in the first phase. In the final phase, the codes were placed in larger categories that were determined from the research objectives on establishing the visual witnessing trauma phenomenon among journalists. The thematic results are presented in a sequence format (Table 1) below, thereafter a sequential analysis of empirical data narrative and interpretation of key findings.

Table 1: Thematic Frame for Qualitative Analysis

Themes	Respondents
<ul style="list-style-type: none"> • Unimagines possibilities in AI • Challenges of AI in higher education • AI functionality and efficiencies • Futuristic gaze on journalism with AI • Setbacks in AI training needs • AI as a Western-oriented construct 	<ul style="list-style-type: none"> • Digital media journalist, journalism student • Journalism trainer • Journalism veteran, journalism expert • Journalism trainer, journalism student • Journalism expert • Journalist student

Source Results from Qualitative Thematic Analysis (Author 2024)

Findings

Select results are presented to demonstrate the following themes:

Unimagined Possibilities

Artificial Intelligence provides the possibilities to assemble a quick collection of information and collate data especially for feature articles for print and digital media production. In journalism, news production involves dealing with long texts, summarizing and writing to fit within the constraints of time and space. AI is essentially useful in compressing content thereby saving crucial time that can be utilized in accomplish other tasks and attain high and efficient news production. However, there are limitations in Television and Radio Production, where reporters have to rely on well researched scripts and need technical and creative inputs like actualities, sound effects (sfx), video and audio editing techniques to accompany the script for broadcast. Overall, AI may not be equipped to maintain high ethical standards.

“Good journalism will basically remain the same - ethical, factual and objective. Changing technology can be used ethically or abused. AI might collate others’ original work without necessarily crediting the authors” (Respondent 1: Media Analyst 2024).

Challenge to African News Production

Africa is construed as always being behind the technology curve and Artificial Intelligence is no exception. While this is the status quo within global discourse, newsroom managers are challenged to re-invent and innovate to be at par with the fast changing technological space. In Africa, similar limitations may accrue within institutions of higher learning where there are strained budgets and limited financial resources to acquire advanced equipment, both hardware and software that can be used to equip students with AI skillset. More so, many journalism trainers are rooted in traditional pedagogies and may require skills and technological updates to cope with emerging AI trends. The journalism curriculums in journalism institutions of higher

learning ought to be reviewed to submit to market trends and AI dynamics. However, while AI presents a challenge to African constructs of storytelling, a technological integration with human interfaces could result into efficient, and creatively crafted news products.

“The mind engages in deep learning and creates new mental models - schemata also called wisdom. AI cannot do this now” (Respondent 2: Media Analyst 2024).

Data Analysis Tools

Journalism practice frequently employs AI-assisted tools in enhancing the production processes and effectively performing analytical processes within the shortest time possible. With the increased churning of information, AI prompts are useful tools for checking out global trends and patterns to create new dimensions and focus on production processes and storytelling formats. AI is an apt tool in analysis of thick data sets to enhance journalistic writing, which conforms to the interpretation and simplification of contexts into texts that diverse audiences can understand. In this process, it is important to maintain integrity and credibility in journalism. Increased sourcing of news from citizen journalists and other non-professional trained individuals has raised a concern on the credibility of information, AI can facilitate fact checking:

“Current fact-checking tools quickly verify the accuracy of claims and statements, helping journalists to combat misinformation and maintain the credibility of their reporting before they can publish their work” (Respondent 3: Media Practitioner 2024).

Diverse Functionality and Efficiency

AI is essential in language translations and provides close to accurate transcripts that are essential in attaining diverseness in news production. The process of transcription is further heightened, enhancing the performativity and productivity of media. AI technologies can transcribe audio and video recordings, as well as summarize lengthy documents or speeches, saving journalists time and effort in the research and writing process. Gone are the days when one had to spend time with headphones or even pay someone a fee for transcribing services.

“This has been a major boost to journalists and saves time having to translate an interview like years back when one would spend days working on translations and ended up draining your energy, now just a prompt and you have all your translations in a few seconds after with a click of a button” (Respondent 4: Digital Media Journalist, 2024).

AI-Driven Innovations in Journalism Education and Practice

While AI is assumed to be a Western-centric technology, enhancement of cross-cultural communication may boost the adaptation and acquisition of AI skills. Journalists in Africa can benefit from models like SHU-HA-RI in the journalism practice. Journalism training in institutions of higher learning should be sound to the emerging technological trends through exploring the latest AI applications in news production and dissemination. Trainers and Schools of Journalism can enhance technological adaptability through student empowerment and encouragement to drive AI innovation in journalism. Research in journalism education, as well as technological implications, is imperative to ascertain levels of effective outcomes by applying approaches to collaborative research that can promote academic-industry partnerships for AI-driven journalism advancements.

“AI could portend for journalism on the African continent because of the challenges that the continent faces. For example, data suggests that 78% of Sub-Saharan Africans still don't have access to the internet” (Respondent 5: Broadcast Journalist).

Setbacks in Artificial Intelligence Applications

AI presents limited access to the latest technology and new updates of software, as most newroom and practitioners, particularly those operating within marginalised contexts may not afford to purchase new updated software owing to high-rated monthly subscriptions. In some cases,

existing technological gadgets are not aligned with AI-centered software. Within newrooms, there are talks to replace some of the workforces with AI engineered machines. While there are positive attributes to ensure effective production and efficiency of labor, the idea of machines taking the place of humans is unpalatable as unwelcomed, but probably it cannot be wished away.

“AI is King and taking away jobs from journalists, for example roles of media researchers can quickly be prompted, and AI will give you all the answers you need and even more guided approach” (Respondent 6: Digital Journalist 2024).

The Future in Journalism with AI

AI presents a potential for fast and effective processing of news items and can greatly enhance efficiency in the media processes particularly in gathering information, access to archival resources that are pertinent to effective storytelling. AI enhances facets of disruptive technology that have become the norm within newroom production processes.

“ AI is enhancing a new technology approach and will keep in check journalists to also go a step further to learning as they go along with new updates and software's that can help them understand trends and audiences for their stories to be more relevant” (Respondent 7: Digital Journalist 2024).

AI enables the facilitation of gaining new adoptative skills in production, editing, and fact-checking systems. This approach is essential in story telling and valuable to creative minds borne from the daily usage of Artificial Intelligence (AI).

Discussion

When Miller (2018) presents the SHU-HA-RI concepts in communication dynamics, he promises comprehension and appreciation of the model's rootedness in human excellence and knowledge creation. For this context, the model utilized in Japanese traditional interactions with knowledge interpretations is essential to perceive human beings as products of excellence. In this positioning, we have argued that AI presents several unending opportunities in training and practice needs of journalism. Journalism provides viable interactions with AI technology, as well and human aspects of performativity, creativity, and emotional intelligence. This created a human-machine balance deficient in automated processes. AI has contributed to assisted content creation, although this is often positioned as a challenge, because practitioners with mastered concepts of news writing or feature writing or even script writing, may rush to AI to generate these items for news production. So instead of being assisted by AI, journalists may replace AI tools as content generators. AI presents opportunities for data mining which can be useful to journalism, but this front is not explored much in the classroom. AI has personalized news content, and practitioners are encouraged to open social media channels, such as Twitter, to follow news trends, audience trends and to also create content. Due to misinformation prevalence, AI incorporates fact-checking and verification as aspects of journalism practice. AI technologies can assist journalists in verifying the authenticity of news sources, detecting misinformation, and fact-checking claims. This helps uphold journalistic integrity and combat the spread of fake news. AI-based language transcription services can help journalists work faster to create content e.g. from interviews etc. Since AI tools are here with us to stay, journalism practitioners should embrace creative ways of ensuring they learn concepts first before over-relying on AI assistance. In addition, there is need for training on how to handle AI (mis)use to fully exploit this new potential but without compromising journalistic standards and ethics. However, in the African contexts, there are overarching setbacks including over-reliance on AI tools, without checking its advantages and disadvantages. Most users tend to over 'trust' technology instead of approaching it with skepticism to get the best out of the technology without compromising integrity.

Conclusion

The integration of AI into journalism practice has taken root, with many media houses in Africa sprucing up to be at par with the technological shift. The application of AI in computer systems has changed how data is handled, exchanged, and stored digitally, thanks to search engines like Google. AI techniques have also made it possible to analyze data. Platforms like Twitter and Facebook have demonstrated this, as businesses can utilize data analysis to determine customer preferences and boost sales. AI is also used in the media through broadcast radio automation and newscasting. While AI will greatly assist the world by speeding up operations, it has also begun to replace people, which is causing problems with unemployment and posing a danger to communication education systems.

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Communication Styles and Qualities of High and Low Performing Transformational Leaders – Subordinates’ Perspective

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ABSTRACT: This study explored 98 Finnish leaders’ strengths and weaknesses as described by their followers. The leaders were appraised by their transformational leadership and communication styles by their followers. The results were divided into two groups: leaders who obtained good evaluations of their leadership style and those with lower results. The subordinates’ verbal comments were grouped based on themes about the strengths and weaknesses of both groups, revealing interesting differences between the two groups. Those leaders with high leadership ratings are especially good in Enabling behavior and Emphatic communication style. According to verbal comments of the subordinates, the strengths of high leadership ratings are more strongly emphasized in higher-level leadership traits such as courage, interpersonal skills, a positive attitude, and motivation. On the other hand, the strengths of low leadership ratings focus more on fundamental leadership skills like organization, planning, fairness, and stress management.

KEYWORDS: transformational leadership, communication style, strengths, and weaknesses of leaders

1. Introduction

Transformational leadership has several benefits and plenty of studies in different cultures have shown its efficiency. It has shown substantial validity in predicting several outcomes, including leader performance and effectiveness ratings in addition to subordinates’ satisfaction and motivation (Judge and Piccolo 2004; Sashkin 2004).

Transformational leaders act as mentors to their followers by encouraging learning, achievement, and individual development. They provide meaning, act as role models, provide challenges, evoke emotions, and foster a climate of trust. Leaders should inspire and motivate others with their visions, role modelling and verbal skills. These inspiring and motivating behaviors require well-developed verbal communication skills.

Leaders’ communication style has been noted as an important quality and it is specially connected to enhancing self-awareness. Surprisingly, this area still lacks research. There are only a few studies which confirm the importance of the topic and show that leaders who pay attention to their own communication are more effective change agents than those who do not (Gilley, Gilley, and McMillan 2009), and that leaders’ communication styles are linked to their subordinates’ levels of satisfaction (Infante, Elissa, and Gorden 1982) and motivation (Kay and Christophel 1995).

Communication is a key dimension of leadership and only a few studies have focused on this aspect. Fewer studies have focused on verbal comments on leaders’ qualities—the focus of our study. Our interest is to examine whether good and weaker transformational leaders are verbally described differently. To develop leadership behavior, leaders should know the typical communication areas to focus on. The purpose is to examine transformational leadership and communication style solely from followers’ perspective and see if there are differences between comments of high ratings received by transformational leaders and lower ratings received by other leaders.

2. Literature review

Transformational leadership

Transformational leadership improves the morale and performance of employees and motivates them in a variety of ways. It gives employees a sense of belonging, making each employee and manager feel like a collective unit (Fassina et al. 2008). Transformational leaders show concern towards the needs of their subordinates, motivating and inspiring them to achieve organizational goals and objectives. Transformational leaders are not solely focused on the task at hand; they mentor subordinates, help employees create a bond within the organization, developing individuals into leaders. These types of leaders can boost the performance level of their staff and ensure that they are satisfied within the working environment, thus making them fully committed to the organization (Chen et al. 2014). Transformational leaders express social and emotional intellect and are often charismatic, instilling organizational vision and goals in their employees (Bass and Avolio 1993). A study by Daus and Ashkanasy (2005) also indicates that emotional intelligence is significantly related to transformational leadership.

Communication and leadership

Interpersonal communication is conceptualized as the verbal and nonverbal interaction between two or more interdependent individuals (DeVito 2013). In work settings, dyadic communication is a two-way communication between superiors/leaders and their subordinates (Kristof-Brown et al. 2005).

Among the few studies on communication and leadership, De Vries et al. (2010) reported on charismatic, human-oriented, and task-oriented leadership and concluded that leadership is very much grounded in communication style in relation to charismatic and human-oriented leadership. They found charismatic leadership to be characterized by communication styles incorporating assuredness, supportiveness, argumentativeness, and preciseness. Berson and Avolio (2004) found that leaders assessed as transformational were more effective communicators in all three areas factored in—that is, they were careful listeners, open, and careful transmitters. According to Lehmann-Willenbrock et al. (2015), transformational leadership was positively linked to functional problem-solving communication by team members. This positive relationship was mediated by leaders' solution-focused communication. Pacleb and Bocarnea (2016) conducted a study on the relationship between leadership styles and communication styles and the impact it has on leader-member exchange amongst employees in the United States banking sector. Findings revealed that transformational leadership positively predicts expressiveness, preciseness, and questioningness; and negatively predicts verbal aggressiveness, emotionality, and impression manipulateness as communication styles.

According to Brandt and Uusi-Kakkuri (2016), leaders who judged themselves to have a strong transformational leadership style also reported they had an emotionally intelligent, controlled, and transparent communication style. Their leadership style was marked by the absence of avoiding or dominating approaches. This was supported by followers' perspective in their ratings that more transformational leaders use more Emphatic communication style. The more Enabling leader was, the more Emphatic, Open and Non-Unclear s/he was evaluated. Emphatic communication style increases Modelling behavior, and the higher the subordinate's education level is, the more leadership is experienced as Modelling. Open communication also impacts Individual consideration (Brandt and Mäntyvaara 2024). According to Brandt (2021), highly transformational female leaders communicate differently than less transformational female leaders, indicating that the highly transformational leaders are using more Impatient, Self-Controlled, Dominant and Clear communication styles than less transformational female leaders.

3. Research methodology

Sample and method

The sample consisted of 98 respondents, most of them women (71%), at the age 31-40 year (32%) and an educational background in economics (31%). Most (60%) of the respondents had also experience of being in a leadership position. However, over half of them (62%) did not have subordinates. The leaders who were evaluating were mostly women (89%). Factor analyses were done with SPSS-program.

Respondents are grouped into two groups:

- 1) High transformational leaders - those who got good ratings (mean over 5 in the Likert scale 1-7) on their transformational leadership style, and
- 2) Low transformational leaders - those who got more weak ratings (mean below 5 in the Likert scale 1-7). Their communication styles and received written comments are analysed in this study.

Subordinates' verbal comments were grouped according to the themes raised. Open questions were as follows: 1) What are the strengths of your leader? 2) What are the weaknesses of your leader?

Questionnaires

Transformational leadership (TF) was measured with the Finnish version of the Leadership Practices Inventory (LPI), originally developed by Kouzes and Posner (1988). The Finnish version of the LPI used in this study has been in use since 2005 (see e.g. Hautala 2006; Brandt and Laiho 2013; Brandt 2021). The items in the questionnaire were rated on a Likert scale with options ranging from 1 (S/he never behaves like this) to 7 (S/he always behaves like this). The dimensions of transformational leadership are: Enabling, Challenging, Modelling, Rewarding, and Individual Consideration. Enabling ($\alpha=0,937$) means including everyone into projects, challenging ($\alpha=0,793$) constantly developing ways of working, and taking also risks, Modelling ($\alpha=0,690$) means showing example in the way of working, Rewarding ($\alpha=0,862$) means celebrating outcomes and Individual consideration ($\alpha=0,686$) means taking others individually into account in various ways.

Communication style was measured with 34 items, examining different perspectives on communication styles with a 7-point Likert scale from 1 (S/he never behaves like this) to 7 (S/he always behaves like this). Following factor analyses with Varimax rotation, four communication styles were designated: Emphatic, Avoidant, Dominating and Correct. Emphatic ($\alpha=0,842$) style means that a person can notice the other person's feelings, if in doubt that s/he has been insulting, s/he is apologizing, and s/he can easily put his/her soul into the other's position. The Avoidant style ($\alpha=0,869$) means that a person has the tendency to avoid or delay the critical subjects. Dominant style ($\alpha=0,849$) means that person takes a crucial role in the discussions and can raise his/her voice during the discussions; others might be a little bit scared of his/her presence. The Open style ($\alpha=0,645$) means that a person does show his/her weaknesses as well and is able to ask forgiveness if noticing doing something wrongly.

4. Results

Numerical results of transformational leadership and communication style

Table 1 shows the numerical results of transformational leadership. In the total sample, the mean of the TF-total is 5,06 and the highest was the Modelling behaviour while the lowest was Individual consideration. In the case of the communication, the highest was Emphatic communication and lowest Dominant.

When looking at the high and low transformational leadership groups, Dominant and Unclear communication are higher than the Total Sample in low-TF leaders and Openness is clearly lower than in Total Sample group. In the high-TF leaders the Emphatic communication is highest and Dominant and Unclear communication are lower in the Total Sample.

Those leaders with high leadership ratings are especially good in Enabling behaviour and their weakest part is Individual consideration. The leaders with low leadership ratings are at their best in Modelling and they are weakest in both Rewarding and Individual consideration.

Table 1. Means of the different groups of transformational leaders, and t-test between the groups

	Total Sample Mean (s.td) N=98	Low-TF Mean(s.td) N=41	High-TF Mean(s.td) N=56
Transformational leadership style (TF)			
TF-Total	5,06 (0,71)	4,37 (0,47)	5,56 (0,34)
TF-Enabling	5,97 (0,94)	5,26 (0,99)	6,49 (0,43)
TF-Challenging	5,28 (1,00)	4,61 (1,07)	5,77 (0,58)
TF-Modelling	6,15 (0,93)	5,66 (1,11)	6,22 (0,53)
TF-Rewarding	4,43 (1,65)	3,17 (1,34)	5,38 (1,17)
TF-Individual Consideration	3,45 (1,08)	3,17 (1,21)	3,67 (0,94)
Communication style			
Unclear	3,13 (0,71)	3,35 (0,79)	2,97 (0,61)
Emphatic	5,09 (0,82)	4,71 (0,84)	5,38 (0,68)
Dominant	2,60 (1,25)	2,77 (1,30)	2,50 (1,21)
Open	4,80 (1,29)	4,27 (1,35)	5,16 (1,12)

Table 2. Analyses of the High-TF and Low-TF leaders' received verbal comments of their strengths

High-TF leaders' strengths	Low-TF leaders' strengths
<p>Promptness and Responsibility:</p> <ul style="list-style-type: none"> - Approaches all tasks with enthusiasm and ensures nothing is left undone. - Promptness in actions and decision-making. - Takes responsibility and delivers on promises within deadlines. <p>Fairness, Trust and Reliability:</p> <ul style="list-style-type: none"> - Emphasizes fairness and perseverance. - Reliable, straightforward, and self-aware. - Fair and takes stand for his/her team. - Natural ability to gain people's trust. - Strong self-confidence and trust in others. - Embraces openness and honesty. <p>Positive Attitude:</p> <ul style="list-style-type: none"> - Approaches all tasks with enthusiasm. - Sense of humor and positive outlook. - Recognizes positive qualities in people. - Maintains a positive and motivating demeanor. - Approaches situations with positivity and encouragement. 	<p>Communication and Interaction:</p> <ul style="list-style-type: none"> - Working with diverse individuals. - Presentational skills, positive, and innovative. - Focus and staying on topic. - Solution-oriented approach and handling challenging issues. - Clear communication and effective interaction. - Listening and paying attention. - Providing positive feedback and encouragement. - Openness and taking a stand. <p>Determination and Courage in Action:</p> <ul style="list-style-type: none"> - Determined approach, not afraid of challenges. - Taking initiative and achieving goals. - Willingness to express strong personal views. - Courage to defend one's position and promote ideas. - Belief in one's strengths. - Ability to navigate through difficult situations and conflicts.

<p>Communication Skills:</p> <ul style="list-style-type: none"> - Excellent communication skills. - Recognizes positive qualities in people. - Capable of handling challenging situations constructively. - In team settings, considers everyone's input. - Empathetic and considerate leadership style. - Highly emotionally intelligent and adept at reading people. - Strong interpersonal skills and collaboration abilities. - Possesses a helpful and caring attitude. <p>Motivation and Support:</p> <ul style="list-style-type: none"> - Leads change by engaging team members. - Ability to motivate the team towards set goals. - Provides support in facing challenges and considers individuals' needs. - Practices common-sense leadership, acting as both a boss and a friend. <p>Expertise, Innovation, and Eagerness to Learn:</p> <ul style="list-style-type: none"> - Extensive expertise in the field. - Eagerness to learn and quick learning ability. - High education, experience, and proficiency. - Presents innovative ideas for improvement. - Logical thinking and solution-oriented. 	<p>Fairness and Equity:</p> <ul style="list-style-type: none"> - Fairness and justice. - Precision and approachability. - Fair and demanding when necessary. - Authoritative when needed. - Addressing unequal treatment. <p>Efficiency and Professionalism:</p> <ul style="list-style-type: none"> - Efficiency, precision, and professionalism. - Knowledge and the ability to figure things out. - Excellent teaching in work-related matters. - Excelling in personal work. - Performance and staying on schedule. <p>Organization and Planning:</p> <ul style="list-style-type: none"> - Planning and logical progression. - Staying on schedule and advancing tasks. - Organizational skills and precision. - Striving for goals and maintaining focus. - Systematic and efficient approach. - Calmness, analytical thinking, and logicity. - Seeing tasks through to completion and taking responsibility. - Leadership in processes and continuous development as a leader. <p>Expertise and Trust:</p> <ul style="list-style-type: none"> - Strong expertise and trust in subordinates. - Leading the team and trusting the team. - Caring for colleagues and promoting fairness. - Considering the well-being of colleagues. <p>Stress Management and Self-Care:</p> <ul style="list-style-type: none"> - Emotional intelligence and stress management. - Recognizing personal well-being boundaries and resilience. - Ability to say "no" and reducing stress.
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Table 3. Analyses of the High and Low-TF leaders' received verbal comments of their developmental areas

High-TF leaders' areas for improvement	Low-TF leaders' areas for improvement
<p>Courage and boldness:</p> <ul style="list-style-type: none"> - Courage. - Taking on roles boldly. - A leader can shine, even when driving the team's matters! - Having the courage to fight more strongly for one's position, its progress, and personal ideas. - Believing in one's strengths. He could express his views more boldly, especially in situations where they differ from the prevailing perspective. 	<p>Building Team Spirit and Cohesion:</p> <ul style="list-style-type: none"> - Needs to prioritize inspiration and visioning more than administrative tasks. - Improvement in communicating ideas within the organization. - Highlighting the well-being and rejuvenation of subordinates/team. - Acknowledging and enjoying task milestones.

<ul style="list-style-type: none"> - He might be too modest about himself when speaking, but confident when talking about work matters. It's essential to consider not undervaluing oneself. <p>Consistency, Delegating:</p> <ul style="list-style-type: none"> - Consistency. Holding the line. - You don't have to do everything yourself. Being quick-witted and efficient can sometimes lead to doing too much for others. The team needs to keep up the pace. Occasionally delegating responsibility. <p>Focus on the big picture:</p> <ul style="list-style-type: none"> - Perfection cannot always be pursued. - In meetings, sometimes delving too deep into details, making it difficult to stay on schedule. Staying focused on the big picture would often be better for the end result. - Sometimes, fussing over even the smallest details, and energy may be unnecessarily spent on them. <p>Stress Management: Taking Care of Personal Resources, Organization:</p> <ul style="list-style-type: none"> - Recognizing the limitations of one's own resources. Taking care of personal well-being. - Directing energy only towards things that one can influence. While highly determined, sometimes, they may not realize the extent of their responsibilities. More attention should be paid to their well-being and resilience. - Organizing and remembering to calm down in stressful situations. - Sometimes, it feels like they are overly conscientious about work. Managing time in handling work-related matters could be an aspect worth developing. - Patience for the sake of personal resilience. - While it's admirable that the producer cares about small things, they shouldn't be driven to exhaustion! - Knowing how to say "no" at the workplace. A conscientious and kind employee who also takes care of tasks that are not part of their job description. <p>Communication: Openness, Staying on Topic, and Addressing Challenging Issues:</p> <ul style="list-style-type: none"> - Sometimes information is heard through the grapevine rather than directly from the supervisor. - Attention could be paid to how he presents matters to others. He could elaborate and share more about the presented issues. - Staying on topic. - Listening is occasionally forgotten when a topic isn't interesting enough. 	<p>Recognition of diversity and equality:</p> <ul style="list-style-type: none"> - Adopting a different approach to diverse colleagues and subordinates. - Treating people and departments more equally. - Emphasizing humanity and acknowledging each individual. - Striving for greater fairness among a large group of subordinates. <p>Trusting others and authority</p> <ul style="list-style-type: none"> - Holding staff accountable and addressing issues more proactively. - Sharing responsibility and trusting employees. - Using authority to address negative issues. - Understanding their position in more challenging situations. <p>Feedback and communication</p> <ul style="list-style-type: none"> - Receiving feedback constructively. - Providing more direct and assertive feedback. - Clarifying communication to avoid misunderstandings. - Reducing stress in managing difficult situations and finding common ground. - Speaking more slowly and calmly, especially in customer and other situations. - Adopting a calmer and more inclusive leadership style.
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<ul style="list-style-type: none"> – Bringing up and discussing challenging issues. Even difficult matters can and should be addressed. – Occasionally a bit impulsive, accelerating from zero to a hundred too quickly. – Some may perceive his style as too lively; in certain situations, it might be beneficial to restrain a bit and observe others' reactions more closely. 	
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5. Discussion

When leadership skills are better, Dominant and Unclear communication decreases and leaders are more emphatic. Better leaders excel in Enabling, while less effective leaders have strengths in Modelling. According to these results, the lower group is more hands-on type of leaders while the higher group is leading with including everyone with empathy. Individual consideration was weakest in both groups, which might indicate that there are quite many subordinates per one leader.

It seems that transformational leaders are very reliable in many ways (promptness, reliable, taking responsibility, meeting deadlines) and they enhance a culture of openness and trust. Enabling leadership and emphatic communication are seen in many comments (considers everyone's input, collaboration abilities, helpful and caring, emphatic). Comments include positive attitude and ability to motivate and show example with eagerness to learn and innovate. Individual consideration is observed by their recognition of positive qualities of team members.

Strengths in comparison (high-TF and low-TF strengths in comparison)

Stress management, emotional intelligence, and the ability to say "no" are linked to strengths of both leader types. While the strengths of both leader groups have been categorized differently, it is noteworthy that several similarities exist between them. For instance, an emphasis on openness, a positive approach, and the ability to handle challenging situations is common among both good and poor leaders' strengths.

The strengths of high-TF leaders are more strongly emphasized in higher-level leadership traits such as courage, interpersonal skills, a positive attitude, and motivation. On the other hand, the strengths of low-TF leaders focus more on fundamental leadership skills like organization, planning, fairness, and stress management. The differences may stem from the fact that the strengths of high-TF leaders aim to complement and further emphasize existing strengths, whereas the strengths of low TF-leaders represent areas for improvement in basic skills and social abilities.

In summary, the strengths of high TF-leaders are inclined towards the "soft" aspects of leadership, while the strengths of low TF-leaders highlight more fundamental aspects and working methods.

Comparing developmental areas

The difference in responses between the two groups with respect to developmental areas is due to their focus on different aspects of leadership improvement. The development areas for high-TF leaders emphasize stronger qualities such as courage, consistency, and stress management. Many comments related to their well-being and how to get their strengths more in use, and how they should be proud of their qualities and stronger with their opinions. Comments about organizing and detail-orientation were mentioned because team members were worried about their workload. Regarding low TF-leaders, the focus was more about impact on the others, that they should focus more on softer skills, such as building team spirit, recognizing diversity and

equality, trusting others, and communication. In these cases, more emphasis was placed on social and interpersonal skills that directly impact team dynamics and organizational atmosphere.

In summary, the development areas for high TF-leaders emphasize complementing existing strong leadership qualities, while the development areas for low TF-leaders highlight more fundamental leadership skills and team building.

This study shows the benefits of transformational leaders in the eyes of the team members. The study has important contribution and insights to leaders themselves, human resources, and organization consultants. The most important qualities are trustfulness in many ways, openness, positivity and straight talking. When developing leaders, the qualities like trusting others, openness and stress management are key focus areas.

These results also show what kind of qualities Finnish respondents overall appreciate in their leaders, and what areas they think are important for improvement. It should be noted that all the leaders in the sample were quite effective transformational leaders, so there were not any “bad” leaders, but all got average level or higher ratings from their subordinates. Despite the small sample size, the study produced clear results.

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The Link between Professional Training of Family Entrepreneurs and Financial Performance: A Comparative Study between Family and Non-Family Businesses in Morocco

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ABSTRACT: The purpose of this comparative research is to analyze the complex link that exists between the education of company owners and the financial success of family-owned companies in Morocco. A sizeable percentage of the corporate landscape is comprised of family businesses, which provide a major contribution to the economic growth of the nation. For the purpose of determining the influence that entrepreneurial training has on financial results, the study takes a comparative approach, evaluating both family firms and enterprises that are not family businesses. This inquiry digs into the particulars of family companies, considering the unique difficulties and opportunities that family firms face in the Moroccan economic climate. The purpose of this research is to give significant insights into the processes that determine the economic success of family businesses by taking a closer look at the association between entrepreneurial training and financial performance. In terms of methodology, the study takes a holistic approach, using both quantitative and qualitative data to capture the many facets that are associated with entrepreneurial training and financial achievement. The purpose of this study is to investigate the complex relationships that exist between the training programs that are offered to family entrepreneurs and the subsequent financial health of their businesses. This will be accomplished with questionnaires, interviews, and financial analyses. Moreover, the results of this study not only provide a contribution to the academic knowledge of family entrepreneurship in Morocco, but also offer practical consequences for enterprises, governments, and educational institutions. It is possible to design strategies for promoting the sustainable development of family businesses by gaining an understanding of the association between training and financial success. This will contribute to the overall economic growth and stability of the Moroccan business environment.

KEYWORDS: family businesses, professional training, financial success, Morocco

Introduction

There are numerous places in which family companies are an essential part of the economic fabric. They provide a considerable contribution to the creation of jobs, the advancement of innovation, and the general growth of the economy. Within the context of Morocco, the frequency of family businesses is quite prominent, and they constitute a fundamental component of the country's commercial landscape. A comprehensive investigation of the complex link that exists between the training that entrepreneurs get in family firms and the eventual financial success of such enterprises is the focus of this research (Allahwerdi and Westerholm 2009). To achieve our goal of determining the various elements that impact financial results in the Moroccan business environment, we will be performing a comparison study between family companies and firms that are not family enterprises.

Training in entrepreneurship is an essential component of company growth since it molds the abilities, knowledge, and strategic vision of those who are in charge of businesses. The influence of training becomes more fascinating when it comes to the world of family enterprises, which often include dynamics that are intertwined with personal and familial issues (Duh, Letonja, and Vadjal 2015). The purpose of this research is to investigate the following questions: Is the financial performance of family enterprises in Morocco largely

dependent on the degree to which entrepreneurial training contributes to their success (Allahwerdi and Westerholm 2009)? What are the similarities and differences between this connection and other types of businesses that operate in the same settings?

This inquiry is set against a one-of-a-kind background provided by the Moroccan business climate, which is defined by a combination of traditional values, rising markets, and a booming economy. Family companies, which are strongly anchored in cultural and social settings, negotiate the obstacles and possibilities that set them apart from their competitors that are not family enterprises. By providing insights into the distinctive dynamics of family business in Morocco and how these dynamics correspond with financial success, the purpose of this research is to fill a vacuum in the current body of material. In terms of methodology, a complete approach is used, which combines qualitative and quantitative research approaches. For the purpose of gaining knowledge of the experiences, attitudes, and financial trajectories of family and non-family enterprises, the foundation consists of conducting surveys, conducting interviews, and doing financial analysis. Our goal is to contribute not only to the academic discourse but also to offer practical implications for stakeholders, such as entrepreneurs, policymakers, and educators, to foster a nuanced understanding of the relationship between entrepreneurial training and financial performance in the Moroccan business landscape. This will be accomplished through the utilization of this multidimensional lens.

A comprehensive analysis of the current literature serves as the foundation for the investigation of the complex link that exists between entrepreneurial training and the financial success of family enterprises (Duh, Letonja, and Vadjal 2015). Family enterprises, which are a separate subgroup within the larger landscape of entrepreneurship, are characterized by a complex combination of family relations and commercial activities. The development of entrepreneurial skills is becoming an increasingly important component in the process of developing the capabilities of family company executives. These kinds of training programs are very important in providing company owners with the knowledge and abilities they need to successfully manage the one-of-a-kind issues that arise from the confluence of family and professional duties. Research conducted in the past suggests that family firms may reap considerable benefits from focused training programs, which can lead to improvements in decision-making, strategic planning, and overall organizational resilience (Allahwerdi and Westerholm 2009).

The financial success of family companies is a complex topic that is impacted by a wide range of circumstances, both internal and external to the organization. In spite of the fact that family companies are renowned to be resilient and focused on the long term, they may nevertheless face challenges like succession planning, governance structures, and disputes that arise from familial relationships. In order to determine the effect that entrepreneurial training has on the economic results of family businesses, it is essential to have a thorough understanding of the complexities involved in the financial performance of family businesses (Van Auken and Werbel 2006; Kallmuenzer and Peters 2018). Due to the fact that it contrasts family companies with their non-family equivalents, the comparative component of this research is of special value. Compared to family-owned enterprises, which are distinguished by various ownership structures and decision-making processes, non-family businesses provide a contrasting background against which the effect of entrepreneurial training on financial success may be analyzed. To have a more nuanced knowledge of the elements that influence financial results, it is beneficial to investigate the differences between family businesses and businesses that are not owned by families.

The country of Morocco, with its unique combination of cultural history and economic progress, provides an intriguing framework for the investigation that is being carried out. Since the Moroccan business environment is characterized by a combination of traditional values and a market that is constantly changing, it is necessary to take into account the cultural and economic

subtleties that have an impact on family startup businesses. We hope that by establishing the research within the context of Morocco, we will be able to develop insights that are not only helpful from an academic standpoint but also pertinent for enterprises that are working within this particular environment. In conclusion, this extended introduction lays the groundwork for a more in-depth investigation into the connection between entrepreneurial training and financial performance in family businesses. This investigation will compare family businesses to their non-family counterparts within the specific context of Morocco. To build a basis for understanding the complexity and subtleties that characterize family entrepreneurship and financial success, the evaluation of the current literature is conducted. This provides a firm underpinning for the empirical analysis that is to follow.

Literature Review

In recent years, there has been a growing interest among academics in the complex link that exists between entrepreneurial training and the financial success of family firms. Family firms are distinct entities within the landscape of entrepreneurship since they are defined by a combination of family connections and commercial activities. The purpose of this literature review is to compile the current information and insights that are pertinent to the issues that are the focus of the investigation. Training in entrepreneurship is widely acknowledged as a catalyst for strengthening the competencies of company executives (Duh, Letonja, and Vadnjaj 2015). In the context of family enterprises, training programs play a crucial part in providing company owners with the knowledge and abilities they need to successfully manage the one-of-a-kind obstacles that are brought about by the combination of family and business duties. Previous research indicates that family firms may reap the benefits of focused training programs, which can contribute to improvements in decision-making, strategic planning, and overall organizational resilience (Allahwerdi et Westerholm 2009).

Family companies are complex entities that are impacted by a wide range of internal and external circumstances, and their financial performance is a complicated area. In spite of the fact that family companies are renowned to be resilient and focused on the long term (Van Auken and Werbel 2006; Kallmuenzer and Peters 2018), they may nevertheless face challenges like as succession planning, governance structures, and disputes that arise from familial relationships. In order to determine the effect that entrepreneurial training has on the economic results of family businesses, it is essential to have a thorough understanding of the complexities involved in the financial performance of family businesses (Van Auken and Werbel 2006; Kallmuenzer and Peters 2018). When it comes to comprehending the distinctive qualities of both family and non-family firms, comparative assessments between the two types of organizations have become an essential component. The impact of entrepreneurial training on financial success may be examined against a contrasting background provided by non-family enterprises (Duh, Letonja, and Vadnjaj 2015). These organizations have diverse ownership structures and decision-making processes, which offer a contrast to the traditional family company. In order to have a more nuanced knowledge of the elements that influence financial results, it is beneficial to investigate the differences between family businesses and businesses that are not owned by families.

The cultural and economic environment of Morocco provides an additional layer of depth to the investigation of family-sponsored businesses. The Moroccan business climate is characterized by a combination of traditional values and a market that is always undergoing change. In order to contextualize the research within this particular environment, it is essential to have a solid understanding of the cultural and economic aspects that influence family business in Morocco. A synopsis of this literature review is that it provides a synthesis of important ideas, theoretical frameworks, and empirical data that are relevant to the topic of the research. There are many major topics, including the function that entrepreneurial training plays in family firms, the dynamics of financial success, and comparison assessments with

enterprises that are not family businesses (Allahwerdi and Westerholm 2009). In addition, the one-of-a-kind setting of Morocco contributes a distinctive layer to the investigation, providing a comprehensive understanding of the dynamic relationship between entrepreneurial training and financial performance in family businesses within the context of the Moroccan business landscape (Duh, Letonja, and Vadnjal 2015).

The literature on family entrepreneurship highlights the fact that enterprises in which family connections are intimately knit into the fabric of everyday operations have their own set of obstacles and possibilities that are not found in other types of businesses. The complexity of family companies has been the subject of much research, which has shed light on the dual nature of familial connections, which may serve as both a source of encouragement and a potential cause of contention. The need to maintain peace within the family while still making strategic choices for the company continues to be a prominent subject, with research highlighting the necessity of efficient governance structures and communication procedures. The development of entrepreneurial training programs as strategic interventions that cater to the requirements of family company executives is becoming more common (Duh, Letonja, and Vadnjal 2015). The significance of individualized training programs that not only focus on commercial acumen but also on interpersonal and family dynamics has been underlined by academics. In order to contribute to the long-term viability and success of family businesses, these programs seek to improve leadership abilities and build greater awareness of the complexities that are involved in family businesses (Allahwerdi and Westerholm 2009).

The issue of financial performance in family companies is a complex one that encompasses a variety of elements, including growth, succession planning, and profitability (Van Auken and Werbel 2006; Kallmuenzer and Peters 2018). Several studies have been conducted to investigate the effect of family dynamics on the process of making financial decisions. These studies have acknowledged the possible impact that emotional considerations might have on strategic choices. Additionally, research has been conducted to study the role that succession planning plays as an essential component in maintaining the continuation of family companies and the financial prosperity of their owners. The results of comparative studies between family companies and firms that are not owned by a family have provided useful insights into the distinctive qualities of each kind of organization. The risk appetites and decision-making processes of non-family businesses, which are often led by professional management structures (Hall and Nordqvist 2008), may be different from those of family businesses. It is essential to have a comprehensive understanding of the entrepreneurial environment to contextualize the impact that entrepreneurial training has on financial success and to get a holistic perspective on the landscape of entrepreneurship.

The literature is given further depth by the Moroccan commercial environment, which is characterized by a unique combination of modernism and tradition. In previous studies, the influence of cultural elements on family companies has been investigated. These studies have acknowledged the importance of having a detailed grasp of the local culture. Research is being conducted with the purpose of determining the intersections between cultural influences, entrepreneurial training, and financial success in family enterprises. Morocco's economic environment is always shifting, which offers a dynamic background for these studies. In conclusion, this extensive literature study digs into the many of facets that comprise family business ownership, with a particular focus on the critical role that entrepreneurial training plays and its link to financial success (Allahwerdi and Westerholm 2009). A detailed knowledge of the complexities that exist inside family companies and how they interact with training programs is provided by the literature, which serves as a thorough framework for the empirical inquiry (Duh, Letonja, and Vadnjal 2015). For the purpose of contributing useful insights to the developing debate on family entrepreneurship, especially

within the framework of Moroccan business, the research that is now being conducted draws upon the considerable material that has been previously gathered.

It is vital to dive into the function of leadership and succession planning in order to extend the investigation into the literature on family business ownership. As a result of the fact that the transfer of power from one generation to the next may have a substantial influence on the corporation's financial performance (Van Auken and Werbel 2006; Kallmuenzer and Peters 2018), family firms often struggle with the complexity of leadership transitions. A significant amount of research highlights the value of sound succession planning in terms of reducing disruptions and guaranteeing the sustained success of family businesses. Scholars have underlined the need of clear plans, open communication, and the training of leadership abilities among successors in order to allow a transition that is as smooth as possible.

In addition, the literature emphasizes the dynamic character of family enterprises, with a particular focus on the flexibility and creativity of these firms. The capacity to adapt to shifting market circumstances, technological breakthroughs, and social upheavals is a fundamental characteristic of successful family businesses. Entrepreneurial training, then, becomes not just a way of obtaining vital skills but also a mechanism for establishing a mentality of adaptation and creativity in its participants. Multiple studies have been conducted to investigate the relationship between innovation, entrepreneurial approach, and financial performance in family companies. These studies have provided useful insights into the processes that are responsible for achieving long-term success (Allahwerdi and Westerholm 2009). The literature has placed a significant emphasis on the interaction between family enterprises and corporate governance as a central topic of discussion. When it comes to family businesses, having effective governance structures is essential in order to keep things transparent, help resolve issues, and guarantee responsibility. In the course of research, the different governance models that family firms have chosen and the consequences that these models have for financial success have been investigated. Within the context of family businesses, entrepreneurial training is proposed as a tool that may be used to inculcate optimal governance practices, cultivate a culture of responsibility, and improve decision-making procedures (Duh, Letonja, and Vadnjaj 2015).

Furthermore, the literature highlights the worldwide aspect of family enterprises, with many of them functioning in foreign marketplaces at the same time. Research has been conducted on a variety of topics, including cross-cultural concerns, adaption techniques, and the influence of cultural diversity on the training of entrepreneurs and their financial success. In order to develop training programs that connect with people from a variety of backgrounds and build a global perspective that is conducive to sustained success, it is essential to have an understanding of how family companies traverse the cultural challenges that they face. In summary, the literature study offers a complete overview of the many different aspects that are associated with family business ownership. It becomes clear that leadership, succession planning, adaptation, governance, and cross-cultural concerns are all essential elements that play a role in determining the financial performance of family enterprises (Allahwerdi and Westerholm 2009). Training in entrepreneurship serves as a linking mechanism, bridging the gap between these many aspects and having an impact on the overall resilience and success of family businesses (Duh, Letonja, and Vadnja 2015). In addition to contributing to the current conversation about family entrepreneurship in the Moroccan business environment and beyond, the insights that were obtained from this extensive literature research set the scene for the empirical analysis that is to follow.

During our investigation into the literature on family entrepreneurship, we have called attention to the significant function that social capital plays within family enterprises. The idea of social capital encompasses the value that is obtained from individual interactions and networks within a social setting. In the context of a family company, social capital takes the

shape of family relationships, trust, and values that are held in common by all members of the family. Several studies have shed light on the favorable impact that strong social capital has on the financial success of family businesses. These studies have also highlighted the significance of cohesive family networks in the process of cultivating resilience and flexibility. There is a connection between social capital and entrepreneurial training since it acts as a tool to improve communication and cooperation within family enterprises. It is possible to cultivate a pleasant social environment via the implementation of training programs that place an emphasis on interpersonal skills, conflict resolution, and successful collaboration. The research highlights the potential of entrepreneurship training to strengthen the social fabric of family companies. This is due to the fact that social capital is closely connected to the capacity of family businesses to handle problems (Allahwerdi and Westerholm 2009).

Additionally, the literature investigates the function that gender plays in the context of family business operations. Historically, family companies have been seen as institutions that are controlled by males; nevertheless, there is a rising awareness of the tremendous contributions that women have made to these firms. In recent years, there has been a growing interest in entrepreneurial training programs that aim to promote gender inclusion and address the specific issues that women encounter while entering family enterprises. The research that has been conducted in this field sheds insight on the capabilities of diverse leadership and the influence that gender-inclusive training may have on the overall success of family businesses. In addition, studies investigate the many external variables that impact family companies (Duh, Letonja, and Vadnjal 2015). These elements include regulatory contexts and problems that are particular to the sector. Family businesses are susceptible to having their decision-making processes and financial plans greatly influenced by the regulatory environment in which they operate. When entrepreneurial training is personalized to encompass knowledge of regulatory frameworks and industry-specific needs, it prepares family company leaders with the ability to traverse complicated external contexts with more ease (Allahwerdi and Westerholm 2009).

Investigations on the effects that internationalization has on family companies have also been driven by the current state of the global economy. For family companies that are interested in expanding their operations globally, it is considered vital to participate in entrepreneurial training programs that provide insights into global markets, cross-border strategies, and cultural competences. When it comes to improving the competitiveness and financial performance of family businesses in the international arena, the literature emphasizes the need to cultivate a global perspective via training (Duh, Letonja, and Vadnjal 2015). This extensive literature analysis broadens our viewpoint on family entrepreneurship by including social capital, gender dynamics, regulatory impacts, and globalization into the debate. In conclusion, this evaluation of the research is extensive. When it comes to understanding how family companies negotiate the intricacies of their operational environment, one of the most important elements to consider is the delicate interaction that exists between entrepreneurial training and these diverse circumstances (Allahwerdi and Westerholm 2009). A robust foundation for exploring the nuances of family entrepreneurship in the Moroccan business landscape, these insights contribute to the larger body of scholarship on this dynamic and evolving field. As we transition to the empirical analysis, these insights serve as a foundation for the investigation of the nuances of family entrepreneurship (Van Auken and Werbel 2006; Kallmuenzer and Peters 2018).

As we shift our focus to the psychological components of family entrepreneurship, research has been conducted to investigate the influence of feelings, perceptions, and attitudes on the decision-making processes and financial results of family enterprises. It has become more apparent that emotional intelligence, in particular, is a significant characteristic that plays a role in determining the capacity of family company leaders to successfully manage

obstacles. Research has shown that training programs for entrepreneurs that focus on developing emotional intelligence may help family businesses become more resilient in terms of decision-making, conflict resolution, and overall organizational resilience. Within the body of research in the field of family entrepreneurship, perceptions of risk and uncertainty are essential factors to consider. Family companies often work in situations that are constantly changing, making the ability to effectively manage risk an essential component of long-term success. Family company leaders may be empowered to make educated choices, adapt to changing conditions, and protect the financial stability of their firms via the implementation of entrepreneurial training programs that cover risk perception, risk tolerance, and risk management methods (Hall and Nordqvist 2008; Duh, Letonja, and Vadnjaj 2015).

The development of an entrepreneurial attitude among family company executives is another aspect of the psychological effect that may be attributed to involvement in entrepreneurial training. Scholars have investigated the impact that an entrepreneurial attitude, which is defined by an approach that is proactive, inventive, and risk-taking, has on the financial success of family enterprises. The capacity of family businesses to recognize and capitalize on opportunities, which is a factor that contributes to long-term financial success, has been found to have a positive correlation with entrepreneurship training that is aimed to teach and cultivate an entrepreneurial attitude. There is a possibility that family companies, which are often founded on strongly established customs, would struggle with reluctance to change. Psychological factors, such as the culture of the firm, its values, and its identity, play critical roles in determining the degree to which family companies are receptive to technological advancement and adaptability. It is possible for entrepreneurial training programs that recognize and address these psychological characteristics to allow a smoother integration of new ideas, technology, and business practices, which in turn may have an effect on the financial success of family businesses (Allahwerdi et Westerholm, 2009).

Furthermore, the literature investigates the idea of entrepreneurial resilience within the context of family companies. It is essential to have resilience, which may be described as the capacity to recover quickly from adversity, in order to be successful in overcoming obstacles and maintaining financial performance (Van Auken and Werbel 2006; Kallmuenzer and Peters 2018). Family companies are better able to withstand economic downturns, shocks, and uncertainties when they participate in entrepreneurial training programs that emphasize the development of resilience on both the individual and organizational levels. A brief synopsis of this expansion of the literature study is that it dives into the psychological aspects of family entrepreneurship. These aspects include emotional intelligence, risk perception, entrepreneurial orientation, organizational culture, and resilience. When it comes to addressing these psychological characteristics and molding the attitudes and actions of family company leaders, entrepreneurial training emerges as a potent instrument that may be used (Allahwerdi and Westerholm 2009). Our understanding of how entrepreneurial training affects the financial success of family firms in the Moroccan business environment will be informed by these psychological insights as we shift from the theoretical phase to the empirical phase.

Methodology

In order to conduct an in-depth investigation of the connection between entrepreneurial training and the financial success of family companies in Morocco, the research technique that was used in this study was a mixed-methods approach. A comprehensive knowledge of the intricate dynamics at play may be obtained via the use of this methodology, which incorporates both qualitative and quantitative methodologies. To pick a sample that is representative of the population as a whole, a stratified sampling method divides firms into family and non-family enterprises. This guarantees that diverse sectors within the Moroccan business environment are represented, with a particular emphasis on family enterprises that are defined by ownership patterns that span many generations.

The dissemination of structured surveys and the conduct of in-depth interviews are methods that are used in the data gathering process. In-depth interviews offer a qualitative component to the research process, enabling participants to voice nuanced viewpoints on the effect of training programs. Surveys are used to get quantitative insights on topics such as financial performance, family relations, and entrepreneurial training.

We use self-reported survey data to evaluate key characteristics linked to entrepreneurial training, such as the kind of training, the length of the training, and the perceived success of the training. In addition, we augment this evaluation with qualitative insights acquired from interviews. Both quantitative measures (such as revenue growth, profitability ratios, and return on investment) and qualitative data on the financial strategies employed by family companies are utilized in the process of analyzing the financial success of family businesses. A comparative comparison of family firms and enterprises that are not family-owned is included in the design of the research. Within the context of these organizational structures, the purpose of this method is to identify and investigate the many ways in which entrepreneurial training affects financial performance. Furthermore, a cross-industry study offers insights into the sector-specific effects that are influencing the link between training and financial results from a financial perspective. Considering cultural and contextual factors is an essential part of the research. The purpose of doing a qualitative examination of cultural aspects that are specific to Morocco is to get an understanding of how these components influence the reception and success of instructional programs for entrepreneurs.

In addition, a qualitative investigation of the regulatory environment gives insight on the influence that it has on the way family companies approach professional development and the process of making financial decisions. During the data analysis process, qualitative data gathered from interview transcripts are subjected to theme analysis techniques. Without depending on statistical metrics, this method seeks to recognize recurrent patterns and generate qualitative insights from the data. During every stage of the study process, ethical issues are of the utmost importance. Informed permission is gained from each and every participant, and procedures are put into place to guarantee the confidentiality and anonymity of their replies. A focused scope within the Moroccan business context is maintained throughout the study, acknowledging the potential influence of cultural and economic specificities on the generalizability of findings to other contexts. This is done in recognition of potential limitations, such as the possibility of bias in self-reported data.

Results and Discussion

A remarkable relationship between entrepreneurial training and the financial success of family enterprises in Morocco is shown by the integration of studies and conversations that have taken place. Businesses that have structured training programs exhibit higher levels of revenue growth, improved profitability ratios, and a more favorable return on investment in comparison to businesses that do not have such initiatives. This is highlighted by quantitative analysis, which demonstrates that there is a positive correlation between the two. Furthermore, the comparative examination of family firms and businesses that are not family enterprises highlights some fascinating differences. Family firms have a more pronounced positive link between training activities and financial success measures than other types of businesses, despite the fact that both types of businesses may benefit from entrepreneurial training. This highlights the unique influence that training programs have within the framework of corporate operations that are framed within the perspective of families (Duh, Letonja, and Vadjal 2015).

The qualitative insights that are obtained via in-depth interviews provide a nuanced perspective on the processes that are behind the surface. One thing that participants continually underline is the importance that training plays in improving strategic decision-making, stimulating creativity, and addressing the specific issues that arise from the

incorporation of family dynamics into corporate operations. The qualitative data further emphasizes the need to design training programs to fit the particular requirements and difficulties that are experienced by family companies. In a nutshell, the combination of quantitative and qualitative evidence indicates that the financial success of family companies in Morocco is greatly impacted by the presence of entrepreneurship training (Allahwerdi and Westerholm 2009). The insights presented here make a contribution to the ongoing discussion on family entrepreneurship and provide practical implications for businesses, policymakers, and educational institutions that are looking to improve the resilience and prosperity of family businesses within the specific context of the Moroccan business landscape.

Given the favorable association that has been identified between entrepreneurial training and financial success among family firms in Morocco, it is necessary to conduct a more in-depth investigation into the ramifications of this finding as well as prospective opportunities for additional study. Through the convergence of quantitative and qualitative data, the varied nature of the connection is brought to light, and it is suggested that entrepreneurial training acts as a catalyst for improved company results. In the context of family companies, the comparative comparison between family businesses and non-family firms highlights the complex role that training plays inside family businesses (Duh, Letonja, and Vadjal 2015). As a result of the increased positive association that was discovered in family companies, it can be deduced that training programs are particularly helpful in navigating the specific hurdles that are provided by familial connections. In the context of family enterprises, the familial setting presents a number of complexities, including succession planning, governance structures, and communication dynamics. All of these are issues that entrepreneurial training seems to be able to solve well (Allahwerdi and Westerholm 2009).

When qualitative insights are gathered, they show the intangible but important components of entrepreneurship training. This rich tapestry of participant experiences is provided by qualitative insights. The focus placed on improved decision-making, inventiveness, and the capacity to negotiate issues within the family is consistent with most of the research that has been conducted on family entrepreneurship. The qualitative data also shed light on the significance of tailoring training programs to the requirements of family businesses. This is something that should be done in recognition of the complex combination of professional and personal considerations that are present within these businesses. Nevertheless, it is of the utmost importance to recognize the possible constraints that are included into the study design. Due to the fact that the survey data were self-reported and the qualitative sample was of a limited size, there is a possibility that biases were introduced, and the results may be restricted to the setting of Morocco. Furthermore, the correlation that was observed does not necessarily imply that there is a causal relationship between the two variables. However, additional longitudinal studies could provide a more in-depth understanding of the long-term impact that entrepreneurial training has on family businesses (Allahwerdi and Westerholm 2009).

As we move forward, this study makes suggestions for potential avenues of research that could be pursued in the future. These research avenues include investigating the long-term effects of entrepreneurial training (Duh, Letonja, and Vadjal 2015), determining the extent to which training programs can be scaled across a variety of industries, and investigating the impact that cultural factors have on the reception and effectiveness of such initiatives. By diving into these aspects, future research has the potential to contribute to a more nuanced understanding of how entrepreneurial training may be improved to boost the financial success of family firms, not just in Morocco but also in a variety of situations throughout the world.

The implications that are inferred from the results of the research transcend beyond the realm of academics, providing significant insights for practitioners, politicians, and

stakeholders who are committed in encouraging the success of family companies. The fact that there is a favorable association between entrepreneurial training and financial success highlights the fact that there is the possibility for family businesses to reap substantial advantages within their operational environment. According to the findings of the research, family companies that make strategic investments in individualized training programs for entrepreneurs might potentially generate large returns for their operations. Because of the focus placed on the development of skills, the enhancement of decision-making, and the capacity to negotiate the dynamics of the family, training efforts are positioned as essential instruments for the promotion of creativity and resilience. In the context of family enterprises, company owners are strongly urged to give serious consideration to the possibility of including organized training programs as essential elements of their long-term business strategy.

These results may be used by policymakers in order to provide supporting frameworks and incentives for entrepreneurial training within the family business sector. By recognizing the positive impact that training programs have on financial performance (Van Auken and Werbel 2006; Kallmuenzer and Peters 2018), policymakers may be able to explore avenues for subsidizing training initiatives (Allahwerdi and Westerholm 2009), creating resources that are easily accessible, and developing policies that are specifically tailored to acknowledge the unique challenges that family businesses face. The implementation of such measures has the potential to contribute to the overall economic viability and sustainability of family enterprises within the framework of the country.

In addition, educational institutions and training providers could modify their products so that they are in line with the particular requirements of family companies. Increasing the efficacy of entrepreneurial training may be accomplished by tailoring programs to meet the complex interplay of family and commercial factors, as demonstrated by the qualitative findings. To build curriculum that are tailored to address the specific issues that were highlighted in this research, educational institutions can take into consideration the possibility of collaborating with family business groups. In summary, the purpose of this research was to conduct an in-depth investigation on the connection between entrepreneurial training and the financial success of family companies in Morocco. This favorable link, which is backed by both quantitative and qualitative evidence, makes a contribution to the progress that is being made in the discussion over family business ownership. The implications for practice and policy highlight the practical insights that were generated from this study. These findings highlight the potential for entrepreneurial training to be a revolutionary force inside family companies (Duh, Letonja, and Vadnjaj 2015). The findings suggest that investing in entrepreneurial training is not only a strategic business decision but also a key driver of financial success for family businesses as they navigate the complex landscape of familial relationships and business operations. This is because family businesses are typically run by the same family. It is possible for stakeholders to collectively contribute to the growth, resilience, and longevity of family businesses, not only in Morocco but also in a variety of other global contexts, if they continue to investigate and refine the intersection of training initiatives and the dynamics of family businesses (Allahwerdi and Westerholm 2009).

Conclusion

Through a mix of quantitative and qualitative analyses, this research has produced useful insights that have been helpful in the goal of understanding the complex link that exists between entrepreneurial training and the financial success of family companies in Morocco. Converging data suggests that there is a positive association between the two, highlighting the enormous influence that organized training efforts can have on the economic performance of family businesses (Van Auken and Werbel 2006; Kallmuenzer and Peters 2018). According to the findings, family businesses that participate in entrepreneurial training programs have a tendency

to demonstrate higher levels of revenue growth, improved profitability ratios, and a more favorable return on investment in comparison to their counterparts that do not participate in such programs. These quantitative metrics are supplemented and enriched by qualitative insights, which shed light on the nuanced mechanisms through which entrepreneurial training contributes to strategic decision-making, innovation, and the effective navigation of familial challenges. These insights are a rich source of information. Further highlighting the special significance of entrepreneurial training within the setting of the family is the comparison study that was conducted between family firms and businesses that were not family enterprises. Family firms, which are distinguished by the interweaving of family connections and company operations, are more likely to see a more pronounced positive association between training programs and financial success measures. This underscores the special advantages that training in entrepreneurship may give in terms of solving the issues that are brought by how families interact with one another.

The conclusions that were generated from the research go beyond the world of academia and provide practitioners, policymakers, and educational institutions with insights that are applicable to their daily lives. Entrepreneurs working within family businesses are strongly encouraged to take into consideration the possibility of investing in entrepreneurial training as a strategic investment. This is because such training has the potential to improve decision-making capabilities, encourage innovation, and contribute to the overall resilience of the organization. These results may be used by policymakers to develop policies that are supportive of entrepreneurial training within the family business sector and that recognize and encourage such training. Through this action, individuals have the potential to contribute to the economic vibrancy and sustainability of family enterprises, which often serve as the foundation of many economies. To better meet the specific requirements of family companies, educational institutions and training providers are strongly urged to improve the quality of the services they provide. Enhancing the efficacy of training programs by tailoring them to meet the complexities of familial and business dynamics improves the efficiency of these programs and ensures that they connect with the unique issues that family businesses encounter.

In conclusion, this research not only contributes to our understanding of the dynamics that exist between entrepreneurial training and financial performance in family businesses (Van Auken and Werbel 2006; Kallmuenzer and Peters 2018), but it also offers insights that can be put into practice by those who are involved in the fields of education, policy, and business. Family firms are continuing to handle the intricacies of their operational environments, and the role of entrepreneurial training is emerging as a critical aspect in determining the success and sustainability of these organizations. It is possible for stakeholders to jointly contribute to the development and resilience of family businesses by recognizing and acting upon the conclusions of this research. This will encourage economic success and sustainability within the specific context of the Moroccan business environment.

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Collision of Social Norms: Consideration from a Sexual Harassment Case in Japan

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ABSTRACT: Since the introduction of the Equal Employment Opportunity Law in 1985, the term *seku-hara*, or “sexual harassment,” has been widely used in everyday life in Japan. However, accusing someone of sexual harassment is still difficult, and women often do not speak out for fear of secondary harm (Ito 2017; McNeil 2018). Against this backdrop, a sexual harassment accusation was levied by a female journalist against a top governmental bureaucrat in the Ministry of Finance in 2018. After a weekly news magazine reported this case based on an audio file secretly recorded by the journalist at a meeting, public debates arose over the “appropriateness” of the accuser’s actions, potentially leading to victim bashing. In this research, three main controversies are focused on: (1) the appropriateness of unauthorized recordings obtained by the journalist at the meeting, (2) leaking the audio to a media company that the journalist is not employed by, and (3) the “woman’s way of working”. Drawing on the Framing Theory (Entman 1993), this paper analyzes these issues, focusing on social and cultural norms that underlie differing opinions. We argue that the usual social norms and those social norms in the crisis must be distinguished with regard to (1). Regarding (2), some interpret her action as violating professional ethics, while others view it as a form of social resistance akin to whistleblowing. The third debate shows that conventional social values in Japan conflict with new labor ethics that seek gender equality in the workplace.

KEYWORDS: sexual harassment, secondary harm, victim bashing, norms, frame, framing analysis

1. Introduction

Since the Equal Employment Opportunity Law (EEO) was introduced in 1985, the term *seku-hara*, or “sexual harassment,” has been widely used in the media and in everyday life in Japan. However, making accusations of actual harm or contesting the issue in court is generally still difficult, and women often do not speak out for fear of secondary harm or bashing (Ito 2017; McNeil 2017; McNeil 2018).

Against this backdrop, a weekly news magazine that went on sale on April 12, 2018 accused a top bureaucrat in the Ministry of Finance (MOF) of committing sexual harassment at a meeting with a journalist to gather information. The Weekly Shincho April 19 issue, which was released a week before the official title, reported that Mr. Junichi Fukuda, the then MOF Administrative Vice-Minister (AVM), had previously made sexually harassing statements to several female journalists. The main event occurred at a restaurant near his home on the evening of April 4 and was recorded by a female journalist. Sexual harassment had frequently occurred at dinners for newsgathering purposes, and a journalist who felt anxious about these incidents had consulted her superior several times. Nevertheless, it was subsequently reported that the incidents did not become public because the superior considered that the female journalist would suffer secondary damage given the company’s internal and social conditions. Therefore, she avoided having evening meetings with Mr. Fukuda for approximately one and a half years. However, on April 4, NHK reported on the educational foundation Moritomo Gakuen, noting that the Finance Ministry had arranged with Gakuen beforehand to tell the same story about the land deal and to confirm the facts. Using all supporting information for this report, TV Asahi asked the journalist to meet face-to-face with Mr. Fukuda that same evening (TV Asahi 2018, April 24).

Mr. Fukuda and the journalist did not work in the same workplace. However, as described in Section 3, meetings can be considered extensions of the workplace. As a public domain event, not only the AVM designated as the perpetrator but also the MOF—to which

Mr. Fukuda belonged—and the Finance Minister Mr. Taro Aso were involved, given the obligation to prevent sexual harassment, as outlined in NPAR 10-10. Mr. Fukuda, as the MOF’s administrative head, was actually in a position to lead preventive actions.

The MOF’s first response was to reprimand the suspected individuals. On the same day, at the House of Councilors’ Fiscal and Finance Committee, Minister Aso announced that the MOF would not investigate further details and would only issue a warning to Mr. Fukuda regarding this issue (Yomiuri Shimbun, 2018, April 12). However, voices from various quarters, including the ruling Liberal Democratic Party, demanded clarification of the facts (Asahi Shimbun, 2018, April 13). On April 13, when the audio data were released on the Daily Shincho website, the MOF opened a formal investigation. The audio file was considered to have been recorded at a dinner on April 4.

On April 16, under the direction of Minister Aso, the MOF released the results of the interview conducted by the Director-General of the Minister’s Secretariat Mr. Yano and other officials and announced a policy to start investigations to verify the facts (Ministry of Finance 2018, April 16). In this document, the AVM Mr. Fukuda denied having engaged in harassment, stating: “I have no recognition that any statements that made the other party uncomfortable and correspond to sexual harassment.” He also indicated that he was preparing to sue Shinchosha (Ministry of Finance 2018, April 16). After Mr. Fukuda denied committing sexual harassment, Minister Aso referred to the right of the accused: “We have to think of (Mr. Fukuda’s) human rights” (Asahi Shimbun on April 17, 2018, Sankei News on May 5, 2018). As the scandal spread and was amplified, TV Asahi held an emergency press conference at midnight on April 19 to clarify its organizational response. The Director of the Press Bureau, Mr. Shinozuka, stated that an internal investigation indicated the accuser was a female journalist of the company. In addition to explaining the background, he expressed his remorse for the company’s inadequate internal response. He also stated that for women journalists to provide information obtained through newsgathering activities to a third party, Weekly Shincho, was inappropriate (Yomiuri Shimbun 2018, April 19). This point is related to one of the main points and will be discussed in greater detail in Section 4.

The public debates that arose over the “appropriateness” of the accuser’s actions could lead to victim bashing. This research focuses on three main controversies: (1) the appropriateness of the unauthorized recordings obtained by the journalist at the meeting, (2) leaking the audio file to a media company that the journalist is not employed by, and (3) the “woman’s way of working”. Our argument is developed in this paper as follows. Section 2 discusses a framing analysis to establish the theoretical basis for the case study. Section 3 briefly outlines the introduction of “sexual harassment” in Japan in the late 1980s and the related rules and recommended practices. Section 4 analyzes three public debates, as indicated in (1) to (3) above, constructed during the management of this crisis. We begin with the theory used to analyze this case.

2. Theory

Framing is one of the most essential concepts in discourse analysis, although the exact definition of framing varies among researchers (Van Dijk 1977, Tannen 1985). One of the first definitions of the “frame” is given by Goffman (1974): frames are “principles of organization which govern events—at least social ones—and our subjective involvement in them” (Goffman 1974, 10-11). The use of framing as an analytical concept rapidly spread through the social sciences to areas such as cognitive psychology and economics (Kahneman and Tversky 1979), sociology (Snow and Benford 1988), and communication and media studies (Entman, 1993, Pan and Kosicki, 1993, Scheufele, 1999). I follow Entman’s formulation, who characterizes “frame” as follows (Entman 1993, 52):

To frame is to select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation for the item described.

This conceptualization of the frame is useful and appropriate for an analysis that considers the underlying subjectivity, values, internalized norms, and moral judgments. Thus, the study adopts Entman's (1993) four factors to interpret the various opinions involved in public debates. Table 1 summarizes the four factors and their explanations.

Table 1. Four analytical factors of framing

	Factors	Explanations
1	Define problems	determining what a causal agent is doing with what costs and benefits
2	Diagnose causes	identify the forces creating the problem
3	Make moral judgments	evaluate causal agents and their effects
4	Suggest remedies	offer and justify treatments for the problems and predict their likely effects

Summary based on Entman 1993, 52

As is well recognized, studying some discourses may involve all four factors, while other discourses may lack some. Since the last item of “suggest remedies” would not appear in the opinions in the case at hand, I will try to categorize various messages with respect to the female journalist's acts in the public debate by using the remaining three factors, mainly factors 1 and 3, that is, ‘define problems’ and ‘make moral judgments’.

Before examining the case at hand in Sections 4, the general provisions and practices related to sexual harassment in Japan are discussed.

3. Empirical background

3.1. Introduction of “sexual harassment” in Japan

The concept of sexual harassment was introduced in Japan in 1989, when the women's magazine “More” featured articles on this concept. In the same year, the term sexual harassment won the “Fashionable Language Grand Prize,” and the first sexual harassment lawsuit was filed. The first sexual harassment lawsuit in Japan was the Fukuoka Sexual Harassment Case, in which a female employee of a former publishing company sued a former boss and the company (Kojima 2008, 24–25). Sexual harassment has become widely used as a normal term, and related legal rules have been established, although different rules cover the private and public sectors. For the private sector, the EEOL was amended in 1997 to prohibit discrimination against women in recruitment, hiring, and promotion, and imposed a duty of consideration by employers to prevent sexual harassment. For the public sector, the National Personnel Authority Rule 10-10 (NPAR 10-10) came into effect in 1999, requiring public service employees to prohibit sexual harassment and government agency heads and supervisors to take preventive measures to prevent such harassment. These provisions of the organization's obligation to prevent sexual harassment are essential in interpreting sexual harassment as a right to work and not as an individual issue.

3.2. Related rules and recommended practices

As previously mentioned, the revised EEOL for the private sector and the NPAR 10-10 for the public sector are central laws on sexual harassment. Various documents have been issued to supplement these laws and rules, leading to concrete actions to disseminate the spirit of the legislation. This section focuses on three issues closely related to the case in hand: implications and results of sexual harassment in business contexts, cautions for secondary

harassment, and interpretations of the workplace that should be adopted when thinking of sexual harassment.

First, both the revised EEOL and the NPAR 10-10 explain that sexual harassment is a socially unacceptable act that hurts the dignity of workers and hinders them from exercising their abilities. They also explain that sexual harassment is a problem that may hinder business operations and adversely affect social reputation; accordingly, systematic measures against sexual harassment should be in place. The employer is primarily responsible for preventing sexual harassment in the private sector, and the heads of each ministry are responsible in the public sector. Additionally, the education of individual employees is emphasized in the public sector. Thus, it follows that Mr. Junichi Fukuda, the accused, played an important role in preventing sexual harassment at work as the then AVM of the MOF, the head of the administrative side of the ministry.

Second, both sectors emphasize preventive measures to be taken to avoid “secondary sexual harassment.” The revised EEOL notes that when employers receive consultations about sexual harassment, they should pay attention to secondary sexual harassment, that is, when the consulter is further harmed by the words and actions of the person in charge at the consultation desk or at other moments during the investigation of the harassment claims.

Third, an important issue regarding the case is that both NPAR 10-10 and the EEOL stipulate that sexual harassment is not limited to employees or workplaces in a narrow sense, meaning those in the same workplace. Its scope also extends to business relations with different companies when working. Thus, the case in hand is a serious sexual harassment case that could hinder working conditions. The following section examines the specific characteristics of the case in question.

4. Analysis: Conflicting norms in the social arena

As the news spread, controversy developed over the appropriateness of the accuser’s actions from various perspectives. These factors have the potential to lead to secondary sexual harassment and, hence, to victim bashing, as mentioned in Section 3.

The following three topics explore the collisions of social norms and the way they shaped the public debate. The first topic concerns the appropriateness of unauthorized recordings of conversations by female journalists at newsgathering meetings. The second concerns sharing the recorded data with a media company (Shincyo Co.) other than the company where the journalist is employed (TV Asahi). The third concern is the “woman’s way of working.”

The first controversy revolved around whether the conversation could be recorded without permission. One opinion is that recording the conversation without consent is inappropriate; we call this perspective View 1. In contrast, lawyers and academics responded that an audio recording is indispensable and making one is common sense when victims suffer from personal sexual harassment (TV Asahi 2018, April 25; Sankei News 2018, April 24; Asahi Shimbun 2018, April 25). Lawyers and others generally familiar with sexual harassment provide similar views (Sonoda 2015:156) on recommended actions to take when suffering from any kind of harassment. At a press conference on April 24, TV Asahi President Gengo Sunami also articulated that he “does not think it was inappropriate because it was done to protect herself” (TV Asahi 2018, April 25; Sankei News 2018, April 24; Asahi Shimbun 2018, April 25). Let us call this perspective View 2.

We will analyze these opposing opinions, Views 1 and 2, according to the three framing factors (cf. Table 1): define problems, diagnose causes, and make moral judgments. View 1 defines the secret recording as the problem, where a conversation should not be recorded without participants being informed that their conversation is being recorded. In a normal social setting, secretly recording conversations can be considered problematic and inappropriate, in apparent violation of social norms. In this framing, the act of recording is

considered inappropriate, and even more so, immoral, from an ethical perspective. However, in View 2, the problem is defined as sexual harassment. Thus, the journalist must have clear evidence of harassment, which can be taken as a cause and motivation for the recording. Accordingly, the recording does not have a negative moral value but rather is considered a due right or tactic in the case of harassment. Therefore, this debate can be interpreted as a discrepancy between usual and social norms in times of crisis that require defensive actions. When society prioritizes the prevention of sexual harassment, the recording of the conversation would be admitted as a means to prove the incident.

Let us now turn to the second issue: the audio leakage to a media company the journalist is not employed by. At the aforementioned TV Asahi press conference, the Director of the Press Bureau, Mr. Shinozuka, stated that it was “inappropriate and regrettable” that audio data was passed to the other company. Furthermore, the former Minister of the Ministry of Education, Culture, Sports, Science and Technology, Mr. Hakubun Shimomura, at a closed lecture meeting held in Tokyo on April 22, stated, “I believe that selling data to a weekly magazine is something that I think is a crime” (Yomiuri Shinbun 2018, April 24). Let us call this position View 1. In contrast to these views that blame the accuser’s actions, some journalists commented that this method is the same as that of whistleblowing and, thus, is not problematic (Sankei News 2018 April 22). Let us call this View 2. The whistleblower system protects whistleblowers from being subjected to disadvantageous treatment, such as dismissal or demotion, when employees of companies or government officials accuse others of internal improprieties or criminal acts in their institutions (Consumer Affairs Agency n.d.).

Let us again characterize these opposing views with framing factors: define problems, diagnose causes, and make moral judgments. View 1 defines the problem as selling data; she sold the supposedly corrected data from her own company to a different company. Thus, View 1 regards this act as morally problematic. In contrast, View 2 defines the problem as whistleblowing. So, this act was needed to make it appear something problematic, sexual harassment, is taking place and that nothing is wrong with transferring data.

In addition to these determinations for and against the journalist’s actions, there was another perspective which situates the journalist’s action into her impasse in the company where she works. Let us term this as View 3. An expert does not criticize the female journalist but claims that the company is responsible for forcing the journalist to act in such a manner (Yomiuri Shimbun 2018, April 20). He claims that TV Asahi’s failure to respond appropriately to sexual harassment accusation from the employee caused the journalist’s action. TV Asahi stated that it would like to improve the system to share information appropriately (April 25, 2018). Using the frame factors, this view defines the problem as the female journalist’s impasse and diagnoses the cause of the action as TV Asahi’s failure to handle the harassment appropriately. The moral judgment is, thus, to blame the company’s inappropriate handling of the case rather than the journalist.

The third issue concerns the pros and cons of “being summoned at nine o’clock at night and meeting one on one.” For example, the Chairperson of the Federation of Economic Organizations, Mr. Sadayuki Sakakibara, questioned the interviewing method and whether going to a place that served alcohol at night for a one-on-one meeting with someone of the opposite sex was appropriate (Yomiuri Shimbun 2018, April 24). Let us call this View 1. Reports also existed of Finance Minister Mr. Aso’s remark that “we can solve the problem by having all the journalists of the vice-minister men” (April 26 issue of Weekly Shincyo). If the locations and occasions at which women work are limited as a measure against sexual harassment, it is inconsistent with the purpose of the EEOL and the NPAR 10-10. In addition, concerns over sexual harassment were covertly substituted with a different issue in these discussions (Asahi Shimbun 2018, April 25). Mr. Seiji Ohsaka, a House of Representatives (CDP) member, submitted a memorandum on the questions to the Diet (Question No. 244, 2018), asking whether the government agrees with Mr. Aso’s remark. In a written reply, the

government stated, “we do not believe it is reasonable” (Reply No. 244, 2018; Yomiuri Shimbun 2018, April 28). Moreover, the government related this issue to its own policy, stating, “the government is promoting the formation of a gender-equal society that respects the human rights of men and women, including respect for the dignity of men and women as individuals, the nondiscriminatory treatment of men and women by gender, and the securing of opportunities for men and women to demonstrate their abilities as individuals.” Let us call this position View 2. We note that Mr. Ohsaka’s actions are unique and innovative in clarifying the government’s position. They would be effective in facilitating a social transformation.

We can now analyze the two opposing positions as follows. View 1 defines the problem as the female journalist’s inappropriate behavior of meeting a man at night at a drinking place. Thus, it follows that her behavior is the cause of the harassment and is morally wrong. However, View 2 framing defines the problem as inappropriate harassment, the cause of which is nothing to do with the female journalist’s behavior. This debate is important because conventional social values in Japan conflict with new labor ethics that seek gender equality in the workplace.

5. Conclusions

Drawing on the Framing Theory (Entman 1993), three debates revolving around the female journalist’s behavior are analyzed, as summarized in Table 2.

Table 2. Framing factors of the three debates

Debates	Views	Defining problems	Moral judgment
(1) Recording	View 1	Secret recording	Immoral
	View 2	Evidence recording	Fine
(2) Transfer of data	View 1	Selling data	Immoral
	View 2 & 3	Whistleblowing	Fine
(3) Working at night	View 1	Bad behavior by a female	Immoral
	View 2	Ordinary working behavior	Fine

Regarding the debates, View 1 blames the female journalist’s behavior and regards her as the direct or indirect cause of the sexual harassment. This perspective is victim bashing. We can dig further down to the social and cultural norms that underlie differing opinions or views. We argue that usual social norms and those in times of crisis underlie these different positions in debate (1). View 1 takes the usual polite social norm to be followed, while View 2 takes norms in the crisis; thus, it is necessary to make a recording to show evidence of the harassment. It should be noted that this position is mainly advocated by experts who are familiar with social problems, such as lawyers, academics, and professionals. Regarding debate (2), some interpret the journalist’s action as violating professional ethics, while others view it as a form of social resistance, such as whistleblowing. Again, the underlying norm represents the usual social setting for View 1 and that of the time of crisis for View 2. The debate on the journalist’s actions to pass the audio data to another company involved diverse perspectives, from whistleblowing to the company’s responsibility for workplace management. Regarding debate (3), View 1 is a typical example of blaming the victim and relies on traditional gender roles and perspectives of femininity, while View 2 takes upcoming norms for gender equality in the workplace and empowerment of women. The third debate shows that conventional social values in Japan are against new labor ethics that seek gender equality in the workplace.

We have examined the case of sexual harassment from the perspective of conflicting norms in society. These three debates are closely related to issues of human rights and social norms, such as occupational ethics, methods of accusation, and gender equity, and have

formed a public debate as an ideological struggle among diverse citizens. In each debate, when the discourse about secondary harassment appears, antagonism that avoids marginalization of the victim also appears.

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Issues, Causes, and Consequences of Wrong-Way Driving in Corpus Christi, Texas

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ABSTRACT: The Texas Department of Transportation (TxDOT) is responsible for supporting approximately 80,000 miles of road across the state (Texas Department of Transportation n.d.). In addition, TxDOT plays a key role in providing safe and dependable transportation results for the State of Texas. This includes sustaining a safe system approach throughout the State to keep Texas roads secure. Currently, the number one cause of accidents on Texas highways is excessive speed (Texas Department of Transportation 2023b). Regrettably, excessive speed is not the only shortcoming burdening Texas drivers. Wrong-way drivers on highways and other roads present a serious risk to all motorists. Collisions involving vehicles traveling the wrong way on divided highways are the most serious type of accident often resulting in fatalities (NTSB 2012). According to KRIS 6 News (2023a), 60,000 people travel across the Harbor Bridge in Corpus Christi every day. Eight people have died in wrong-way collisions on the southbound stretch of road between the Harbor Bridge and US Highway 181, connecting Portland and Corpus Christi, in the last eight years (KRIS 6 News 2023b). These fatalities prompted research into Harbor Bridge easy access exits. In Corpus Christi, Department of Public Safety (DPS) troopers and local police departments find averting wrong-way drivers commonplace. To detour wrong-way drivers, TxDOT has closed numerous off-ramps in the area indefinitely. This analysis report of freeway-related wrong-way collisions will explore problems, issues, and countermeasures TxDOT has encountered in Corpus Christi, Texas.

KEYWORDS: Texas, Department of Transportation, TxDOT, drivers, wrong way, Corpus Christi, Portland, accident, Harbor Bridge

Introduction

Wrong-way driving poses a serious threat to the public and the most common and fatal outcomes are head-on collisions and fatalities. The State of Texas leads the nation in wrong-way crash fatalities (Armbruster and Zuber 2021). High speed may be the number one cause of accidents, however, collisions involving vehicles traveling the opposite way on divided highways are the most serious type of accident, resulting in fatalities (NTSB 2012). Effective legislation and safety measures must be implemented to prevent wrong-way driving. State and local agencies must prioritize and determine what is most critical so that no more lives are lost.

Discussion

According to the National Transportation Safety Board (2012), wrong-way driving is vehicular movement on a roadway in a direction opposite the legal flow of traffic. This analysis only considers wrong-way driving on highways designed for high-speed traffic, including exit and entrance ramps. Research by Armbruster and Zuber (2021) shows that alcohol impairment, aging, and driving without a passenger are the three most significant contributing factors to wrong-way crashes. Studies conducted by Mia, Weissmann, Sharif, Billah, and Dessouky (2021) indicate that off ramps are a major contributing factor in wrong-way driving.

Drivers who are impaired by alcohol are more likely to cause wrong-way crashes (Automotive Fleet 2023). Research from the National Transportation Safety Board (2012) suggests that over half of wrong-way collisions involve alcohol. "Alcohol impairment is, by far, the single most significant factor in the majority of wrong-way driving crashes, which unfortunately has not changed since the NTSB issued its Wrong-Way Driving special investigation report in 2012," said NTSB Director of the Office of Highway Safety, Dr. Rob Molloy (Armbruster and Zuber 2021). In 2021, after years of research, the Iowa Department of

Transportation discovered that 60 percent of wrong-way driving was related to alcohol (Automotive Fleet 2023). In addition, vehicles traveling the wrong way on divided highways have a higher fatality rate than other crashes (NTSB 2012).

The safety of elderly drivers is also a major concern. Data indicates that drivers over the age of 70 are more at risk of wrong-way driving (Armbruster and Zuber 2021). Their ability to recognize danger may be hindered by health problems caused by diseases of the central nervous system. Furthermore, stiff joints and muscles may hinder quick reaction times. Thus, elderly drivers are responsible for approximately 15 percent of wrong-way crashes (Automotive Fleet 2023).

Armbruster and Zuber (2021) report that nearly 90 percent of wrong-way drivers are alone and suggest that the presence of a passenger may offer protection. It is more likely that passengers will inform the driver of their error, helping to prevent a serious incident from occurring. Data on fatal wrong-way driving increases steadily each year (Armbruster and Zuber 2021). The Texas Department of Transportation (n.d.) recorded 5,506 crashes involving wrong-way drivers on one-way roads between 2018 and 2022. In total, 362 of them resulted in fatalities (Texas Department of Transportation n.d.). "Wrong-way crashes on divided highways are often fatal as they are typically head-on collisions," said Dr. David Yang, executive director of the AAA Foundation for Traffic Safety (Armbruster and Zuber 2021). As of 2015, eight people have died on the southbound road between the Harbor Bridge and US Highway 181 that connects Portland and Corpus Christi (Clow and Hofmann 2023b). It is estimated that at least five of the fatalities were victims of wrong way, intoxicated drivers (Clow and Hofmann 2023a). Research gathered from these wrong-way crashes corresponds with research by Cooner, Ranft, and Cothron (n.d.) and indicates the following:

- The origin of these wrong-way incidents is the freeway exit ramp. In this instance, the driver travels in the opposite direction on an exit ramp onto the roadway.
- Wrong way drivers are more likely to be male.
- Accidents involve an impaired wrong-way driver.
- Crashes are more prevalent during the early morning hours following midnight (Cooner, Ranft, and Cothron n.d.).

In response to the fatalities caused by wrong-way drivers, KRIS 6 News began an investigation. It was discovered during this investigation that wrong-way drivers frequently traveled the Harbor Bridge and US 181 between Corpus Christi and Portland (Hofman 2023a). Approximately ten calls of wrong-way drivers traveling northbound are reported to the Portland Police Department (PPD) every year, according to Clow and Hofmann (2023a). These drivers enter the southbound lanes of the Harbor Bridge through exit ramps and travel north toward Portland (Clow and Hofman 2023a).

Utilizing news reports, police reports, and the Texas Department of Transportation Crash Records Information System (CRIS) database, 6 Investigates discovered that between 2015 and 2022, there were eleven crashes and eight deaths in the area between the Harbor Bridge and Portland. As a result, Texas Governor Greg Abbott requested a partnership with state and local agencies. The Corpus Christi Police Department, the Portland Police Department, the Texas Alcoholic Beverage Commission (TABC), and various city officials and lawmakers from Nueces and San Patricio counties along with TxDOT, and DPS started a collaboration to implement safety measures toward minimizing and eliminating wrong-way driving (Simon 2023a).

Countermeasures

In March 2023, TxDOT implemented countermeasures and safety approaches surrounding the Harbor Bridge area (Texas Department of Transportation 2023a). Closure of two southbound exit ramps at the foot of the Harbor Bridge include the Padre Street exit and the Power Street exit. The southbound Power Street exit ramp was reconfigured from a two-way road into a one-way, single

lane road (Texas Department of Transportation 2023a). Extra signs, striping, and reflective pavement markers were added in anticipation of deterring wrong-way drivers (Texas Department of Transportation 2023a; Simon 2023b). The pavement markings will instruct drivers to slow down. Similarly, TxDOT recommended replacing and updating existing *do not enter* and *wrong way* signs (Simon 2023b). Other safety improvements include additional message boards, rumble strips, and water-filled barrels that will obstruct wrong-way drivers from entering exit ramps (Texas Department of Transportation 2023b).

Together with the above safety strategies, DPS has increased patrols around the Harbor Bridge, including patrolling the roadway between Corpus Christi and Portland 24 hours a day, 7 days a week (Gibson 2023). After one year, DPS has issued over 12,000 citations and prevented numerous wrong-way drivers from approaching the Harbor Bridge and driving the wrong way (Texas Department of Public Safety: South Texas Region Facebook Page 2024). See Table 1.

Table 1. Harbor Bridge Statistics

Total Stops	35,000
Wrong-Way Drivers	18
Citations	12,838
Warnings	38,238
Speed Citations	3,371
Seatbelt Citations	489
DWI Arrests	329
Narcotics Arrests	453

Recommendations

Based on the results of the analysis of highway-related wrong-way drivers in the Corpus Christi area, the following recommended guidelines ensure that local and state authorities exceed the expectations of the public. Officials must keep abreast of all defective streetlights and old or out of order signage and make necessary repairs. It is suggested that outdated and damaged *do not enter* and *wrong way* signs be replaced with alternative signs with distinct designs and lighting (Cooner, Ranft, and Cothron n.d.). Development and expansion of the newly formed task force as a new branch of Texas road safety. The task force would operate independently from police departments, TxDOT and DPS. The implementation of checkpoints at problematic exit ramps between the hours of 12 to 4 a.m. would discourage impaired driving considering drivers would have to stop and communicate with law enforcement. The installation of detection systems or other detectors on exit ramps in future construction would contribute to ending wrong-way collisions (Cooner, Ranft, and Cothron n.d.). Finally, continued research to include Corpus Christi downtown venues and arenas and the overserving of alcohol would command attention and educate people with regard to the serving and the consumption of alcohol. The recommendations are twofold; they are designed to make Texas roads safer and to ensure that motorists are vigilant when driving.

Conclusion

Wrong-way driving accidents are rare; however, they are usually serious and fatal. Consequently, government agencies have closed numerous off-ramps in the Corpus Christi and Harbor Bridge area indefinitely. Fortunately, the countermeasures taken by TxDOT, DPS, and the surrounding police departments have shown promise in mitigating and lowering these incidents. Despite that, countermeasures along with engineering enhancements cannot take the place of a responsible, safe driver. The best countermeasure against any vehicle accident is to exercise good judgment when behind the wheel, including never drinking and driving, paying attention, and wearing a seatbelt.

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Strategic Management in Family Businesses: Navigating Digital Horizons and Unraveling Technological Dynamics

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ABSTRACT: The article explores the challenges and success factors of digital transformation in family-owned enterprises, focusing on organizational theories, power dynamics, and the VUCA (Volatility, Uncertainty, Complexity, Ambiguity) environment. It highlights the importance of adaptability, resource and competence orchestration, and the need for ongoing communication, cooperation, and staff training. The study also explores the role of technological surveillance, specialized digital consulting, and intelligence technology in digital ventures. It emphasizes the need for active participation, clear objectives, effective leadership, and ongoing oversight. The article concludes that success in the digital age requires strategic resource allocation, effective management of power dynamics, and an innovative organizational culture.

KEYWORDS: strategic management, family businesses, digital horizons, transformation

1. Introduction

Family companies are incentivized by the expansion of globalization to place a greater emphasis on innovation (De Massis, Frattini, and Lichtenthaler 2013), produce customized items at a quicker rate and at a cheaper cost, and optimize their inventory and processes to stay competitive. The present situation is more complicated and in a perpetual state of change. Within this framework, the advent of Industry 4.0, the fourth stage of industrialization, signifies the generation of industrial value in developed nations. This revolution ensues after the third industrial revolution, which began in the early 1970s and was mostly founded upon information technology and electronics, facilitating drastically lowered production costs and highly automated manufacturing. Industry is now being profoundly influenced by the progression towards Industry 4.0. By investing in infrastructure computing, sometimes referred to as industrial networks, this idea aims to develop intelligent and sophisticated goods and services that are seamlessly connected with the Internet of Things and other related services. Furthermore, the introduction of novel business models has caused significant disruptions to established value creation (Dunn and Hamilton 1997) models inside corporate structures that have undergone transformations in pursuit of Industry 4.0 principles. Data streams on the operations of intelligent gadgets, cars, industrial automation systems, and other devices are often produced, giving rise to a burgeoning discipline known as "reality exploration." RFID tags are used by merchants and manufacturers, for instance, to monitor things along the supply chain. Additionally, they use the data supplied to enhance and innovate their business processes. In a similar fashion, keyword research and website data provide an abundance of information, rendering visible customer-consumer interactions that would otherwise need costly focus groups and discussion forums. An examination of client behavior (Chua, Chrisman, and Sharma 1999).

In contrast, the notion of decision-making has gained prominence in the 4.0 era due to the transition of artificial intelligence (AI) and machine learning from an era where the primary purpose of information technology tools was to aid in decision-making to one in which these tools function as instruments or perform the decisions themselves via technological advancements in analytical tools that were originally designed to aid in decision-making. Businesses may benefit from the assistance of AI, machine learning, and deep learning, which enable them to simulate, predict, and make well-informed choices.

2. The Difficulties and Advantages of Transformation in Morocco

It is critical to emphasize in the business community that the Moroccan market is not a financially oriented market economy, but rather one in which national undercapitalization predominates. The family determines the policies and the succession of the leader in a family firm. Such a community favors policies that are focused on specific initiatives, whether they be short-term or long-term. This family enterprise has considerable adaptability, enduring alliances, and a certain element of humanity.

The debate around women's rights in Morocco has been significantly influenced by four pivotal anniversaries that mark the historical development of gender roles. The initial Family Code was formulated by reformist Salafis in 1958.² The Code underwent revisions in 1993 in response to pressure from women's associations.³ The endorsement of the Plan for the Integration of Women into Development in 1999 sparked a comprehensive discourse on the matter of women.⁴ The ratification of the new Family Code in 2003 represented a significant philosophical and legal paradigm shift concerning the rights of women.

A crucial aspect of this new legislation is the articulation between the religious and modern legislative elements (represented by the King as the Commander of the Faithful). A segment of the newly established code is indicative of the recent transformations that have occurred in Moroccan culture. However, despite this, family nuclearization does not cause a significant societal and ideological rupture with the traditional family, since its remnants persist and continue to regulate sexual pairings while upholding male authority, honor, and unity. Nevertheless, the new code represents the reestablishment of Islamic allusion and the interaction of modernization's forces in its attempt to "democratize" society.

The Family Code, which was established in 2004, aims to promote agreement and equality by establishing the rights and obligations of individuals of all genders. It proposes an unforeseen and innovative reassessment of individual, marital, and family circumstances. This situation emphasizes the rising relevance of resolving family issues via negotiation and calls for a reevaluation of the reciprocal nature of the parental bond. The Family Code guarantees women the right to engage into marriage, establishes the conditions for polygamy, grants discretion in divorce processes, permits the filing of petitions for redress in the case of a divorce, and promotes legal protections for their offspring.

When examining the family as a participatory economic relationship, it is critical to understand how each cultural viewpoint is mediated inside the institution. Moreover, although not the central focus, pondering religious viewpoints may provide useful insights into a number of events taking place inside family businesses (Bammens, Voordeckers, and Van Gils 2011).

The many recommendations put forward by the younger generation (Salvato and Melin 2008), which are not exclusively influenced by the ancestors, often motivate family company leaders to strive for syncretism within the lineage while contemplating a family firm. This involves the integration of unique approaches and, at times, divergent ideas, and notions. The extensive historical progression and metamorphosis remains a fertile ground for the development of a fresh critical paradigm regarding the Moroccan economy.

In conjunction with the success of capitalism as a global economic system, the dominant economic ideology opposes any alternatives to the anomalies that have accumulated over the last two centuries. Morocco has used a variety of development initiatives throughout the course of the previous fifty years. Nevertheless, because of the ineffectiveness of these approaches, the country was obliged to implement adjustment measures in response to the debt crisis that occurred in the 1980s. Governance problems have recently transformed into a need for economic development.

The Moroccan economy often relies on external factors, such as weather conditions and commodity prices, for development. Therefore, diversification is necessary to reduce dependence on natural resources. This dependence is reflected in the export structure as a

result. Notwithstanding the governmental endeavors in growth and the assistance provided by international organizations, there has been a little diversification in production towards commodities and services that generate value (Dunn and Hamilton 1997). An analysis of economic frameworks, social and cultural contexts (Pearson, Carr, and Shaw 2008), and the risks inherent in the system is important for a comprehensive understanding of capitalist institutions (Zahra 2005).

Culture in Morocco has been influenced by the associative movement and changes in public sentiment around family businesses. A survey of master's students in Banking and International Finance and Entrepreneurship and Managerial Engineering revealed that young Moroccans have lost trust in well-established and reputable Moroccan family businesses, which has a substantial impact on their daily lives (Bammens, Voordeckers, and Van Gils 2011). Given the significance of the family as an educational institution at the foundation of Arab-Islamic culture, it is critical that other educational settings, especially schools, carefully observe and address the changes and daily occurrences inside the family unit. It is crucial to grasp the transformations that contemporary Moroccan households are undergoing. The family unit, serving as a hub of "educational excellence," is the setting from which a person develops and establishes the fundamental pillars of their continuously growing sense of self. Therefore, it is essential to examine the ongoing restructuring of the family unit, particularly in Morocco, where despite its paradoxical character, the family continues to have a fundamental position in society.

Amidst periods of ethical and financial upheaval, the family remains an enduring foundation of comfort and rejuvenation. Nevertheless, it is also engulfed in a crisis of values due to the destabilizing effects of external models such as the migrant movement, satellites, media, and new media on "traditional" values (Dunn and Hamilton 1997). As a result of the patriarchal family structure, a unique process of individualization and a life experience riddled with constraints torment the family.

An element that might benefit from more emphasis is the importance of gender relations and equality in corporate management, with references to subjective experiences within homes and in daily life. It is crucial to provide young people assistance in the examination and comprehension of their familial experiences, regardless of the complexity and conflict that may arise from them. Understanding the way in which a family operates as a concrete representation of economic interdependence filters all cultural viewpoints is the essence of the notion. Furthermore, what would occur if religious viewpoints were considered? Irrespective of the choice to refrain from doing a survey among households.

The selected family businesses are quite diverse and must be well recognized by all residents. The aforementioned entities consist of the following: MAROC TELECOM, the leading telecommunications provider in Morocco; ORANGE, the second-largest wholesaler of consumable products; CTM, the operator of the largest road transport company; ONCF, the sole operator of the railway in Morocco; Lait JAOUA, the second-largest milk producer and distributor in Morocco; MARJANE, the foremost wholesaler of consumable products; and ASWAK ASSALAM (the second-largest wholesaler of consumable products).

Significant factors that contribute to this absence of confidence are the following three components: A lack of transparency, inadequate product standards, and a lack of commitment to meeting the needs of the community. The quantification of corporate social responsibility is directly applicable to the governance (Pearson, Carr, and Shaw 2008), workplace, and citizenship aspects. In several academic fields, the associative movement has had significant advancements since the mid-1990s. Furthermore, apart from creating an environment conducive to the development and manifestation of civic engagement, the extensive range and diversity of the associative movement have given rise to innovative political tactics that set them apart from traditional methodologies. Street occupations, petitions, grievances, the use

of social media, and particular modes of expression such as protest songs are all characteristics of these movements.

The erosion of confidence in the government and its establishments is an additional facet of these movements that merits attention. These movements have been motivated by the mechanisms of representative democracy to document their activities outside the confines of the state to attain independence and autonomy from the party and state institutions. The societal transformations seen in Morocco, along with the prevailing sense of skepticism towards enterprises, indicate that the socio-economic milieu has suffered alterations that may impact the viability or demise of firms operating within the Moroccan economic structure.

In response to an increasingly knowledgeable and discerning populace, Moroccan enterprises are compelled to adjust and assimilate the current paradigm shift. A robust association exists between elevated levels of involvement and creativity. Fifty-nine percent of engaged workers, according to research by Krueger & Killham, claim that their job "elicits their most creative ideas," but a mere 3% of disengaged employees make the same claim (Krueger 2007).

There exists a strong correlation between employee engagement and the financial outcomes and performance of the organization (Craig, Dibrell, and Davis 2008). However, 61 percent of HR managers and 91 percent of employees express disengagement, with the improvement of employee engagement being a primary concern for the latter half of the year. During a period when the economic climate discourages businesses from recruiting, it is critical for their continuous growth to optimize their human resource. Concurrently with digital transformation, organizations, business models, processes, and structures that fail to promptly adjust to the evolving demands of the market risk being swiftly surpassed (Zahra 2005). Transformation establishes innovation as necessary, and people who wholeheartedly embrace change serve as the catalyst (De Massis, Frattini, and Lichtenthaler 2013).

It seems that both revolutionary concepts and incremental, incremental changes that are equally beneficial to the company foster innovation (De Massis, Frattini, and Lichtenthaler 2013). Consequently, innovation pertains to all individuals, spanning from entry-level staff to senior executives via research and development teams, so encompassing the whole organizational structure. However, what specific steps may be taken to build an engagement dynamic that fosters creativity inside the organization? Organizations are increasingly using participatory platforms, idea boxes, and internal incubators as methods to develop innovative ideas by relieving workers of organizational limitations that may otherwise hamper their progress. In addition to these instruments, the growth of organizations and management techniques is the primary factor in fostering a genuine culture of innovation and involvement (De Massis, Frattini, and Lichtenthaler 2013). Is it necessary to "liberate" organizations from conventional hierarchical control mechanisms? It is no longer valid to assert that the carrot-and-stick approach effectively motivates personnel. Compensation levels, work environment quality, job security, and other factors just guarantee employee satisfaction with a business but fail to inspire and motivate people over an extended period.

Herzberg proposed a categorization of motivational variables into hygienic factors and intrinsic factors in 1959, contending that long-term benefits are exclusive to the latter. However, what are these fundamental motivating elements? Daniel Pink describes in his book "Drive: The Surprising Truth About What Motivates Us" the three motivational levers that are most likely to inspire exceptional employee performance in creative organizations (Craig, Dibrell, and Davis 2008).

Initially, these organizations foster employee autonomy: as participatory innovation entails promoting initiative at every level, these businesses provide workers the most possible latitude to create and implement their ideas. A second benefit is that they enable workers to grow professionally: when staff members manage an innovative initiative, they are transformed into actual intrapreneurs. Innovation initiatives, which are often carried out in

teams, encourage the exchange of expertise and expertise (De Massis, Frattini, and Lichtenthaler 2013). As a last step, they provide workers with direct involvement opportunities in the organization's plan, which gives their job genuine significance.

However, the three engagement levers are subject to the management philosophy of the organization. All of them operate on the assumption that the organization's control mechanisms will be loosened (Zellweger, Kellermanns, and Chrisman 2012), resulting in a more adaptable management style that promotes employee initiative rather than just overseeing their activities. In several instances, a company must undergo a genuine cultural revolution to integrate collaborative management principles into its very fabric.

3. Unlocking Digital Success: Strategies for Transformation in Family Businesses

"Those that survive are not always the most intellectual or powerful; rather, they are the most adaptable to change." "C. Darwin" This quote suggests that to ensure their survival, Moroccan family businesses must adapt to the changing environmental conditions, as proposed by Nelson & Winter in their evolutionary approach, which posits that a company's survival is contingent upon its ability to adapt to its surroundings. Undoubtedly, the present economic climate is marked by a heightened rate of technical advancement. In the current era of extensive digitization, family companies have significant strategic obstacles (Habbershon and Williams 1999) that need their adherence to this digital trend while concurrently providing distinct prospects for expansion and progress (Carney and Gedajlovic 2002). The subsequent inquiry that emerges is as follows:

What are the essential requirements for a family company in Morocco to achieve a successful digital transformation?

Before we can respond to your inquiry, we must resolve the following concerns:

- How does corporate culture influence the digital transformation process?
- Which organizational modification is essential for a digital transformation to be successful?
- Are certain competencies and resources required to guarantee a successful digital transformation?
- In this context, what function does organizational agility serve?
- What are the fundamental requirements for a digital undertaking?

Adoption of innovative technologies is occurring in all sectors and influencing all companies, irrespective of their size or industry, including agriculture, which was not previously anticipated to be impacted by digital transformation, as we see a genuine revolution increasing daily. Presently, we are beholding what is known as "agriculture 4.0," an era that transcends the boundaries of the conventional agricultural industry. Digital technology is evident at this level in the collection of weather and animal data via drones and sensors, as well as in the integration of electronic remote control and entirely autonomous devices into the agricultural equipment environment (Zellweger, Kellermanns, and Chrisman 2012).

Presently, a new position is coming into existence: that of the Chief Digital Officer (CDO), also known as the digital strategy director, who has effectively incorporated the boards of directors of major corporations as Nestlé, Starbucks, and Orange. This position effectively elucidates the ramifications of digital transformation on business disruption and underscores the criticality of providing a transparent rationale for its execution, particularly when striving to achieve exceptional performance via such digital transformation (Craig, Dibrell, and Davis 2008).

Performance is, in general, the quantification of an outcome within a clearly defined task. At the organizational level, performance signifies the extent to which intended goals are accomplished and the amount of effort that is invested in their realization. A family business that is successful must be both efficient and effective. Effectiveness is attributed to the accomplishment of goals, whereas efficiency is attributed to the attainment of those objectives

at a decreased cost (Craig, Dibrell, and Davis 2008). A third element that contributes to the discourse on performance is relevance, which pertains to the connection between the established goals and the methods used to achieve them.

To ensure a fair and effective allocation of resources, it is essential to ascertain precisely the quantity required to accomplish the stated goals. The primary determinants of an organization's success are its strategic positioning (Carney and Gedajlovic 2002), available resources, and the way those resources are executed. Moreover, according to the notion of performance (Craig, Dibrell, and Davis 2008), a company's success is directly attributable to its capacity to coordinate and deploy its resources to alter unfavorable environmental circumstances. To achieve a successful transformation, organizational change must be executed efficiently. In fact, the term "change" can be defined as "the process of transitioning from one state to another, or from an initial state that is considered insufficient to one that is considered more appropriate, in order to better align with the demands of the surrounding environment or the evolving ambitions of the individuals involved."

DiMaggio and Powell delineate three potential origins of external change: coercive causes originating from the state in the form of regulations mandated by a public authority; normative causes in response to the expectations of other organizations (clients, partners, contractors, etc.); and mimetic causes whereby an organization adopts particular modifications merely because it has observed that they generate performance benefits (Craig, Dibrell, and Davis 2008) for another organization (benchmarking action). Furthermore, our empirical investigation will ascertain the underlying factor that has prompted this organizational transformation associated with digitalization.

Digital competencies are also critical for the transformation's success, since unique and dynamic competencies enable the organization to navigate its transition successfully, particularly dynamic competencies that enable the organization to be nimble. A company's organizational agility is defined as its capacity to consistently adjust to a progressively intricate, unpredictable, and turbulent environment; this agility is furthermore a prerequisite for the triumph of digital transformation. Therefore, considering our comprehensive examination of the literature, we rephrase the following hypotheses:

H1: In family firms, organizational culture would be a prerequisite for the success of digital transformation.

H2: The success of digital transformation would be contingent upon the implementation of effective organizational change.

H3: Proper acquisition of specialized knowledge and abilities would be essential for the achievement of effective digital adoption.

H4: Organizational agility is a critical factor in achieving seamless digital transformation.

Particularly in family companies, digital transformation continues to be a pressing and new subject both worldwide and in Morocco. The way digital is seen varies from manager to manager, since it is contingent upon industry, organization size, and other particulars. Furthermore, the decision to situate our research within its context necessitates a specific investigation of the subject of study, which may alone provide outcomes via qualitative empirical research. For this qualitative research, understanding the perspectives and opinions of our respondents about the factors they deem crucial for effective digital transformation is more important than measuring or quantifying.

The fundamental requirements for effective digital transformation, which we have identified in our literature review and validated through qualitative field research, are essential prerequisites for success and serve as the cornerstone and primary focus of any organization aiming to undergo digital transformation.

4. Nurturing an Organizational Culture Conducive to Digitalization

"A person without of culture is like to a zebra lacking stripes," a proverb from Africa, emphasizes the significance of culture in establishing human connections, as it continues to serve as the differentiating factor between people. This is also applicable to organizations that rely on culture as a fundamental component for their survival and differentiation from competitors. The term "culture" originates etymologically from the Latin word "cultura," which translates to "land maintenance" aimed at ensuring fertility. When used in its alternative connotation, the phrase pertains to the process of intellectual development and enhancement via the assimilation of newfound information. Therefore, organizational culture comprises a collection of components that delineate the operational procedures of the establishment, its distinctive ethos in contrast to its rivals. The success of the organization is contingent upon a variety of elements that are universally embraced by its workforce, such as adherence to certain principles (e.g., environmental stewardship), ceremonial practices, clothing standards, communication patterns, and work methodologies.

"Culture is the collective programming of the human mind that differentiates individuals into one group or another," as stated by Hofstede (1984). The effect of knowledge creation on organizational culture transformation is a viewpoint supported by Argyris and Schon. The organization is seen as a system comprised of several subsystems, each with its own set of qualities. Organizational culture facilitates the integration of various subsystems, hence promoting the efficiency of the company. Hence, the conception of digital transformation is unattainable in the absence of a digital-friendly corporate culture. The establishment of a digital culture is critical for an organization as it enables the seamless integration and execution of digital technology. Furthermore, digital transformation is mostly a cultural revolution, signifying a substantial alteration in work practices and habits; in this regard, culture assumes a pivotal function in guaranteeing a successful and relevant transition.

Digital culture, which is often referred to as cyberculture, e-culture, or internet culture, is distinguished by an inclusive attitude toward all digital elements and views them as catalysts for progress. An open and robust digital culture facilitates employee guidance and ensures that all members are moving in the same direction as the pursuit of success. Moreover, a culture that embraces digital transformation enables workers to acquire knowledge, so promoting employee engagement and bolstering overall productivity. It is worth mentioning that organizational culture, which is represented by ideology and ranks sixth in the hierarchy of organizational structures after the strategic apex (Habbershon and Williams 1999), middle line, operational core, technostructure, and support staff, serves as an efficient mechanism for coordinating the achievement of prosperous digital transformation (Carney and Gedajlovic 2002).

Nevertheless, the process of digitizing work processes and the comprehensive digital transformation of an organization may result in setbacks. These may arise from challenges associated with technical implementation, apprehensions regarding potential power loss, deficiencies in the required competencies for tasks utilizing novel digital tools, or the fear of employment reduction because of escalating automation and digitalization. Presently, the significance of corporate culture cannot be overstated when it comes to rectifying these deficiencies and enabling the execution of digital initiatives.

In summary, organizational culture may sometimes impede digital advancements inside a business, especially about the reluctance shown by workers towards fostering creativity and innovation (De Massis, Frattini, and Lichtenthaler 2013). Nevertheless, to facilitate a swift and healthy adjustment, the organization must ensure that its employees have a comprehensive understanding of digital transformation and provide ongoing training to facilitate gradual learning. Furthermore, the company must integrate this digital transformation into its internal organizational culture.

5. Transformation in an Organization's Efficiency

"Absolutely nothing survives except change." Indeed, in the present climate, which is characterized by rapid change and uncertainty, companies are unable to predict the future with absolute accuracy. One factor contributing to this instability is the continuous advancement of technology, which disrupts the existing conditions of companies and compels them to implement the requisite processes and approaches to align with this environmental trend. In pursuit of this objective, organizational reform is required.

An organizational change occurs when a series of occurrences throughout a certain time result in an alteration of the form, quality, or status of an organizational component. Therefore, digital transformation signifies a paradigm shift inside the firm. According to DiMaggio and Powell, the shift towards digital transformation is perceived as a normative change in which specific partners compel the organization to embrace digitalization to facilitate their partnership relations. Mimetic change transpires when the organization recognizes that the operations of other organizations that have implemented a digital strategy have been successful, thereby contributing to their own expansion and progress.

There are two distinct categories of changes: incremental changes, which are evolutionary in nature and need an ongoing improvement strategy; and radical changes, which are revolutionary in nature and demand a certain degree of reengineering to be implemented. Presently, internal organizations are undergoing a digital revolution and digitalization, which is implemented in enterprises in a gradual or radical fashion, contingent on industry and organizational characteristics (Duran 2016). In order to accomplish this, businesses must take into account three crucial aspects of this digital transformation: the content dimension, which entails defining the nature of the digitalization (tools, software, hardware, etc.); the process dimension, which involves the organization executing a sequence of consecutive procedures to guarantee a unified approach; and the context dimension, which clarifies the internal and external context in which this digitalization is being implemented within the organization. Digital transformation, which is mostly radical in strategically significant technology areas (Habbershon and Williams 1999), must be implemented whether gradual or radical, to guarantee its efficacy and efficiency.

It is fallacious to believe that identifying and executing the change action is straightforward; rather, the process of change formulation and execution is intricate, including a multitude of factors. A firm that initiates transformation without also providing leadership would be analogous to a driver operating a vehicle without foreknowledge of its destination. Diverse change management models have surfaced, with certain models falling under the contingent approach. This is since every situation is unique, and digital change management at this level is dependent on every change dimension (content, context, and process) in addition to the attributes of each organization. Additional models that are part of the standardized approach are universally applicable, irrespective of the scale of the change or the nature of the organization. One of the most renowned models is the one described in "Leading Change" by Kotter (1996). To ensure the success of digital transformation and successfully lead this digital shift, the organization must adhere to the following eight important steps:

1. Create a feeling of urgency: Underestimating change has been identified as the cause of several failures. The organization is obligated to communicate to its staff that digitization has evolved from a discretionary measure to a critical survival factor. The feeling of urgency will expedite the organization's execution of its digital strategy.

2. Establish a formidable coalition: The digital transformation initiative is a strategic undertaking that needs meticulous strategizing and execution (Carney and Gedajlovic 2002), beyond the competence of an individual management. The establishment of robust coalitions is vital for the management to collaboratively execute the project with the predetermined level of efficiency. To handle all facets of digital transformation, the coalition should be comprised of

persons with a variety of talents, ideally from diverse departments, as digital transformation will impact each of these departments (production, marketing, logistics, HR, etc.).

3. Formulate a vision: The organization's vision is delineated as the optimal state it aspires to attain, including its desired destination, desired outcomes, and intended accomplishments. A vision is essential for the digital transformation project to delineate the anticipated trajectory. Motivating and inspiring individuals, this vision must serve as a catalyst for optimal project execution.

4. Disseminate the vision: The vision should be conveyed to all partners without exception, since it pertains to all stakeholders and not just the management. In addition, the mode of communication must be selected with care to express the idea and its vision and to persuade others promptly and completely.

5. Employee Empowerment: Following a clear and shared vision, the subsequent course of action is to completely empower every member of the team via the allocation of action tasks. In other words, the process may be launched with more assurance the more jobs are delegated and persons are empowered.

6. Attain short-term benefits: These are interim successes that are realized during the process of implementing digital transformation. Such a step is essential for inspiring colleagues and demonstrating fast-acting outcomes.

7. Saturate gains and maintain determination: Although first results are advantageous and inspiring, they lack durability since they were attained by hasty and effortless efforts. Achieving the intended outcomes will need a mix of activities and measures to expedite the transition.

8. Establish a foundation in organizational culture: Culture and change are intrinsically intertwined; organizational change cannot be executed without a solid foundation in the internal fabric of the company. Employees will rapidly regress to the pre-change phase if this is not addressed. Digital transformation requires that modifications be ingrained in everyday operations, processes, standards, and conventions.

Resistance is an inevitable aspect of the change that arises from digital transformation, similar like any other disruptive development. This reluctance to change is partially attributable to the apprehension that one would lack the requisite competencies to actively engage in the process, given that the adoption and use of certain digital technologies need a certain degree of proficiency. At this echelon, personnel are apprehensive of falling behind this progression and, as a result, being terminated from their positions. Power plays are sometimes ascribed to resistance. In "Power in the Organization," Mintzberg (1983) provided the definition of power as the ability to generate or alter outcomes or consequences inside an organization. Furthermore, Crozier (1964) proposed a concept of power in "Power and Organization" that included two facets (context and power). Later, they defined power in conjunction with Friedberg as the ability of individual A to influence individual B to do something that they would not have done otherwise. As a result of people's reliance on others, which explains the power of the former over the latter, resistance to digital change is successfully explained by power, according to this description of Crozier and Friedberg.

Moreover, power is derived from four distinct categories of zones of uncertainty, all of which are intricately linked to the process of digital transformation. Expert zone: corresponds to the possession of a skill (at this level, a skill associated with mastering a digital aspect); information zone: corresponds to the possession of information; hierarchy zone: corresponds to the mastery of organizational rules; and final zone: corresponds to the mastery of relationships with the environment (environment zone). It is important to acknowledge that power inside an organization does not only reside with people in positions of authority; rather, but it may also originate from informal structures and therefore be attributed to every player within the organization.

Regrettably, resistance to change should not be equated with negative emotions when identifying its reasons. Conversely, their function ought to be seen as that of change levers. It is crucial to consider the considerable variation across individuals in their assessment of hazards associated with change. What one individual considers a danger may be seen as an opportunity and a benefit by another. Therefore, opportunity is especially valued in the context of employee development, given that every change is a chance for stakeholders and those in positions of authority to gain knowledge. Change is necessary for learning, and what we learn enables us to effect change.

In conclusion, organizational reform is the only means by which the digital transformation of the family company can be certain to be successful. Digital transformation is certain to fail otherwise. Therefore, regardless of whether it is predetermined, developed, responsive, or prompted by a crisis, its sudden or progressive character remains contingent upon the sector in which the organization functions and its individual capabilities and resources.

6. Achieving Excellence in Project Execution and Resource Oversight

Like any other undertaking, the digitization and digital transformation project needs clearly defined resources and competencies. In fact, the digital strategy of the family company is determined by the resources and competencies it currently has; they form the most significant limitation and a critical factor to contemplate even prior to the commencement of the project design phase. Nevertheless, adequate company resources are an absolute need, even prior to implementing the overarching business plan. These diverse resources are classified into two groups: the first pertains to physical components (such as financial, human, and technological assets), while the second concerns intangible components (culture, ideology, organizational structure, R&D). Complementary in nature, both classifications of resources are essential for the digital transformation endeavor, since one classification is reliant on the other. Nevertheless, these resources serve as an impediment to the digitization process and provide the family company a competitive edge via the digitalization of its operations. The organization must own unique, valued assets that are uncommon, difficult to replicate, and cannot be replaced. Ownership of resources is insufficient; effective management and orchestration are required to ensure their continued relevance and, by extension, the success of digital transformation initiatives.

Cognitive resources are crucial to the achievement of digital transformation objectives. Proficiency in every facet is regarded as an essential need for assuming a leadership role and executing the project efficiently. This includes awareness of the external world, including emerging technology, legislation, and the safeguarding of workers' and customers' personal data with respect to information security. Additionally, it requires awareness of the labor market and the opportunities it brings, particularly about specialized engineers in digital and IT, data scientists, and so on. Furthermore, understanding of the internal environment is vital, necessitating ongoing internal diagnostics to amass information that can be used to aid the installation of digital technologies and guarantee a successful transition. This information significantly impacts the efficiency of digital transformation for organizations, since knowledge is a critical resource for company competitiveness, according to Drucker (1993). However, explicit, or tacit internal knowledge (Nonaka and Takeuchi 1995) must be effectively managed using robust technologies such as pertinent information systems and next-generation ERP (Enterprise Resource Planning).

Competencies accompany crucial resources in the context of possible digital change. Competencies and resources are inextricably related in the sense that one cannot discuss competencies without the requisite resources to execute them, and conversely. Capabilities, which are defined as the capacity to use acquired information and resources effectively, manifest in many formats. Competencies, according to C.K. Prahalad and G. Hamel, are both basic and distinctive. Distinguishing competencies are those that distinguish organizations by

providing a distinct competitive advantage to those who possess them. Fundamental competences are those that all entities must master. Certain competencies are essential within the framework of digital transformation, particularly about the use of digital technologies. Although there are additional unique proficiencies associated with the observation, prediction, and interpretation of environmental trends, particularly as they pertain to technology and research and development as well as innovation (De Massis, Frattini, and Lichtenthaler 2013), those are specifically reserved for data analysis, particularly about Big Data. Competencies are not static; to possess and develop dynamic capabilities, they must undergo evolution and conform to environmental trends (Teece and Pisano 1994, 195-213). The capacity of an organization to integrate, grow, and reconfigure its competencies in response to circumstances that undergo fast change constitutes its dynamic capabilities.

7. Conclusion

The digital transformation of a family company requires flexibility, strategic deliberation (Habbershon and Williams 1999), and efficient resource management (Carney and Gedajlovic 2002). A crucial obstacle that must be surmounted is the resistance to change, which arises from concerns over one's competence and power relations. This opposition may be effectively managed by gaining an awareness of the power structures that exist within an organization. Power, as conceptualized by Mintzberg (1983) and Crozier (1964), has a critical function in the opposition to digital transformation. The attainment and expertise in resources and competencies are fundamental for the achievement of success in digital endeavors. Efficient coordination is crucial for managing both real and intangible resources, while cognitive assets, namely knowledge management, play a pivotal role in navigating the intricacies associated with digital transformation. Resources and competencies, whether essential or unique, are inextricably connected, requiring constant adaptation to satisfy the needs of a digital ecosystem that is undergoing fast change. The need of organizational adaptability in a VUCA (Volatility, Uncertainty, Complexity, Ambiguity) environment for survival becomes apparent. Leadership figures such as Christophe Aulnette emphasize the significance of organizational agility in effectively managing perpetual changes and capitalizing on possibilities in dynamic marketplaces, hence underscoring the criticality of adaptability to new circumstances.

General conditions that are universally relevant to digital projects include personnel training, good teamwork, and communication. Family companies get vital assistance from consulting firms that specialize in digital transformation. These firms provide family businesses with the necessary knowledge and skills to strategize (Carney and Gedajlovic 2002), execute, and evaluate the financial gains associated with entering the digital domain (Bammens, Voordeckers, & Van Gils, 2011). Utilizing technological monitoring in particular, intelligence technology functions as a strategic instrument that facilitates well-informed decision-making and ensures awareness of technological progressions (Habbershon and Williams 1999).

Active participation, both among team members and with stakeholders, is critical. Consistent monitoring, leadership development, and vision-setting guarantee that digital objectives are not only achieved but also adapted to include the most recent technology. Effective internal communication has a crucial role in facilitating cooperation among personnel, which in turn significantly contributes to the success of digital strategy.

Fundamentally, the pursuit of digital transformation entails more than mere adoption of technological innovations; it also requires the development of a collaborative organizational culture, ongoing learning, and adaptation to a perpetually shifting digital environment, and the promotion of innovation. In the digital age, the prosperity of a family enterprise is contingent upon its capacity to strategically exploit resources (Carney and Gedajlovic 2002), maneuver power structures, and cultivate an environment that promotes innovation and adaptability (De Massis, Frattini, and Lichtenthaler 2013).

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The Tragedy of the Common Space: On the Law & Economics of Commercialized Space Travel

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ABSTRACT: Space travel has a long history throughout the 20th century. Outer space exploration started with governmental endeavors in the 1950s and 1960s. During the cold war era, the so-called ‘space-race’ between the United States and the former Soviet Union led to major direct discoveries and accomplishments in outer space but also entailed indirect positive effects on the economy and society. Through the turn of the millennium, a new phenomenon started with a shift of former governmental space travel to offering private space experiences. In the most recent years, there has been a rapid advent of commercialized space travel options, which are expected to rise in scale and scope in the future. Privatized space travel has many short-term, medium-term and long-term advantages ranging from innovation sparking economic growth, first-mover advantages as well as leadership establishment. Conquering outer space on private sector tickets, however, may also entail various costs, risks and disadvantages that may or may not be obviously noticeable. For instance, in the short-term horizon, space travel is still a highly risky activity that can lead to fatal accidents and serious long-term health impairments. In the medium-term, space contamination and pollution have been reported as worrisome developments, which will exacerbate if space travel becomes commercialized and affordable to the global masses. The commercialization of space travel is also a legal and regulatory lacuna that bears risks of unforeseen political tensions, environmental degradation and human-ecosystem unbalancing. This article strives to inform a broad range of space travel stakeholders – like politicians, regulators, global governance executives but also non-governmental, private sector actors – about potential opportunities as well as risks of commercialized space travel. The article is organized as follows: An introduction will briefly touch on the historical advent and preliminary attempts to regulate and control space travel as well as economic problems arising to classify space as a common good. The theoretical part will give a snapshot of the history of space law from an international law perspective with reference to similar cases, such as the law of the sea. The empirical analysis will offer a first attempt to conduct a law & economics cost-benefit analysis with discounting different time perspectives for space travel benefits and costs. The discussion closes with a prospect of future research opportunities on the law and economics of commercialized space travel.

KEYWORDS: behavioral economics, commercialization, commercialized space travel, common goods, cost-benefit analysis, discounting, law & economics, Liability Convention, Moon treaty, outer space, Outer Space Treaty, private sector, public sector, Registration Convention, space, space travel

Introduction

Space is considered as the final frontier in human exploration endeavors. Astronomy has been used to understand earth conditions ever since. Since the early 17th century, telescopes have evolved to capture outer space. Originated in the public sector, space technology was developed to explore outer space in flying objects and capsules. Space rockets enabling outer space voyages evolved during the mid-twentieth century. The so-called ‘space-race’ was primarily driven by national governmental efforts in conjunction with scientific research with the goals of human exploration, research advancement and developing military and strategic advantages (Roston 2015). Since the 2000s, a large part of the developed world has participated in outer space missions. The United States, Russia, European Union, Australia, China, India, Japan but also Arab countries have explored and utilized space. Since the mid-20th century, human missions have been sent into Earth’s orbit and to the Moon.

While historically space travel emerged as public sector endeavor, most recently there is an advent of commercialized private sector space travel. When it comes to the physical exploration, human spaceflight most recently turned into a private sector endeavor as for its enormous market opportunities. Apart from uncrewed robotic space probes, human space travelers have become reality. Lunar tourism started with Dennis Tito as the first-ever space tourist, who traveled 8 days to the international space station in 2001 for 20 million USD.

This article concerns the history of space travel and the implications of a commercialization of space exploration. After an introduction to space travel and its history, the article offers a Law & Economics analysis of commercialized space travel. The paper closes with a prospect for future research opportunities in the realm of interdisciplinary space studies.

Space travel

The first flying objects for space travel started with Sputnik 1 in 1957, triggering the so-called ‘Sputnik shock,’ indicating the surprise of the Western world that the Soviet Union had successfully launched flying objects in space and thereby implicitly started the space race for outer space exploration. In 1961, Yuri Gagarin became the first human spaceflight passenger of the former Soviet Union. The United States landed a human crew on the Moon in 1969. The former Soviet Union launched the International Space Station in 1971. At that time, space exploration was considered a national endeavor of primarily public sector entities.

Current developments include the Artemis program carried out by NASA in the United States in cooperation with commercial spaceflight companies. Artemis has the long-term goals of a sustainable presence on the Moon and private companies building a lunar economy. Companies emerging to serve lunar tourism include Blue Origin, SpaceX, and Virgin Galactic. Axiom Space is planning to add a module to the International Space Station and Bigelow Commercial Space Station is in planning.

From an international law perspective, the *res communis* principle applies meaning that not one state or entity can claim outer space as its property. Outer space is thereby comparable to the Deep Seabed and Antarctica. The United Nations established a Committee on the Peaceful Uses of Outer Space (COPUOS) in 1959 after the first satellite launch of the USSR, which currently features 69 member states. COPUOS launched international law instruments to govern common space activities, such as, the Outer Space Treaty, Rescue Agreement, Liability Convention, Registration Convention, and the Moon Treaty.

International treaties and conventions consolidate the wish of the international community to keep outer space and its benefits a public good for everyone. The Outer Space Treaty, which is formally known as the *Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies*, is a multilateral treaty that forms the basis of International Space Law. With 114 nation states as participants, this framework for International Space Law restricts national appropriation in space. According to the Outer Space Treaty, the exploration and use of space shall be for the benefit of all countries. Article 2 of the Outer Space Treaty (1967) defines that “outerspace, ..., is not subject to national appropriation by claim or sovereignty, by means of use or occupation, or by any other means.” Outer space is seen as a “province of all [human]kind.” The Treaty also establishes that all use of outer space should be peaceful and therefore limits military use of space.

The Moon Treaty (1979), which is officially known as *The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies*, turns jurisdiction of all celestial bodies over to the participant countries, which are – to this day only 17 countries. The Moon Treaty bans any military use of celestial bodies and advocates for peaceful use of the moon. The Moon Treaty bans all exploration and uses of celestial bodies without the approval or

benefit of other states. The Moon Treaty thereby also asks for a moratorium on the commercial exploitation of the moon until an international regime is established to govern and guide commercialized space travel. Problematic appears in both Treaties that none of the major outer space conquering nations is part of the treaties.

The *Convention on International Liability for Damage Caused by Space Objects* is also known as the “Liability Convention.” Starting in 1972, the convention currently has around 100 ratifications. The convention defines that states are liable for damage caused by their space objects on the Earth’s surface or to aircrafts in flight. Payment of compensation is thereby a state responsibility.

The *Convention on Registration of Objects Launched into Outer Space* started in 1975 and has become known as the “Registration Convention.” The Convention requires space-launching to register space objects in a central United Nations register. Registration is seen as a prerequisite for traceability in terms of the liability of nations for space activities.

International Space Law advocates for an equal right of all states to research celestial bodies. Scientific discovery and exploration results should be made available to all countries for research purposes. The environment of celestial bodies should be preserved and protected, and states must take measures to prevent accidental contamination. International Space Law also bans any state from claiming sovereignty over any territory of celestial bodies since space is considered as a “common heritage of mankind.” Resource extraction and allocation should be made by international regimes only and sole ownership of any space property cannot be claimed. International Space Law also advocates for an international regime to govern the exploitation of space resources.

From an economic standpoint, the costs of outer space travel have historically been borne by individual nation states, but the profits generated oftentimes shared by society as a whole. The new age of commercialized space travel now raises questions about economic advantages but also potential downfalls of privatized space travel, as the costs may have to be borne by everyone. The focus of a common heritage of humankind in space creates a common good problem dilemma (Hardin 1968). The lack of private property claims or national acquisition of goods in outer space is believed to cause an impediment to the development of space travel and celestial habitation. Contemporary attempts to shift space exploration to a private sector endeavor, however, also bear risks and problems.

Law & Economics of Commercialized Space Travel

When analyzing the commercialization of space travel, a Law & Economics analysis can be conducted. When integrating a discounting element, the short-term, medium-term and long-term benefits as well as costs and risks can be identified in order to inform a broad-based stakeholder circle of politicians, regulators and global governance executives. The longer-term the implications of commercialized space travel are, the higher the depth of thought is advised to be.

On the short-term horizon, benefits of innovation in the space travel domain will likely push the economy as a whole. We already saw an increase in positive economic effects during the 1957 Sputnik shock in the US. After the USSR was first to send living creatures into space, the US invested in STEM fields in order to push for human capital being able to compete in the space race. This educational effort had a large-scale positive impact and inspirational character in very many different applied fields, such as engineering, finance, economics and medicine. Innovation also always leads to indirect effects and positive externalities as well. NASA programs are often associated with ongoing economic benefits (such as NASA spin-offs) that generate multifaceted revenues (Hertzfeld 2002). For instance, in the creation of space travel material, extraordinary hard and enduring material had to be invented, which was actually then used for teeth implants and crowns to replace broken teeth. Outer space also creates unlimited opportunities to test for living in various unknown

environmental conditions. From an economic perspective, moving to outer space expands the horizon of opportunities in the most unique way and grants unlimited opportunities to grow and advance. The beginning of international law emerged from the Law of the Sea, when different nations claimed parts of the ocean being their territory. International Law helped settle disputes and drawing clear lines how far oceans belong to adjacent nation states. Space Law may become the next area of international law development that sparks legal innovations to navigate common international conduct in outer space.

As for medium-term benefits of commercialized space travel, there may be a first-mover advantage of conquering space with the growing importance of space travel. In the claiming of resources of relatively unregulated space, those who come first can benefit from their first claim opportunities. The resources in outer space are estimated to be worth billions of dollars alone in the domains of minerals and metals (Elis 2012). Especially in the beginnings of space travel extractions in fairly unregulated territories will be possible. But also infrastructure can be built up that helps nations for intelligence purposes. For instance, satellites provide instrumental intelligence to monitor earth developments, environmental degradation but also support military operations around the world. In addition, the earlier entities engage in space travel, the better they can secure their positions in relation to others leapfrogging behind them.

As for long-term benefits of commercialized space travel, the actors that claim first-mover advantages will likely become leaders of monopoly or oligopoly regimes that divide the benefits of commercialized space travel among themselves. This leadership position will likely be grounded on the first exploration phase, in which regulation will be leaping behind. Based on tradition and specialization, the leading companies that invented commercialized space travel will have not only a leadership image. These corporations will likely also be able to foreclose the market or consolidate a leadership role with growing a large gap to competitors and new market entering participants. These leaders-in-the-field will be able to sell their key knowledge and information they gain from their role in space. The leading companies may also benefit long-term from reusable spacecrafts, knowhow and economies of scale that they will have built up during their advent to power.

When it comes to costs and risks of commercialized space travel, one has to acknowledge that traveling to space is still associated with heightened risks of accidents and health problems. During the 1986 Challenger event, when the Space Shuttle Challenger broke apart seconds into its flight, seven crew members were killed. The technical error was attributed to be somewhat foreseeable, yet the wish to explore and push innovation created a somewhat tunnel vision shunning researchers to rightly estimate the dangers of presented evidence of material weaknesses. To this day, space travel comes with health impairment as blood and immune system changes have been reported. Active space travel may lead to the space motion sickness syndrome and symptoms of vertigo, dizziness, fatigue, nausea and disorientation during the flight. Space travel can also adversely affect the body's natural biological clock and therefore cause sleep disturbances as well as mental and physical exhaustion (Doam, Polk & Shepanek 2019). Longer-term space excursions lead to bone and muscle weakening due to low gravity and immune system suppression as well as unhealthy levels of radiation exposure. Lack of gravity can cause all sorts of problems resulting in vision problems, loss of bone minerals and densities as well as cardiovascular deconditioning and decreased endurance and muscle mass (Perez 2016). Immune system changes after space travels are studied and documented, e.g., by a twin study, in which one twin flew to space and the other remained on earth. Radiation is associated with heightened cancer risks. Higher levels of radiation are prevalent in outer space when the Earth's magnetic field no longer protects from the sun's radiation. Traveling to space is also an emotionally burdening moment as psychological distress has been reported by space explorers. The European Space Agency has launched projects to reconnect humans in space via fragrances and scents that

remind of the earth to combat isolation from space. For instance, a report of a crew member sabotaging the toilet in order to be able to return to earth earlier exists. In addition, procreation appears impossible in outer space as experiments with mice have indicated fatal birth defects. Therefore, being in outer space is a short-term fertility impairment that needs to be considered when starting to sell vacation time in outer space to the population.

The medium-term costs and risks of commercialized space travel include the contamination risks but also environmental degradation through pollution. Astrobiology interdisciplinarily studies life in the greater universe and thereby combines astronomy, biology and geology to understand the interaction of human with outer space. Unknown contamination risks may exist as the question of the long-term implications of uncontrolled ecosystem exchange between the earth and space remains open if imposing a potential contamination hazard. When sea travel started in the 15th century, diseases were exchanged between the old and the new worlds. Unknowingly we may pollute and bring earth features to space or in reverse contaminate the earth with unforeseen space ecosystem biohazard. Space debris in outer space that remain in orbit forever have become an issue of concern for the worldwide community. Satellites stay in space forever and if they hit other objects, they burst apart in multiple parts that are uncontrollable. Commercialized space travel will likely exacerbate this problem. There is also the question of financing space travel with cryptocurrencies, e.g., as is the case with Marscoin. Cryptocurrencies have been attributed as somewhat risky market option and addressed as unsustainable as for energy-consuming mining operations. Funding commercialized space travel with cryptocurrencies will therefore likely impose environmental costs – not only for the pollution of space travel per se – but also implicitly the mining operations will take a toll on nature for elevated energy consumption levels.

As for the long-term negative impact of space travel commercialization in the broadest sense, private sector space endeavors are still fairly unregulated, which may lead to political tensions. To this day, if spacecrafts fly to outer space, the commercializing entities are flying the flag of the nation of their incorporation. This may lead to implicit political tensions, e.g., if a US corporation conducts risky operations that hurt a Russian space object. Most recently, space debris from a Chinese satellite caused problems to satellites from various other nation states, as another example. States may involuntarily be involved in legal disputes and liability regimes and responsible codes of conduct are still to be developed when it comes to space travels. Space colonization, also called space settlement and space humanization, also implies risks similar as detected in previous colonial times, which have negative implications for society to this day. On the long run, if commercialization leads to mass space travel and space travel prices thereby drop, the environmental pollution but also contamination hazards will increase. As for ethical considerations, involving private sector entities and allowing for standard market operations with limited oversight possibilities tend to crowd out attention to ethics and social responsibility. Future space travel commercialization regulation should be mindful of examples of corporations and outsourcing leading to ethical dilemmas and social welfare infringements. In the past, architecture studies, military operations and educational attainment held examples of private sector engagement crowding out ethics and social responsibility. Most recent positive developments to address inclusion in space include the formation of inclusive spaceflight watchdog organizations, such as the Justspace Alliance and Inclusive Astronomy, which mark an important step in the direction of ethical space conduct.

Discussion

Privatization is oftentimes acknowledged as a driver of growth and protection of goods, yet also often mentioned as an impairment for ethical considerations and long-term focus. This article addressed the potential of commercialized space travel as a way to create enormous benefits and values in the short-term, medium-term and long-term. Innovation pushing the economy and space exploration as a gateway to a new generation of international law

promises to hold unprecedented opportunities for humankind traveling into outer space commercially. Those who start with selling outer space travels will likely benefit from a first-mover advantage to conquer resources, claim space and learn for intelligence. The market will likely see an oligopoly formation for commercialized space travel supply, where the key leaders-in-the field have enormous economies of scale and price-mark-up advantages.

On the contrary one needs to be mindful of the potential hazards of mass space travel – such as accidents and health problems, contamination risks and pollution. The commercialization of goods and services has proven to lead to a neglect of attention to ethics and general safety precautions in the past. It is on humankind to curb similar negative developments that have happened in the political, environmental and societal spheres in the wake of privatized goods and services provision in other domains.

Future research may delve into international law predicaments in space with reflection on incentives and ramifications. An international regime for the governance of common goods in outer space must be resuscitated in order to address pressing legal, regulatory and political questions regarding space travel. Economic aspects of commercialized space travel, such as bonds schemes to secure funding streams but also licensing system to allocate costs and benefits among different stakeholders based on their input, could be discussed. Future scientific investigations may also delve deeper on the financialization strategies of space travel agents with particular attention to crowdfunding endeavors, e.g., via cryptocurrencies. Ethical market perspectives and imperatives such as Corporate Social Responsibility, Responsible Finance and Intergenerational Equity may become extended onto commercialized space travel in the future.

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Allocating a Surplus Value in the Socialist-Oriented Market Economy of Vietnam

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ABSTRACT: This paper is based on the views of Marx, as well as the economists before and after Marx, regarding surplus value. The authors analyze the allocation of surplus value in a socialist-oriented market economy in Vietnam. The result shows that in Vietnam, capitalists do not occupy the entire surplus created by workers, as Marx mentioned, so the existence of surplus value in Vietnam today is not contrary to the socialist direction because of its necessity. Additionally, the authors identify problems in the distribution of surplus value that need to be addressed in the practice of the social-oriented market economy in Vietnam today. Some recommendations are also proposed to effectively allocate surplus value for Vietnamese enterprises, workers, and labor unions.

KEYWORDS: allocation, surplus value, market economy, Vietnam

1. Introduction

The theory of surplus value is at the core of the economic theories of Marx, who founded Marxism and was one of the world's typical economists. The concept of surplus value is essential because it has shown the labor class the exploitation from the capitalism, leading to the Revolution and dramatic transformations in the capitalistic society. This theory still maintains its powerful influence until today, especially in the form of arguments between Marxists and those who hold contradictory viewpoints. Modern economists' opinions have indicated that the contribution from capitalists is increasing, and surplus value does not exclusively belong to them. Therefore, theorists base on this to reconsider Marx's view about surplus value. On the contrary, Marxists assume that to be merely capitalists' more sophisticated method to exploit surplus value, which is a new phenomenon in today's society, cloaked under the cover of employees' dividends or social welfares. Vietnam is a Marxism and Leninism based country, which builds its market economy with socialist orientation and accepts multi-component commodity economy, including the private sector. This means the necessity to accept the existence of surplus value, leading to unavoidable dubiety towards socialist orientation. However, on the basis of the Communist Party's route and undertakings, as well as the Socialist Republic of Vietnam's government's policies and laws, the socialist orientation has been distinctly expressed under the form of accepting surplus value in order to make "wealthy citizens, a powerful nation with democracy, equity and civilization".

With the aim to clarify those matters, the authors recognize the necessity to pinpoint the dissimilarities between business owners' distribution of surplus value in Vietnam's socialist-oriented market economy and Marx's viewpoints. Additionally, they seek to confirm that respecting surplus value is completely uncontradictory to the socialist directionality in Vietnam, thereby encouraging evaluating Marx's opinions on surplus value in order to assess practical incurred matters to a country aiming at socialism, such as Vietnam. Some authors have researched aspects of Marxist surplus value theory. Bernardo (1985), for example, believed that the proletariat is considered an input that generates surplus value and is regarded as an output representing surplus value. Paulani (2016) used Marx's theory to think about the relationship between contemporary phenomena (modern ways of operating capitalist systems such as goods, knowledge, added value of brands, talents) and the nature of the process of capital accumulation today. Marquetti (1999) illustrated that the behavior of these variables in the Brazilian manufacturing industry for the 1949-1985 period corresponds to Marx's

predictions. Lopesa and Araujo (2013) showed the concepts of absolute and relative surplus value with a view to specifying how these categories are used by the Latin American Marxist, Ruy Mauro Marini in his theory of labor power superexploitation and subimperialism. Lynch, Groves and Lizotte (1994) argued that grounding the radical approach in Marx's theory of surplus values creates an empirically testable Marxian theory applicable to understanding rates of criminal offending and official responses to criminal behavior. Moseley (2018) addressed at the level of abstraction of competition is the distribution of surplus value, or the division of the total surplus value into individual parts (first the equalization of the rate of profit across industries and then the further division of the total surplus value into commercial profit, interest, and rent).

The subject of surplus value and surplus value exploitation in the socialist-oriented market economy of Vietnam always attracts researchers' attention. Specifically, the authors are absorbed in interpreting the following matters: The existence of surplus value exploitation, in the same sense of this theory, both in Vietnam and in the world, has been illustrated in the works of authors like Bui (2005) who has affirmed that surplus value exploiting still exists in capitalism and in Vietnam as well as emphasized its importance to Vietnam. Besides, Le (2012) has shown the necessity of surplus value in establishing a socialist-oriented market economy in Vietnam. In addition, Chu (2017) has introduced an opinion on demonstrating that Marxian theory of surplus value maintains its power until today and that capitalism's exploiting nature still exists as a worldwide system regardless of the workers who receive shares and dividends as they just account for a small proportion of the new value created by workers.

There are studies to emphasize the role of surplus value by authors like Le Thanh Hai (2016), who has pointed out its importance in the intertwined economy in which the creation of surplus value and development is not exclusively based on a traditional element - economic capital, but also on cultural and social capitals as well as relationships in Vietnam. The works by Nguyen (2018) and Duong (2018) both illustrate the vitality of this theory in the socialist-oriented market economy of Vietnam by analyzing its contents. Studies applying the theory of surplus value in Vietnam have also been conducted. Nguyen (2018, 203) has clarified the values and contents of implementing Marxian surplus value theory into the socialist-oriented market economy of Vietnam, consisting of: the argumentation of labor power; the category of capitalism and the matter of exploitation; the category of revolving and flowing capital; the category of accumulating and converging capital; the category of profit and ground rent; etc. Do Lam (2018) also refers to the implementation of this theory as a motivation for the economy, which can restrict its downsides.

From these studies, the authors are engaged in handling the matter of exploiting surplus value and confirming the essentiality of Marx's theory about surplus value, through which to show argumentation about the matter of sweating surplus value in Vietnam. As a result, the authors recognize the need to analyze the distribution of surplus value in the socialist-oriented market economy of Vietnam to address two questions which are still discussed by previous theorists. Those are: Do capitalists occupy the entire surplus value created by workers, like in Marx's viewpoints? Does Vietnam's acceptance of surplus value in today's market economy contradict the directionality of socialism?

2. Analyzing the allocation of surplus value in the socialist-oriented market economy in Vietnam

2.1. The theories of economists about surplus value

2.1.1. *The viewpoints of classical and post-classical bourgeois economists*

The mercantilism viewpoint (mid-15th century to mid-17th century). Mercantilism claims that profits are born through the business of trafficking and purchasing goods, which are the result of buying cheap and selling expensive.

William Petty (1623–1687) spotted the relationship between wages and profits. The value created by workers lies only proportionally in their wages, while the other part, the profits, is taken over by the owners. In his opinion, this is an inverse relationship since the wages' increase will reduce the profits. He is opposed to high salaries because it is reasonable in an inchoate capitalist society where labor productivity is low, and the owners' profits can be increased merely by minimizing the workers' wages.

The peasantry viewpoint with the typical representative - F. Quesney (1694–1774), who proposed the theory of "pure products". Pure product is the difference between the total product number and production cost. It is created in the field of agricultural production, not in the industrial field. However, pure products are obtained only through major capitalist agricultural production as small agricultural production does not create pure product. Thus, the total labor product of an agricultural worker includes wages (labors' income) and pure product (capitalists' income) – the profits. In other words, profit is non-labor income brought by workers.

Adam Smith (1723-1790) has divided society into three basic classes associated with ownership of production materials and income: (1) *Working class* – whose income is their salaries; (2) *Capitalist class* (including: industrial, agricultural, and commercial capitalists) – whose income is profits; (3) *Landowner class* - whose income is ground rents. *About salary*, he assumes that salary is a worker's income attached to their labor, which is their labor's reimbursement. The salary needs to be sufficient for the workers to afford the means to survive, to live and even more than that. *About profit*, on the one hand, he realizes the robbing essence of profit when stating that workers create two separate parts of material value: his wage and the capitalist's profit. On the other hand, he denies the exploiting nature of profit in the notion that profit is created by the whole advance capital ($C+V=K$ creates P). He occasionally assumes profit is the compensation for the capitalists' adventurousness. He concludes that the purpose of capitalist production is profit since it is consistent with social benefits. He considers *ground rents* a part of the labor product. There are ground rents in agriculture because agricultural labor has higher productivity than in other fields. It is the impact result of nature, the payment for the land's service. From this point of view, the nature of ground rents is not exploitation.

David Ricardo (1772–1823) states that a worker creates a greater value than his received salary, which makes the capitalist's profit. This means he has noticed the exploitation. However, he does not admit it because he does not buy the idea of surplus value (profit). He considers profit is the capitalist's income compared to advance capital (P is born by K).

Jean Baptiste Say's view (1767–1832): In his opinion, there are three factors in the process of value production, which are workers' labor, capital, and land. Each of them has its significant role in creating value. The workers' labor produces salary; capital creates profit; land brings about rents. Say refers to profit not as the consequence of labor exploitation, but as the result of capital investment. He also distinguishes lending capitalists and businessmen. Revenue is the income brought by loaned capital, which is comparatively stable; business profit is the reward for the businessmen's operational capacity, and is the effort of managerial labor.

2.1.2. Opinions of the neo-classical economists

John Bates Clark's viewpoint (1847-1938): Based on Say's theory of "three production factors" and the theory of "limited benefit" by Vienna school, J.B. Clark makes his theory of "limited productivity". The limited productivity of production elements tends to gradually decrease. When the other production factors are constant, the productivity of additional elements decreases. For instance, if the capital element is unchanged, the additional labor is limited worker as his productivity will be lower than that of the previous one, with an unchanged condition of technical

development. Thus, the productivity of a limited worker is called ‘limited productivity’; his created products are called ‘limited products’. The limited productivity decides other workers’ productivity. Based on this theory, John Bates Clark invents the theory of distribution. He claims that wealth allocation in the capitalist society is rather fair, based on the production elements’ “responsibility capacity”. The workers have labor; the capitalists have their capital; they all receive corresponding limited products. In his opinion, workers’ salary is equal to labor’s limited production while the other part is the excess of labor employers. Other workers, too, receive the same amount of salary as that of a limited worker; therefore, they are not exploited. This principle is applied to the revenue and ground rents.

Alfred Marshall’s opinion (1842-1924). He divides an enterprise’s profit into two parts: one is the compensational part for labor expenses of managerial, production and commercial efforts; the second part is the reimbursement for the enterprises’ risks when they join an unknown market. He denies capitalism’s exploiting nature and believes that all the members who take part in the production process with different contributions receive a reasonable level of income according to their dedication.

2.1.3. The views of modern bourgeois economists

The opinion on theory of “capital performance”: regarding profit as the result of capital investment, as a basic factor in the process of production, now compounded with new production factors like technical improvements, technology science, and the role of the government, etc. Paul A. Samuelson believes profit is the income from inventing new things and implementing different technical advancements. While *The opinion on theory of “moderation”*: considering profit the reward for the capital owner because he has been “thrifty” in spending, accepted risks in business, faced challenges while waiting for his investment result in production. And *The opinion on theory referring profit as “labor income”*: assuming profit to be capitalist’s labor income, which is intellectual labor – the creativity in production and business. In other words, the common detail among these modern bourgeois points of view is the refusal of the exploiting nature of the capitalists; their income is ‘natural’ income in society.

2.1.4. Karl Marx’s perspective on surplus value

First, Marx discovered the duality of goods production labor, which is the basis to complete the theory of value, making a foundation to form the theory of surplus value. In his opinion, commodities have two properties - value and use value – decided by the duality of goods production labor. Marx is the first to realize the duality of goods production labor, which is concrete labor and abstract labor.

Concrete labor is a useful type of labor in forms of some professional careers. Every concrete labor has its own labor objects, labor aims, labor methods and production results. Those significant factors are to differentiate types of concrete labor, as each typical labor creates a specific use value, and more types of typical labor create more various use values. Concrete labor is a permanent phenomenon, a crucial condition in any socioeconomic morphology. Along with the development of science and technology, specific types have become more diverse and plentiful, reflecting the development level of social labor allocation.

Abstract labor: is the type of labor in which commodity producers have eliminated its specific form of expression to come in the homogeneous one, which is human’s usage of labor, energy, mind and muscles. Abstract labor creates commodity value, and only commodity production labor has the quality of abstract labor. Therefore, abstract labor is a historical phenomenon. The discovery of goods production labor’s duality has a significant meaning, bringing about a true scientific basis for labor value argumentation. Marx’s discovery of this duality has explained some complicated situations in the reality: the opposite movement of material mass gradually increases, accompanied with its value volume which is

decreased or constant; or else, the duality of goods production labor has a relation to labor's quality of being private and social. Moreover, this is also the foundation for Marx to build up his theory of surplus value.

Second, Marx has discovered a special commodity which can create a greater value than its self-value - labor power commodity. Marx presented the general formula of capital as $T - H - T'$ and pointed out the general contradiction in capital formula – “Capital cannot appear from circulation and either outside circulation, it has to appear in circulation and not in circulation simultaneously.” With the ambition to solve this conflict, one condition to turn money into capital is the existence of a type of goods while its usage can create a bigger value than its self-value – that is labor power. Marx was the first to distinguish between labor and labor power. Labor power is human's working capacity, is the whole sum of physical, intellectual and mental abilities of a specific human being which can be used to create some benefit. Just like ordinary goods, labor power commodity has two attributes.

The use value of labor power is presented in the process of labor power use, meaning the process of working to produce a specific type of commodity. During this process, a worker with his abstract labor creates a new value bigger than its self-value, the added value compared to labor power value is called surplus value. This is a distinctive feature of labor power commodity and also a key to solving the conflict of the general formula for capital.

The value of labor power, just like of other types of goods, has its quality crystallized from the labor power of producers and reproducers, has its value decided by quantity of social workers needed to produce and reproduce it. This type of commodity is claimed to be “special” because it is the living power existing in every human body; therefore, producing and reproducing that living power means people's spending their necessary living materials. As a result, the value of labor power is the value of the whole living materials needed to produce and reproduce labor power, and to maintain hired workers' life.

Being a special type of commodity, the value of labor power is different from other normal types of goods because it includes spiritual and historical elements. Workers do not only need materials, but they also have spiritual demands. Their needs also depend entirely on historical background, habits, traditions of the nation, and the achieved civilization level.

The value of labor power includes: (i) The value of living materials needed to maintain workers' labor power at their normal living status; (ii) Training costs vary according to the complexity of labor power; (iii) The value of living materials for the replacement ones – workers' children. The advent of the commodity of labor power has marked the qualitative transformation of the commodity economy, which is a definitive transition from simple commodity production to market economy.

Third, Marx analyzed the process of producing surplus value. Marx wrote: “As a unity between working process and the process to create value, manufacturing process is the one to produce commodity; as a unity between working process and the process to add value, the manufacturing process is the one to produce capitalism, and is a form of capitalism in commodity production”. This manufacturing process bears two characteristics: (i) workers working under the supervision of the capitalists; (ii) the manufactured products are the capitalists' ownership, not workers'. In order to analyze the process of producing surplus value, Marx has researched a yarn manufacturing process in a private capitalist factory, with assumptions:

Assumption 1: Assuming that the capitalist purchases production factors with their true value. To be more specific, producing 1pound of fiber requires 1 pound of cotton with the price of 4 shillings per pound, depreciation of machinery is 2 shillings per pound of yarn produced; the value of a worker's labor power in an eight-hour working day (salary) is 8 shillings.

Assumption 2: Social labor productivity at the time we analyze allows that, in every 4 hours, a worker with his typical labor creates 1 pound fiber and he, with his abstract labor, also adds a new value of 2 shillings to the products per hour.

The process of analyzing:

In the first 4 hours of working, the worker produces 1 pound of yarn with the price including: 4 shillings cotton + 2 shillings depreciation + (2 shillings new value/1h x 4 h (8 shillings)) = 14 shillings. If the production process ends here, the capitalist receives 1 pound of yarn to sell in the market with its true price of 14 shillings - which is just equal to the amount of money he has paid, then there is no surplus value creation and money has not yet turned into capital. However, the capitalist has the right to use labor in 8 hours, not 4 hours, thus he can force the worker to work for the other 4 hours.

In 4 hours later, with unchanged labor productivity, the worker produces 1 pound of yarn = 4 + 2 + 8 = 14 shillings.

A working day really ends here. The result is 2 pounds of yarn, which is sold by the capitalist with the price of 28 shillings, in which the old value (manufacturing factors including cotton and machinery depreciation) is 12 shillings and the new value created by the worker in 8 hours is 16 shillings (consisting of the worker's labor power value and 8 shillings in the hands of the capitalist, called surplus value).

Marx has made three conclusions: (i) Surplus value is a part of new value exceeded of the labor power value created by the worker and under the capitalist's governing; (ii) Surplus value production is the act of lengthen a working day to above some limits, which is past the needed amount of labor time. This shows the condition to create surplus value is that the social productivity has to reach a certain accepted level in a working day, the worker just needs to use some of his labor hours (necessary labor time) enough to create the compensating value for his labor power value, the other part is surplus labor time to bring about surplus value to the capitalist; (iii) The secret of increasing the value of capital is mainly when capital can dominate a certain number of free-of-charge workers from others. This is also the exploitative nature of capitalism.

Fourth, in Marx's opinion, in order to get the surplus value, the capitalist used two basic methods, one to produce absolute surplus value and one to produce relative surplus value.

The method to produce absolute surplus value is the way in which the value is created by making the working day longer than the essential labor time while labor productivity, labor power value and essential labor time are unchanged. When the length of the working day has been determined, the capitalist will find a way to increase the worker's working intensity, which means to spend more labor power in a given period of time. Therefore, lengthening the working day and increasing worker's intensity are the two methods to produce absolute surplus value.

The method to produce relative surplus value is the way in which surplus value is created by shortening necessary labor time, which is to lower the value of labor power, leading to an increase in surplus labor time within a constant working day. Labor power value is determined by the value of consumer materials and services to produce and reproduce labor power. Therefore, lowering the value of labor power also means to lower the value of the necessary consumer materials and services for the worker. This can only be done by increasing social productivity in the industries of consumer materials and of production materials to produce consumer materials.

Normally, production improvement and technological innovation just take place in factories with advantageous conditions of manufacturing while most factories do not meet the conditions to implement. From this comes the "super" surplus value, which means the surplus value obtained by applying advanced technology, lowering its specific value than its market value. When many factories have improved their skills and technology, this "super" surplus

value no longer exists. Marx called this another form of relative surplus value because both of them based on the increase of labor productivity, and a difference is that one side is to increase individual productivity and the other is to increase social productivity. In each factory, super surplus value is a temporary phenomenon, but in society, it is a regular existence. This super surplus value is the strongest motivation encouraging capitalists to improve technology to increase individual labor productivity and defeat their rivals in competition.

2.2. Outcomes and discussion

2.2.1. The development process and the characteristics of a socialist-oriented market economy in Vietnam

Vietnam determined to choose the path of building the country towards socialism; therefore, before the renovation in 1986, private business and market factors were not accepted. As a result, the economy was in crisis and stagnated, people's life was really fierce. The 6th Congress of the Vietnamese Communist Party (1986) had a clear acknowledgement of the inappropriateness in building production relationships when emphasizing that because production relationships do not develop synchronously, some factors had gone beyond the development level of production force, constraining the development of the production force. Because of that, the Party initiated a renovation strategy, setting out a multi-sector economic policy, which is a breakthrough in awareness and action in boldly accepting private property, to make the most of the achievements from the private economy.

By the 7th Congress (1991), the Vietnamese Communist Party made the point that it was necessary to take steps in establishing socialist production relations from low to high with a variety of forms of ownership - the ownership of the entire population, group ownership and private ownership. With the orientation of developing a multi-component commodity economy in the direction of socialism, it was needed to operate under the market mechanism under the management of the state, as well as to make a right combination of private benefits, collective benefits and social benefits, by which to overcome the defects of the previous public regime.

At the Congress VIII (1996), the Vietnamese Communist Party emphasized the building of production relations which are improved and in line with the level of development of production forces to promote resources, create a strong motivation to encourage economic growth and implement social justice. Moreover, it could also help to overcome one of the four risks raised by the Mid-term National Assembly Conference (January 1994), the risk of further economic lag, of which a part is due to the leadership and construction of the new production relationships were "both confusing and indulgent"; thus, it was not yet possible to encourage and promote the operational efficiency of all economic sectors.

At the Congress IX, the economic policy of the Vietnamese Communist Party (2001, 89), determined the priority for developing productive forces along with building appropriate production relations in line with the socialist orientation. At the same time, the Vietnamese Communist Party also identified the constructing and developing of a socialist-oriented market economy as a general model of our country during the transition to socialism. This model was formed to develop a modern production force associated with building a new production relationship that is appropriate on all three aspects of ownership, management and distribution. In terms of ownership, the public regime of means of production is established step by step and will prevail completely when the socialist regime is basically built up.

The Congress X (2006, 390) XI (2011) of the Vietnamese Communist Party continued to develop and perfect the form of socialist-oriented market economy. The XII (2016), XIII (2021) Congress of the Vietnamese Communist Party affirmed: focusing on perfecting socialist-oriented market economy, building a market economy which is modern, internationally integrated, having many forms of ownership, many economic sectors,

operating fully, synchronously and effectively under the rules of market economy with transparent and fair competition.

Thus, the socialist-oriented market economy in Vietnam is a type of economic organization, both based on the principles and rules of the market economy, and on the basis of, as well as being guided, governed by the principles and nature of socialism, expressed on all three sides: ownership, distribution and management.

About ownership regime and economic sectors: The economy has many components with many forms of ownership. Thus, all economic sectors are important components to compose a socialist-oriented market economy. They develop in long-term together, maintaining healthy cooperation and competition because of the laws of the state, in which the state economy plays a leading role. The state economy together with the collective economy is gradually becoming a solid foundation of the national economy; the private economy is the driving motivation of growth.

About distribution: In the socialist-oriented market economy of our country, the allocation by labor results and economic efficiency is essential; at the same time, there are other forms of distribution (distributions based on capital, talent and other resources contributed to production and business), both encouraging labor and ensuring basic social welfare, ensuring equitable, reasonable distribution and limiting inequality in the society.

Regarding management role: the socialist-oriented market economy, the management and regulation of economy of the socialist rule of law state are under the leadership of the Communist Party of Vietnam. Therefore, the state management in a market economy must be effective in guiding the economy to develop effectively on the basis of ensuring the national interests and the interests of the working citizens through the legal system along with strategies, zoning, planning, and policies for economic and social development; at the same time using the market mechanism to stimulate production, liberate production capacity, promote positive aspects and limit negative aspects of market mechanism.

2.2.2. The allocation of surplus value in the socialist-oriented market economy in Vietnam

Addressing the first problem: in the socialist-oriented market economy in Vietnam, whether the surplus value created by workers belongs entirely to the capitalist or not? Based on the consideration of the distribution aspect of surplus products, the authors assumed that in Vietnam, capitalists do not completely occupy the whole value of surplus (m), because:

First, the surplus value is allocated to the boss's management wages - m_1 . On analyzing Marx's process of surplus value production above, Marx assumed that the capitalist was not involved in the production of surplus value; while in the socialist-oriented market economy in Vietnam, most of the business owners are involved in managing and running the business, they must put a lot of enthusiasm, energy and intelligence into the operation of their enterprises. It can be seen that this is intellectual labor, which creates a great value. Therefore, in m there is partly m_1 – the salary paid for the managerial labor of the owner (the capitalist).

Second, the surplus value distributed to the corporate income tax - m_2 . Marx's analysis did not mention that the capitalists had a duty to the state (tax deduction); while in the socialist-oriented market economy in Vietnam, the capitalists must annually pay corporate income tax to the state. So, in m there is partly m_2 - corporate income tax. Through tax revenues, the government implements social policies. As such, workers receive a share of the surplus value they have created through the social policy. These are the phenomena that go beyond the relationship between capital and labor.

Third, surplus value is distributed to the employee's welfare - m_3 . In the business operation in the socialist-oriented market economy in Vietnam, annually, business owners offer welfare programs to workers, such as housing, health checkups, travel vacation schedule ... Thus, there is partly m_3 in the m - benefits for workers.

Fourth, the surplus value allocated to social welfare - m4. Enterprises in operation in the socialist-oriented market economy in Vietnam, every year, business owners participate in welfare programs for the social community, such as program for the poor, scholarships for students, other humanitarian programs, etc. In these programs, the largest part of funding is often from business owners. Therefore, in m there is partly m4 - welfare for the society.

Fifth, the surplus value of dividend distribution to employees - m5. Nowadays, in the socialist-oriented market economy in Vietnam, there are many joint stock companies, in which a part of the shareholders are workers. Thanks to holding shares, every year the employees receive a part of dividends. Therefore, in m there is partly m5 - dividends of shareholders who are employees.

Besides, analyzing the distribution of surplus value into different parts of businesses in Vietnam today also shows the necessity, suitability and does not conflict with socialist orientation. On the contrary, it also helps Vietnam gain practical benefits, such as stimulating scientific and technological advances, creating economic incentives for workers and production business units, making an important contribution to economic growth. Most importantly, it is a great contribution to the industrialization and modernization of the country in order to build material and technical facilities for socialism.

2.2.3. Recommendations

From considering the process of distributing surplus value in the socialist-oriented market economy in Vietnam, a few recommendations to access the difficulties can be drawn as followed:

For Vietnamese enterprises: enterprises should focus on improving science and technology, expanding production and business links in order to compete with large economic corporations of foreign-invested economic sectors. As for small and medium-sized businesses starting up with loans, goods sold through intermediaries, rental premises, lacking business skills and weak management, etc., the government should create more supportive conditions to avoid trendy start-ups, quickly established and rapidly dissolved.

For workers: the government needs to build an education system in a way that helps workers to be aware of their role and position in current production industry. They must be modern workers with knowledge, skills and passion; they do not have to work like a machine, nor do they have to work just for their salaries. They should be the ones responsible for improving their capacity to contributing to the national economy and to human civilization.

For labor unions: it is necessary to consider the authorities and actual activities of labor unions regarding the protection of workers' rights, avoiding the situation in some places today where the head of trade unions takes a stance, a view that protects business owners rather than workers, even though those policies are not even beneficial for workers.

3. Conclusion

Nowadays, in the socialist-oriented market economy in Vietnam, the capitalist does not fully occupy the surplus value created by workers as Marx's view. In this earned value of surplus, they must be responsible for paying taxes to the state, taking care of the welfare of workers and society, paying dividends to employees who are shareholders. The remainder is the capitalist's profits, including a portion paid to the managerial labor of the capitalist. At the same time, the acceptance of surplus value in Vietnam does not conflict with the socialist orientation, because of the benefits brought by surplus value.

3.1. Contribution

The paper has addressed the controversial issues of surplus value, which are still in argument in the socialist-oriented market economy in Vietnam today, in which the authors have provided the basic theory of surplus value based on the views of Marx and economists before and after Marx's

time. By these, the authors have analyzed the distribution of surplus value leading to the conclusion that the capitalist does not own the full surplus value, resulting in some certain benefits of the existence of surplus value for the economy, thus it is not contrary to the socialist orientation in Vietnam.

3.2. Future research direction

The paper is based on the method of ‘abstractifying’ science in order to draw out the most common problems of surplus value in a socialist-oriented market economy. In fact, there are still many companies that are exploiting surplus value from Vietnamese workers, especially in places where low-skilled labor, child labor and rural workers are accepted, such as food stalls and small-scale manufacturing units hiring temporary workers. This is the limitation of the paper and also a direction the authors will study further in the near future to clarify the issue of surplus value in the socialist-oriented market economy of Vietnam.

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From Kashmir to East Pakistan: How Hegemony Absence Redefined South Asian Warfare

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ABSTRACT: Post-World War II saw a bipolar global structure emerge, altering warfare dynamics to include not only traditional wars but also civil conflicts, skirmishes, guerrilla tactics, and terrorism. Superpowers like the USA and USSR, often involved in regional disputes in South Asia, the Middle East, and Africa, have been criticized for escalating tensions. However, their absence sometimes led to greater instability and uncertainty, potentially sparking new conflicts. Aiming to investigate how and why hegemony absence has shaped the evolution of warfare in the region, this article examines the three significant conventional wars between India and Pakistan that transpired in South Asia—a region deeply entrenched in distinct historical and political significance. It reveals that the 1947 Kashmir War, occurring during a period of superpower preoccupation, failed to resolve tensions and laid the groundwork for future conflicts. The increased superpower involvement in the 1965 war significantly altered the conflict's scale and outcomes. In contrast, the 1971 war, with focused attention and support from the USA and the USSR, led to East Pakistan's independence, reshaping South Asia's geopolitical structure. Using process tracing and comparative analysis, this study highlights the critical impact of hegemonic absence on regional conflicts, marked by increased decision-making autonomy, diminished resource aid, and limited mediation efforts. This South Asian case study enriches our understanding of hegemony's role in international relations theory.

KEYWORDS: warfare, hegemony absence, geopolitics, South Asia

Introduction

Warfare, a pivotal and ever-evolving aspect of human history, transcends the realms of mere strategic or political discourse. It has been extensively analyzed by scholars across various disciplines, including political science, history, and international relations, reflecting its multifaceted impact and significance. The global devastation wrought by World War I and World War II, resulting in hundreds of millions of casualties and incalculable economic losses, underscores the prohibitively high cost of engaging in total war, of which the ambition is the annihilation of the enemy army and nation in the industrial era (Roy 2022, 140). Moreover, the emergence of massively destructive nuclear weapons contributed to the establishment of a relatively stable bipolar global structure, subsequently reducing the likelihood of large-scale wars. The evolution of warfare dynamics was marked by the emergence of various forms, including civil conflicts, skirmishes, guerrilla tactics, and terrorism (Jung 2005, 425). The Cold War's overarching pattern was typified by numerous small-scale conflicts and wars, which frequently occurred despite the period's overall peace.

Due to the roles played by the USA and the Soviet Union, the two superpowers, during the Cold War period, the concept of hegemony gained widespread prominence in international relations discourse. The realism scholars define the hegemony as the dominance or leadership of one nation over others, established and sustained through power and control (Mark 2009, 244). Such hegemonic states are often pivotal in setting international rules, standards, and norms, wielding the capability to ensure adherence by other nations. Constructivists, on the other hand, emphasize the influence of ideas, norms, and beliefs in

international relations, underscoring the importance of ideational and soft power (Hopf 2013, 321). However, these theories do not fully explain how hegemony shapes world order; in this context, the hegemonic stability theory, as proposed by neoliberalism, offers a novel perspective. Gilpin pointed out that ‘When a single nation-state is the dominant world power or hegemon, the international system is more likely to remain stable’ (Gilpin 2016, 86). These theoretical conceptualizations of hegemony help us to better understand its roles during Cold War. These studies underscore the academic community's extensive documentation of hegemonic involvement in wars. However, there is a notable paucity of research on wars in the absence of hegemonic influence. This gap leads to the central research question of this paper: What is the nature of wars when hegemony is absent? In other words, what's the different forms between wars with and without hegemony's involvement? To address this question and gain a deeper understanding of the role of hegemony in wars, this research examines the three conflicts between India and Pakistan from 1948 to 1971. The first part of the essay will discuss the varying degrees of hegemonic involvement. Subsequently, it will analyze the processes and outcomes of these three wars, along with the roles played by hegemonic powers. Finally, employing process tracing and comparative analysis, the study will explore multiple explanations for how the absence of hegemony leads to changes in the form of warfare.

Hegemony's Differential Involvement in Wars

Although scholars from different schools have given diverse definitions of hegemony, there is a consensus that the USA and the Soviet Union were the two most important hegemonies during the Cold War. China, with its relatively strong national power and active involvement in regional affairs, can also be considered one of the hegemonies. Overshadowed by the Western liberal camp and the Eastern communist bloc, many of the wars during the Cold War saw some level of participation by hegemonic powers. In this section, we will examine the involvement of these superpowers at various scales, encompassing both direct and indirect forms.

The most direct and highest level of participation of a hegemon in war is becoming one of the parties in the conflict. This means that the hegemonic nation deploys its military forces to another country and engages in direct conflict with one or more armed forces. In many cases such as the 1968 Soviet invasion of Czechoslovakia (Bracke 2003) and the 1983 USA invasion of Grenada (Karas & Goodman 1984), a hegemonic country can achieve its political objectives with a small-scale military operation, without escalating it to a large-scale war. While the powerful military strength may facilitate the achievement of its strategic objectives, this approach often incurs significant costs, including damage to the hegemon's international image and substantial suffering in the targeted country. The high level of involvement of a hegemon in war reflects its nature of using material power to control other countries.

Compared to direct confrontation, it was more common for hegemonic nations during the Cold War to choose indirect forms of involvement in wars. Hegemonic nations often exert control over the progress and outcome of regional wars to a certain extent through various means. These include supporting specific powers, providing military and economic aid, engaging in arms trading, and imposing sanctions (Morris 1981). Through limited involvement in wars, hegemonic nations often gain greater flexibility while avoiding responsibility for the war. These groups rapidly developed capabilities to counter the opposing hegemon. In other cases, the conflicting parties in regional wars received support from opposing hegemonic powers, thereby giving these conflicts the characteristics of proxy wars (Mumford 2013). The third Indo-Pakistani War, which this study will discuss, is a typical proxy war, as both India and Pakistan received substantial support from the two camps, and the outcome of the war involved the interests of all stakeholders.

Another important role of hegemony in conflicts and wars is establishing an international system that provides norms for the mediation and termination of conflicts. As

hegemonic powers rise, they introduce norms of order at the global level, which, to some extent, maintain the peace and stability of the world (Kupchan 2014, 251). The UN, established by the hegemonic powers after World War II, stands as one of the most crucial global institutions in maintaining world order. On one hand, it possesses the capability to resolve conflicts and prevent wars; on the other hand, it provides essential mechanisms for mediating and bringing conflicts to an end. However, the theory of hegemonic stability points out that when a hegemon begins to decline, its ability to provide international public goods and ideology is weakened, which leads to the world situation falling back into instability and increases the likelihood of conflicts erupting (Lake 2022).

While the diverse roles of hegemonic powers were evident in most conflicts during the Cold War, there were instances where their presence was notably absent in regional conflicts. One plausible explanation for this absence is that most of the hegemonic resources and focus were allocated to other regions or issues of greater strategic value. The first Kashmir War serves as a prime example of a conflict that unfolded without significant involvement from the hegemonic powers, as both superpowers were primarily preoccupied with escalating tensions in Europe at the time. The next part of this paper will discuss in detail the three Indo-Pakistani Wars and the extent of hegemonic involvement, by which a comparison could be made to answer the major question of this research.

Evolution of India-Pakistan Wars

War and conflict have become the main theme of relations between India and Pakistan since their independence. The rapid partition of the British Raj in 1947 set the stage for a prolonged period of hostility between the two nations, creating geopolitical disputes and conflicts that even ended up in wars. Shortly after achieving independence, India and Pakistan were engaged in their first war, centered on the disputed ownership of the Kashmir region. This conflict had significant repercussions for both newly established post-colonial governments, profoundly influencing their political and diplomatic tendency. Later in the mid-20th century, two more large-scale conventional wars took place between the two countries again, culminating in the humiliating defeat for Pakistan with the independence of Bangladesh. A significant shift of hegemony's involvement in these interstate wars was witnessed, which resulted in the differentiated forms of wars. During the first Kashmir War, both the USA and the USSR refrained from engagement in the crisis, thereby maintaining their absence from the conflict. Later, in the 1965 conflict, the USA and USSR provided limited support to the opposing sides. By 1971, the war had escalated into a typical proxy war, with these superpowers more actively involved.

1947 Kashmir War

Pakistan, expecting Kashmir to join it due to its Muslim-majority, launched a guerrilla attack to influence Maharaja Hari Singh's decision. Singh, under pressure, fled and sought India's assistance, agreeing to accede to India for support. The Pakistani guerrillas initially succeeded but were eventually defeated by the Indian army due to their indiscipline and India's military intervention, leading to significant battles in the region (Stein 2010, 358). In 1948, the war entered a new phase, marked by India's successful recapture of towns like Jhanger through a counter-offensive. The subsequent spring offensive not only withstood a counterattack from the regular Pakistani army but also led to the capture of Kargil. By August 1948, the military commitments of both India and Pakistan had reached their limits, leading to a gradual subsidence in fighting (Iqbal 2022). As both countries were incapable of further warfare, India and Pakistan agreed to a ceasefire plan passed by the UN in August 1948. The plan required Pakistan to withdraw all its regular and irregular troops. India was allowed to retain a small number of troops to maintain order, while a plebiscite was to decide the future of Kashmir (UN 1948). However, the planned plebiscite was not implemented, and the final

ceasefire line became the actual line of control between India and Pakistan, each gaining one-third and two-thirds of the Kashmir territory, respectively. Throughout the war, the Indian forces suffered around 5,000 casualties, while the figures for Pakistan were several times higher (Singh 2000, 18).

Throughout the course of the war, the involvement of the two major hegemonic powers, the U.S.A. and the USSR, was notably minimal, exemplifying this conflict as a typical case where hegemony was absent. An analysis of the USA diplomatic documents from 1947 to 1949 reveals that the USA did not invest much effort and attention in the war during this period, merely limiting its role to aiding in ceasefire negotiations between the two countries. The *Foreign Relations of USA* Series is the official documentary historical record of major USA foreign policy decisions and significant diplomatic activity. Apart from a general lack of interest in supporting either side, the US also imposed significant restrictions on material support during the conflict. The policy was designed to prevent any increase in the military potential of either country, leading to the rejection of both countries' request for weapon procurement. In notable contrast, during the same period, The USA air-dropped over two million tons of supplies to West Berlin in response to the Soviet blockade (Head 2021, 27). This operation, involving thousands of transport planes and massive financial investment, clearly indicated where the USA policy priorities lay at the time.

The situation on the USSR side was not much different. In 1948, one telegram from the Chargé in India (Donovan) to the Secretary of State mentioned that 'Russia has manifested no interest either at Delhi or Moscow in Kashmir'. One CIA report also indicated that 'Up to the mid-1950s, relations between India and the USSR were generally correct-limited to trade, cultural, and unexceptional diplomatic exchanges'(CIA 1972, 3). Another reason for Soviet Union's absence was Stalin's attitude of indifference and hostility towards both India and Pakistan, considering them still 'a colony of the Anglo-American capital, a British dominion ruled by the Indian national bourgeoisie'(Naik 1968, 50). At this time, the USSR was primarily focused on the front lines of the Iron Curtain, consolidating its influence in Eastern Europe. It confronted the US's Marshall Plan by promoting its own initiatives, such as the Molotov Plan and the establishment of the Comecon. In summary, the 1947 Kashmir War was characterized by the absence of the two major hegemonic powers, both in terms of material support and political involvement.

1965 Indo-Pakistani War

As both India and Pakistan were not satisfied with the outcome of the 1947 war, the ceasefire didn't symbolize the end of dispute. The decade of relative peace provided both countries an opportunity to focus on strengthening and modernizing their military capabilities, which involved consolidating state power and actively seeking support and aid from external powers. An agreement was signed in June with the effort of UK prime minister which awarded Pakistan 780 square kilometers (Wilson 1965). In August, approximately 30,000 Pakistani soldiers, disguised as local militants, infiltrated across the LoC, followed closely by the entry of Indian troops. By the end of the months, both sides had gained some advantage and progress after several battles in areas such as Tithwal, Uri and Poonch. On 20th September, as the war reached a stalemate, the UN proposed a ceasefire and demanded both nations agree to an unconditional cessation of hostilities within 48 hours (ibid, 350-352). Under the joint pressure of the USA and the Soviet Union, the two countries signed the Tashkent Declaration in the USSR, agreeing to cease hostilities. India and Pakistan respectively lost 540 and 1840 square kilometers of territory in this war, with no clear victor emerging (ibid, 348-350). Although the war only lasted for seventeen weeks, it resulted in nearly ten thousand casualties on both sides, significantly intensifying compared to the first Indo-Pakistani War (Leonard 2013, 806).

Compared with the first one, this larger-scale war was characterized by a notably increased engagement from hegemonic powers, both politically and materially. Both India

and Pakistan experienced a significant shift in their foreign policies, moving from a non-aligned position to seeking stronger connections with the superpowers in the late 1950s. Washington welcomed this development, as Pakistan could serve as a crucial force in preventing the communisation of the entire South Asian subcontinent by India, thereby strengthening the position of the Soviet Union. Several goodwill actions were then taken, symbolizing Pakistan's intention to confront India with the support of the USA. In 1960, President Khan granted permission for the USAF to conduct its first spy missions to the Soviet Union from the Peshawar Air Base, a decision that represented a significant level of defense cooperation between the two countries (Hussain 2015, 53). The USA also demonstrated its emphasis on Pakistan through high-level receptions for the visiting Pakistani President, highlighting the importance they placed on their relationship with Pakistan in 1961. This political connection with the USA yielded substantial material benefits for Pakistan, most notably in the form of military support. Signed in 1954, the USA-Pakistan Mutual Defense Assistance Agreement enabled Pakistan to acquire heavy equipment, including hundreds of M47 and M48 tanks, giving its armored forces a technological advantage over India in warfare (Khan & Emmerson 1954, 340).

India, on the other hand, also benefited from its strong relation with the USSR. Self-declared a socialist nation, India naturally became a target for the Soviet Union's diplomatic overtures. Nehru and Khrushchev exchanged friendly visits in 1955, and subsequently, the Soviet Union politically supported India on issues such as Kashmir and Goa (Mastny 2010, 54-59). After being humiliatingly defeated by China at the border in 1962, India, realizing its military inferiority, quickly requested advanced equipment from the Soviet Union. To counter hostile China, and US-supported Pakistan, the Soviet Union provided India with a batch of weapons. This included the delivery of their most advanced MiG-21 fighter jets, demonstrating the Soviet Union's importance placed on India (Donaldson 1972, 477). In summary, the military capabilities of India and Pakistan significantly improved with the support of superpowers, leading to more intense and brutal warfare.

1971 Indo-Pakistani War

As the 1965 ceasefire did not ease the hostility between the two countries, India and Pakistan found themselves once again in a state of war just six years later. Unlike the previous two wars, Kashmir was no longer the primary battlefield between the two countries, but rather the war was conducted on a larger spatial and political scale. The direct cause of this war was the Bangladesh Liberation War between the traditionally dominant West Pakistanis and the majority East Pakistanis, which, like Kashmir, was another political problem left over from the partition. The Pakistani military conducted harsh military crackdown, which evolved into a humanitarian crisis known as the Bangladesh genocide (Ranjan 2016, 135). The genocide resulted in millions of refugees pouring into India, further exacerbating tensions between India and Pakistan. The armies of both countries began mobilization for war, with border frictions becoming frequent and numerous cross-border attacks being carried out by both sides. On the western front, Pakistani military forces, comprising both army and navy units, initiated offensives against India; however, these efforts yielded minimal impact. Conversely, on the eastern front, Indian forces mounted a substantial offensive against East Pakistan. Despite its brief duration of only two weeks, this war was unparalleled in the region in terms of its intensity and consequences. The two sides deployed over a million personnel in total from their armies, navies, and air forces, equipped with advanced weaponry, epitomizing a modernized conflict. The staggering loss of over a hundred thousand troops signified a significant escalation in the scale of warfare (Gill 2003, 10-15). The war ended with the independence of Bangladesh, marking a comprehensive victory for India.

In contrast to previous conflicts where the involvement of hegemony was relatively limited, this war witnessed their significantly more prominent role. Firstly, both India and

Pakistan established more robust alliance relationships with their respective superpower backers, providing them with ample support before and during the war. In the year the war broke out, India signed the Indo-Soviet Treaty of Peace, Friendship and Cooperation with the USSR, in response to Pakistan's deepening ties with the USA and China, and the unstable regional situation. This marked the beginning of a comprehensive strategic cooperation between India and the USSR (Subrahmanyam 2021, 1-9). For Pakistan's relationship with USA cooled after the previous war, primarily due to the USA arms embargo. However, Pakistan found a new potential ally in China. China not only had border conflicts with India but also strained relations with the USSR, giving China and Pakistan shared interests. Moreover, Pakistan played an active role in the thawing of Sino-American relations, which led to joint support from China and the USA during the war. The involvement of China introduced a significant strategic threat to India from its northern border, consequently tying up substantial Indian resources. This situation afforded Pakistan a distinct strategic advantage.

In the course and conclusion of the war, superpowers played a significant role. Firstly, there were confrontations in the UN Security Council, where the USA and the Soviet Union each submitted draft resolutions supporting Pakistan and India, respectively, and used their power to veto the other's proposals. Before the war broke out, The USA President Nixon pressured India to prevent its intervention in the Pakistani civil war, but this was rejected by Prime Minister Gandhi. The Soviet Union also expressed concern over the actions of the Pakistani military. After the outbreak of the war, the USA sent its most advanced Seventh Fleet, led by the aircraft carrier USS Enterprise, to the Indian Ocean at this sensitive moment, demonstrating the possibility of direct military intervention in the conflict. In response, the Soviet Union deployed its fleet to the Indian Ocean as well. The Chinese troops on the China-India border also made movements and provided certain military support to Pakistan. From this perspective, the Indo-Pakistani war had escalated into a confrontation between blocs, with both sides projecting their power directly into the region. The pressure from hegemony was undoubtedly a significant reason for the rapid end of this conflict.

Hegemonic Absence's Influence on War

After a thorough analysis of the three Indo-Pak wars and the role of hegemonic states in them, it becomes evident that both the nature and outcomes of these wars vary significantly. Due to the complexity of international relations, particularly in matters of war and conflict, which are composed of a multitude of intricate factors, it is challenging to conclusively determine whether these differences arose due to the presence or absence of hegemonic powers. However, it is undeniable that hegemony plays a crucial role in the evolution of the nature of warfare. In this section, our analysis will be framed from the perspective of hegemonic absence, aiming to examine its interrelation with diverse forms of warfare and the potential impact of this absence on these conflict dynamics. Our hypothesis is that the hegemonic absence results in conflicts that are more localized, protracted, and have a limited impact on a global scale.

Limited Scale of War

As observed in the cases above, wars tend to be of a smaller scale in the absence of hegemonic powers. Here, the term "scale" encompasses not only the military involvement and casualties on both sides but also the geographical and spatial extent of the conflict. In the first war, the total forces deployed by both sides were less than a hundred thousand, including a significant number of militia and local armed groups, which is starkly different from the nearly one million troops involved in the third war. Additionally, the first conflict was characterized by outdated weaponry and rudimentary tactics, largely devoid of direct engagements between regular armies, making it difficult to classify as a modernized war. Geographically and spatially, the first war was confined to the narrow region of Kashmir,

whereas by the third war, it had expanded into a full-scale conflict covering most of the border between the two countries, with two major fronts in the east and west. So, how does the absence of hegemony lead to this phenomenon?

A crucial factor is the inability of the warring nations to obtain substantial support from a hegemonic power. This includes forms of assistance such as military aid, arms trade, economic aid, or loans. War, often described as a relentless drain on resources, can significantly weaken even the most robust empires, as evidenced by the decline of the British Empire following sustained military engagements. For India and Pakistan, as newly independent states emerging from colonial rule, the economic and financial challenges were particularly acute (Ruiz Estrada et al. 2019, 4). They found it extremely difficult to sustain the expenses of large-scale warfare. Additionally, the political and military structures they inherited from their colonial past were in considerable disarray, posing significant obstacles to rapidly developing effective defense capabilities. In this situation, any potential escalation of the war's scale was constrained by the fragile economies of both India and Pakistan, which could not withstand the financial drain of large-scale conflict. Hegemonic powers, either due to their own preoccupations or reluctance, were largely unable or unwilling to offer substantial support to either India or Pakistan. This absence of external assistance significantly limited the scale of the war, as both countries lacked the resources to sustain a more extensive conflict. In contrast, around the time of the second and third wars, both countries not only received substantial financial support from hegemonic powers and their maintained economic systems but also modernized their military forces through weapons imports and military assistance. This led to a significant escalation in the scale of both conflicts.

Long Duration and Intractability

A second notable characteristic of the wars is their varying degrees of duration and intractability. Contrary to the escalating scale of these conflicts, their durations exhibited a decreasing trend. While the first war extended beyond a year, the third war was remarkably brief, concluding in just two weeks, demonstrating a trend inversely related to the scale of the wars. This phenomenon presents an intriguing contrast: the first war of a smaller scale endured the longest. A key factor contributing to this extended duration is the intractability and complexity involved in ceasing hostilities. Wars that are not easily resolved tend to prolong, and the first war exemplifies this, especially in the absence of direct hegemonic intervention. This absence resulted in greater uncertainty, leading to sustained instability and turmoil in the region. In contrast, the third war, characterized by a decisive outcome with the independence of East Pakistan (now Bangladesh), significantly reshaped the political landscape of South Asia. Despite the persistence of regional conflicts, the geopolitical situation posts this conflict has remained relatively stable.

The absence of hegemony has, to a certain extent, shaped this situation, primarily reflected in the lack of mediation. Firstly, the minimal involvement of a hegemonic power in the matters of war allowed the warring parties to dictate the start and conclusion of the war. In the absence of external interference, both India and Pakistan sought to resolve their disputes in their own ways, rather than immediately seeking international intervention. Consequently, even though the UN initiated an investigation and proposed a ceasefire early in the outbreak of the war, the conflict continued for nearly a year. It was only when Pakistan realized that it could not make any progress that the ceasefire came into effect. In the subsequent two wars, direct intervention by hegemonic powers played a significant role, with both countries facing considerable pressure regarding ceasefire decisions. Even though India achieved a decisive military advantage, it still opted to accept the ceasefire agreement due to political and even military threats from powers like the US and China.

The limited mediation is also witnessed in the lack of enforcement mechanisms and the failure to address fundamental issues, leading to greater uncertainty and intractability in the outcomes of the war. Even though the UN called for a ceasefire between the parties and proposed a plebiscite to decide the fate of Kashmir, the absence of major powers in its execution process led to India and Pakistan not adhering to the agreement due to a lack of binding force. As a result, Kashmir became a contentious issue that sparked larger-scale wars and conflicts. This demonstrates that limited mediation is a significant factor contributing to the long duration and intractability of the war.

Limited Political Influence

Another key distinction among the three wars lies in their political impact, especially regarding their influence on the international stage. The 1947 war did not attract significant global attention, and its impact on both the world and the regional political landscape was quite limited. On one hand, the conflict was confined to the Kashmir region and did not intersect with the interests of other countries. On the other hand, the outcome of the war did little to change the regional status quo. In contrast, the results of the third war profoundly affected the geopolitics of South Asia and the broader Cold War context. The independence of East Pakistan led to the creation of Bangladesh, a nation with a population of over a hundred million; Pakistan's defeat exacerbated its domestic political instability and strategic disadvantage against India; and the support of the US and the USSR for different sides in the war influenced the course of the Cold War to some extent.

Firstly, regional conflicts in which hegemonic powers are not involved are less likely to directly affect the balance of global power structures. Therefore, such conflicts typically pose a smaller threat to global political stability. However, when hegemonic powers are directly involved, even if the conflict remains confined to a small area, there is still a significant likelihood that it will impact the balance of global power structures. Secondly, when hegemonic powers are absent, the parties involved in the conflict have greater autonomy in addressing their own disputes. This can lead to solutions that are more in line with the actual regional circumstances rather than the interests of global hegemonies, thereby reducing the impact of the conflict on global politics. In the first Indo-Pak War, due to the absence of hegemonic powers, the parties involved considered only their own interests. However, by the third war, when the interests of the hegemonic powers conflicted with those of the warring nations, the former took precedence. This shifted the nature of the conflict from being an isolated event between two countries to one that was embedded within the global political context, subsequently influencing the course of the war.

Conclusion and Reflection

War stands as a critical component of human political activity, offering indispensable insights into international relations, with hegemonic nations playing a major role. The three wars between India and Pakistan that occurred during the Cold War, due to their variability and geopolitical uniqueness, provide an excellent case study for research in this area. This paper attempts to explore the role of hegemonic powers from an innovative perspective by examining how the nature of war differs in their absence, through a thorough analysis of the processes and evolution of these conflicts.

The study highlights three characteristics of wars in the absence of hegemonic powers. Firstly, there is a smaller scale of conflict, as the warring parties struggle to obtain the necessary military and economic support from major powers to escalate the war. Secondly, the wars exhibit long duration and intractability, resulting from the absence of hegemonic powers that otherwise might provide timely mediation and lack strong mechanisms to ensure the implementation of such mediation. Finally, there is limited political impact, stemming

from the increased national autonomy due to the absence of hegemonic powers, leading to war outcomes that align more with national interests rather than the interests of hegemonies.

In the current complex international political landscape, the power of hegemonic states, particularly the USA, is dispersed across multiple regions. Whether supporting invaded Ukraine or the turmoil in Israel, the USA is required to project substantial resources and attention into these areas. This scenario can lead to a situation where, should conflicts or wars arise in other regions, hegemonic powers might be stretched too thin, resulting in their absence. Therefore, it is crucial to understand the potential forms of war under these conditions and comprehend the underlying political logic in order to better promote peace worldwide.

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Digitalization and Inequality: Digital Disparities and Mental Health among Adolescents in the U.S.

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ABSTRACT: Society is undergoing a fundamental transformation because of increasing digitalization, which offers great opportunities in all areas of social life, but it also poses new challenges for individuals. While the internet has provided children with access to a wealth of information and fostered creativity, it also poses risks to children’s well-being. Moreover, there are concerns about how digital technology may exacerbate the existing social disparities. Drawing on sociologist Pierre Bourdieu’s theory of ‘habitus’, this study takes an interdisciplinary approach by combining sociology, computer science, and public health to explore the potential of promoting mental health equity in an increasingly digitalized age. It proposes that children’s virtual connectivity is another ‘habitus’ in their life, layered with children’s social background factors in conjunction with their digital capital and digital engagement experiences, exerting influences on their mental health. We collected quantitative data with survey interviews from 301 adolescents in the U.S. Statistical models are processed to empirically examine the patterns in their digital engagement and mental health outcomes. The associations between children’s social background factors, digital engagement experience, and mental health outcomes are also examined. This study contributes to illuminating the dimensions of critical dialogues about building equitable societies to enhance individual flourishing in an increasingly digitalized era. It further enriches the current sociological literature on the analysis of the social impacts of new digital technologies by highlighting children’s experience of digital disparities.

KEYWORDS: adolescents, digital engagement, mental health, disparities

Introduction

Children’s immersion in screens, their fast adoption of digital technology, and their increasing interactions with virtual worlds have been documented (Beneteau et al. 2019; Livingstone and Pothong, 2022). The COVID-19 pandemic has further expounded their connectivity with the virtual world, bringing permanent changes in the application of digital technology in children’s learning and socializing (Chow 2021; Patrick et al. 2020; Shen 2020). Digital technologies have taken on a major role in accommodating the teaching and learning for children during the pandemic. The digital technologies and video platforms have also been of help in bringing the isolated world a little closer during the COVID-19 pandemic (Chow 2021), helping in maintaining their friendship and social relations, from peer friendship to intergenerational bonding. A recent study also indicates that majority of parents believe that the school closing and online teaching during the pandemic has further propagated children’s digital dependency, bringing permanent changes in the application of digital technology in children’s learning, studying, and socializing (Patrick et al. 2020). Given that virtual engagement is such an important feature of many children’s lives, agendas which move beyond the “dependency & addiction debate” should be preferably explored to benefit every child in a digital era (Howard et al. 2021; Johnston 2021; Rahman et al. 2020). The internet has spurred creativity and has expanded children’s access to a wealth of information. It also enlarged the platforms for children to freely express themselves and socialize with others. Some of the promises of virtual connectivity in helping children are obvious, whereas the continued proliferation of digital technology also poses risks to children’s safety, privacy, and well-being. There exists an undeniable dark side of the internet and digital technology (Varona et al. 2023).

In addition to concerns for safe and secure digital engagement, there are also concerns related to the digital potential of aggravating the existing disparities in social life. The

technology does not make us all equal to enter the “flat world.” Following sociologist Pierre Bourdieu’s theory of ‘habitus’ and social practice (Bourdieu 1989), the diffusion of digital technology has created new ‘habitus’ to produce different forms of capital, which will throw individuals into new domains and “new interrelations between economic resources, internalized aptitudes, and social positioning” through interactions and reproduction (Ignatow and Robinson 2017). Internet and digital technology may even compound the deprivation for children who are already in a disadvantaged situation with limited resources and less preparedness (Lybeck et al. 2023).

Previous discussions of digital divide and social exclusion (Livingstone and Haddon, 2009; Selwyn and Facer 2007) mainly focused on the ownership and access to devices. With the advances of technology and the increasing potential risks with the digital tools and platforms, the new vision of digital disparity questions the simplified understanding of the digital inequalities as a dichotomous deterministic notion of ‘haves’ and ‘have-nots’, ‘connected’ and ‘not connected’ and even ‘users’ and ‘non-users’. Variations and disparities still exist even with equal access to the tools and platforms, highlighted in different online behaviors and experiences.

Adolescence is the critical period for sociocultural development (Blakemore and Mills 2014). Mental health and wellness have profound implications for adolescent children, their overall wellbeing, academic success, and other outcomes. However, rates of anxiety and depression, and other mental health challenges among adolescent children have been on the rise. Even before the COVID-19 pandemic, it has been reported that too many adolescents suffered from mental health disorders. And the association between isolation, the impact of social media and children’s mental health has been documented (Shen, 2020). The trauma of the COVID-19 pandemic has profound impacts on children’s social life and digital engagement experiences.

The present study designs a quantitative study to empirically illuminate the digital engagement of adolescent children during the COVID-19 pandemic, their mental health status, and the potential associations between these factors. Specifically, this study aims to: 1) identify the patterns of adolescents’ digital engagement, and mental health during the COVID-19 pandemic; 2) examine the potential mental health impacts from adolescents’ digital engagement during the COVID-19 pandemic.

Data and Methods

Data for this study was collected from April to July in 2023 among 301 children aged between 12 and 17 living in the Hampton Roads area in Virginia. We recruited our study subjects from different middle schools, high schools, sports program centers, and after-school program centers in the Hampton Roads area in Virginia. A brief introduction of the research project together with the informed consent form was provided to those children once they showed the interest to participate in our survey interviews. We finally recruited 301 children aged 12-17 years living in a wide variety of community settings in the Hampton Roads area in Virginia. We obtained parental consent and personal consent to participate in the study from all these children. The human study subject protection protocol and all study procedures were approved by the Institutional Review Board at Norfolk State University. We have followed the ethical codes to protect the interests of our study subjects in recruiting and interviewing them.

Paper-based in-person interviews with survey questionnaire were administered to participating children, intending to increase response rate and maximize the response. We included 32 closed-ended questions in our survey questionnaire, asking children’s socio-demographic background information, their mental health and well-being during the COVID-19 pandemic, their interactions with others, their school life, family life, and their digital engagement. Questions were grouped under topical categories to make the questionnaire clear,

and easy to follow. Data have been collected from in-person interviews with closed-ended questions. All data are based on participating children's self-reported answers to questions in the questionnaire.

Participants

All children included in this analysis were attending schools in the Hampton Roads area when they were interviewed. The average age of our study subjects was 14 years old (Figure 1). Children from all major racial groups were recruited (Figure 2). As presented in Figure 3, boys (57.5%) were slightly overrepresented than girls (42.5%). And the majority of participants (82.4%) were from two-parent households (Figure 4).

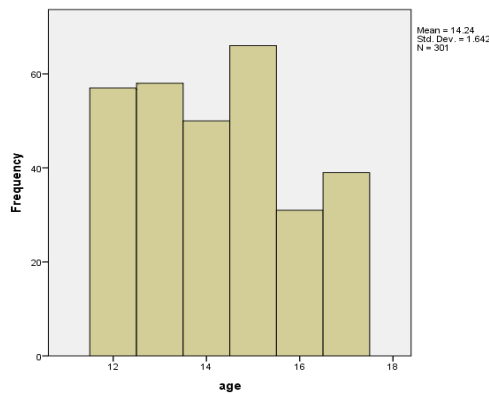


Figure 1. Distribution of Age (N = 301)

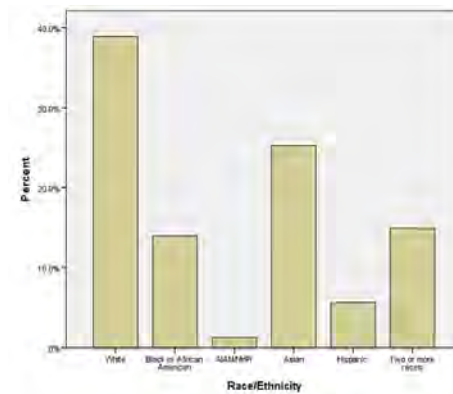


Figure 2. Distribution of Race/Ethnicity (N = 301)

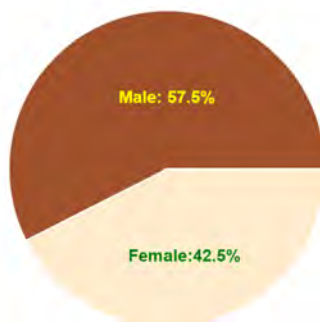


Figure 3. Distribution of Sex (N = 301)

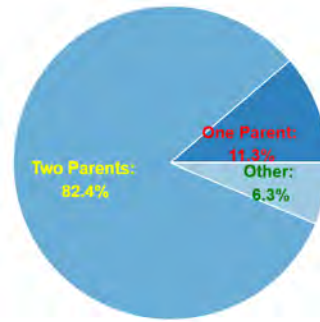


Figure 4. Distribution of Household Type (N = 301)

Measures

Children's Mental Health. Children's mental health is assessed by an index created by summing the question asking whether child was worried, was sad, was bored, was scared, was anxious, was irritable or easily angered during the COVID-19 pandemic. All these three items were measured at the ordinal level with five categories of "not at all," "slightly," "moderately," "very," and "extremely." Cronbach's α for these items is .86, which indicates a valid and reliable measure of mental health by summing these items.

Children's Mental Health Change. Children's mental health change is measured by the overall change in their mental health since the COVID-19 pandemic began compared to before the COVID-19, with five categories of "a lot worse," "a little worse," "about the same," "a little better," and "a lot better."

Children's Digital Access. Children's digital access was measured by the question asking how often they have access to the required digital technology for virtual connection during the

COVID-19 pandemic. It was measured at the ordinal level with five categories of “never,” “rarely,” “occasionally,” “most of time,” “always.”

Children’s Digital Skills. Children’s digital skill was measured by the question asking how often they have skills to use the digital technology during the COVID-19 pandemic. It was measured at the ordinal level with five categories of “never,” “rarely,” “occasionally,” “most of time,” “always.”

Children’s Online Program Participation. Children’s online program participation was measured by the question asking whether they have ever joined an online group for support or any programs.

Children’s Demographic Background Factors. Children’s demographic background information was also examined, including their sex (male vs. female), age (specific number of year from 12 to 17), race/ethnicity (white, Black, AIAN/NHPI, Asian, Hispanic, Two or more races), and their household type (two-parent, one-parent/grant-parent or other).

Results

Descriptive Statistics

Table 1 summarizes the unweighted percentage or mean and standard deviation of each variable included in this study. The average score of the mental health index is 15.61, on a scale of 6 to 30, with higher scores indicating more mental health disorder symptoms. Most participants had access to digital technology and skills to use the digital technology. More than half of the participants (67%) had joined online group for support or programs.

Table 1. Descriptive Statistics of Variables.

Variable	Mean (Percentage)	SD
Mental Health Index (6 – 30)	15.61	5.62
Mental Health Change (1-5)	2.53	.96
Digital Access (1-5)	4.53	.78
Digital Skills (1-5)	4.31	.88
Online Program/Support	67%	
Sex (1 = Male)	.57	.24
Age	14.24	1.64
Household Type		
Two-Parent	82.4%	
One-Parent	11.3%	
Grant-Parent or Other	6.3%	
Race		
White	38.87%	
Black	13.95%	
AIAN/NHPI	1.33%	
Asian	25.25%	
Hispanic	5.65%	
Two or More Races	14.95%	

However, variations existed in children’s mental health, their access to digital technology, their skills to use the digital technology. Figures 5-7 visually describe the variations in digital access, digital skills, and mental health status across race/ethnicity. Correlation analysis (statistical results are available upon request) further supports the variations in digital access, digital skills, mental health index and the mental health status change since the COVID pandemic across race/ethnicity. In comparison to white adolescents, Black adolescents and adolescents from other racial groups are more likely to join an online group for support or other programs. Mental health of Black adolescents were more likely to become worse, compared to their white counterparts. And mre Black adolescents were in need of stable access to digital technology.

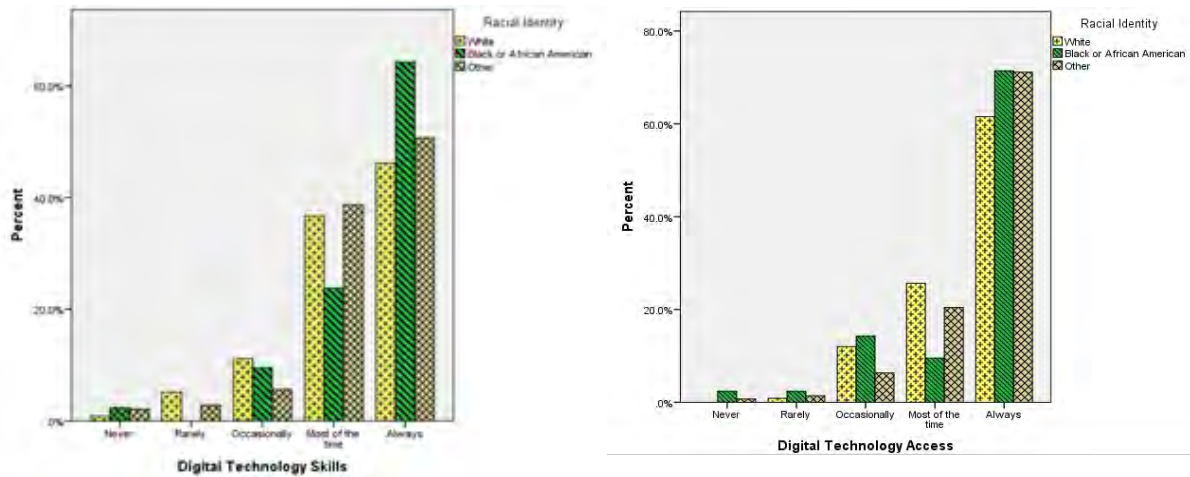


Figure 5. Digital Skills by Race/Ethnicity. Figure 6. Digital Access by Race/Ethnicity

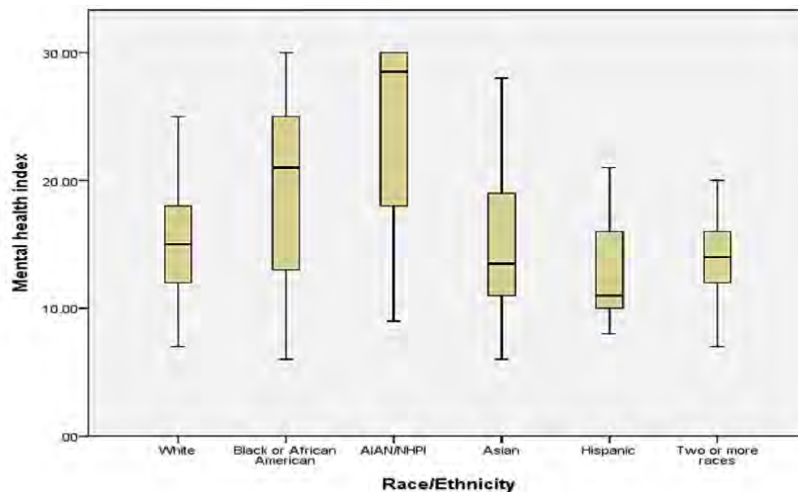


Figure 7. Box Plot of Mental Health Index across Race/Ethnicity

Ordinal Regression Analysis

An ordinal regression model was processed to predict the odds of mental health becoming worse, on digital access, digital skills, and digital engagement as well as the socioeconomic predictors. Table 2 presents the statistical analysis results from the ordinal regression analysis. Females’ mental health status would be more likely to become worse. Black adolescents and adolescents from other racial groups are more likely to have worse mental health in comparison to their white counterparts. Whether they joined an online group for support or other programs was associated with their mental health status change. Those who had joined an online group would have a greater likelihood of having better mental health during the COVID pandemic. Those who already had more mental health problems would be more likely to experience worse mental health.

We find no statistical significance between adolescents’ mental health status change and their access to digital technology and their skills to use the digital technology. We find no evidence that household type would be significantly related to the likelihood of reporting worse mental health among the adolescents.

Table 2. Ordinal Regression Results Predicting Odds of Mental Health Becoming Worse (N = 301)

	OR	SE	Wald	95%Confidence Interval	
				Lower Bound	Upper Bound
Explanatory Variables					
Female (ref. = Male)	.49*	.13	1.05	.68	1.13
Age	.58	.49	1.38	-1.54	.38
Black (ref. = white)	.057*	.39	.02	-.48	1.15
Asian (ref. = white)	.13	.35	.15	-.55	.81
Two or More Races (ref. = white)	.19	.38	.26	-.56	.94
Other Race (ref. = white)	1.27*	.53	10.01	.64	2.70
Other Household Type (ref. = two parents)	.06	.36	.02	-.76	.65
Digital Access	.91	.59	2.36	-.25	2.07
Digital Skills	-1.62	2.20	.54	-5.94	2.69
Online Program/Support	-.63*	.34	3.39	-.04	1.30
Mental Health Index	.67*	.32	4.34	.04	1.29
Model Fit Statistics					
Model χ^2	65.69				
df	35				
p-value	<.001				
Cox & Snell Pseduo-R ²	.196				
Nagelkerke Pseduo-R ²	.229				
McFadden Pseduo-R ²	.112				

Note. OR = Odds Ratio; SE = Standard Error; *p < .05, **p < .01, ***p < .001.

Discussion

This study aimed to empirically examine the disparities in adolescent children's digital access, digital skills, digital engagement, and their mental health status and change in their mental health during the COVID pandemic. Our study empirically evidences the disparities of adolescents' mental health status and the change in their mental health. Compared to white adolescents, Black adolescents and adolescents from other racial groups reported more mental health disorder problems during the COVID pandemic. And their mental health were more likely to become worse compared to before the COVID pandemic. While the virus itself is a biological agent that may infect any of us, we are deeply unequal when confronted with it. Existing economic, social, and political inequalities could be reinforced, and new forms of inequality may arise. Inequalities in social structure and disparities across different groups have been mirrored in people's experience during the COVID-19 pandemic. The COVID-19 pandemic exacerbates social inequalities in health and health care, notably in terms of class, race and gender (Singh et al. 2020).

Findings from this study further document that variations and disparities exist in adolescents' digital access, digital skills, and digital engagement. The new modes of communication may widen the gap between different social groups, favoring the groups with better socio-economic status (Chow 2020). The application of digital technology and virtual engagement can even exacerbate disparities among children. It will fuel new missed opportunities by compounding the deprivation for those who are already in a disadvantaged situation. It will leave those who are not fully prepared for the new modes of communication and connectivity lagging their advantaged peers in fulfilling their potentials. Digital technology and the internet open another domain of field in children's social life (Ignatow and Robinson 2017).

The social structure also exerts its impact on children's digital engagement. Inequalities in social structure and disparities across different groups will be mirrored in children's capacities and experiences for safe, secure, and meaningful online engagement, in addition to their access to devices and connection. According to Bourdieu (Bourdieu 1989; Ignatow and

Robinson 2017), ‘habitus’ is a system of ‘disposition to act in a certain way and it results from the intersections of multiple social ‘fields’ that the social individual is positioned at a micro and macro level. Both ‘habitus’ and ‘field’ are always layered and are structured by individual’s socio-demographic background. Digital technology and virtual space open another domain of ‘habitus’ and ‘field’ to produce and reproduce capitals and inequalities. Existing economic, social and political inequalities could be reinforced, and new forms of inequality may arise.

Limitations

There are several limitations in this study. First, this study did not ask children further about their family background, such as parent’s educational levels and their household income, which are usually indicated as significant sociodemographic factors associated with children’s behaviours and health. This study collected data with in-person survey interviews with children being the respondents of survey questions. For privacy concern and with an aim to improve response rate, we only asked children about their household type. In addition, we had a relatively small sample of study subjects from the Hampton Roads area in Virginia, which limits the power and capacity for more detailed subgroup analysis. Future study in this area might aim for a nationally representative sample across a range of geographical areas with relatively large numbers of study subjects for each racial/ethnic group to provide further details.

Conclusions

This study provides empirical evidence regarding the disparities in adolescent children’s access to digital technology, their skills to use digital technology, their digital engagement, and their mental health. It shows that racial/ethnic disparities exist in adolescent’s mental health and their digital engagement. Findings from this study reinforce that digitalization, together with social factors, is producing and reproducing unequal opportunities for people in different social groups.

The explosion of new technology is producing new ‘habitus’ for children’s social life. Children need to be equipped with not just access to technology but also the appropriate knowledge and skills for meaningful digital engagement to produce profit through digital engagement. Differences in social life go beyond ownership and access but extend into meaningful engagement. For children, the differentiation in the type and levels of economic and social resources they possess, their awareness of cyber risks will make them have different levels of digital capital and different experiences in digital engagement in virtual platforms, which directly or indirectly impacts their mental health and well-being.

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Decoding Financial Viability: Unveiling the Synergy between OPCVM Commissions and AMMC Revenues

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ABSTRACT: This scientific article delves into the intricate relationship between the net assets of Organismes de Placement Collectif en Valeurs Mobilières (OPCVM) and the revenues of the Moroccan Capital Market Authority (AMMC). Through a meticulous analysis, the study unveils a substantial influence of OPCVM commissions on AMMC's income. While affirming the direct correlation between changes in commissions and AMMC revenues, the research acknowledges the nuanced interplay of numerous factors, including the return rate of OPCVM, operational costs, economic conditions, and regulatory policies. The study employs theoretical economic mechanisms to validate the findings, recognizing both the alignment with established theories and the presence of unexplained variations in revenue trends. The implications for AMMC practitioners and decision-makers are underscored, emphasizing the necessity of monitoring and adjusting OPCVM commissions to optimize revenues and ensure financial viability. The study concludes by acknowledging its limitations and calling for continued exploration, offering a robust framework for future research on contextual variables and tariff policy adjustments to maximize AMMC revenues.

KEYWORDS: OPCVM commissions, AMMC revenues, financial management, Economic impact, Revenue trends, Regulatory policies

Introduction

As an introduction the Collective Investment Scheme in Transferable Securities (UCITS) or OPCVM industry plays a fundamental role in the global economic and financial landscape, offering investors a privileged mechanism for managing their resources. In Morocco, this industry is no exception but holds particular importance as a cornerstone of the national financial market. As the guardian of market stability and regulation, the Moroccan Capital Market Authority (AMMC) stands at the center of this relationship, bearing the necessary responsibility of ensuring that UCITS operate in an environment of trust, transparency, and stability.

At the heart of this relationship between UCITS and the AMMC lies a question of critical relevance: how do changes in the fees charged by UCITS affect the revenue of the AMMC in Morocco? Fees, encompassing management fees, distribution fees, and other associated costs, not only represent a substantial source of income for asset management companies but also a key element in the costs borne by investors. Consequently, any adjustment to these fees can have major repercussions, both on the performance of investment funds, on the strategic choices of savers, and on the ability of the AMMC to effectively fulfill its regulatory mission.

The objective of this scientific article is to delve deeply into this complex issue and dissect the intrinsic links between changes in UCITS fees and AMMC revenue in Morocco. In this endeavor, we will adopt a rigorous methodology based on the meticulous analysis of historical data related to UCITS and AMMC revenue, covering a significant period. Our aim is to identify trends, correlations, and potentially causal relationships between these two critical variables.

This study holds particular significance in the current context where global financial markets are under increasing pressure to enhance transparency, reduce costs borne by investors, and promote access to high-quality investment products. The findings of this

research could have major implications for decision-makers, regulators, asset managers, and investors, providing essential insights into how policies related to UCITS fees can influence the overall financial ecosystem.

Morocco, as an emerging and rapidly growing economy, has seen its financial sector evolve significantly over the years. UCITS have played a key role in this transformation by enabling Moroccan investors to effectively participate in domestic and international markets. However, this expansion has also come with significant challenges, including the need to ensure the stability and sustainability of the financial sector in a constantly evolving global environment.

Reforms and regulatory policies are essential tools for shaping and directing the future of the UCITS market in Morocco. One of the questions that regularly arises in this context is the impact of changes in UCITS fees on AMMC revenue. Understanding these implications holds strategic importance in the pursuit of efficiency and the sustainability of the Moroccan financial sector.

Morocco has taken significant steps toward a modern market economy, and its financial sector is increasingly integrated with global markets. Recent developments, such as the opening of the Casablanca Stock Exchange to foreign investors, underscore the importance of market efficiency and transparency. In this context, questions related to UCITS fees and their repercussions on the AMMC are more critical than ever.

The core issue at the heart of our research lies in understanding how adjustments to UCITS fees, including management fees, distribution charges, and associated costs, directly impact the revenues of the AMMC in Morocco. This question is of paramount importance as it pertains to both the viability of UCITS as investment instruments and the ability of the AMMC to fulfill its role as the regulator of the Moroccan financial sector.

To delve deeper into this intricate issue, we have opted for a case study approach. This methodological choice is motivated by the specific and contextual nature of our research. By focusing on the Moroccan context, the case study allows us to explore the unique dynamics underpinning the relationships between UCITS and the AMMC in this rapidly evolving country. Through this approach, we aim to make a significant contribution to the understanding of the complex interactions between UCITS and the AMMC in Morocco while providing concrete, contextually relevant insights. This methodology will enable us to shed light on the underlying mechanisms of our research question and effectively guide market participants, regulators, and investors in a continually evolving financial environment.

After posing the issue and shedding light on the question of the impact of changes in UCITS fees on AMMC revenue in the introduction, we will proceed with an in-depth literature review to examine existing studies and works in the field. Next, we will present the results of our empirical study, highlighting key findings stemming from our data analysis. The discussions will follow, where we will interpret the results, discuss their implications, and place them in the Moroccan context. Finally, we will conclude by summarizing the main conclusions of our research and suggesting avenues for future research.

Literature review

The impact of changes in UCITS fees on the revenues of the Moroccan Capital Market Authority (AMMC) is a subject of great relevance and complexity in the financial domain. Analyzing this issue requires an in-depth literature review that explores the various dimensions of this crucial question. A fundamental component of this issue lies in the relationship between UCITS fees and fund performance. Several studies have addressed this question from the perspective of the effect of fees on investors' net returns. Fama and French (2001) conducted a major analysis on this topic, concluding that high fees can have a significant impact on the overall performance of funds.

The structure of UCITS fees, including management fees, distribution fees, and other costs, is a key variable in this equation. Researchers have examined how these fees are

structured and how they affect investors. For instance, Berk and Binsbergen (2016) study highlighted the importance of understanding the pricing of mutual funds. Furthermore, the impact of regulations on UCITS fees and their implications for capital flows and fund performance are also important research topics. A study by Gompers et al. (2016) examined the effects of regulations on mutual funds.

UCITS, or Undertakings for Collective Investment in Transferable Securities, are collective investment vehicles that allow individual investors to pool their financial resources to invest in a diversified portfolio of securities, such as stocks, bonds, cash, or other financial assets. These funds are managed by professional asset management companies and are regulated in many countries to ensure investor protection. UCITS offer several advantages to investors, including instant portfolio diversification, professional asset management, high liquidity (the ability to redeem shares at any time), and transparency through regular publication of the fund's net asset value. UCITS come in various categories, including equity UCITS, bond UCITS, money market UCITS, and other specialized categories based on their investment objectives. Investors can choose UCITS based on their risk tolerance and specific financial goals.

In the Moroccan context, The AMMC, or Moroccan Capital Market Authority, is the regulatory and oversight body for the financial market in Morocco. Established in 1993, the AMMC is responsible for ensuring the protection of investors, the integrity of financial markets, and the transparency of operations. Its main missions include supervising securities issuances, regulating market participants (such as asset management companies and financial intermediaries), monitoring stock market operations, and promoting good corporate governance practices.

The AMMC plays a key role in the development and stability of the Moroccan financial sector. It ensures that financial markets operate in a fair, transparent, and efficient manner while encouraging innovation and growth. Its primary goal is to maintain investor confidence and ensure market integrity. The AMMC plays a significant role as the regulatory body for financial markets. However, few studies have focused on how AMMC revenues depend on UCITS fees. AMMC's annual reports and publications (n.d.) provide essential information, but a more in-depth analysis is needed to fully understand this dynamic.

The evolution of UCITS as an investment instrument over the years has also been a subject of research attention. Studies have sought to understand how the structures, management strategies, and fees of UCITS have evolved in response to changes in the global financial landscape. These developments have a direct impact on how UCITS generate income and, consequently, on AMMC's revenues.

One major concern is how UCITS fees affect individual investors. Researchers have examined the implications for investors' portfolios and how fund costs can influence investment decisions. This perspective is essential to understanding the overall impact of UCITS fees on the Moroccan market. The responses of UCITS to regulations and market pressures are also at the heart of the issue. How asset managers adjust their pricing practices in response to external factors is crucial. This dynamic can have direct repercussions on AMMC's revenues and the stability of the Moroccan financial sector.

Finally, while international research provides a reference framework, it is necessary to turn to specific case studies in Morocco for a more precise understanding of the issue. AMMC's publications and financial data specific to Morocco can serve as a basis for a more detailed analysis of the situation in this country.

In conclusion, the literature review highlights the breadth and diversity of research conducted in the field of UCITS fees and their impact on AMMC's revenues. It also underscores the importance of a context-specific approach to address this complex issue. The provided references offer a solid foundation for the analysis of this crucial problem in the Moroccan financial context.

Methodology

The aim of this study is to assess how changes in mutual fund (OPCVM) commissions impact the revenues of AMMC using a regression and correlation model. To achieve this objective, we followed a multi-step research approach. In the initial phase, we established the theoretical framework for the study. We began by defining key concepts such as mutual funds (OPCVM), OPCVM commissions, and AMMC revenues. We also delved into the underlying theories that connect these concepts. Additionally, we reviewed previous research on the subject to gain a deeper understanding of the relationships among these variables.

Subsequently, we gathered the required data for the study. Data on OPCVM commissions and total AMMC revenues were obtained for the period spanning from 2000 to 2021. These data were not readily available and required us to refer to the annual reports published by AMMC since 2000 to extract the net asset values of OPCVM. Furthermore, we had to aggregate operating and financial income for each year from 2000 to obtain the annual revenue figures. This resulted in a dataset with twenty-two observations, which was then ready for econometric analysis.

The next phase involved data preparation for analysis. This included addressing missing data and identifying outliers. We also standardized the data to ensure that they fell within a comparable range. Following that, we constructed a regression model in the fourth phase to examine the relationship between OPCVM commissions and AMMC revenues. SPSS Statistics software was employed for this purpose.

The fifth phase revolved around the analysis of the results obtained from the regression model. Various statistical measures, such as the correlation coefficient, determination coefficient, and regression coefficients, were scrutinized to evaluate the strength of the relationship between commissions and revenues.

In the sixth phase, we interpreted the results of the regression analysis. We examined these results to ascertain whether the connection between OPCVM commissions and AMMC revenues held significant meaning. Additionally, we explored the influence of other variables on AMMC revenues.

The seventh phase was centered on discussing the results and their implications for AMMC. Furthermore, we deliberated on the broader implications of our findings for the mutual fund industry.

Results

The results indicate that changes in OPCVM commissions have a significant impact on AMMC revenues. These findings have significant implications for both the authority and the Moroccan capital market. If AMMC aims to increase its revenues, it may consider revising its OPCVM commission policies. The regression analysis conducted on the relationship between the net assets of OPCVM and AMMC revenues yielded significant results.

The Regression statistics revealed a strong positive relationship between OPCVM net assets and AMMC revenues. The coefficient of determination (R^2) was 0.937, indicating that approximately 93% of the variation in AMMC's total revenues could be explained by OPCVM net assets. This suggests a substantial impact of OPCVM net assets on AMMC revenues.

Analysis of variance (ANOVA) also confirmed the significance of the regression. The regression's F-value was 298.9, with a p-value less than 0.05, indicating a highly meaningful relationship between OPCVM net assets and AMMC revenues. The sum of squares for the regression (38207.68) was significantly higher than the sum of squares for the residuals (2556.72), strengthening the explanatory power of the regression model.

The coefficients of the regression model provided additional insights. The constant coefficient (22.056) represented the estimated value of AMMC revenues when OPCVM net assets are zero. The coefficient of OPCVM net assets (0.257) indicates that, on average, for

every unit increase in OPCVM net assets, AMMC revenues increased by 0.257 units. Both coefficients had high t-values and low probabilities, indicating their statistical significance.

Residual analysis also provided valuable information. Residuals represent the differences between actual and predicted values of AMMC revenues based on the regression model. Observed residuals varied over the years, indicating deviations from predicted values. These discrepancies could be subject to further investigation to identify any specific factors or events influencing AMMC revenues beyond OPCVM net assets.

Overall, the results highlight the significant impact of OPCVM net assets on AMMC revenues. These findings can be valuable for AMMC in understanding the relationship between OPCVM activities and their financial outcomes, informing strategic decisions, and assessing the effectiveness of regulatory measures. The scatter plot suggests a strong linear correlation between OPCVM net assets and total AMMC revenue, with minimal point dispersion, indicating a close and stable relationship between these two variables.

Based on the results of this analysis, we can understand that the net assets of OPCVM strongly influence AMMC revenues. This explains that when OPCVM commissions increase AMMC revenues also increase. Similarly, when OPCVM commissions decrease, AMMC revenues tend to decrease as well.

This relationship between the evolution of OPCVM commissions and AMMC revenues can be explained by the fact that the commissions collected by AMMC from OPCVM management companies are a significant source of income for the organization. When commissions increase, it signifies that OPCVM management companies are conducting more transactions and operations, resulting in accumulated revenues for AMMC. Conversely, it can be the outcome of reduced activity in OPCVM, leading to lower revenues for AMMC.

Discussion

Considering the results obtained from this analysis, it becomes evident that the net assets of OPCVM have a substantial influence on AMMC revenues. This underscores the importance of closely monitoring changes in OPCVM commissions, as they have a direct impact on AMMC's income. It is essential for AMMC to consider trends and variations in OPCVM commissions when establishing revenue forecasts and managing its finances. However, it is worth noting that other factors can also affect AMMC revenues, as these revenues are influenced by several variables beyond commissions, such as the return rate of OPCVM and operational costs.

The return rate of OPCVM is a key factor that affects AMMC revenues. Commissions collected by AMMC are calculated based on the assets under management of OPCVM, which is linked to the returns on investments made by these funds. Consequently, robust performance by OPCVM can lead to an increase in assets under management, resulting in higher commissions for AMMC.

Additionally, operational costs of OPCVM also impact AMMC revenues, encompassing management fees and fund distribution costs. If operational costs are high, it can discourage investors from subscribing to the funds, resulting in reduced assets under management and consequently lower commissions for AMMC. Other variables can also influence AMMC revenues, such as economic conditions and prevailing regulatory policies. Therefore, a comprehensive analysis of these factors is essential to understand revenue trends and develop strategies to maximize revenue.

In analyzing the study results in the context of theory, several noteworthy points emerge. The results confirm a significant correlation between changes in OPCVM commissions and AMMC revenues. This reaffirms the idea that AMMC's income is directly tied to the commissions received from OPCVM management companies. Moreover, the study results align with the theory that an increase in OPCVM commissions leads to an increase in AMMC revenues, and vice versa. This demonstrates the applicability of theoretical economic mechanisms in the specific context of AMMC. However, it is important to acknowledge some

discrepancies between empirical results and theory. Some variations in AMMC revenues may not be fully explained by changes in OPCVM commissions, suggesting that other factors may also influence AMMC revenues, such as macroeconomic policies, market trends, or interest rate fluctuations.

By juxtaposing the study's results with theory, we can underscore both the validity of theoretical concepts and the importance of considering additional explanatory variables for a comprehensive understanding of AMMC revenues. These results have significant implications for AMMC practitioners and decision-makers. They highlight the importance of monitoring and adjusting OPCVM commissions to optimize AMMC revenues and ensure its financial viability. Furthermore, they emphasize the need to consider contextual variables in decision-making to better understand fluctuations in AMMC revenues.

Comparing the study's results with theory allows for the validation and enrichment of existing knowledge regarding the impact of changes in OPCVM commissions on AMMC revenues. It also opens avenues for future research, including the exploration of additional contextual factors and the evaluation of the effectiveness of tariff policy adjustments to optimize AMMC revenues.

This study has certain limitations that should be considered when interpreting the results. The data used in this study are based on a specific set of variables, such as OPCVM commissions and AMMC revenues, which may limit the generalizability of the findings to other contexts. The use of additional data from alternative sources could provide a more comprehensive perspective. Other factors that might influence AMMC revenues but were not included in this study, such as economic fluctuations, regulatory policies, or other external factors, could play a significant role in these results.

Conclusion

To sum up, the context of this scientific article has revisited the fundamental subject of the impact of the evolution of OPCVM commissions on the revenues of AMMC. Our objective was to reexamine this critical issue and address the underlying problem. The results obtained have shed light on the considerable influence of OPCVM commissions on AMMC's income, thereby confirming the importance of this relationship.

Our investigations have demonstrated that there is a strong and positive relationship between OPCVM commissions and revenues. The use of simple linear regression techniques allowed us to quantify this relationship, indicating that for each unit increase in the evolution of commissions, AMMC's revenues increase on average by a certain amount.

Nevertheless, it is important to note that this study has certain limitations, including the reliance on historical data, which may not account for potential future changes in fee policies, regulations, or market conditions. Additionally, this study primarily focuses on the correlation between OPCVM commissions and AMMC's revenues, without considering other factors that could influence revenues. These limitations should not diminish the significance of the results obtained but rather emphasize the need for a more nuanced approach to understanding this dynamic.

This research underscores the urgency of continuing to explore this subject. It highlights the importance of closely monitoring OPCVM commissions for AMMC and provides a framework for more in-depth future research and specific analyses. Furthermore, the expertise gained during this study strengthens our commitment to a better understanding of this issue and its application in the financial management of AMMC.

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Realpolitik of Indo-Nepal Relations

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ABSTRACT: Substantial political and economic exchanges have marked the historical relationship between Nepal and India. They maintain their diplomatic relations through high-level visits, trade initiatives, and financial investments. Moreover, India has assisted Nepal in the domain of infrastructure development but is motivated by geopolitical considerations and preferences. The Treaty of Segouli, concluded in 1816 between the Kingdom of Nepal and British India, led to Nepal's relinquishment of a substantial territorial expansion. This began the emergence of realpolitik in Nepal, which facilitated foreign intervention in the country's political affairs. India has exerted a significant hegemonic influence on Nepal's internal and external affairs since its independence from British rule in 1947. This influence has been particularly evident since establishing the 'Peace and Friendship Treaty' between India and Nepal in 1950. India has played an active role in Nepal's political movements, introduced the concept of a common river, and imposed its desires and interests through river water agreements. Additionally, India has infringed upon Nepalese territories and utilized Nepalese political parties and their leaders to create a political-economic environment in Nepal that benefits India. Furthermore, India has a covert presence in selecting Prime Ministers in Nepal. Therefore, these factors collectively suggest that India's influence and domination infringe upon Nepal's sovereignty and independence.

KEYWORDS: relations, strategic interests, preferences, hegemonic, sovereignty

Introduction

The relationship between Nepal and India has a long history since centuries, from the Hindu epic Ramayana and Mahabharata (Embassy of Nepal 2017; Rose 1970, 19). Nepal was a trade transit to India with Tibet, the Caucasian region, Mongolia, and Russia, and dry ports in the Kathmandu valley for 2500 years before (Sarwar 2018). By understanding the commercial importance of Nepal during the British rule in India, they signed a treaty of commerce with Nepal in 1792 and further in 1801 with its strategic interests to expand their territory beyond the Himalayas via Nepal and Tibet and promote Trans-Himalayan trade (Aitchison 1936; Ramakant 1976). However, the *realpolitik* began in 1816 when the British-Nepal war took place and ended with a treaty of 'Segouli' that checked Nepal's territory expansion program, lost one-third of its territory, and employed one British officer in Nepal to control the decisions of the Nepalese Government (Pathak 2010). Hence, Nepal's foreign relations were limited as its dependency on the British Raj increased, and Nepal came under the influence of British India.

Once Nepal and India established bilateral relations through the Treaty of Peace and Friendship in 1950, the political environment changed in both countries. The British Raj ended and established an independent India in 1947, while democracy was established in Nepal by abolishing the 104 years' Rana regime in 1951 (Rowland 1967). Since 1951, regular high-level visits have strengthened political relations between Nepal and India. The political visit was followed by the first-ever democratically elected Prime Minister B. P. Koirala in January 1960 for the intention to cooperate (Mishra and Mishra 1995). Exchange high-level visits have become a regular process to understand and strengthen the relationship. So, most of the visits were helpful, as a positive consequence, to improve the bilateral relationship with several agreements for development assistance to Nepal on establishing industries (cement, sugar, ancillary engineering), assisting in transportation (road links), supplying military hardware, developing hydropower (Khanna and Kumar 2018; Thapa

2010). However, as a negative consequence, anti-India sentiment is present in Nepal due to India's heavy hegemonic interferences.

Since 1950, India has been Nepal's largest trading partner, accounting for two-thirds of Nepal's foreign trade (MEA 2014). Moreover, India surrounds Nepal from three sides, making Nepal land-locked (India-locked) and leaving no other choices for international trade without transit excess through India. Similarly, Nepal is a significant market for India. According to the latest available data, bilateral trade exceeded USD 11005.10 million, with Indian exports to Nepal totalling USD 9634.06 million, but Nepalese exports to India totalling USD 1371.04 million, resulting in a USD 8263.02 million deficit during 2020/21 (MoF 2020). Furthermore, India has been Nepal's economic partner, providing grants and aid on an annual basis for infrastructure development, education, health, and agriculture (Bhattarai, 2005). During 2020/21, Nepal received USD 673 million in aid and support from India (MoF 2021).

Hegemonic India

After gaining independence from British colonial rule in 1947, India reinstated its democratic system. It pursued a foreign policy to expand its influence and dominate the South Asian region, consistent with its pre-colonial approach (Joseph 2015). Following India's strategic objectives to leverage and interfere in Nepal's domestic politics, it has actively participated in various political processes within Nepal. The Indian interest and its involvement in the political struggle against the Rana regime ended in 1950, marking the culmination of 104 years (Gautam 2005). India considered Nepal was under its political sphere, so it provided support by relying on monarchy and democratic forces rather than the Rana regime (Bhandari 2014). In return for India's participation, Nepal signed a Friendship treaty in 1950 that favored India but left Nepal's discomfort to this day (Thapa 2010). The treaty in question, which has generated significant controversy due to its perceived one-sided nature, has granted India a position of influence over various sectors in Nepal, including politics, economy, security, and technology. In 1969, Nepal formally requested to abrogate the pact established in 1950. However, India was unwilling to withdraw as the treaty made Nepal, under its influence and domination, a safer place for Indian traders, investors and citizens to reside, purchase property, and establish businesses (Whelpton 2005; Sharma 2000). In the early 1950s, Nepal saw a period of significant influence and domination by India, as the government of New Delhi pressed its decisions on the Nepalese government (Khanal n.d.). During the 1950s, New Delhi played a significant role as a representative platform for Nepal in several international forums. In the same way, the Indian government chose a personal secretary for the King of Nepal from its citizens, while the Indian ambassador actively engaged in cabinet meetings of the Nepalese government. India continues to play a significant role in Nepal's political affairs, as seen by its covert nominations for the position of Prime Minister (Levi 1957; Rose and Dayal, 1969; Brown 1971; Muni 2016).

Moreover, the political landscape in Nepal underwent significant transformations after the 1950s, resulting in consequential shifts in the political-economic dynamics between Nepal and India. Despite numerous treaties aimed at recognizing and upholding principles like full sovereignty, territorial integrity, and independence, it is evident that Indian preferences had a significant role in guiding the actions of both countries. In the context of military relations and agreements, India successfully established 17 checkpoints along the northern border of Nepal with Tibet in 1954. However, Nepal later demanded the withdrawal of these checkpoints in 1969, asserting that they belonged to Nepal based on the 'Segouli treaty' of 1816 with British-India (Mulmi 2020; Xavier 2020; Nepali Times, 2019; Malik 2004; Kumar 1980; Pandey n.d.). Nevertheless, India still needs to remove its check post from Kalapani, which includes Limpiyadhura and Lipulekh.

Consequently, these areas continue to be regarded as a disputed region. Moreover, as mentioned earlier, India formally opened an 80-kilometer road in the territories on 8 May 2020 (Mulmi 2020; Xavier 2020). Moreover, it is worth noting that India recently released a political map that ignores the territorial claims of Nepal. Nepal has also published its political map incorporating these disputed areas in response. This development has had a detrimental impact on the bilateral relations between Nepal and India (Ethirajan 2020). The issue of territorial encroachment is a matter of great sensitivity, particularly in the context of Nepal. India has been observed to have encroachments in 26 locations, leading to the unfortunate loss of around 60,000 hectares of Nepalese territory. This situation has consequently created concerns regarding the sovereignty of Nepal (Zehra 2020; Paudyal 2014; Adhikari 2013; Das 2008).

India has been actively involved in numerous political movements and transformations within Nepal, exerting a substantial influence on the country's political landscape. The political movement *Jana Andolan* in 1990 transformed Nepal's absolute monarchy into a constitutional monarchy. This shift was facilitated by the encouragement and backing of the Indian government, which intervened due to a political confrontation and strained relations between the Nepalese King and the Indian Prime Minister. Likewise, Nepal saw a political uprising known as the Maoist insurgency, which spanned a decade from 1995 to 2005, during which it received support from India. It was revealed that the Maoists resided in India and offered training; nevertheless, India did not assist the King's imposition of direct rule on 1 February 2005 to manage the domestic political circumstances. India declined to assist the King, asserting it was not pertinent to India's interests (Shah and Pettigrew, 2009).

India strategically employed the Nepalese political parties to exert its influence and establish dominance, effectively ensuring its control over a significant portion of the political landscape. This control was achieved by forging alliances with major parties such as the Nepali Congress, Nepal Communist Party, Terai-based Party (representing the southern region of Nepal), and even incorporating the Maoist Party within its sphere of influence. During the Maoist insurgency, India's primary objective was to diminish the level of foreign involvement and military connections with Nepal by integrating the Maoist faction into the mainstream political landscape of Nepal (Thapa 2010). Furthermore, it is worth noting that many Nepalese political parties were founded in India during the exile of Nepalese politicians when the Rana regime existed in Nepal. Consequently, these parties were exposed to and influenced by India's political landscape (Joshi and Rose 1966). As a result, India has effectively established a favorable political climate in Nepal and controlled domestic politics since the 1950s treaty, which accepted Nepal's sovereignty while giving India increasingly considerable power over Nepal (Pathak n.d.; Vela 2009).

Most political-economic accords were executed based on India's desires and interests. Most river water sharing accords were established with a primary focus on India's fundamental security concerns, which are inclined towards favoring India (Jha 2010). The Koshi River deal, finalized in 1954, facilitated India's barrage construction, submerging a significant portion of Nepal's landmass. The Gandak River irrigation and power project, which concluded in 1959, was established to provide shared irrigation facilities to Nepal and India. However, in 1990, India introduced a new concept of common rivers for Nepal, which diminished Nepal's leverage in its negotiations with India on collaborative initiatives aimed at hydroelectric power generation and irrigation distribution (Subedi 2004). The Tanakpur River Agreement in 1991 and the Comprehensive Mahakali River Treaty in 1996 were established to provide irrigation to agricultural land in Nepal, particularly during periods of low rainfall. However, it has been observed that most of the irrigation facilities have been utilized by India rather than Nepal (Subedi 2005).

India has utilized economic blockades as a political weapon to interfere with Nepal's internal affairs and obstruct social, economic, and political progress (Subedi 2016). Additionally, India is always hegemonic in Nepalese politics (Patel 2017). India has

expressed apprehension regarding the efforts undertaken by China in Nepal and the potential influence that China may exert over Nepal. For example, when Nepal permitted China to construct the Arniko Highway linking Tibet of China with Kathmandu, which opened Nepalese territory Tatopani as a trade route in 1969, India protested the permission of the Nepalese government and employed an economic blockade. In 1989, Nepal encountered its second blockade imposed by India due to India's disinterest in procuring a shipment of Chinese weaponry. In 2015, Nepal saw a third instance of an economic embargo imposed by India due to Nepal's refusal to heed New Delhi's counsel over modifying the newly established constitution in alignment with Indian objectives (Subedi 2016; Nepali Times, 2018; Pant 2018). Their interest was to address the demand of people who live alongside the border between Nepal and India. As they have socio-cultural relations with India, in favor of them, India demanded Nepal grant Nepalese nationality. Such direct interference in the internal affairs of Nepal's independent and sovereign country is Indian hegemonic arrogance (Karki and KC 2020).

The Nepalese political parties and their leaders seek aid and guidance from New Delhi due to India's significant influence and dominance in the region (Patel 2017). The level of interference experienced in that particular situation resulted in the Nepalese government's stability being dependent upon the interests of India. Hence, on each occasion, when a new government is established in Nepal with the support of India, the Prime Minister undertakes an inaugural international tour to India. In the recent past, Prime Minister Pushpa Kamal Dahal 'Prachanda' embarked on his inaugural international bilateral visit to India from 31 May to 3 June 2023 after assuming the position of Nepal's Prime Minister (Ghimire 2023; Indian Embassy 2023).

Conclusion

The relationship between Nepal and India began in historical times. As independent and sovereign nations, they engage in political-economic cooperation. Regular high-level political visits strengthened their relationship, supported by economic aid and grants for infrastructure development. Both nations are significant trade markets for one another, so the volume of bilateral trade increases yearly.

Although India respects Nepal's independence and sovereignty, it is theoretically interested in one way of ensuring its safety. It continues to implement the pre-independence policy of influencing and dominating by following India's strategic interests and preferences within its political-economic sphere to become a global powerhouse or, failing that, a regional powerhouse in the current multipolar era. India's hegemonic role in Nepal governs the relationship between Nepal and India. India's hegemonic role is interfering with Nepal's internal and external affairs, ultimately raising questions about Nepal's sovereignty and independence.

The Nepalese constitution mandates that international relations be directed towards enhancing the nation's standing in the international community by sustaining relations based on sovereign equality while protecting the country's freedom, sovereignty, territorial integrity, and independence. However, under the influence of India, Nepal's foreign policymaking has exhibited a long-standing pattern of shifting foreign policy orientation with each change in government. To pursue national interest, sovereignty, and international dignity, Nepal must prepare a comprehensive foreign policy capable of dealing with the hegemonic conduct and pressure of regional powers such as India so that one-sided bilateral agreements with India can be revised.

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Democracy and Natural Law

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ABSTRACT: Democracy represents the engine of societal evolution from an economic and legal standpoint but with a profound impact on the psycho-emotional relationships between individuals engaged in the mechanisms of communal life. Inherent to human beings is only natural right, that ensemble of harmoniously related and innate principles to man, a system that finds its origin in the a priori space of ontological nature. The majority of constitutions pertaining to free states affirm democracy as the sole instrument capable of providing citizens with freedom of conscience, expression, opinion, and last but not least, the decency of life as the primary condition for lifelong education and cultural refinement. This article explores the intricate relationship between democracy, natural law, moral consciousness, and individual autonomy, emphasizing their interconnected roles in developing a just and equitable society.

KEYWORDS: democracy, natural law, positive law, society, religion, culture, education

- modus essendi nostrum est dispositio substantiae, quae debet esse ad Deum, nam nulla anima sine habitus infus est -

Introduction

History, political science, and legal studies have provided, doctrinally, a relevant insight into the social mechanisms encapsulated in the notion of a system, which implies internal non-contradiction and coherence. The ideologies that have attempted the establishment and systematization of democracy have historically experienced periods of excellence as well as periods of dramatic decline. Initially, Ancient Greece, the cradle of democracy in human conception, introduced the notion of *demos kratos* in its direct form regarding the participation of the population. The utility of this practice is self-evident, considering that the number of citizens present at the debates in the Agora was substantially smaller than the populations of today's post-modern era, corresponding to Nation-States. Why the term Nation-State instead of just the State? Why is differentiation important?

In the realm of phenomenology concerning democracy, the State represents, as a singular form, only a political institution with its own apparatus of administrative structures more or less dependent on the central core. The State is a true *plenary subject of law*. In relation to the citizen, the State holds a position of power (*in the realm of public law*) and a position of equality (*in the sphere of private law*). Thus, the division of the ideological system into three major branches gathered under the title of: *separation of powers in the state*, was imposed. Such a composition was necessary due to the constitutional legislator's desire to protect the citizens from abuses and political deviations that can slip into authoritarianism or totalitarianism. This was precisely the aim at *the fall of the Bastille*: the reintegration of man into the multidimensional cosmos of his being: the being with self-awareness, the being in connection with the a priori space—host of moral consciousness; this good *counselor* before any deed, insistent and merciful counselor during the deed, also playing the role of discourager, so that in the end, it transforms into the *right of judgment* in the image and likeness of God.

The aforementioned triad: *anterior - simultaneous - subsequent*, crowns the project of democracy by directly affirming to citizens freedom and equality. The feudal, autocratic, hermetic, and dominating order, in its erroneous understanding of divine reason, arrogated to itself the plenary right of life and death over the enslaved population, unaware that it is a precisely divine right that contains the essence of natural law: without freedom there is no

obligation, without morality there is no equality, just as without a legislative system accepted by social ethics there are no crimes or illicit acts: *nullum crimen sine lege, nulla poena sine lege*. After the French Revolution of 1789, more precisely at the beginning of the 19th century, the momentum of the new order stimulates the tandem of *democracy - nation*. The nation being the newborn of the democratic construction. The general will of the people is in power, *a plebiscite every day* (Ernest Renan).

However, when we refer to the fundamental law, we always have in sight its compatibility with positive law of strictly human origin, a creation of the rational and self-aware mind of man (Rotaru 2023, 825-874). History shows us that legal science is indeed far from perfect, its character being only perfectible in the dynamics of time. Thus, we are not mistaken when we say that positive law is a product of the vision of life, of its purposes above the contingency declared in certain philosophical systems, notably *Sartre's existentialism* which proclaims the absurd and the superficial state in which we find ourselves. Ultimately, where is the logical fracture because of which rigid and categorical secularization distances the constitutional phenomenon from the image theoretically considered? The answer is simple: positive law is based on and dictated by political will at a certain point in time. Inherent to human beings is only natural law - *sub specie aeternitatis* - while positive law affirms moral standards occasioned by a certain period of social time, flexible standards, democratically moldable. Democracy that does not limit the freedom to choose culture and education imposes extremely careful risk management without which *collective anxiety* can potentiate and maintain a superficial conception of the political, economic, legal, and transcendental sense.

The Nation-State

Elevated to the rank of religion, the new religion aimed to be complementary in relation to God. On the one hand: *"And this commandment we have from Him: that he who loves God must love his brother also"* (1 John 4:21); on the other hand: *"And every spirit that does not confess that Jesus Christ has come in the flesh is not of God. And this is the spirit of the Antichrist, which you have heard was coming, and is now already in the world"* (1 John 4:3). The intentional content of the revolutionary spirit is hard to imagine as antichristic, for this reason, it must be clarified that *the nation is envisaged as an evidently complex community, but simplified and homogenized in the imagination, invested with a high degree of coherence and marked by a specific destiny, traits that individualize it in relation to other similar communities* (Boia 2007). In this way, the idea of the Nation of spiritual nature has been outlined, consequently organizing and guiding on the sanctity of natural law norms. Its transcendental, concrete, and certain nature automatically implies the existence of its earthly aspect: the State. Respect and obedience are granted to this plenary legal entity in a *rigid, general, and impersonal* manner. The concept of the State invokes in citizens an attitude of subordination precisely due to its coercive power; the entitlement to apply coercive force when necessary is accepted without explanations and interpretations beyond the provisions of positive law. Regarding the Constitution, things are substantially different.

Article 54, paragraph (1), (*Romanian Constitution*) which stipulates that *fidelity to the country is sacred*, assures us of the institution's belongingness to political and administrative commands divine, which is easily understood since the legislator, in his light, chose to appeal to *sacredness*. The noun *fidelity* and the adjective (which answers the question: what kind of fidelity?) *sacred*, undoubtedly convey the desire, determination, and quasi-secularization flexibility of the state. However, the objective and universal character of this *jus naturale*, its divine origin instilled in man due to his belongingness to humanity, to God's supreme creation (Rotaru 2005, 295-324), *"In the beginning was the Word, and the Word was with God, and the Word was God. He was with God in the beginning. Through him all things were made; without him nothing was made that has been made"* (John 1:1-3), is that *quod erat*

demonstrandum which attests the Nation as the spiritualizing effect of the State through democracy.

Direct Democracy

As mentioned earlier, direct democracy is the result of the vectors of freedom (Rotaru 2015, 595-608), equality, rights, obligations, and responsibility, all specific to the ancient Athenian Agora. The basic characteristic lies in the quality of the people being the *sovereign of the nation*. This form of democracy is considered the pure solution, untainted by hidden personal interests of politically appointed representatives. All political, economic, and legislative decisions, whether they are rules of conduct or management and administration, fall under the deliberation of the free market. Civic gatherings in the market (agora) of Athens are free, unhindered, and governed by the principle of equality in expressing opinions. There are two known forms of direct democracy: *participatory and deliberative*.

Participatory democracy involves the active role of citizens in the decision-making process; fundamental aspects include public debates and petitioning. This form of democratic expression engages and enhances the principle of popular sovereignty over state representatives in a real manner: implementing participatory systems through referendums, civic advisory councils, and participatory budgets increases the level of transparency and accountability.

Deliberative democracy involves critical thinking and argumentative reasoning, two high cognitive traits that can counterbalance individual preferences and implicitly the tyranny of the majority.

The principles of participatory democracy aim to restore the necessary equality for democracy (Pateman 2012). As frequently asserted in the history of democratic doctrines, the politics pursued in this direction involves the engagement and imposition of ideas compatible with social justice. Ultimately, *participation is essentially a manifestation of power* (Fung 2006). Similarly, *deliberative democracy is not a State but a process, not a matter of status but of direction* (Habermas 1997). Thus, we achieve the complete consecration of the ideology of freedom because *deliberative democracy is democracy in its most complete form - citizens themselves confront public choices* (Fishkin 2009).

Biblical teachings

Some verses of the Bible can be interpreted as supporting principles such as responsibility in leadership, respect for equality, and free expression of opinion regarding social progress and interpersonal relationships. Without a correct and concrete relationship with the precepts dictated by moral conscience, we will not be able to achieve a political system oriented towards human well-being on both of its defining pillars: material and spiritual. Thus, equality before God must undoubtedly descend into the secular, profane environment. Sacralization isolated in academic discourses, far from the consciousness and presence of the citizen, will be lost in a dangerous obsolescence. *"But select capable men from all the people—men who fear God, trustworthy men who hate dishonest gain—and appoint them as officials over thousands, hundreds, fifties and tens" (Exodus 18:21)* (Rotaru 2014, 23-44). Jesus called them together and said, *"You know that the rulers of the Gentiles lord it over them, and their high officials exercise authority over them. Not so with you. Instead, whoever wants to become great among you must be your servant, and whoever wants to be first must be your slave—just as the Son of Man did not come to be served, but to serve, and to give his life as a ransom for many"* (Matthew 20:25-28).

Representative Democracy

In its modern sense, representative democracy is a contemporary political and social construct. Demographically, viewed quantitatively, it would not allow for participation and deliberation as it

did in antiquity. It would be nearly impossible for every proposed bill to register the opinion of every citizen. However, a digitized future might offer this possibility. But until that moment, to support respect for human dignity (Rotaru 2016, 29-43), equality, and freedom, rights and obligations, public order, good faith, good morals, and overall the satisfaction of the common interest, this representative manner is applied through which each member of society can contribute to the well-being of the community. In contrast to direct, participatory, and deliberative democracy, the method of representing the people by the elected has instituted, for clarification purposes, two other denominations: *electoral democracy or indirect democracy*.

Most Western countries practice this form of democracy. Essentially, the people legitimize, through a *social contract*, a certain number of representatives to represent their sovereignty. The great achievement of this political system is the separation of powers in the state: *the legislative, executive, and judicial powers*. Multipartyism, without which political freedom would be unimaginable, brings with it a major downside: the possibility of forming political coalitions without considering the ideological differences between certain parties. We won't go into details now, but any mixture significantly dilutes the core essences. The people elect established ideologies (*left-wing, right-wing*), but not party businesses. When the left and right become a *single pole*, any "*cartesian space*" useful for orientations is reduced to an ambiguous, vague point, with maximum potential for national wandering.

The moral conscience and the self-awareness

The perennial nature of natural law (*lex naturalis*), originating from the divine and being the guarantor of human dignity and intrinsic value, facilitates the relationship and bringing into the world of that *tangible a priori analytic* independent of any current political order. We are certainly in the presence of *moral consciousness and its quality as a guide and judge, co-author or abstainer*. *Self-awareness*, as a measure of the capacity to be aware of one's own identity, thoughts, emotions, and actions, constantly alerts to the autonomy of being, its individuality in relation to the external environment and other fellow beings. *It is a real unity in time*. The person lives time, it is not time that consumes the person. Actions, as human deeds, are at the end of the deterministic axis *word - will - deed*.

Self-awareness, alongside the necessary and sufficient moral conscience, gives rise to the unique person in two aspects. It is an inherent blend of identity. Human capacity to realize their own existence, to recognize and interpret their own identity, places us in the position of witnesses, researchers, and inhabitants of our own ontology. *Self-awareness translates into awareness of one's own ontology*. Without the social ethical code and without the moral code assimilated through spiritual transcendence, the human being exposes only the irrationality stemming from the rupture of the *ultimate principles* of all things. The notion of identity inevitably contains the attribute: autonomy. Autonomy functions as a receptor of the spectral moral consciousness that continuously penetrates matter, soul, and the fabric of space-time. A person's autonomy is the means through which they transpersonalize into another human being. *Autonomy is both the means and the end in itself*. The multitude of identities is equally the bundle of reflections of identities mirrored in each other. If we were to express qualities in the form of a matrix as follows: *[word will deed] [information energy action] [1 1 1]*, the determinant would be equal to zero. Why? Because *jus naturale* ensures the preservation of things, principles, and values as they were *Pronounced by the Proniator*. The mixture of political interests will function naturally. *Singular* positivism risks pettiness, *uprooting - disintegration - war*. From here it clearly results that: (1) *The realization of the word requires impulse*; (2) *Impulse applied to information from the noematic space*; (3) *The existential sense of the noema comes from the intentional content of consciousness*.

The stakes of social risk management are enormous. The limited understanding and explanation of human existence and nature in terms of physical and chemical reactions, anatomy, and organic physiology would adopt and definitively affirm a mechanistic system of

life manifestation, which is incompatible with the pillars of democracy, pillars of human existence as relationship, diametrically opposed trait to *the individual or individualist entity*. *Solipsism* is not auspicious in a constitutional republic with representative democracy. Solipsism would bring to the forefront the *rational being, but not necessarily the human being*. Without moral consciousness, man remains only a rational being, admittedly successful; the healthy axis of the *socius* is denied: *man - society - cosmos – God*.

Conclusions

We observe a profound connection between the concepts of democracy, natural law, moral consciousness, and individual autonomy. These concepts are interdependent and complement each other in shaping and functioning of a just and equitable society. Democracy presents itself as an essential political system for the evolution of society and the protection of individual liberties, such as freedom of conscience and expression (Rotaru 2016, 30-37). Democracy cannot exist separately from *natural law of divine origin, the foundation of human dignity and worth* (Rotaru 2019, 214-215). Moral consciousness and self-awareness represent immutable aspects of human identity and its relationship with the surrounding environment, serving as true guides for *both individual and collective actions and decisions*, contributing to the formation of personality and *social* inter-human relationships. Moreover, we must underline the importance of individual autonomy in the system proposed by democracy, as well as the necessity of responsible management of social risks to maintain balance and harmony in the *communal agora*. Thus, the article highlights the necessity of a *holistic and interconnected* approach to democracy, natural law, and *human* moral consciousness to ensure fair governance oriented towards the supreme respect of human rights and freedoms (Rotaru 2017, 545-550).

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The New Oral Tradition: Spoken Word Poetry as a Platform for Civic Engagement in the Digital Era

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ABSTRACT: With the advent of social media and the digital landscape, mainstream activism is a distinguishing feature of young Americans today, referred to as millennials and Generation Z, i.e., those born between 1980 and 2012. However, this perspective overlooks the depth and authenticity of social involvement among these younger individuals, particularly through their embrace of literature and art—particularly spoken word poetry. Spoken word, rooted in oral tradition and championed by previous generations for its social impact, is finding renewed vigor among youth as a genuine means of articulating their societal concerns. This paper will examine the usage of spoken word poetry by contemporary Americans as a means of civic and political engagement. This exploration is contextualized through a modern lens, where digital platforms are amplifying voices traditionally marginalized in mainstream narratives, allowing spoken word poetry to evolve beyond its historical confines into a dynamic form of expression. This study extends the discussion to contemporary poets such as Amanda Gorman, Danez Smith, and Donald Glover who have harnessed the art form to address society's most pressing issues. This analysis underscores the genre's burgeoning role within popular culture, evidenced by its integration into the music and public personas of artists who have traditionally not been associated with spoken word, thereby marking its reentry into the popular consciousness. At its core, the revival of spoken word among the youth, fueled by social media and digital platforms, represents a recent renovation to an old art form at different levels of pop culture. It is a testament to the enduring power of the spoken word to inspire, challenge, and mobilize. By embracing this tradition, today's generation is not merely participating in an act of revival but is actively redefining civic engagement and artistic expression.

KEYWORDS: spoken word, poetry, activism, social justice, Amanda Gorman, Danez Smith, Donald Glover

Introduction

The normalization of social media has ushered in a new era of mainstream activism, particularly among millennials and Generation Z. Platforms such as TikTok, Twitter, and Instagram have become arenas for the amplification of social movements such as Black Lives Matter, #MeToo, and Stop Asian Hate. These movements have not only highlighted the capacity of social media to act as a catalyst for raising awareness and fostering performative activism but have also opened gateways to more profound forms of social and political involvement. Amidst the digital uproar for justice and equality, the contribution of literature and art—primarily spoken word poetry—to these activism landscapes has been markedly overlooked. While traditional perceptions have, at times, marginalized poetry and similar art forms as elitist relics of the upper class, the intersection of social media and these expressive mediums has fostered a unique space for activism. This juxtaposition of perceived obsolescence and modern digital activism presents an interesting dichotomy where both elements synergize to form a more potent force for social change.

In contrast to the more visible spectacles of activism on social media, the role of literature and art, mainly spoken word poetry, in facilitating social involvement merits closer examination. Despite prevailing notions that regard poetry as an archaic art form, the reality is that it has found new life and relevance through social media, acting as a bridge between personal expression and collective action. This dynamic interplay between the old and new and the traditional and the contemporary suggests that literature and art continue to hold significant power in shaping public discourse and fostering community engagement.

This paper explores the usage of spoken word poetry as a vehicle for civic and political engagement among contemporary American youth. By delving into the ways in which young poets leverage this expressive form to address societal issues, advocate for change, and build community, we seek to uncover the nuanced roles that spoken word poetry plays in the broader landscape of social activism. Through this exploration, the paper will highlight the transformative potential of poetry as a tool for political and civic engagement—particularly among youth.

Historical Context of Spoken Word Poetry

Spoken word is an oral poetic performance art that focuses on the aesthetics of recitation and word play and is a “catchall” term that encompasses any poetry that is recited out loud. Unlike its written counterpart, the spoken word values phonaesthetics, or the aesthetics of sound, over its visual aesthetics on the page. The art form's roots stretch back to The Prehistoric Period when cultures relied on oral traditions for the dissemination of information, self-expression, and communication. Spoken word, distinct from ordinary speech, utilized the unique sound structures of language to create aural patterns, making it easier to memorize and recite and, thus, more accessible (Finnegan, 2012).

The tradition of conveying stories and knowledge orally, rather than in written form, was a hallmark of several predominantly oral cultures. For example, in pre-colonial Africa, performance poetry played a prominent role in theatrical ceremonies, which functioned as sources of entertainment, education, spiritual enrichment, and political commentaries (Finnegan 2012). Polska Roma, one of the largest and oldest ethnolinguistic subgroups of Romani people living in Poland, predominantly did not read or write for the majority of their history but engaged in strong oral folk traditions (Ficowski). In ancient Greece, spoken word was revered as the primary vessel for preserving cultural wisdom, with society valuing those capable of memorizing and eloquently delivering these oral treasures (Bahn and Bahn 1970, 10).

The Civil Rights Movement saw a resurgence of spoken word, with iconic speeches such as Martin Luther King Jr.'s “I Have a Dream” and Sojourner Truth's “Ain't I a Woman?” blending oratory with poetry. This era of fervent activism and powerful oratory laid the groundwork for a burgeoning spoken word scene within the African American community. Building on this momentum, The Last Poets, a poetry and political music group, emerged in the 1960s as a direct offspring of the Civil Rights Movement. Their formation marked a pivotal moment in elevating the profile of spoken word within African American culture, and the movement gained further mainstream traction with the release of American jazz poet Gil Scott-Heron's seminal spoken-word poem, “The Revolution Will Not Be Televised,” on his album *Small Talk at 125th and Lenox* in 1970 (Poetry Foundation n.d., Gil Scott-Heron). This period underscored the evolving relationship between activism, oratory, and spoken word poetry, highlighting its increasing importance in American cultural discourse.

By the turn of the 21st century, however, poetry had increasingly come to be perceived as an art form in decline. This narrative was fueled by several factors, but particularly the rise of digital media: the vast array of digital content available to consumers made it increasingly difficult for poetry to capture and retain audience attention. Critics argued that the digital age, with its emphasis on speed, brevity, and visual media, was antithetical to the reflective, nuanced, and often complex nature of poetry.

Understanding the Appeal of Spoken Word Poetry to Youth

Why has spoken word poetry, in particular, garnered so much recent traction? Spoken word poetry has been gaining popularity in recent years for several reasons. For one, it provides a platform for underrepresented voices. Spoken word poetry has always been a space for marginalized communities to share their experiences and stories. It allows people to express

themselves in a way that they may not have been able to before, and it can be a powerful tool for social change. Spoken word poetry is also accessible. Unlike traditional poetry, which can sometimes feel intimidating or exclusive, spoken word poetry is open to everyone. It's a form of art that can be performed by anyone with a story to tell, and it can be enjoyed by anyone who is willing to listen.

In addition, spoken word poetry is a form of therapeutic self-expression for some. Many poets use their art to work through trauma, mental illness, or other personal struggles. It is within this rich tapestry of personal narratives and collective experiences that young poets such as Amanda Gorman, Danez Smith, and Donald Glover emerge, using their voices to weave together themes of justice, democracy, and unity.

Amanda Gorman

Californian poet Amanda Gorman's ascent to international acclaim began in 2021 following her recitation of "The Hill We Climb" at the 2021 Presidential Inauguration. Gorman, the youngest inaugural poet in U.S. history, employs her poetry to confront themes of justice, democracy, and unity, weaving a narrative that both acknowledges the nation's tumultuous history and envisions a more inclusive and equitable future. Her work exemplifies how spoken word can transcend mere artistic expression, serving as a powerful catalyst for social cohesion and public reflection on critical issues facing society.

Danez Smith

Danez Smith represents a critical and compelling voice in contemporary poetry, offering profound insights into the intersections of Blackness, queerness, and American identity. Hailing from St. Paul, Minnesota, Smith has carved a niche for themselves within the literary world through their candid exploration of themes such as race, sexuality, and systemic violence. Their work, known for its visceral emotionality and sharp critique, serves as a powerful testament to the struggles and triumphs of marginalized communities.

Smith's collections, including "Don't Call Us Dead" and "[insert] boy," not only confront the realities of anti-Blackness and the AIDS epidemic but also envision a realm of possibility where those deemed expendable by society are seen, celebrated, and mourned. Through performances that are both harrowing and healing, Smith leverages the spoken word to foster a space of reckoning and reflection, challenging audiences to engage with the painful truths of systemic oppression while holding onto hope for a more just future.

Donald Glover

Donald Glover, also known by his musical alias Childish Gambino, has established himself as a multifaceted artist whose work spans music, television, and film. Although not a poet in the traditional sense, Glover's incorporation of spoken word elements into his artistry enables him to weave complex narratives about the Black American experience, blending humor, tragedy, and critique in equal measure. His ground-breaking single "This is America" exemplifies this approach, employing a potent mix of rap, visual art, and spoken word to comment on systemic racism, gun violence, and the commodification of Black culture.

Born in Edwards Air Force Base, California, and raised in Stone Mountain, Georgia, Glover's diverse body of work reflects a deep engagement with the nuances of identity and societal expectations. His music video "This is America" not only garnered widespread acclaim for its incisive social commentary but also demonstrated the power of combining various artistic mediums, including spoken word and rap, to amplify critical messages. Glover's success in capturing the public imagination and sparking dialogue underscores the

evolving nature of the intersection between spoken word and music as a tool for social and political commentary.

Tangible Political Change

As prolific speakers and poets such as Gorman, Smith, and Glover inspire a new generation of poets, the spoken word community builds a network of poets grounded in shared experiences, emotional connections, artistic affinity, and a dedication to positive social and political change. In so doing, poets construct an organizational framework characterized by a grassroots, “do-it-yourself” ethos, which is essential for ensuring the sustainability and longevity of both their art and activism. This framework includes self-organized workshops, open mic sessions, poetry slams, award ceremonies, and the self-production, publication, and distribution of poetry through “chapbooks.” Given the marginal position of spoken word within the broader artistic landscape, these initiatives are crucial for poets to refine their skills, disseminate their creations, and achieve professional validation for their work, thereby enhancing their capacity to foster awareness and community cohesion.

Moreover, these poets actively promote political involvement and mobilization, which includes encouraging participation in or financial support for social justice initiatives, inspiring individuals to reconsider their perspectives and actions, or pursuing personal growth and self-acceptance. Such efforts are predicated on the belief that transformative change is contingent upon individuals achieving a state of well-being and fulfillment facilitated by access to expressive and supportive environments. As New York Times best-selling author, activist, and spoken word artist Sonya Renee Taylor articulated, “Lasting, positive change can only be built on a foundation of love; you cannot sustain positive change in a body that you hate.” She posits that enduring, positive societal transformation is underpinned by self-love and acceptance; lasting change cannot thrive in an environment of self-rejection. In this regard, the poets' commitment to self-affirmation and shame-free living is seen not merely as an individual act of defiance but as integral to a broader political ethos where the well-being of the individual and the community are seen as essential foundations for sustained social change (Chepp 2016).

Conclusion

This study has examined the dynamic role of spoken word poetry in facilitating civic and political engagement among millennials and Generation Z. Contrary to the prevailing narratives that often misrepresent the activism of younger generations, our analysis reveals the profound and genuine engagement of these groups through spoken word poetry. This form of expression, while steeped in historical oral traditions, has been revitalized and imbued with new life by contemporary voices, underscoring its relevance and potency as a tool for social involvement in the digital age.

This examination has highlighted how digital platforms have democratized the stage for spoken word, enabling poets like Amanda Gorman, Danez Smith, and Donald Glover to amplify voices that have traditionally been marginalized. This resurgence of spoken word poetry, paralleling historical movements but distinct in its digital dissemination, underscores a unique blend of tradition and innovation. It reveals how contemporary poets have leveraged this art form not only to critique societal norms but also to envision a world reformed by justice, equality, and understanding.

Spoken word poetry stands at the forefront of a dynamic interplay between personal expression and collective activism, challenging societal norms and bringing marginalized narratives into the limelight. It reaffirms the art form's capacity to challenge the status quo, to bring marginalized narratives to the forefront, and to weave together the personal and political

into a powerful tapestry of activism. As we move forward, it is necessary for us, as a society, to continue amplifying these voices and to recognize the critical role that literature and art play in envisioning and enacting a more just and equitable world.

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Law and Social Transformation - A Study with Special Reference to India

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ABSTRACT: Law is a dynamic instrument fashioned by society to achieve the harmonious adjustment of human relations by elimination of social tension and conflicts. Social changes are necessary for the development of the society. These changes can be facilitated by the tool of law, otherwise, it will be very difficult to clear the hurdle of custom and usage. The objectives of this paper are to understand the meanings of the terms “law” and “social transformation,” which studies the social problems of societies and their solutions through a legal approach. The law of any civilized country is not definite, but changes according to the needs of society. The path of social change in India has been charted out by the constitutional provisions of the preamble, fundamental rights, directives principles and Article 368. In this paper, we aim to demonstrate that the instrumentality of law and social change is necessary to study some special changes that have taken place in India, through judicial interpretation and amendment of law for social transformation. These changes includes the abolition of Sati System, prohibition of child marriage, maintenance laws, free education, right to information, registration of marriage, recognition of live-in relationships, juvenile justice, protection of LGBTQ rights, and protection of rights of Muslim women in marriage.

KEYWORDS: dynamic, social transformation, preamble, fundamental rights, custom and usages

Introduction

Since the existence of society, there has been a rule that good is always accepted and bad is prohibited. This rule exists and will be there till the end of civilization. In our society, each person’s act is either good or bad. In the ancient period, our society was governed by the customs and morality. But, when society was replaced by State, morality was also replaced by the law. If we want to change any existing custom in our society, it is to be changed by the law only. Social transformation is a unique subject that requires change in the fabric of society. The problems of the societies and their solutions can be found through a legal approach. In fact there are two modes of change:

- i) Law changes the society
- ii) Society changes the law

Law of the land compels the society to be changed according to the law. Whenever any question of law arises before the judiciary, the judiciary on the basis of the law of the land forces the society to be changed accordingly. Secondly, society changes the law means that law is made by society for its governance through legislature or the customs and usages. The legislature enacts the law according to the needs of the society because law is for the governance/desire of the society. When any custom or usage set by the society has been held valid by the court of law, it is said that the society has changed the law. On the other hand, if the Court found that custom or usage are immoral, or unconstitutional, then the society has to be changed according to the law. So, if we say the both modes of changing the law, it shows that there is transformation of society. Change is the rule of Nature, and it is said that law is a dynamic concept. The law of any civilized country shall not be static but shall change according to the needs of the society. If the law is definite, we cannot think about the development of the country. The concept of ‘law as an instrument of social change’ treats law as an independent variable that influences or causes changes in society. One approach is to focus on formal law, in the form of statutes, landmark judicial opinions, Constitutions, and the like, to investigate how changes in formal law may bring about social change. A second approach follows the legal realist traditions expanding on the conception of ‘law’ to include

the law in practice in courts, bureaucratic settings, and other settings. In this view, the law includes not only the formal language of the statute, but also how that language is implemented, interpreted, and understood by institutional actors in the state or by individuals in everyday life (Albiston and Leachman 2015).

Objective of the Research Paper

Law is a dynamic instrument fashioned by society for the purposes of achieving harmonious adjustment of human relations by elimination of social tension and conflicts. Social changes are necessary within society, for development of society. It can be made by the tool of law otherwise it will be very difficult to clear the hurdle of custom and usages. The objective of this paper is to understand the meaning of term Law and social transformation, which studies the social problems of societies and their solutions through a legal approach. Law of any civilized country is not definite, but changes according to the needs of the society. By keeping into mind the needs of the society and the development of the nation as whole in light of Constitutional provisions which had been inserted by the framers of our Constitution. The path of social change in India has been charted out by the Constitutional provisions of the preamble, the Fundamental rights and the Directives Principles. By giving due consideration to social transformation, Article 368 had been part of the Indian Constitution. In this paper, we aim to demonstrate that the instrumentality of law and social change, it is necessary to study some special changes that have taken place in India through judicial interpretation and amendments of laws for social transformation i.e., Abolition of Sati system, Prohibition of child marriage, Maintenance rights to Muslim women, Free education as fundamental right, Right to Information, Public interest litigation, Registration of marriage, Recognition of live-in relationship, the Criminal law (Amendment) Act 2013, Juvenile Justice Amendment Act 2015, the recent Criminal law (Amendment) Act 2018, the recent decision on LGBT by the Supreme Court of India and Protection of Rights on Marriage Act 2019.

Definition of Law

It is very difficult to define law but not impossible. The law regulates the behavior of the individual in society. Law is a system of rules which a particular country or community recognizes for regulating the actions of its members and which it may enforce by imposition of penalties. The most commonly accepted definition of law is given by Blackstone as,

“Law as rule of conduct, prescribed by the supreme power in the State, commanding which is right and prohibiting what is wrong. Jurisprudentially, law consists of rules prescribed by society for the governance of human conduct.”

Law not only lays down the norms which are acceptable to a given society, it also lays down the norms, which the society should adopt in the interests of its own welfare. Customs or usages that develop within a society over time are shaped into law for its governance. An acceptable custom thus become law, and anyone who defy such customs or norms may commits a crime or an act against the code of conduct in society. In a leading American case of *Marbury v. Maddison*, it was observed that the Constitution is the fundamental and paramount law of the nation, and it is the duty of the Court to say what the law is. Furthermore it was held that a law repugnant to the Constitution is void. If there was a conflict between a law made by Congress and the provisions in the Constitution, it was the duty of the Court to enforce the Constitution and disregard the law. In the case of *State of M.P. v. Ghanshyam Singh*, it has been observed by the Supreme Court that the law regulates the social interest and arbitrates conflicting claims and demands. So, the law as a cornerstone of the edifice of order, should meet the challenges confronting the society. In *Keshwananda Bharti v. State of Kerala* it has been observed that the law in order to be legitimate and legal, must also satisfy the mandates of the Constitution of India. The Constitution precedents cannot be permitted to be transformed into weapons for defeating the hopes and aspirations of our teeming millions, half-clad, half-starved, half-educated. These hopes and aspirations

representing the will of the peoples can only become articulate through the voice of their elected representatives.

The Constitution not only designed to meet the needs of the day when it is enacted but also the needs of the altering conditions of the future. The law in order to be legitimate and legal, must also satisfy the mandate of the Constitution of India.

Necessity of Changing Law

If the law fails to respond to the needs of changing society, then either it will stifle the growth of the society and choke its progress or if the society is vigorous enough, it will cast away the law which stands in the way of its growth. Law must therefore constantly be on the move adapting itself to the fast-changing society and not lag behind. The progress of every society is dependent upon the proper application of law according to the needs of the society. Mere enactment of particular legislation cannot solve the problems of the society unless the judges interpret and apply the law to ensure that the benefit of law shall reach the right persons in the society. It the judge, who infuses life-blood into the dry Skelton provided by the legislature and creates a living organism appropriate and adequate to meet the needs of the society (Malik and Raval 2012). In the case of ***Keshvananda Bharti v. State of Kerala***, the Supreme Court observed that,

“no generation has monopoly of wisdom nor has it a right to place fetters on future generations to mould the machinery of Government according to their requirements. If no provisions were made for the amendment of the Constitution, the people would have recourse to extra Constitutional method like revolution to the change of the Constitution.”

While accepting the need of amendment to the Constitution according to circumstances Dr. B.R. Ambedkar in the Constituent Assembly has remarked that,

“One can therefore safely say that the Indian federation will not suffer from the faults of rigidity of legalism. Its distinguishing feature is that it is a flexible federation.”

In the same debate Pt. Jawahar Lal Nehru, said,

“While we want this Constitution as solid and permanent as we can make it, there is nothing permanent in the Constitution. There should be certain flexibility. If you can make anything rigid and permanent, you are stopping the growth of the nation. In any event we could not make this Constitution so rigid that it cannot be adapted to changing condition. When the world is in period of transition what we may do today may not be wholly applicable tomorrow.”

While the Constituent Assembly was discussing on the point of the flexibility of the Constitution, it had also inserted Article 368 to the Constitution, which states that any part of the Constitution may be amended by adopting the appropriate procedure, except destroying the basic structure of the Constitution. It shows the acceptance of the need of changing the law, even the law of the land, according to the needs of the society. In our society there are many conflicting interests. The law is a very important mechanism that brings balance in our society. The important function of law is to reconcile such conflicting interests in our society. India has adopted the principles of social engineering so as to make a balance between the individual interest and social order, so as the progress of the society is insured. Law is a dynamic concept; it must be changed according to the needs of the society.

“Law is not a mausoleum. It is not an antique to be taken down, dusted, admired and put back on the shelf. It is like an old but still vigorous tree, having roots in history, yet continuously taking new grafts and putting out new sprouts and occasionally dropping dead wood. It is essentially a social process, the end product of which is justice and hence it must change with changing social values. Otherwise there will be estrangement between law and justice and law will cease to have legitimacy.” (Justice P.N. Bhagwati, *Motilal Padmapat v. State of Uttar Pradesh*, AIR 1979 SC 621)

There are two kinds of society one is static, which fails to evolve law from certain stage and another is progressive society, which always go developing laws by new methods.

Path of Social Change in India

The Constitution, unlike other Acts, is intended to provide an enduring paramount law and a basic design of the structure and the power of the State and rights and duties of the citizens to serve the society through a long lapse of ages. It is not only designed to meet the needs of the day when it is enacted but also the needs of the altering conditions of the future. It contains a framework or mechanism for resolution of constitutional disputes. It also embeds its ideal of establishing an egalitarian social order to accord socio-economic and political justice to all the sections of the society assuring dignity of person and to integrate a united social order assuring every citizen fundamental right assured in the part III and part IV of the Constitution. In the interpretation of the Constitution, words of width are both a framework of concepts and means to achieve the goal in the preamble. The path of social change has been charted out by the constitutional provisions of the Preamble, the fundamental Rights, and the Directive Principles. This trilogy is the conscience of the Constitution.

The Preamble is a guiding light in the interpretation of the Constitution. It embodies and expresses the hopes and aspirations of the peoples. The preamble aims at securing to all citizens social, economic, and political justice, liberty of thought, expression, belief, faith and worship and equality of status and opportunity. It further aims to promote fraternity among all of them, assuring dignity of individuals and unity of the nation. According to Article 13(2),

“The State shall not make any law, which takes away or abridges the rights conferred by Part-III and any law made in contravention of this clause shall, to the extent of the contravention, be void.”

Further the Directive Principles of State policy embodied in part IV of the Constitution reflects the modern liberal thinking about the welfare State. The Directive Principles of the State policy are the guiding mirror for in a democratic socialism State. According to Article 38,

“The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.”

In the case of ***Minerva Mills v. Union of India***, The Supreme Court observed that,

“The dynamic provisions of the Directive Principles of the State Policy fertilize the static provision of the Fundamental Rights because it is the Directive Principles of the State Policy that nourish the roots of Democracy.”

Social Change Through Law

Law cannot stand still; it must change with the changing social concepts and values. If the law fails to respond to the needs of the changing society, then either it will stifle the growth of the society and choke its progress, or if the society is vigorous enough, it will cast away the law which stands away from its growth. Law must therefore constantly be on the move adapting itself to the fast-changing society and not lag behind (*National Textile workers Union v. P.R. Ramakrishnan* 1983). Law should not be like old antique piece, which are dusted and kept on the shelf but it must be like a vigorous tree, firmly rooted in history but still putting out new grafts, where old branches fall down and the new branches take their place. This process has been going on and will continue to be going on. Indian Constitution provided the wide scope for the change of law to meet the changing requirements of the society. The progress of society dependent upon the proper application of law according to the needs of the society. A society cannot remain static. It keeps on moving with all economic, scientific, and technological developments. Therefore, the law to meet the changing requirements of society should keep on evolving itself. Law shall be a flexible instrument of social order. Social changes are necessary within society, for the development. But this change can be made by the tool of law otherwise it is very difficult to clear

the hurdle of custom and usage. In every society social change are necessary and possible if it takes place by the instrument of law. There is no value of morality in the eyes of law (Malik and Raval 2012). To show the instrumentally of law of social change, it is necessary to study some special changes that take place in India, because change is the rule of nature and nothing is permanent, but change is permanent.

Abolition of Sati System

Sati was a practice among Hindu communities where a widowed woman, either voluntarily or by force, immolates herself on her deceased husband's pyre. The woman who immolates herself is, hence, called a *sati* which is also interpreted as a 'holy woman' or a 'good and devoted wife'. The first formal British ban was imposed in 1798, in the city of Calcutta only. The Indian reformer **Raja Ram Mohan Roy** started his own campaign against the practice. On 4th December, 1829, the practice was formally banned in the Bengal presidency land, by the 1st Governor General of British-ruled India, **lord William Bentinck**, by passing a regulation XVII of 1829. This Act was challenged by orthodox Hindus in Privy Council in London but was upheld in 1932, saying *sati* was a flagrant offence against society. In fact, the *sati* is a cold-blooded murder. During the years 1980 to 1983, many cases were reported from U.P., M.P., and Rajasthan. After the famous case of Devrala Village of Rajasthan, the legislature have taken serious steps, by introducing a special law for the abetment of Sati i.e. Commission of Sati (Prevention) Act, 1987. After the passing of this Act, there was a transformation in society, and now the Sati System has been forgotten.

Free Education as a Fundamental Right

Free and Compulsory Education made its way into the Constitution as a Directive Principle of State Policy under former Article 45. In the case of **Ms. Mohini Jain v. State of Karnataka**, the Hon'ble Supreme Court held that the right to education is a fundamental right under Article 21 of the constitution as it directly flows from "right to life". Article 21 A was inserted in Constitution via 86th amendment Act i.e. free and compulsory education for children of the age 6 to 14 years. On the other hand Article 51A (k), imposes the duty on every parent or guardian to provide opportunities for education to his child or ward between the age of 6-14 years.

Maintenance to Muslim Woman

In **Mohd. Ahmed Khan v. Shah Bano Begum**, case the Interpretation of Section 125 was in question. Maintenance "beyond the period of Iddat" was in question. Conflict of Laws: Muslim Law versus Secular Law of Maintenance which is reflected in the provision of Section 125 of the Criminal Procedure Code, (Divorced) Muslim Women can resort to Section 125 of the Criminal Procedure Code. Prior to the landmark judgment of Supreme Court in Shah Bano case, Divorced Muslim women did not have right to maintenance. This in the point of fact handicapped the situation of Muslim women as the husband according to Muslim law possesses the Authority to divorce from his wife whenever he wants whereas the woman lack this right. Hence, the said case led to the enactment of Muslim women (protection of rights on divorce) Act, 1986 which enables a divorced Muslim to have a reasonable and fair provision of maintenance from her husband and from the relatives who are entitled her property after her death after Iddat. The conflict regarding award of maintenance to divorced Muslim women between various High Courts was finally settled in case of **Daniel Latifi v. U.O.I.**

Right to Information

Right to information started in 1975 when the Supreme Court upheld that freedom of speech and expression includes the right to know every public act. This had been affirmed by the Supreme Court in case of **S.P. Gupta v. Union of India** that right to know is implicit in right to free speech

and expression and disclosure of information regarding functioning must be the rule. The RTI Act was enacted by the Parliament on 15.06.2005 and notified in the Gazette of India dated 21.06.2005. Right to information Act of 2005, is an Act to provide for setting out the practical regime of Right to Information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

Information means any material in any form, including records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

Compulsory Registration of Marriage

Marriage is governed by personal laws in India, Christen Marriage Act of 1872, and Special Marriage Act of 1954, providing for the compulsory registration of a valid marriage but under Hindu law, registration was optional. Registration of Marriage: Section 8 of the Hindu Marriage Act of 1955 empowers the State Government to make rules for registration of a marriage between two Hindus. Registration enables the parties to prove the marriage in the event of disputes. In *Seema Devi v. Ashwani Kumar*, the Supreme Court held that the marriage of all persons who are citizens of India belonging to various religions should be made compulsorily registerable in their respective states, where the marriage is solemnized. Compulsory registration of marriage, if wisely provided for by means of carefully framed rules, can prevent many social evils such as child marriage and dowry.

Public Interest Litigation

In simple words, means, litigation filed in a court of law, for the protection of "Public Interest", such as pollution, Terrorism, Road safety, constructional hazards etc. Public interest litigation is not defined in any statute or in any Act. It has been interpreted by judges to consider the interest of public at large.

The first reported case of PIL in 1979 focused on the inhuman conditions of prisons and under trial prisoners. In *Hussainara Khatoon v. State of Bihar*, the PIL was filed by an advocate based on the news item published in the Indian Express, highlighting the plight of thousands of under trial prisoners languishing in various jails in Bihar. These proceedings led to the release of more than 40,000 under trial prisoners. Right to speedy justice emerged as a basic fundamental right which had been denied to these prisoners. The same set pattern was adopted in subsequent cases. A new era of the PIL movement was heralded by Justice P.N. Bhagawati in the case of *S.P. Gupta v. Union of India*. In this case it was held that "any member of the public or social action group acting bonafide" can invoke the Writ Jurisdiction of the High Courts or the Supreme Court seeking redressal against violation of a legal or Constitutional rights of persons who, due to social or economic or any other disability cannot approach the Court.

Prohibition of Child Marriage

Child marriage is one of the burning problems in Indian society. In India, despite amended laws advocating 18 as the legal minimum age at marriage for females, a substantial proportion i.e., every third adolescent girl has given birth to a child. Prohibition of child marriage Act of 2006 it applies to all citizens of India irrespective of religion. Age of the parties to the marriage must be at least 21 for boys and 18 for girls. The Act also enhanced the punishment to up to two years rigorous imprisonment, or with fine up to Rs.2,00,000, or with both.

Recognition of Live-in Relationship

Live in Relationships is “an arrangement of living under which the couples which are unmarried live together to conduct a long-going relationship similarly as in marriage”. In a living relationship the man and woman both live together like husband and wife but without getting married legally. The Protection of Women from Domestic Violence Act, 2005 provides for the protection, maintenance and right of alimony to a live-in partner, if she complains. In the case of *Lata Singh v. State of U.P.*, and *S. Khushboo v. Kanniammal & Anr*, the Supreme Court has held that living together is a right to life. The Court held that how can it be illegal if two adults live together cannot be illegal. Further in case of *Nanda Kumar v. The State of Kerala*, the Supreme Court again recognised live-in-relationship and stated that it would not be out of place to mention that ‘live-in relationship’ is now recognized by the Legislature itself which has found its place under the provisions of the Protection of Women from Domestic Violence Act, 2005.

Criminal Law (Amendment) Act, 2013

The gang rape of a 23 year old student in Delhi on 16th December 2012, (famously known as **Nirbhaya’s case**) led to a country wide agitation by women’s groups and feminists all over the country. Following the protests, a committee under the leadership of retired Justice Verma was constituted to come up with recommendations for the amendment to law relating to sexual offences. The committee submitted its report on 23rd January 2013. The Criminal Law (Amendment) Act of 2013 is an Indian legislation passed by the Lok Sabha on 19 March 2013, and by the Rajya Sabha on 21 March 2013, which provides Amendment of Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure, 1973 on laws related to sexual offences.

Juvenile Justice Amendment Act, 2015

A juvenile or child is any person who is below the age of 18 years. However, the Indian Penal Code specifies that a child cannot be charged for any crime until he has attained seven years of age. The Juvenile Delinquent is a child trying to act like a grown up. It is an expression of unsatisfied desire and urges. Juvenile Delinquency refers to the anti-social acts of children and of young people under age which means the failure of children to meet certain obligations expected of them by the society. Juvenile Justice (Care and Protection of Children Act of 2015) has been passed by Parliament of India amidst intense controversy, debate and protest on many of its provisions by Child Rights fraternity. It replaced, Juvenile Justice (Care and Protection of Children Act of 2000), and allows for juveniles in conflict with Law in the age group of 16–18, involved in Heinous Offences, to be tried as adults. The Act came into force on 15 January 2016.

Criminal Law (Amendment) Act, 2018

The Act came into force on 11 August 2018. An Act further to amend the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, proposes to enhance punishment for rape of a child.

Salient Features of the Act are:

It stipulates a minimum jail term of 20 years which may go up to life in prison or death sentence, for the rape of a girl under 12 years. While perpetrators involved in the gang rape of a girl below 12 years of age will get life imprisonment or death. Amendment was made to sub-section (1) of S. 376, increasing the term of punishment for perpetrators, from 7 years to 10 years.

The amendment under section 376 additionally makes a provision for the fine to be payable to the victim. Section 439 of the Cr.PC was amended to make it imperative for the Courts in cases of grant of bail to an accused under section. 376(3), section 376 AB, section 376DA or section 376 DB of the IPC to give notice of the application for bail to the Public Prosecutor.

LGBT Rights in India

Lesbian, gay, bisexual, and transgender people in India face legal and social difficulties not experienced by non-LGBT persons. Sexual activity between people of the same gender was illegal under section 377 of Indian Penal Code, 1860. In 2009, the Delhi High Court decision in *Naz Foundation v. Govt. of NCT of Delh*, found Section 377 and other legal prohibitions against private, adult, consensual, and non-commercial same-sex conduct to be in direct violation of fundamental rights provided by the Indian Constitution. On 11 December 2013, the Supreme Court set aside the 2009, Delhi High Court order decriminalising consensual homosexual activity within its jurisdiction.

In the Landmark judgement *Navtej Singh Johar&ors.v. Union of India and others*. The Supreme Court of India has struck down 157-year-old law which criminalizes consensual homo sexual acts between adults. The Five Judge Bench has declared Section 377 IPC Unconstitutional, insofar as it criminalises consensual sexual acts of adults in private.

Muslim Women (Protection of Rights on Marriage) Act, 2019

Every religion has some social practices, such as Tripple Talaq and sometimes these practices are required to be changed by keeping in view the needs of the society. The landmark judgment on the sanctity of instant triple talaq, *ShayaraBano v. Union of India and Others* the Supreme Court observed that “*what has been bad in theology is bad in law too*”, and the right to freedom of religion is the fundamental right available to every citizen of India however such provision should not contravene the right to equality. Held that the practice of instant triple talaq is unconstitutional and hence cannot be allowed to prosper. Muslim Women (Protection of Rights on Marriage) Act, 2019 making instant triple talaq or talaq-e-biddat a punishable offence. The provisions of this Act are:

- Triple talaq will be recognized as a crime only when a woman or her blood relative files a complaint with the police.
- A compromise can be achieved only when the woman is willing and says so to a magistrate. A magistrate can grant bail only after the wife’s consent.
- The custody of children from the marriage will go to the woman.
- The mother is entitled to maintenance determined by a magistrate.

Conclusion

Nothing is permanent, but change is permanent. Law is a dynamic concept. It does not operate in a vacuum. As social norms and values change, laws must also change. The progress of a society depends upon the proper application of law according to the needs of the society. Social changes are necessary within society for the development. To clear the hurdle of custom or usage, which are hindrances for the development of the society, the law must be strict.

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Buddha's Pedagogy: Reviving the Timeless Wisdom

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ABSTRACT: Buddhism is typically understood and interpreted as a life philosophy, a religion, a discipline, and a teaching-learning process. Buddha's primary objective in his investigation was to alleviate human suffering by identifying its root cause and revealing the truth about the world. Consequently, the Buddha discovered the 'Four Noble Truths', his first teaching after attaining enlightenment in the sixth century BCE. In the 'Four Noble Truths', the word 'truth' refers to the investigation of reality (Yun 2014). Buddha's teachings emphasized the importance of non-discrimination against individuals based on their caste, religion, gender, or any other form of identity and would not harm any species (Finn 2013; Wei 2003). Buddha devoted 45 years to imparting the *Dhamma* for this reason. Therefore, he embraced the principle of inclusiveness, welcoming all who desired to learn and comprehend the *Dhamma* (Liu & Tee 2014). As a result, he taught the path to enlightenment to achieve happiness. Buddha utilized various teaching methods and approaches: interactive and inquiry-based, question-and-answer sessions, illustrations, narrative, analytical and experimental approaches, mindfulness and critical thinking, examples to clarify concepts, ethical and character education during his lifetime. These techniques are still highly pertinent and applicable in contemporary classrooms. This paper examines the purpose of imparting the *Dhamma*, Buddha's pedagogy, and its application in the present context.

KEYWORDS: Four Noble Truths, Noble Eightfold path, relevancy of Buddha's teaching, Buddha's pedagogy

Prologue

Education is the teaching and learning process, often described as a transformative journey. This process aims to instil permanent changes in a learner's behavior through classroom instruction. In this context, teaching is regarded as a form of guidance or direction (Piyarathana 2019). In Buddhism, the *Dhamma* is a teaching of Buddha representing wisdom and knowledge or interpreted as 'truth' (Mahathera 1998). So, what is truth, and what are the components of *Dhamma*? According to the Buddha the purity of life is *Dhamma*, comprising three forms of purity: purity of the body, speech, and mind. To achieve perfection in life is also *Dhamma*, which encompasses perfection of the body, perfection of the mind, and perfection of wisdom (Ambedkar n.d.). To live in *Nibbana* is *Dhamma*. In Buddhism, *Nibbana* means gaining enough control over passion or liberation from passion. Therefore, those who can control their passions empower themselves to follow the path of righteousness (Ambedkar n.d.). Buddha also categorized passion into three groups: the first category pertains to the degree of craving, including lust, infatuation and greed (lobha); the second category falls under the degree of antipathy, which includes hatred, anger and repugnance (dosa); and the third one is related to the degree of ignorance encompassing delusion, dullness and stupidity (moha or avidya). Thus, renouncing craving is also a part of *Dhamma* (Ambedkar n.d.).

After achieving enlightenment, the Buddha taught his disciples about suffering and how to escape from it. The Middle Way, the Four Noble Truths, and the Noble Eightfold Path are the teachings of the Buddha. Therefore, the truths that Buddha revealed are called *Dhamma* (Harvard University 2020).

Timeless teaching of Four Noble Truths

The truth is that which exists. Its Sanskrit equivalence is *Satya*, an indisputable fact—the Buddha who discovered the Four Noble Truths through his intuitive knowledge. Whether or not a Buddha

arises, these truths exist, and a Buddha reveals them to the deluded world (Mahathera 1998). These four noble truths are the noble truth of suffering (*Dukkha*), the noble truth of the origin of suffering (*dukkha-samudaya*), the noble truth of extinction of suffering (*dukkha-nirodha*) and the noble truths of the path that leads to the extinction of suffering (*dukkha-nirodha-gamini-patipada*) (Nyanatiloka 1967).

The first noble truth explains the physical and mental conditions like pain, distress, suffering, anxiety, frustration and dissatisfaction that exist within us (Tsering 2005). The second Noble Truth describes the principle of the cause of suffering or root cause of suffering; it is clinging or attachment with things or desire in English translation, but desire or attachment does not precisely convey the exact meaning of the Pali word *tanha* (Gunaratna 1973). The word craving is, therefore, the best rendering of *tanha*; this element of selfishness in *taṇhā* creates all the havoc for man. Similarly, the Third Noble Truth is the corollary to the Second Noble Truth. If we recognize that craving is the root cause of *Dukkha* (suffering), then it logically follows that the cessation of craving could lead to the cessation of suffering. By eliminating the cause, we can eliminate the effect. This is the fundamental principle underlying the third Noble Truth (Gunaratna 1973). Ultimately, the Fourth Noble Truth presents the path to the end of suffering, a way out. It comprises the Eightfold Path as the recommended course of action to end suffering (Yuan 2017).

Buddha is considered in different forms, such as a teacher, philosopher, founder of Buddhism, physician, and many other roles. In the first two Noble Truths, he first diagnosed the problem (suffering) and identified its cause, akin to a physician. Similarly, the third Noble Truth is the realization that there is a cure. Finally, the fourth Noble Truth is that the Noble Eight Noble Path serves as the prescription to achieve a release from suffering (Reddy 2014).



Figure 1. Noble Eightfold Path

The Buddha emphasized the concept of suffering because we must recognize that diverse forms of suffering exist in this world. By understanding the true essence of suffering, we can discover methods of alleviating it. Considering that suffering is just an initial step and an essential part of the process, the goal of discussing suffering within Buddhism is to learn how to overcome it and achieve liberation from its grip (Yun 2014).

Four Noble Truths and contemporary life

The Buddha primarily instructed individuals to liberate themselves from the mind that generates different suffering. An unaware mind inevitably produces suffering, affecting both oneself and those connected to it in various ways (*The Rising Nepal*, March 5, 2014). Today's world is globally interconnected, with frequent travel from one place to another, witness to both success and failure, opportunities and losses, as well as experience of war and harmony. Despite the abundance of amenities aimed at enhancing comfort and pleasure, people often find themselves

lacking physical and mental contentment, leading to a sense of insecurity. True satisfaction arises when the mind perceives a sense of safety, free from physical threats. Many countries have experienced rapid development in infrastructure, transportation, trade, and high per capita income for their people. However, individuals still struggle to find fulfilment in their lives. This perpetual dissatisfaction is characterized by persistent craving, grasping, and the transient nature of worldly pursuits (Yellaiah 2023).

Present-day society is characterized by a fast-paced way of life and constant demands to fulfil individual desires. Moreover, this era is characterized by an insatiable hunger for power, status, and wealth. Amid these circumstances, the teachings of Buddha, particularly the four Noble truths, offer a fundamental framework for achieving inner tranquility and contentment in our everyday life (Le 2024). Additionally, mental health has become a significant concern in modern lifestyle, and Buddha's teaching provides comprehensive guidelines for attaining this elusive condition. By incorporating mindfulness, compassion and gratitude into our everyday lives, we promote emotional resilience, mindfulness, compassion, and the development of profound self-awareness, empathy towards others, inner serenity and deep satisfaction. Due to the chaotic nature of today's society, which is characterized by high competition, stress, struggle, worry, and discontentment, the necessity of Buddha's teaching is more evident than in Buddha's time. Its application can positively change people's lives (Le 2024).

The Buddha in modern classroom

The Buddha primarily emphasized mindfulness as a fundamental practice for understanding oneself, natural phenomena and the world. Many studies have demonstrated and suggested that mindfulness meditation (MM) can improve confidence and emotional regulation across various age groups, including young people and adults, and can work as a therapeutic intervention. The significant advantages of practicing mindfulness meditation regularly have been found to be very effective for decreasing anxiety, stress management and depression; enhanced resiliency and attention towards work and study; and improved creativity, empathy and compassion (MacQuarrie et al. 2021). Thus, integrating Buddha's teaching into education helps improve mindfulness and compassion among students. Buddha's experiments and teachings offer unique perspectives that nurture emotional intelligence, resilience, and empathy. As we witness the traditional education system, we observe its emphasis on student's academic achievements, often neglecting emotional intelligence, compassion, and empathy cultivation. This neglect is a significant reason for the pressing need to reconsider the existing education system, which should address individuals' emotional and psychological well-being (Mandal 2023).

Another concept of Buddhism is non-attachment or not becoming excessively attached to material comfort; according to the Dalai lama (2001), attachments is an inherent human characteristic which is also the origin and root cause of suffering, leading to the reification of the ego self. However, attachment can be resisted, and virtues can be cultivated through generosity. Generosity should be performed in the spirit of unconditional love, without attachment or expecting to receive kindness or other things in return. Most of today's students are deeply attached to material comforts and focused on the self (Ngan & Hang 2017). Integrating Buddha's teaching can support understanding compassion, loving-kindness, sympathy, and empathy in becoming actual humans.

Conclusion

Nowadays, Classrooms are becoming more diverse, examples of how students become global citizens who can think and act across national boundaries. Buddha used many effective pedagogical strategies that are still relevant in today's classrooms. He frequently used discussion and enquiry to encourage critical thinking and self-discovery in his students. In today's classrooms,

educators can incorporate inquiry-based and critical-thinking pedagogies, encouraging students to participate in their learning and complete teacher-assigned activities actively. Deeper comprehension and intellectual progress can be achieved by encouraging students to voice their viewpoints, participate in class debates, and engage in critical dialogue.

Buddha highly valued learning from one's observations, reflections, and experiences. Simulations, experiments, field excursions, and hands-on projects are all examples of experiential learning activities that modern educators can use to engage students and make learning more relevant to their lives. It is possible to teach students to focus, manage their emotions, and relax in class by incorporating mindfulness activities, including meditation, mindful movement, and mindful breathing. Buddha also highly valued a student-centered approach, collaborative learning, and the cultivation of moral character. Among the many benefits students reap from these methods is an increased capacity for teamwork, group work, project-based learning, and problem-solving. By bringing Buddha's teachings into today's classrooms, we can provide students with more than just a sound academic foundation; we can help them gain the emotional intelligence, social maturity, and self-awareness they need to succeed in any endeavor.

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Guardianship, a Means of Protecting the Individual from the Perspective of Legal History: Between Roman Law and Romanian Law

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ABSTRACT: The need to protect individuals who lack the capacity to protect themselves has led the legislator to impose a set of conduct rules in this regard. The role and purpose of establishing these rules have been dictated by the legal order encountered in each era, in various forms, according to the level of evolution and development of society. This serves as the starting point of this study, considering that the institution of guardianship represents a longstanding concern, which we have continued to analyze over time, drawing on the doctrine and jurisprudence encountered up to this point. Within the scope of this work, we will bring to attention aspects of the ancient world related to the institution of representation through guardianship and curatorship, after which we will focus on the institution of curatorship as we find it in modern days.

KEYWORDS: curatorship, guardianship, history of law, Roman Law, Private Law

Introduction

Subrogation in the rights of a person considers at least two aspects: on one hand, the necessity of exercising rights recognized by law and fulfilling obligations assumed by another person, but also maintaining the necessary balance for legal order in a society, at a given moment. The institution of guardianship, seen as a means of protecting the person, has been encountered and regulated since ancient times until the present day. For example, on the one hand, in public law, we can mention the emergence of regency, where the minor heir, usually eligible for the highest position in the state, was represented by an adult (mother, father/clergy, or another adult designated by law in this capacity) until the minor reaches maturity. On the other hand, in private law, we consider at least three examples: the institution of guardianship, guardianship, and representation through the conclusion of a contract to this effect.

This paper addresses the institution of guardianship as a means of protecting a person who cannot independently manage their relationships with others, cannot enter into legal acts, and cannot manage their own property.

1. Means of Personal Protection in Ancient Rome

The means of protecting individuals, known in ancient Roman law, were guardianship (*tutela*) and curatorship (*curatela*). Regarding the institution of guardianship, ancient Roman law presumed that the person designated as a guardian had the duties of managing the estate and supplementing the will of those deemed incapable, for the protection of the interests of the agnatic family, formed on the basis of civil kinship. Those placed under guardianship were minors and women, these being the categories of individuals for whom ancient Roman society deemed legal protection necessary (Sâmbrian 1994, 74).

According to historical sources, both written and unwritten, acknowledged by legal doctrine, it is said that the notion of "curatorship" is linked to the Roman Empire. This observation takes into account that the Romans placed great importance on the concept of "patrimony", primarily concerned with safeguarding property and only then with protecting the individual. Property itself was viewed as a relationship between the asset and the individual, not as a relationship between individuals regarding an asset, as we perceive it today. The Romans were concerned with "remedying factual incapacities" to protect the

wealth of the incapacitated individual, pursuing the interest of the civil/agnatic family and the transmission of the inheritance of the incapacitated person (Ciucă 2014, 330-339). The legal institution of curatorship, like guardianship, served as means of protecting individuals with factual incapacity. Therefore, the person considered incapable had legal capacity but lacked representation of the consequences of their actions.

Against this backdrop, the institution of curatorship emerged, applicable in various cases, including: curatorship of the insane, curatorship of the prodigal or spendthrift, and curatorship of minors up to the age of 25. In essence, by virtue of its right to enact and enforce laws, the Roman state was concerned with protecting the individual's estate and their heirs. It is noteworthy that the term "sanction" is not used here in the sense of punishment but rather as an "interpretation of a legal provision" (Mitra-Niță 2021, 161-169).

1.1. Types of Guardianship in Roman Antiquity

Guardianship of minors. Regarding this form of representation, Roman antiquity established two conditions to qualify as a person with the status of a minor: the minor must be born out of wedlock and be *sui iuris* (that is, an independent person), and the minor must have exited paternal authority. This means of personal protection could be established as follows: through the testament of the *pater familias*, for a wife married *cum manu*, for his minor children, and even for the grandchildren through sons, if their father was deceased; by law (legitimate guardianship), granted to the closest agnatic/civil relative of the minor/incapacitated person; by appointment of a guardian (*dativus tutela*) by a magistrate/state authority, which was subsidiary and occurred when a guardian was not appointed by the *pater familias* in their testament. As for the wife, although we find different regulations in today's legislation, Romanian law continues to provide special protection for the surviving spouse regardless of whether they entered into a marriage contract or not (Duță 2010, 172-180).

The methods of estate administration, according to ancient Roman law, were: *auctoritas*, in the case of minors over 7 years old, requiring only supplementation of their capacity, not total substitution; *gestio/negotiorum gestio* (business management) for the estate of minors up to 7 years old or absent minors (both referred to as "wards" or "protégés"), and the acts were concluded on behalf of the ward by the guardian, who was not considered a representative (Oancea 2009, 172).

The guardian's liability was assessed concretely or in the abstract, as appropriate. As a means of legal protection, two types of actions were available: direct actions against the guardian or contrary actions brought by the guardian. Guardianship of women. As mentioned earlier, another form of personal representation was the guardianship of women. Roman law recognized the same conditions and methods for establishing guardianship over women as for guardianship of minors. In this second type of personal protection, the guardian's obligations included approving acts of a patrimonial nature without managing the woman's assets.

1.2. Guardianship

In Roman law, guardianship represented a complementary legal institution to guardianship. Through this institution, the protection of family interests based on civil kinship (agnatic) was pursued. Roman law established two important criteria for classifying guardianship: in relation to the protected persons and in relation to the manner of establishing this form of personal protection.

According to the first criterion, the following persons were placed under this form of protection: the mentally ill (*cura furiosi*), prodigals (*cura prodigi*), children and young people up to 25 years of age (*cura pupilli*). Initially, this form of protection for young people was established for debauchery and madness, later generalized by the provision of Emperor Marcus Aurelius. Regarding young people who had not reached the age of 25, they were not necessarily considered persons with mental health problems, but were considered incapable of managing their property through various legal acts. A form of protection for adults is also

found in our days, when the Romanian legislator created the normative framework to protect the adult person unable to conclude valid legal acts.

Roman law also knew other forms of guardianship, namely, for the administration of the assets of missing persons, for the unborn child whose father died, or for deaf-mute persons. In terms of the manner of establishment, the Romans recognized the following types of guardianship: legitimate guardianship and appointed guardianship.

As a method of administering assets, only one procedure was recognized, called *gestio/negotium gestio*, which aimed, in fact, at organizing, managing, and representing the person considered incapable, in concluding legal acts (Molcuț 2011, 106).

2. Means of Personal Protection in Current Romanian Law

2.1. Private Law

In the field of private law, we talk about the means of protecting the person through guardianship and guardianship, usually in civil law relationships and family law. Here we find representation, guardianship, and guardianship in material and procedural legal acts, the institution of the special curator, and the representation of the subjects of the legal relationship before authorities/courts.

As a legal basis, we find legal provisions regulating the situations in which special guardians can be appointed, such as: Articles 106-111, Article 164 para. 1, 4 and 5, Articles 165-177, Article 399 of the Civil Code. In the set of regulations mentioned above, we note several important aspects, which are also found in Romanian judicial practice. It is noted that Romanian legislation regulates protective measures, namely, the protection of minors is carried out by parents, by establishing guardianship, by placement, or, as the case may be, by other special protection measures specifically provided by law, and the protection of adults is carried out by placing them under judicial interdiction or by establishing guardianship, under the conditions provided by the Romanian Civil Code (Jurcă, Botină, Condurache, Guerard 2014, 43). The phrase "guardianship court" refers to the procedures provided by this Code regarding the protection of natural persons within the jurisdiction of the guardianship and family court established by law, hereinafter referred to as the guardianship court. In all cases, the guardianship court shall promptly resolve these requests.

Unfortunately, the organization of the guardianship court in the Romanian judicial system has not been fully resolved, which makes it impossible to apply the law according to the legislator's intent.

2.2. Public Law

From the area of public law, administrative guardianship is one of the examples that can be associated with the theme analyzed in this work. Administrative guardianship consists of the right of supervisory (administrative) authorities to approve, annul, or suspend certain acts of decentralized authorities, for reasons of legality (Ghencea 2021, 97-106). The scope of representation through a curator or through guardianship is more limited compared to the institution of guardianship. In the latter case, the representation of the person in need is ensured for the entire range of rights of the represented person (Niță 2023). Administrative guardianship in the Romanian administration is a very important legal instrument for the protection of state interests and citizens. Through it, higher authorities exercise supervision and control over subordinate entities, ensuring compliance with legislation and the proper functioning of public institutions. It is an efficient way to manage resources and maintain the integrity of public administration (Ghencea and Apostolache 2023, 55).

Administrative guardianship exercised by the prefect is a public law institution regulated in most European states, fulfilling not only the right but also the obligation of the state to ensure the legality of local administration through the representative of the central executive in the territory, known in Europe under various names, but with the same decisive

role in achieving the rule of law. Actions in justice involving administrative guardianship fall within the competence of the administrative contentious sections of the courts (Botină, Nedea, Mirea 2018, 37).

2.3. Representation under mandate or power of attorney

A notion that can be compared to the institution of guardianship is that of mandate, power of attorney, or proxy. This is mostly applied in the field of contracts and is used only for individuals who have full legal capacity and who, at a certain point, need to be represented (Topor 2021, 56).

The mandate represents that civil agreement in which a person, called the mandatary, is empowered by another person, called the mandator, to represent them in front of authorities, to perform certain legal acts on behalf of and for the account of the mandator. A power of attorney or mandate in the sense of an instrument of proof (*instrumentum probationis*) is the act that proves the conclusion of the mandate contract and explains the origin/source of the legal relationship of the mandate. This agreement also aims, among other things, to protect a certain social value (Mitra 2003, 29). Such an act can be represented by a document authenticated by a public notary or by a legal authorization presented by the lawyer to the court, after having previously concluded a legal assistance contract allowing them to present the authorization.

2.4. Litigation guardian – Curator litis

Romanian legislation regulates both the mandate or power of attorney given by the client to their conventional representative, as well as the appointment by the court of a lawyer in cases where legal assistance is mandatory. In both situations, we are talking about a legal professional who represents the interests of one of the parties involved in the litigation.

The current regulation of guardianship has allowed the application of this institution in the field of commercial law as well, specifically regarding the guardianship of legal persons. This circumstance is less addressed, detailed within the context of research conducted by Transylvanian practitioners in the field.

The notion of "litigation guardian" is found in the current regulation of the Romanian Code of Civil Procedure and refers to those lawyers who expressly manifest their intention to be appointed in this capacity, in those cases pending before the courts for resolution. The manifestation of intention is materialized by the written request of interested lawyers, addressed to the bar associations to which they belong, in order to be included in the specially prepared lists for this purpose. These lists are subsequently communicated to the courts.

Before the entry into force of the new civil codes (the Civil Code and the Code of Civil Procedure), Romanian legislation, namely the Code of Civil Procedure (Art. 7 para. 3 and Art. 44) and the Law on the Organization of the Legal Profession no. 51/1995 (Art. 3), also knew and regulated the notions of guardian and fiduciary. These had a limited scope of application regarding the representation of the interests of associates of commercial companies or specific professional activities of the legal and notary professions.

The designation by the court of special guardians in cases concerning insolvency proceedings occurs when service cannot be made because the debtor legal entity no longer has a real and current address of its registered office. Faced with this situation, the mentioned courts proceed to appoint special guardians to represent the interests of legal persons, with bona fide creditors being obliged to pay the established fee to avoid the sanction of suspending requests concerning the opening of the procedure.

As a legal basis of procedural law, we mention the provisions of Art. 58 of the Civil Procedure Code, according to which the Romanian legislator regulated the institution of special guardianship. Thus, through the mentioned text, the use and exercise of procedural rights are regulated, respecting the fundamental right to a fair trial of every Romanian citizen.

The Romanian legislator has provided that, in case of urgency, if a natural person lacking legal capacity to exercise civil rights does not have a legal representative, the court, at the request of the interested party, will appoint a special guardian to represent them until the appointment of a legal representative, according to the law. Also, the court will appoint a special guardian in case of conflict of interest between the legal representative and the represented person or when a legal entity or an entity called to court does not have a representative.

The same regulation applies to persons with restricted legal capacity.

It is also mentioned that the appointment of these guardians will be made by the court hearing the case, from among the lawyers specifically designated for this purpose by the bar association for each court. The special guardian has all the rights and obligations provided by law for the legal representative.

At the same time, the legislator regulates the remuneration of the appointed guardian according to the previous provisions. Therefore, the provisional remuneration of the guardian thus appointed is determined by the court, by decision, also establishing the method of payment. At the request of the guardian, upon termination of their status, taking into account the activities performed, the remuneration may be increased.

3. Guardianship of the Person through Curatorship

3.1. Guardianship of the Legal Person

In contemporary times, guardianship is considered a means of safeguarding/protecting the physical person who cannot manage their interests due to specific reasons. The measure of guardianship will persist as long as it protects the interest for which it was established. Unlike adults, minors also benefit from a specific protective measure tailored to their age category. Guardianship established for minors is seen as a subsidiary and temporary legal means to protect the respective minor. The Romanian Civil Code regulates the conditions under which a person, considered incapable of valid legal acts, can be protected and assisted to legally participate in contemporary legal life. We observe the provisions of Article 109 of the Civil Code, which state that "the protection of the physical person through guardianship occurs only in the cases and conditions provided by law", precisely to avoid any infringement on the free expression of consent if the person does not have limited capacity.

3.2. Procedure for Designating a Special Curator

Roman civil law, as substantive law, regulates the cases and conditions under which the protection of a physical person is necessary, as previously mentioned. The procedure for establishing protective measures is regulated within the framework of the civil procedure code and special laws. Within the procedure for safeguarding a person incapable of entering into valid legal acts, Romanian legislation presupposes a series of steps that must be followed to obtain a definitive court decision. These steps vary depending on the type of guardianship required.

Establishment of guardianship for minors. For the establishment of guardianship to represent a minor child in the conclusion of disposition acts, we will have a specific form of the summons with which we engage the court for resolution. We will propose a certain type of evidence and justify their approval through a different evidentiary thesis than the special guardianship situation applicable to the incapable person. In the first situation, where we refer to the conclusion of disposition acts, Romanian law imperatively requires the establishment of guardianship for the minor through legal means. The child will be represented by the guardian in the completion of these acts, and the respective guardian will be designated and validated through the court. The court also authorizes the conclusion of disposition acts by the minor and, if necessary, determines compensatory measures and/or the removal of a privilege established over the property that will enter the minor's patrimony. Establishment of

guardianship for incapacitated adults. Regarding the protection of incapacitated adults from entering into valid legal acts, there were aspects concerning the status of persons who lack the necessary discernment to care for their own interests due to alienation or mental debility. These were to be placed under judicial interdiction. The issue of these categories of persons was referred to the Constitutional Court of Romania for resolution.

Considering the referral, the constitutional court deemed that the applicable legislation violates fundamental rights and legal provisions contained in the Convention on the Rights of Persons with Disabilities. For these reasons, the Constitutional Court upheld the referral and established that any protective measure must be taken considering each individual and only after a direct analysis of the degree of capacity. The same court also established that the protective measure must be adapted to the person's life for whom interdiction is requested and must apply for a short period of time. After the expiration of this period, the measure of interdiction must be periodically reassessed. Clearly, this opinion establishes that individuals must be subject to different protective measures according to their degrees of disability, and the judge entrusted with establishing a protective measure must identify optimal and proportionate solutions according to the respective disability.

Following the pronouncement of that decision, the legal regulation took into account the provisions of the Constitutional Court, with the legal text taking the following form: "guardianship of adults occurs through the establishment of the measure of judicial counseling or special guardianship, or guardianship or another measure provided by law". The issue currently faced by Romanian courts is related to the duration of the processes and the cost of evaluations. From the date of filing the summons until the establishment of the first hearing, approximately 12 months may pass. The high cost of medical and psychological evaluations, as well as the transportation of the person to be evaluated, is borne by that person or their family, despite these being individuals who have contributed to the health insurance system throughout their lives.

As for the method of resolving the process, it involves court sessions where the participation of the Public Prosecutor's representative is mandatory, and debates on the merits of the case take place according to the principle of adversarial proceedings. Evidence is proposed, approved, and administered to prove the claim of the action and the necessity of appointing a curator, then the court decision is pronounced, and it is communicated to the parties participating in the process. After the expiration of the period during which the specific appeal for this type of process can be exercised, the court decision is legalized to be enforceable. Legalization takes place within the court that pronounced the respective decision. Each of the parties participating in the process can legalize the decision that was communicated to them, as well as other copies of the same decision.

Conclusions

Guardianship has been an essential instrument in the history of law, both in ancient Rome and contemporary Romanian law, with the main concern being the protection of vulnerable individuals. In ancient Rome, guardianship was one of the most important forms of protecting individuals, alongside actual guardianship. This involved protecting persons with limited legal capacity, such as minors, certain categories of adults, or persons with disabilities. In Roman law, guardianship was especially necessary for persons with restricted legal capacities, being a legal protection instrument.

In contemporary Romanian law, means of protecting individuals are diverse, encompassing aspects from private and public law. Representation based on mandate or authorization is an important aspect, providing a solution for individuals who cannot directly exercise their rights without necessarily being hindered by a medical issue affecting their discernment. The protection of the individual (Rotaru 2019, 214-215) is essential in ensuring a balance and the protection of persons involved in legal relationships. Consequently, we

consider it crucial to simplify the procedure for appointing a special curator and ensure efficient and professional representation.

Therefore, we believe that future regulation could aim to shorten the duration of the trial process in these cases and bear all the expenses necessary for establishing this protective measure from the state budget to ensure equal access to justice and protection for all citizens (Rotaru 2016, 29-43), regardless of their financial resources. Thus, it can be guaranteed that the establishment of guardianship remains an effective means of protecting vulnerable individuals within a modern and equitable legal system.

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European Certificate of Inheritance

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ABSTRACT: This paper aims to analyze the intricate matters surrounding the succession of deceased persons who have their nationality and last residence in one of the countries of the European Union, but have assets (e.g., real estate) located in Romania. It is important to determine which law applies to the succession, which court or notary public is qualified to settle a succession case with a foreign element. For a succession with an element of foreignness within the European Union to be effectively managed, heirs, legatees, executors of wills or administrators of the estate must be able to easily prove their status and/or competences in another Member State, such as the Member State where the succession assets are located. The proper functioning of the internal market is facilitated by removing obstacles to the free movement of persons who might face difficulties in exercising their rights in the context of a succession with foreign elements. In the European area of justice, citizens must be able to organize their succession in good time. The rights of heirs and legatees, other persons close to the deceased and creditors of the succession must be effectively guaranteed.

KEYWORDS: Romanian Civil Code, European Certificate, inheritance

Introduction

The legal definition, in Romanian domestic law, of the concept of inheritance is provided by Article 953 of the Romanian Civil Code, which states that "Inheritance is the transmission of the estate of a deceased natural person to one or more living persons." Unlike the Civil Code of 1864, which used both the notion of "Inheritance" and that of "succession", the preference of the new Civil Code (Law No. 287/2009) is for the predominant use of the notion of "inheritance", without, however, removing the term "succession". Thus, it is found in terms such as 'inheritance assets', 'succession representation' and 'succession reserve'.

Romanian civil law has two types of inheritance: legal and testamentary. Legal inheritance can also be designated by the notion of "intestate" succession (Stănciulescu 2012, 1), borrowed from Roman law. The original term of intestate inheritance no longer retains the meaning and dimension of Roman law, which enshrined it (in the sense that, in our law, it no longer constitutes an exception) (Marin 2023b 124-130). Inheritance is legal when the transmission of the estate takes place in accordance with the law (Hamangiu, Rosetti-Bălănescu, Băicoianu 1928, 364), to the persons, in the order and in the shares strictly determined by law (Cadariu-Lungu 2012, 4) ; it is testamentary, when the transmission of the estate takes place in accordance with the will of the testator, materialized by the will (Chirică 2003, 31). Testamentary provisions referring to the transfer of property are known as legacies. It is the testator, the person whose inheritance is in question, who designates by his will the persons who will inherit it.

Legal inheritance may coexist with testamentary inheritance, a rule enshrined by the legislator in Article 955 para. (2). Thus, the two types of inheritance (legal and testamentary) are not mutually exclusive. The place where the inheritance is opened is the deceased's last place of residence (Marin 2023a, 171-175). Proof of the last place of residence shall be furnished by the death certificate or, where applicable, by a final court order declaring the death. If the last domicile of the deceased is not known or is not in Romania, the inheritance is opened at the place in the country within the jurisdiction of the notary public first notified, provided that there is at least one immovable property of the person leaving the inheritance in this jurisdiction. If there is no immovable property in the inheritance, the place of opening the inheritance shall be in the district of the notary public first notified, provided that there is

movable property of the person leaving the inheritance in this district. When there are no assets located in Romania in the estate, the place of opening the inheritance is in the district of the notary public first notified. The provisions cited apply accordingly where the court is the first body to be seised for the purposes of the inheritance procedure.

In accordance with the powers conferred on the European Union by Article 81(2)(c) of the Treaty on the Functioning of the European Union, and with a view to adopting measures relating to judicial cooperation in civil matters having cross-border implications, in particular where necessary for the proper functioning of the internal market, EU Regulation No 650/2012 was adopted. In the preamble to the Regulation, the need to adopt measures to ensure the compatibility of the conflict-of-law and jurisdiction rules applicable in the Member States is reaffirmed. Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of judgments and the acceptance and enforcement of authentic instruments in matters of succession and the creation of a European Certificate of Succession, published in the Official Journal of the European Union No 201/107/27.7.2012.

The proper functioning of the internal market is facilitated by removing obstacles to the free movement of persons who might face difficulties in exercising their rights in the context of a succession with foreign elements. In the European area of justice, citizens must be able to organize their succession in good time. The rights of heirs and legatees, other persons close to the deceased and creditors of the succession must be effectively guaranteed. To achieve these objectives, the Regulation brings together provisions on jurisdiction, applicable law, recognition - or, where applicable, acceptance - enforceability and enforcement of judgments, authentic instruments and court settlements, and the creation of a European Certificate of Succession.

Chapter VI of the Regulation, entitled "European Certificate of Succession", creates, in Articles 62 to 73, the legal framework for both the definition of the concept and the purpose, use, drawing up and use of this legal document. The basic principle of the Regulation is that the use of the certificate of inheritance is optional. Once issued, however, in accordance with the legal provisions, the European Certificate of Succession is automatically recognized in each Member State without any special procedure being required. Thus, it is presumed that the certificate accurately proves the elements established under the law applicable to the succession or under any other law applicable to the specific elements. The person named in the certificate as heir, legatee, etc., is presumed to have the status stated in the certificate and/or to be the holder of the rights or powers stipulated in the certificate without any conditions and/or restrictions attached to those rights or powers other than those stipulated in the certificate.

Article 62 of Regulation No 650/2012 provides that "(1) This Regulation creates a European Certificate of Succession (hereinafter referred to as "the Certificate"), which shall be issued for use in another Member State and shall have the effects listed in Article 69.(2) Use of the Certificate shall not be compulsory. (3) The certificate shall not replace internal documents used for similar purposes in the Member States. However, a certificate issued for use in another Member State shall also produce the effects listed in Article 69 in the Member State whose authorities issued the certificate under this Chapter."

Article 63 of the same Regulation, entitled "Purpose of the certificate", provides in paragraphs 1 and 2 that "(1) The certificate is intended for use by heirs, legatees with direct rights of succession and [...] who have to prove in another Member State their status or exercise their respective right as heir or legatee [...] (2) The certificate may be used, in particular, to prove one or more of the following:

(a) the status and/or rights of each heir or, as the case may be, of each legatee mentioned in the certificate and the respective shares in the estate;

(b) the attribution of a specific asset or certain assets forming part of the estate to the heir(s) or, as the case may be, the legatee(s) mentioned in the certificate; [...]"

As regards the content of the certificate, Art. 68 of the Regulation states that it concerns: [...] (f) information concerning the deceased: name (name before marriage, if applicable), surname, sex, date and place of birth, marital status, nationality, personal number code (if applicable), address at the date of death, date and place of death; [...](h) information concerning a marriage settlement entered into by the deceased or, as the case may be, concerning a settlement entered into by the deceased relating to a relationship which, under the law applicable to it, produces effects similar to marriage, and information concerning the property aspects of the matrimonial property regime or other equivalent property regime; [...] (l) the share to which each heir is entitled and, where applicable, the list of rights and/or property to which a particular heir is entitled; [...]"

Some provisions of the Regulation have been subject to interpretation in the preliminary reference procedure, with the European Court of Justice of the European Union giving, through its rulings, clarifying its scope, the character of the European Certificate of Succession issued by the notary public to be an authentic act; the validity of the declaration of renunciation of succession - in the case of an heir residing in a Member State other than that of the court competent to rule on the succession.

As regards the scope of the provisions of the Regulation:

By Judgment No C-558/16/2018 of 01-Mar-2018, the Court of Justice of the European Union reaffirms that the purpose of Regulation No 650/2012 is to create a European Certificate of Succession, which must enable each heir, legatee or successor mentioned in that certificate to prove in another Member State his or her status and inheritance rights (see to that effect Judgment of 12 October 2017, Kubicka, C-218/16, EU:C:2017:755, paragraph 59; Judgment of 1 March 2018, Mahnkopf, C-558/16, EU:C:2018:138). In the case under consideration, Mr Mahnkopf died on 29 August 2015. At the time of his death, he was married to Mrs Mahnkopf. Both spouses, who held German nationality, were ordinarily resident in Berlin (Germany). The deceased, who left no provision for the cause of death, had only his wife and the couple's only son as heirs. The spouses were subject to the regime of legal community limited to the growth of assets and had not concluded a marriage contract. In addition to the deceased's assets in Germany, the inheritance also included a 50% share in the ownership of a property in Sweden.

At Mrs Mahnkopf's request, the Amtsgericht Schoneberg (Schoneberg District Court, Germany), the court with jurisdiction over Mr Mahnkopf's estate, issued a national certificate of inheritance on 30 May 2016, according to which the surviving wife and the descendant each inherited half of the deceased's assets by virtue of the statutory devolution under German law. The referring court points out that the wife's share of the inheritance results from the application of Paragraph 1931(1) of the BGB, according to which the surviving spouse's legal share of one quarter of the inheritance is increased by a further quarter if the spouses were cohabiting under the marital regime of legal community limited to increases in assets, as referred to in Paragraph 1371(1) of the BGB.

On 16 June 2016, Mrs Mahnkopf also requested a notary to issue her with a European Certificate of Inheritance under Regulation No 650/2012, stating that she and her son are co-heirs, each of whom is entitled to one half of the inheritance in accordance with the national rule of legal devolution. She intended to use this certificate to register their ownership of the property in Sweden. This notary forwarded Mrs Mahnkopf's application to the Amtsgericht Schoneberg (Schoneberg District Court). This court rejected the application for a European Certificate of Succession on the ground that the share of the deceased's wife's estate was based, as regards one quarter of the deceased's estate, on a matrimonial property regime and, as regards another quarter of the deceased's estate, on the matrimonial property regime provided for in Paragraph 1371(1) of the BGB. However, the rule under which that second

quarter was allocated, which concerns a matrimonial regime and not a succession regime, is not covered by Regulation No 650/2012.

Mrs Mahnkopf appealed against that decision to the Kammergericht Berlin (Higher Regional Court of Berlin, Germany), by which she also supplemented her original application by requesting, in the alternative, that the European Certificate of Succession be issued with a statement that her inheritance rights are based, in respect of one quarter of the deceased's estate, on the legal community of property regime limited to increases in assets, for information purposes. The referring court points out that the legal literature is divided as to whether the rule laid down in Paragraph 1371(1) of the BGB is a rule of inheritance law or a rule of matrimonial property law. It takes the view that, in view of its purpose, namely to compensate for the increase in assets which come within the scope of the legal community when the community of property comes to an end as a result of the death of one of the spouses, Paragraph 1371(1) of the BGB is not a rule of succession 'relating to the estates of deceased persons' within the meaning of Article 1(1) of Regulation No 650/2012. In its view, the rule laid down in that provision must always be applied where the effects of marriage, including matters relating to matrimonial property regimes, are governed by German law. Such application would not be guaranteed if that rule were to be classified as a rule of succession law since, in such a case, its scope would be limited to situations in which succession is governed by German law under Articles 21 and 22 of Regulation No 650/2012.

The referring court also considers that, because of the lack of harmonization of the provisions relating to matrimonial property regimes in the European Union, the increase in the surviving spouse's legal share of the estate resulting from the application of a rule relating to matrimonial property regimes, in particular Paragraph 1371(1) of the BGB, cannot be entered, as a general rule, even for purely informative purposes, on the European Certificate of Succession. However, it considers that such an increase could be mentioned in the European Certificate of Succession where the law of succession applicable under Article 21 or Article 22 of Regulation No 650/2012 and the law governing the matrimonial property regime of the spouses are determined under the law of one and the same Member State, irrespective of the conflict rule to be applied. In the present case, the law applicable to the succession and the law applicable to the matrimonial property regime would be determined exclusively under German law. In that regard, the national court states that the terms used in Articles 67(1) and 69(2) of Regulation No 650/2012, according to which the items to be certified have been determined in accordance with the law applicable to the succession 'or under any other law applicable to specific items', would allow such an interpretation. It would also be justified in view of the second sentence of recital (12) of Regulation No 650/2012 and the purpose of the European Certificate of Succession, which is to simplify and speed up the cross-border enforcement of succession rights.

In those circumstances, the Kammergericht Berlin (Higher Regional Court, Berlin) decided to stay proceedings and to refer the following questions to the Court for a preliminary ruling: „Is Article 1(1) of [Regulation No 650/2012] to be interpreted as meaning that the scope of the regulation ('inheritances relating to the estates of deceased persons') also covers national provisions, such as Paragraph 1371(1) of the BGB, which regulate the property aspects of the matrimonial property regime after the death of one spouse by increasing the share of the inheritance to which the other spouse is entitled? If the answer to the first question is in the negative, are Articles 68(1) and 67(1) of Regulation [No 650/2012] to be interpreted as meaning that the surviving spouse's share of the inheritance may be included in full in the European Certificate of Succession, even if that share results in part from an increase pursuant to a rule governing the property aspects of a matrimonial property regime such as that laid down in Paragraph 1371(1) of the Civil Code? If the answer to the above question is in principle in the negative, can the answer be in the affirmative, however, as an exception, in the case of factual situations in which (a) the sole purpose of the certificate of

inheritance is to enable the heirs in a particular Member State to assert their rights in the deceased's assets in that other Member State, and (b) the decision in matters of succession (Articles 4 and 21 of Regulation [No 650/2012]) and - irrespective of the conflict-of-law rules applied - the issues relating to the property rights of the spouses are to be assessed under the same legal order? If the answer to the first two questions is in the negative, is Article 68(1) of Regulation [No 650/2012] to be interpreted as meaning that the surviving spouse's share of the inheritance increased by virtue of a rule relating to matrimonial property regimes may be entered in full - but only for information purposes - on the European Certificate of Succession?"

Furthermore, as is clear from recitals (11) and (12) of Regulation No 650/2012, it should not apply to areas of civil law other than succession, and in particular to the property aspects of matrimonial property regimes, *including matrimonial property agreements*, as they are known in some legal systems, in *so far as such regimes do not deal with matters relating to succession*.

The qualification of the surviving spouse's share of the estate under a provision of national law allows the information on that share to be entered in the European Certificate of Succession, with all the effects described in Article 69 of Regulation No 650/2012. According to Article 69(1) of that Regulation, the European Certificate of Succession takes effect in each Member State without any special procedure being required. *Paragraph 2 of that Article provides that the person named in the certificate as legatee shall be presumed to have the capacity specified in the certificate and to be the holder of the rights set out in the certificate, without any conditions and/or restrictions attached to those rights other than those set out in the certificate* (Judgment of 12 October 2017, Kubicka, C-218/16, EU:C:2017:755, paragraph 60). Achieving the objectives of the European Certificate of Succession would be considerably hampered if the certificate did not contain full information on the rights of the surviving spouse in relation to the estate. Article 1(1) of Regulation No 650/2012 must therefore be interpreted as meaning that a national provision such as that at issue in the main proceedings, which provides, on the death of one of the spouses, for flat-rate compensation for the increase in assets covered by the *legal community by increasing the surviving spouse's share of the estate*, falls within the scope of that regulation.

The notion of "authentic instrument" and "judgment"

In Judgment No C-658/17/2019 (2019), the Court of Justice of the European Union held that under Article 3(1)(g) of Regulation No 650/2012, the term 'judgment' includes any judgment in matters of succession given by a court of a Member State, whatever the judgment may be called, including a judgment concerning the determination of costs or expenses by a registrar.

In the case under consideration, WB's father, who died on 6 August 2016, was a Polish national who was ordinarily resident in Poland. WB was one of the parties to the proceedings relating to his father's succession, brought before Ms Bac, as a notary established in Poland, with a view to obtaining an inheritance certificate. This document was drawn up by this notary on 21 October 2016 in accordance with Polish law. The deceased was an entrepreneur who carried out an economic activity close to the German-Polish border. WB wanted to know whether capital had been placed in one or more German banks and, if so, to know the amount of this capital that could enter the estate. To this end, WB requested, on 7 June 2017, a copy of the certificate of inheritance drawn up by the notary concerned and the attestation confirming that this certificate constitutes a decision on succession within the meaning of Article 3(1)(g) of Implementing Regulation No 650/2012, in the form set out in Annex 1 to Regulation No 1329/2014. In the alternative, in the event that that application is rejected, the applicant in the main proceedings has requested that she be issued with a copy of the certificate of inheritance and the attestation confirming that that certificate constitutes an authentic instrument in matters of succession within the meaning of Article 3(1)(i) of

Regulation No 650/2012, in the form set out in Annex 2 to Implementing Regulation No 1329/2014.

In a conclusion dated 7 June 2017, a representative of the notary exercising his functions in the office headed by Ms Bac rejected these requests. He essentially found that the certificate of inheritance was a 'judgment' within the meaning of Article 3(1)(g) of Regulation No 650/2012 and that, in the absence of the notification to the Commission by the Republic of Poland provided for in Article 3(2) of that Regulation, it was impossible for him to carry out the certification in the form of the form set out in Annex 1 to Implementing Regulation No 1329/2014. With regard to WB's subsidiary application, the notary's representative indicated that the qualification of the certificate of inheritance as a 'judgment' prevented its qualification as an 'authentic instrument', so that, although it fulfilled the conditions laid down in Article 3(1)(i) of Regulation No 650/2012, it was not possible to issue the corresponding certificate in the form of the form set out in Annex 2 to Implementing Regulation No 1329/2014.

On 7 June 2017, WB brought an action before the referring court, claiming, first, that the certificate of inheritance fulfilled all the conditions necessary to qualify as a 'judgment' within the meaning of Article 3(1)(g) of Regulation No 650/2012 and, second, that the failure of the Republic of Poland to notify the Commission of notaries drawing up certificates of inheritance, in accordance with the last subparagraph of Article 3(2) and Article 79 of that regulation, did not affect the legal nature of the certificate of inheritance.

The referring court considers that, in order to rule on the action brought by WB, it needs to know whether the certificate referred to in Annex 1 to Implementing Regulation No 1329/2014 may also be issued for procedural instruments which are not enforceable. In that regard, the referring court considers that the conjunction of Article 46(3)(b) and Article 39(2) of Regulation No 650/2012 argues in favour of the use of that certificate for any judgment, including those which are not enforceable. In addition, the Court considers that the definition of 'judgment' and 'court' for the purposes of Regulation No 650/2012 should be clarified. It takes the view that Polish notaries who issue certificates of inheritance exercise 'judicial powers similar to those of courts of law' within the meaning of recital 20 in the preamble to Regulation No 650/2012 as regards the legitimation of heirs. It also points out that the certificate of inheritance has the same effects as a final order of succession made by a court and must therefore be qualified as a 'judgment' within the meaning of Article 3(1)(g) of Regulation No 650/2012. However, that court raises the question whether the concept of 'judgment' requires that it be delivered by an authority competent to settle matters in dispute between the parties concerned.

In those circumstances, the Sad Okregowy w Gorzowie Wielkopolskim (Regional Court of Gorzow Wielkopolski, Poland) decided to stay proceedings and refer the following questions to the Court for a preliminary ruling:

"Is Article 46(3)(b) [of Regulation No 650/2012] in conjunction with Article 39(2) [thereof] to be interpreted as meaning that the issue of a certificate concerning a judgment in matters of succession, the form of which forms Annex 1 to [Implementing Regulation No 1329/2014], is also permissible in the case of judgments attesting to heirship which are not (in part) enforceable?"

Article 3(1)(g) of Regulation No 650/2012 must be interpreted as meaning that a deed of confirmation of succession drawn up by a notary on the basis of a concordant request by all the parties to a succession proceeding, which has the same legal effects as those of a final order as to succession - such as a deed of confirmation of succession drawn up by a Polish notary - constitutes a judgment within the meaning of that provision [...] and, consequently, the first subparagraph of Article 3(2) of Regulation No 650/2012 must be interpreted as meaning that the first subparagraph of Article 3(2) of Regulation No 650/2012 is not applicable. 650/2012 be interpreted as meaning that the notary who draws up such a deed of confirmation of succession must be classified as a court within the meaning of that provision?"

Is the second subparagraph of Article 3(2) of Regulation No 650/2012 to be interpreted as meaning that the notification made by a Member State pursuant to Article 79 of that regulation is for information purposes and does not make it a condition for a legal professional competent in matters of succession who exercises judicial powers within the meaning of the first subparagraph of Article 3(2) of that regulation to be classified as a court if he fulfils the conditions resulting from the latter provision?

If the answer to the first, second or third question is in the negative: Is Article 3(1)(i) of Regulation No 650/2012 to be interpreted as meaning that a classification of a national procedural instrument certifying the status of heir such as the Polish certificate of inheritance as a judgment within the meaning of Article 3(1)(g) of Regulation No 650/2012 precludes its classification as an authentic instrument?

If the answer to the fourth question is in the affirmative: Is Article 3(1)(i) of Regulation No 650/2012 to be interpreted as meaning that an heirship certificate drawn up by a notary on the basis of a non-contentious application made by all the parties to a succession procedure - such as an heirship certificate drawn up by a Polish notary - constitutes an authentic instrument within the meaning of that provision?"

Thus, a judgment, for the purposes of that provision, is characterised by the fact that it emanates from a 'court', so that, in order to answer the question whether a national certificate of inheritance is to be classified as a 'judgment', it is first necessary to determine whether the authority which issued it is to be regarded as a 'court' within the meaning of Article 3(2) of that regulation.

As regards the definition of 'court', according to the first subparagraph of Article 3(2) of Regulation No. 650/2012, it includes any judicial authority and all other authorities and legal professionals competent in matters of succession which exercise judicial powers or act on the basis of a delegation of powers by a judicial authority or act under the control of a judicial authority, provided that such authorities and legal professionals offer guarantees as regards impartiality and the right of all parties to be heard and provided that the decisions given by them under the law of the Member State in which they operate are subject to appeal to or review by a judicial authority and have a similar force and effect as a decision of a judicial authority on the same matters.

According to the first subparagraph of Article 3(2) of Regulation No 650/2012, an extra-judicial authority or a legal professional competent in matters of succession falls within the notion of "court" within the meaning of that provision when it exercises judicial powers or acts on the basis of delegation of powers by a judicial authority or acts under the supervision of a judicial authority, if it fulfils the conditions listed in that provision.

Although judicial and notarial functions are distinct, it follows from recital (20) of Regulation No 650/2012 that the term "court" should be given a broad meaning in this Regulation, including notaries, if they exercise judicial functions in certain succession matters. On the other hand, the same recital specifies that the term "court" should not include extra-judicial authorities in a Member State, competent in matters of succession under national law, such as notaries, who in most Member States, as is usually the case, do not exercise judicial powers. However, an authority must be regarded as exercising judicial powers where it is likely to have jurisdiction in the event of a succession dispute. The notary certifies the inheritance rights of heirs vis-à-vis third parties who are not successors by means of an heirship certificate in the context of non-contentious successions, and the notary may issue an heirship certificate only at the concurrent request of the heirs. The notary verifies the facts ex officio and, pursuant to Article 95e(1) of the Code, issues the certificate only if he has no doubt as to the national jurisdiction, the content of the applicable foreign law, the identity of the heir, the amount of the shares of the estate and, if the deceased has created a legacy 'by claim', the identity of the legatee 'by claim' and the subject-matter of the legacy. In addition, according to Articles 4 and 5 of the Notarial Code, notaries exercise a liberal profession

which involves, as their main activity, the provision of several distinct services in return for remuneration, determined on the basis of an agreement with the parties, within a scale.

Those activities cannot therefore be regarded as participating, in themselves, in the exercise of judicial powers. Consequently, since an inheritance certificate such as that at issue in the main proceedings is not issued by a court within the meaning of Article 3(2) of Regulation No 650/2012, that certificate does not, in accordance with paragraph 32 of this judgment, constitute a 'judgment' in matters of succession within the meaning of Article 3(1)(g) of that regulation.

As regards the classification of the European Certificate of Inheritance as an authentic instrument, the Court of Justice of the European Union held in the present case that, under Article 3(1)(i) of Regulation No. 650/2012, 'authentic instrument' means a document in matters of succession which has been formally drawn up or registered as an authentic instrument in a Member State and the authenticity of which, on the one hand, relates to the signature and content of the authentic instrument and, on the other hand, has been established by a public authority or any authority empowered for that purpose by the Member State of origin. However, the notary carries out checks which may lead to a refusal to draw up the certificate of inheritance, so that the authenticity of this document relates both to his signature and to its content. An inheritance certificate such as that at issue in the main proceedings therefore satisfies the conditions laid down in Article 3(1)(i) of Regulation No 650/2012. It therefore constitutes an authentic instrument, a copy of which may be issued together with the form referred to in the second subparagraph of Article 59(1) of that regulation, which corresponds to the form set out in Annex 2 to Implementing Regulation No 1329/2014.

When asked to rule on the validity of a declaration of waiver of succession where an heir resides in a Member State other than that of the court having jurisdiction to rule on the succession, the Court of Justice of the European Union ruled in its judgment No C-617/20/2022 (2022) that Article 13 of Regulation No 650/2012 forms part of Chapter II of that regulation, which governs all grounds of jurisdiction in matters of succession. According to that provision, in addition to the court having jurisdiction to rule on the succession under that Regulation, the courts of the Member State in which any person who, under the law applicable to the succession, may make, before a court, a declaration of acceptance or waiver of the succession, a legacy or a reserved portion of the estate or a declaration limiting the liability of the person concerned in respect of the duties of the succession is habitually resident are competent to receive such declarations.

It appears from the order for reference that the deceased's grandchildren declared on 13 September 2019 that they renounce the deceased's succession before a court in the Member State of their habitual residence, namely the rechtbank Den Haag (The Hague District Court, the Netherlands). On 13 December 2019, they informed the German court having jurisdiction to rule on the succession, in a letter written in Dutch, of the existence of this declaration, enclosing a copy of the documents drawn up by the Dutch court. On 15 January 2020, they again informed the German court, but in a letter in German, of the existence of the said declaration. However, the German translation and the originals of the documents drawn up by the Dutch court did not reach the German court until 17 August 2020, i.e. after the expiry of the time-limit laid down by the law applicable to the succession.

Article 13 thus provides for an alternative forum of jurisdiction designed to allow heirs who do not have their habitual residence in the Member State whose courts are competent to rule on the succession, in accordance with the general rules of Articles 4 to 11 of Regulation No 650/2012, to make declarations of acceptance or waiver of the succession before a court in the Member State of their habitual residence.

The Court has held that Articles 13 and 28 of Regulation No 650/2012 must be interpreted as meaning that a declaration of waiver of succession made by an heir before a court of the Member State in which he or she is habitually resident is to be regarded as valid

as regards form if the formal requirements applicable before that court have been complied with, without it being necessary, in order for it to be valid, for it to satisfy the formal requirements imposed by the law applicable to the succession.

Conclusion

Regulation No 650/2012 was adopted under Article 81(2) TFEU, which covers only civil matters having cross-border implications. In accordance with recitals (1) and (7), this Regulation aims in particular at facilitating the proper functioning of the internal market by removing obstacles to the free movement of persons who encounter difficulties in exercising their rights in the context of a succession with foreign elements. It aims, according to recital 67, to resolve in a rapid, simple and effective manner a succession with such elements. In order to determine whether a succession has the above elements and therefore falls within the scope of Regulation No 650/2012, it is necessary to determine, firstly, the Member State of the deceased's habitual residence at the time of his death and, secondly, whether this residence can be established in another Member State because of the location of another element relating to the succession in a Member State other than that of the deceased's last habitual residence. In this regard, it should be pointed out that, although no provision of Regulation No 650/2012 defines the concept of 'habitual residence of the deceased at the time of death' for its purposes, recitals (23) and (24) provide useful guidance.

According to recital 23 of that Regulation, the task of establishing the deceased's habitual residence lies with the authority dealing with the succession and, to that end, that authority must take into account both the fact that the general connecting factor is the deceased's habitual residence at the time of death and all the circumstances of the deceased's life during the years preceding his death and at the time of death, taking into account all the relevant facts, in particular the duration and regularity of the deceased's presence in the State concerned and the conditions and reasons for that presence. The habitual residence thus established should demonstrate a close and stable link between the succession and the State concerned. This is because an interpretation of the provisions of Regulation No 650/2012, according to which the habitual residence of the deceased at the time of his death may be established in more than one Member State, would lead to a fragmentation of the succession, since that residence is the criterion for the application of the general rules set out in Articles 4 and 21 of that regulation, according to which both the jurisdiction of the courts to rule on the succession as a whole and the law applicable under that regulation, which is intended to govern the succession as a whole, are determined by reference to that residence. Such an interpretation would therefore be incompatible with the objectives of that regulation.

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Essential Factors that Contributed to the Growth of the Church in the Subapostolic Age

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ABSTRACT: This article explores the factors that led to the explosive growth of the Church in the subapostolic period, despite the vacuum of authority and missionary strategy left by the death of Christ's apostles. Some of these factors, such as the exercise of supernatural gifts, the dedication of itinerant prophets to bring the Gospel to as many people as possible, the synagogue system and the prevalence of Jewish proselytism, Hellenized culture, Roman infrastructure, and the rise of mystery religions are attested to in the literature. However, in this research paper, we suggest that a decisive role in the spread of the Gospel throughout the Roman Empire was played by Christian laymen who believed it was their responsibility to carry the message of salvation to the ends of the earth.

KEYWORDS: church, growth, apostolic fathers, mission, evangelism, subapostolic age

Introduction

The Church of the apostolic period experienced explosive numerical growth. Within a short time of its founding, the number of men who believed in Christ "reached nearly five thousand" (Acts 4:4). Green (1970, 13) states that ten years after Christ's resurrection and ascension there were churches not only in Jerusalem but also in Alexandria and Antioch. According to Bokkenkotter (2004, 18), by the end of the first century AD there were at least 40 churches in North Africa, Asia Minor, Arabia and Greece, and by the end of the second century AD there were active churches throughout the Roman Empire and as far away as Mesopotamia (Green 1970, 13). According to the historian Eusebius, the apostles assumed the role of taking the Gospel "to the ends of the earth".

Such was the condition of the Jews. Meanwhile the holy apostles and disciples of our Saviour were dispersed throughout the world. Parthia, according to tradition, was allotted to Thomas as his field of labor, Scythia to Andrew, and Asia to John, who, after he had lived some time there, died at Ephesus. Peter appears to have preached in Pontus, Galatia, Bithynia, Cappadocia, and Asia to the Jews of the dispersion. And at last, having come to Rome, he was crucified head downwards; for he had requested that he might suffer in this way. What do we need to say concerning Paul, who preached the Gospel of Christ from Jerusalem to Illyricum, and afterwards suffered martyrdom in Rome under Nero? (Eusebius Pamphilus, III.1:1-3).

However, the apostolic age ended around AD 90-95 with the death of John, the last surviving apostle and the last canonical writer (Goppelt 1970, 108), and the post-apostolic or sub-apostolic period began (McGuckin 2017, 76). The fall of Jerusalem, the dispersion of the Jews throughout the world, and the death of Christ's last apostles marked a turning point in the Church's history and produced a significant shift in mission strategy. The center of Christianity moved from Jerusalem to Antioch and then to Rome. Conzelman (1973, 28) states that during this period, Christians were no longer interested in registers and numbers but concentrated all their efforts on evangelism and church planting. Therefore, instead of the impact of Christianity fading with the end of the apostolic age, it experienced an unprecedented expansion. What were the factors that contributed to the enthusiasm for the mission and, thus, the growth of the Church? In addition to the guidance and power of the Holy Spirit, Green (1970, 200) and Harnack (1972, 253) bring up two major factors, namely the exercise of ecstatic (supernatural) gifts and itinerant prophets.

While accepting the contribution of these two factors, attested in the literature, Stetzer (2002, 4) suggests four other determining causes for the expansion of Christianity: the existing synagogue system and the prevalence of Jewish proselytism, Hellenized culture, Roman infrastructure, and mystery religions. In addition to these factors, this research paper will present a seventh factor that contributed decisively to the expansion of Christianity in the subapostolic period, but which is not adequately mentioned in the literature, namely the missionary zeal of the laity. In what follows, we will briefly explore each of these factors.

Clearly, the Early Church had evangelism as its main purpose. But Terry (1994, 27) notes that while the Church had missionary zeal, it lacked a well-defined strategy. Therefore, the exercise of supernatural gifts (speaking in tongues and its interpretation, prophecy and healing) played an important role in Christian mission from after the death of the apostles until the emergence of monarchical episcopacy. Quadratus of Athens wrote around 126 AD in his Apology to Emperor Hadrian:

The works of our Saviour, moreover, were always present, because they were real, and consisted in the healing of those who had been sick of their diseases, in the testimony of those who had been raised from the dead, who not only were seen while they were being healed and raised, but were then constantly seen. [These] remained not only during the Saviour's stay on earth, but also for a considerable time after His departure; and, indeed, some of them have survived even to the present day (Eusebius IV.3:1-2).

According to Aune (1983, 189), "institutional forces have led to the disappearance of prophecy and ecstatic phenomena in the traditional church." The Montanist controversy of the second century accelerated this process, and ecstatic phenomena ceased to be a major problem in the life of the Church. Consequently, it can be seen that the transition from the exercise of supernatural charismata to the rigid structure and Greek philosophy changed the way the Church did mission. From the second half of the second century onwards missionaries were rarely mentioned, but the growth of the Church was not as explosive. Gradually, Christianity solidified and became institutionalized, soon becoming a state religion.

Traveling prophets

While there is a wealth of material addressing the role and impact of prophecy in the New Testament, the same cannot be said of the missiological role of the itinerant prophets (also called "wandering prophets") in the immediate subapostolic era. In response to Paul's missionary efforts, two types of ministries emerged in the Church: teachers, who were responsible for teaching the teachings of Christ as they received them from the apostles, and prophets, who spoke and interpreted messages they received from God (Crowe 1997, 59). The congregational nature of prophecy is mentioned frequently in the Pauline epistles, the apostle considering it necessary in worship services and could be professed by any individual upon whom the Holy Spirit was at work. Consequently, the traditional view is that prophecy played a fundamental role in strengthening the Church, but disappeared as the Church grew. Von Campenhausen argues that the missionary strategy of the early Church rested on the exercise of this (and other) supernatural gifts. He speaks of the fact that prophecies, revelations, and healings were common in the Early Church (von Campenhausen 1997, 57). The Didache, which mentions bishops and deacons only once, reserves two of its sixteen chapters for the nature and role of prophets. It mentions that they, together with the apostles, being endowed with supernatural gifts, went from city to city to strengthen the churches, so that the churches had to receive them as Christ Himself.

Concerning the apostles and prophets, according to the dogma of the Gospel, do so: Let every apostle who comes to you be received as Lord, but let him remain only one day, and if need be, the second day; but if he remains three days, he is a false prophet. Let the apostle, when he departs, take nothing but bread until he finds another home; but if he asks for money, he is a false prophet. Do not tempt or criticize any prophet,

who speaks in the spirit, that "every sin will be forgiven, but this sin will not be forgiven." But not everyone who speaks in the spirit is a prophet, but only if he has the Lord's conduct. So, by his behavior the false prophet and the prophet will be known. Any prophet who in the spirit orders a meal does not eat from it unless he is a false prophet. Every prophet who teaches the truth, if he does not do what he teaches, is a false prophet. Every tried-and-true prophet, who works in the worldly mystery of the Church, but does not teach others to do what he himself does, let him not be judged by you, for he with God has judgment; so, did the ancient prophets. But if one says in the spirit, "Give me money or something else," do not listen to him; but if he says and it is given to him for others who are destitute, let no one judge him. (...) Any prophet who wants to settle with you "is worthy of his food". Likewise, the true teacher "is also worthy as the worker of his food". But take all the fodder of the flax, of the field, of the oxen and of the sheep, and give the fodder to the prophets, for they are your chief priests. And if you have no prophet, give it to the poor. If you make bread, take the leaven and give it according to the commandment. Likewise, if you open a vessel of wine or oil, take the leaven and give it to the prophets. Take, according to thy estimation, the burnt-offering of thy silver, and of thy garments, and of all thy substance, and give it according to the commandment (Didache 1903, 7-9).

Thus, as the Didache records, the exercise of the prophetic gift was one of the main ways of spreading the Gospel at that time (Green 1970, 172). Polycarp of Smyrna (70-155 AD), Quadratus (during the reign of Hadrian: 117-138 AD), Cerinthus (late 1st century AD - early 2nd century), Ammia of Philadelphia (100-150 AD), or Melito of Sardis (d. 190 AD) are identified as prophets (Farnell 1992, 277). The prophet seemed to be the main evangelist and missionary of the Church at the end of the first century AD. Aune argues that the prophetic gift continued until the advent of monarchical episcopacy, when institutional forces led to its demise (Aune 1983, 189). The transition from leadership by grace to institutional ecclesiastical leadership led to a major shift in the Church's missiological strategy, and this happened quite quickly, as the Didache emphasizes the role of prophets in the Church, while Ignatius already emphasizes monarchical episcopacy.

The synagogue system and the prevalence of Jewish proselytism

Frend (1984, 42) states that Judaism was the most important religion in the Greco-Roman world in the days of Christ. Some estimates suggest that up to 12% of the population of the Roman Empire was Jewish, with between 4 and 4.5 million Jews spread throughout Rome's area of influence (Harnack 1972, 10). It is estimated that over a million Jews lived in Egypt alone (Green 1970, 128). Diaspora Jewish communities were vibrant and influential, and synagogues were at their center, with a synagogue or meeting place in almost every major city. Christian missionaries therefore used these resorts to present the Gospel. Moreover, the Jews had prepared the Roman world for proselytism, and during the late first and early second centuries AD, Judaism experienced a renewed passion for mission (Harnack 1972, 10). Some New Testament readers may miss the following point, but in his "woes" to Israel's religious leaders, Christ said: "Woe to you, scribes and hypocritical Pharisees! For you compass the sea and the earth about to make a fellow believer, and when he has become a fellow believer, you make him a son of hell, twice as bad as you are yourselves" (Matthew 23:15). Therefore, even if the intentions of the Judaizers were not what God intended, the prevalence of Jewish proselytism and the existing synagogue system facilitated the Christian missionaries' efforts to expound the message of salvation through Jesus Christ. Bull (1967, 21) notes that "Every synagogue represented a ready-made base for Christian preaching. From it came the nucleus of Jewish and non-Jewish believers who were to form the local church."

At first, Christianity was perceived in the Diaspora as a reform movement of Judaism, but later the two religions drifted apart, and by the end of the second century the Church had

added the Ebionites (Jewish Christians) to the list of heretics. The author of the Epistle of Barnabas (ca. 130 AD) argued that the Jews, by rejecting Christ, were no longer God's elect (*Epistle of Barnabas*, XVI.5). Despite this, the reality is that the existing synagogue system and the state of Judaism at the time gave the Christian faith a boost in its later development.

Hellenistic culture

Hellenization allowed the creation of a common language and culture throughout the Roman Empire, and this fostered, at least at a superficial level, a shared worldview. Greek, the language used for centuries to express the thoughts of the greatest thinkers, had become the *lingua franca*, and the Gospel could be transmitted quite easily in this linguistic environment. But Hellenization was not limited to language. Green (1970, 18) points out that suspicion of powerless deities made it easier for the citizens of the Roman Empire to accept a new faith that consisted 'not in words but in power' (cf. 1 Cor. 4:20)." Christianity was able to offer more than existing religions, and people responded positively.

Roman infrastructure

The Roman Empire's vast network of roads, stretching from the Atlantic to Arabia and from northern England to the Nile (some of which are still in use today), and its transportation system, allowed travel throughout the known world at that time (Bull 1967, 2). Between the paved roads or wilderness travel, Christians invariably chose the former. In addition, the impact of the so-called *pax romana* is worth considering. Although there were occasional riots, this peace lasted from 27 BC to 96 AD, and the Church took full advantage of the opportunity (Davies 1965, 34). The presence of Roman legions throughout the empire offered safety and free passage to missionaries who could travel throughout the empire (Fanning 2009, 7). Within only sixty years, Christians had reached a considerable number of major cities.

The rise of mystery religions

The decline of the sciences and the rise of religion also helped the expansion of the Church. While the state religions were increasingly discredited, mystery religions such as Mithraism, devotion to Jesus, and the cult of Cybele, which catered especially to the marginalized (although they were also practiced by emperors such as Hadrian and Marcus Aurelius), seemed to have much in common with Christianity, including baptism, a ritual meal, the promise of life after death, freedom from guilt, or union with the divine (Newsome 1992, 27-30). The difference was that the mystery religions only promised these eternal benefits, whereas Christianity offered them. Harnack notes that in a culture with a strong belief in demons and exorcisms, Christianity was well received because of its proclamation of Christ's supremacy over demons (Harnack 1972, 156-157). These factors provided an un hoped-for opportunity for the Gospel to spread throughout the empire and grow from a small Jewish sect to the state religion of the Roman Empire in just three centuries.

The missionary zeal of lay people

In addition to the factors mentioned, we suggest that there is at least one other factor that is not mentioned much in the literature, but which may have been essential to the expansion of the Church in the first two centuries, namely the missionary zeal of the laity. Beginning in Acts, local churches began sending out groups of two to four itinerant missionaries to evangelize new territories (cf. Acts 13:1-3; 13). Some of these were evangelists, prophets and teachers recognized by the Church, but others were lay people. Although Luke mentions this tangentially in Acts 8:1, Green (1970, 243-244) is of the opinion that the laity contributed most to the evangelization of the world "not by formal preaching, but by informal conversations (...) in homes and shops, in ordinary walks and around market stalls (...) they

did it naturally, enthusiastically (...) having found a treasure, they wanted to share it with others to the extent of their ability.”

Most frequently, the laity fulfilled their missionary responsibilities in relation to their immediate fellows: blood relatives, servants, friends or clients. When the head of the household converted to Christianity (such as the centurion Cornelius, Lydia, and the Philippian jailer), his own home became the epicenter of his ministry, and the Gospel was shared with all members of the household, neighbors, and friends. Drawing on the example of Philip, who led Nathanael to Christ, Green relates how Pantaenus helped Clement of Alexandria to know Christ, Justin helped Tatian to convert to Christianity, and Octavian helped Minucius Felix (Green 1970, 243-244). The means most commonly used at that time to spread the Gospel were:

a) Public preaching. All Christians literally believed that it was their responsibility to contribute to the fulfillment of the Great Commission by publicly proclaiming the Gospel of salvation. Lacking a well-structured missionary strategy, ordinary Christians followed the model of Christ's disciples in the first century AD and proclaimed God's Word "in season and out of season", anywhere, anytime and to anyone. Historian Will Durant (1944) states that: "Almost every convert, with the ardor of a revolutionary, became the instrument of Christian propaganda." With no weapons but truth and no banner but love, Christ's followers, united by a common purpose and an unquenchable love, traveled by sea and land throughout the empire and joyfully shared their new faith. Whether they were householders or successful merchants, slaves or freemen, educated or less educated, they used every opportunity to promote the cause of Christ. Even when they were exiled, they proclaimed the Gospel with infectious zeal.

b) Personal example. High ethics, uncompromising, character ennobled by knowledge of God and awareness of His presence, left an impression hard to dispute on the unsaved people with whom Christians came in contact.

c) Placing their own homes at the disposal of God's work. The wealthier and more influential Christians placed their own homes at God's disposal, both for fellowship meetings and for receiving strangers. This contributed significantly to the growth of the Church.

d) Catechizing new converts and training future leaders. Seeking to fulfill Christ's command to teach the newly converted "all that he has commanded" (cf. Matthew 28:20), subapostolic Christians believed in the effectiveness of discipleship. Each church was in charge of catechizing its own converts. Later, the theological schools in Antioch, Alexandria, Edessa and Caesarea took on the role of theological education of Christians for missionary and evangelistic responsibilities. Harnack (1972, 362) recalls that Gregory the Wonderworker, who later became a bishop, was converted by Origen at the school in Alexandria.

e) Public debates were another effective tool for evangelizing the unsaved. The little written Christian literature was used by Christians to polemicize with their accusers. Thus, in the post-apostolic period, immediately after the Apostolic Fathers, a generation of outstanding apologists emerged, such as Quadratus, Aristinus of Pella, Justin Martyr, Tatian the Assyrian, Miltiades, Apollinaris of Hierapolis, Melito of Sardis, Theophilus of Antioch, Athenagoras the Athenian, Tertullian or Minucius Felix (Rotaru 2005, 219-224).

f) The courageous depositions before the judges were another means by which subapostolic Christians made their faith public. One of the most remarkable examples is that of Polycarp of Smyrna, who declared to the imperial representative who threatened him with death: "I have served my Lord for eighty-six years and he has never done me any harm. How could I deny my King, who has hitherto kept me from all evil and redeemed me with so much faith?" (Eusebius IV.15.10).

g) Social involvement. Since the early days of the Church, Christians have been involved in helping the disadvantaged: widows, orphans, the poor and strangers (cf. Acts 6:1-6). Harnack (1972, 152-153) argues that the Church became so involved in feeding the

hungry, supporting the poor financially, helping widows and orphans, housing strangers, caring for the blind, enslaved, imprisoned or condemned to death, and arranging for their burial, that evangelism became synonymous with outreach.

The involvement of the laity in the work of evangelization and mission had an unexpected impact on the dynamics of the Church in the post-apostolic period. Endowed with special gifts or simply with a pure love for the unsaved and a great passion for spreading the Gospel, they worked tirelessly for the advancement of the Gospel and the expansion of the Kingdom of God.

Conclusions

In this article, we noted that despite the void caused by the death of Christ's apostles, the Church has experienced explosive growth, thanks to the missionary zeal of Christians. Although they did not have a well-defined missionary strategy, the faithful of the Apostolic Fathers' time had much enthusiasm. The emphasis on grace, especially supernatural grace, and the devotion of itinerant prophets and teachers helped to spread the Gospel effectively. The synagogue system and the prevalence of Jewish proselytism provided an unparalleled platform for Christian missionaries and evangelists to present Christ. The fact that the Greek language had become the *lingua franca* and Christians could spread the Gospel in a language understood throughout the empire, as well as the advantage of travelling thousands of miles on the immense network of Roman roads, also favored the rapid spread of Christianity. The popularity of mystery religions, which promised much but offered little, was also exploited by Christians as they sought to take the Gospel to the ends of the earth. But one of the most important aspects of the expansion of Christianity in the subapostolic period, but unfairly neglected in the literature, is the missionary zeal of the laity (Rotaru 2023, 62-79). They took every opportunity to share the message of salvation through Christ with their fellow men and women, both in public and private places, literally believing that it was the responsibility of every Christian to help fulfill the Great Commission of Matthew 28:19-20. Love for God and the desire to see sinners restored led them to give up their personal comforts and missionize in all parts of the Roman Empire. Their personal example, high ethics, and character ennobled by the knowledge of God left a strong impression on those with whom they came in contact. The fact that they placed their own homes at the disposal of God's work, that they were concerned with the catechization of new converts and the raising up of future leaders, that they were not afraid to engage in public debate with their opponents, or that they boldly declared their faith before judges, even at the cost of their lives, were factors that contributed to the unprecedented expansion of the church. Moreover, their social involvement was so impressive that it became one of the most powerful evangelistic tools of the subapostolic church (Rotaru 2010, 7). Unfortunately, with the advent of monarchical episcopacy and the trend towards institutionalization of the Church, there has been an obvious shift in the way the Church has done mission and evangelism. From the second half of the second century onwards, itinerant missionaries are mentioned less and less, and the rate of growth of the Church has slowed down noticeably.

The contemporary Church (Rotaru 2012, 5), having much easier opportunities and means to do mission and evangelism, must look to the example of the post-apostolic Church. Travel to most parts of the world is becoming easier, cheaper and safer. English is spoken in almost every corner of the world, and this allows missionaries to communicate more easily with non-evangelized people. The high level of wealth of Christians in Western countries could lead to greater and more effective involvement in helping the disadvantaged. Today's Church has all the means at its disposal to take the Gospel to the ends of the earth, all that is needed is love for the unevangelized, a desire to contribute to the extension of the Kingdom of God and a renewed missionary zeal (Rotaru 2017, 57-76).

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Adoption of FinTech Training by Family Enterprises and its Impact on Local Economic Growth in Morocco

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ABSTRACT: The purpose of this study is to evaluate the adoption of Financial Technologies (FinTech) training by family businesses in Morocco and to assess the consequences of this acceptance for the development of the local economy. Traditional business models are being reformulated as a result of technological advancements, which are causing the global financial environment to undergo fast transformation. In this context, family businesses, which make up a significant portion of Morocco's economic fabric, are investigated regarding the degree to which they have committed themselves to the teaching of financial technology. Regulatory frameworks, resource accessibility, and understanding of the possible implications of FinTech tools are some of the important elements that are investigated in this research. The study also provides an analysis of the factors that influence the adoption of FinTech training among family businesses. The objective is to provide insights into the obstacles and possibilities connected with incorporating FinTech into the operations of family companies in Morocco by first gaining an awareness of these issues. In addition to this, the study investigates the practical consequences that the implementation of FinTech has on the operational efficiency, risk management, and decision-making processes of family businesses. Our goal is to shed light on the role that FinTech plays in enhancing the competitiveness and growth prospects of family businesses, thereby contributing to the overall economic development at the local level in Morocco. This will be accomplished through an analysis of case studies and empirical data. It is expected that the outcomes of this study will provide significant insights for policymakers, business executives, and academics interested in the nexus between family businesses, financial technology education, and economic development.

KEYWORDS: family businesses, financial technology, innovation, economic growth

Introduction

Over the course of the last several years, the global financial environment has been subjected to a profound transformation, which has been prompted by the introduction and widespread use of Financial Technologies (FinTech) (Arslan et al. 2022). Family businesses, which constitute a significant economic force in Morocco, are situated at the intersection of tradition and innovation. This is because family businesses are already grappling with the implications of the technological revolution that is currently taking place across all industries. The purpose of this article is to investigate the dynamics of the adoption of financial technology within the setting of family businesses in Morocco and to analyze the influence that this adoption has had on the development of the local economy.

The Kingdom of Morocco, which is particularly well-known for its varied economic environment, is now seeing a growing incorporation of technology into a variety of different businesses. Family-owned businesses, which are distinguished by their one-of-a-kind ownership structures and long-standing traditions, are now navigating a business climate that is undergoing significant change. In light of this, it is very necessary to have an awareness of the elements that influence the adoption of FinTech training in order to appreciate how these businesses make use of technological breakthroughs (Fan et al. 2023). The major purpose of this study is to determine the degree to which family businesses in Morocco have committed themselves to the implementation of FinTech training programs. An in-depth analysis of the

regulatory frameworks that govern the adoption of FinTech, the availability of resources for training programs, and the level of awareness among family businesses regarding the potential benefits and challenges associated with the incorporation of FinTech are all required to accomplish this (Arslan et al. 2022).

As we go further into this investigation, the article will also throw light on the larger consequences that have been associated with the adoption of FinTech for family businesses. Within the context of family enterprises, the ways in which these technology breakthroughs impact operational efficiency (Song and Appiah-Otoo 2022), risk management procedures, and strategic decision-making will be investigated. The ultimate goal is to determine the influence that FinTech training has on the growth trajectory of family businesses and, by extension, the contribution that it makes to the economic development of Morocco at the local level. In addition, the development of financial technology has not only resulted in certain operational changes, but it has also greatly impacted the expectations and behaviors of customers. Family businesses in Morocco are facing the need of aligning themselves with the changes that are occurring in the financial services industry as it undergoes a digital transformation. This is necessary to survive and remain competitive. As a strategic reaction to this changing environment, the implementation of FinTech training programs for family companies becomes a strategic response (Arslan et al. 2022). These programs provide a road to equip these organizations with the essential skills and insights.

In addition to the technical and legal aspects, the socio-economic backdrop of Morocco adds another layer of complexity to the understanding of the use of financial technology by family businesses. The pace and scope of the incorporation of financial technology may be affected by a variety of factors, including the availability of financial resources, the educational backgrounds of family members, and cultural conceptions of technology. When it comes to developing successful FinTech training programs that connect with the unique demands and issues encountered by family firms in the Moroccan business environment, it is essential to investigate these intricacies (Song et Appiah-Otoo 2022).

By offering a targeted investigation of the interaction between family businesses, FinTech education, and local economic development in Morocco, this research contributes to the current body of knowledge by giving an opportunity to investigate this junction. Our goal is to provide a comprehensive framework that sheds light on the myriad of dynamics that are at play in this area by synthesizing the insights that have been gleaned from the existing body of research. In the following parts, we will explore further into the methodology that was used, the empirical results, and the consequences of FinTech adoption for family businesses and the larger economic environment in Morocco. This will be done as we begin this voyage of investigation. We hope that by doing this study, we will be able to give nuanced insights into the growing link that exists between family businesses, education in FinTech, and economic development in Morocco. The results are relevant for policymakers, business executives, and academics who are looking for a complete knowledge of the interaction between technology innovation and traditional business practices in the Moroccan economic scene.

Literature Review

It reflects the extensive influence that technological improvements have had on the global financial landscape that the incorporation of Financial Technologies (FinTech) into corporate operations has arisen as a focal point of academic inquiry. Although a substantial amount of research has been conducted to investigate the wider implications of FinTech adoption, a more nuanced investigation within the context of family businesses, particularly in the Moroccan environment, reveals that there is a discernible gap in the existing literature (Arslan et al. 2022; Zhang et al. 2020).

One of the most important aspects of the adoption of FinTech is the capabilities it has to revolutionize conventional company models, therefore improving both the efficiency and the decision-making processes. The agility and creativity that FinTech technologies bring to the forefront have been the subject of several studies that have been conducted across a variety of sectors. The incorporation of FinTech is of relevance within the realm of family businesses, which are distinguished by their one-of-a-kind ownership structures and rather conservative attitudes to business operations (Zarrouk, El Ghak, and Bakhouche 2021). The role that regulatory frameworks have in determining the adoption landscape of financial technology is a topic that is often discussed in research literature. When it comes to the smooth integration of new technologies into corporate processes, the regulatory framework may either operate as a facilitator or a barrier. When it comes to family businesses in Morocco, having a thorough awareness of the complexities of regulatory compliance is very necessary to successfully navigate the ever-changing environment of the financial technology industry.

Furthermore, the research emphasizes the significance of resource accessibility in affecting the rate of acceptance of FinTech and the degree to which it is implemented. Family businesses, which may have different resource limits compared to bigger companies, are required to analyze the feasibility and cost-effectiveness of integrating FinTech solutions when compared to those of larger firms. According to studies, there is a pressing desire for individualized techniques that take into account the particular financial capabilities of family companies. It becomes clear that educational backgrounds and technical literacy inside family businesses are becoming more important elements that influence the use of financial technology. As these companies manage generational shifts, the ability of family members to accept technological breakthroughs and their willingness to make use of those technologies becomes more important. It is possible that cultural attitudes about technology, especially in a traditional culture such as Morocco, may also influence the preparedness of family businesses to embrace FinTech technologies (Arslan et al. 2022; Zarrouk, El Ghak, and Bakhouche 2021).

The socio-economic environment of Morocco adds another degree of complication to the process of comprehending the use of financial technology. Family businesses are deeply knit into the fabric of society, and this includes access to financial resources, educational possibilities, and cultural views toward technology. Making sure that these contextual subtleties are taken into consideration is very necessary to build efficient FinTech training programs that are suited to the particular requirements and difficulties that family companies in Morocco confront. In conclusion, while the existing body of research offers a strong basis for comprehending the more far-reaching ramifications of the implementation of FinTech, few studies have been conducted to investigate the unique dynamics that exist inside family businesses in Morocco. By providing a focused examination of the adoption of FinTech training efforts and its resultant influence on local economic development within the specific context of family firms in Morocco, the purpose of this research is to fill this vacuum in knowledge (Zhang et al. 2020).

It is important to note that the literature about the implementation of FinTech in family businesses goes beyond the operational elements and has larger implications for governance, succession planning, and the maintenance of family values. Family businesses are characterized by several distinctive traits, including intergenerational dynamics and a concentration on long-term sustainability. These qualities provide a unique set of problems and possibilities in the context of the integration of FinTech. One of the most important aspects that has been investigated in the research literature is the role that FinTech plays in solving the issues that are associated with succession planning within family businesses. When it comes to these kinds of enterprises, succession planning is a sensitive process that is often impacted by family connections and complex power dynamics. Through the provision of comprehensive financial planning and management solutions, FinTech tools have the potential to make transitions more seamless, thereby contributing to the continuity and

stability of family businesses over the course of multiple generations, as indicated by research investigations (Zhang et al. 2020).

In addition, the research on the adoption of FinTech examines the governance frameworks that are present inside family businesses. Given the decentralized nature of decision-making in family companies, it is possible that some FinTech applications might be advantageous in terms of the transparency and accountability elements that they include. This has the potential to reduce the likelihood of conflicts of interest and improve governance processes in general, so ensuring that family businesses continue to function effectively while preserving their individuality (Fan et al. 2023). Furthermore, the maintenance of family values and the heritage of the family is a primary priority for many businesses that are run by families. The research implies that innovations in financial technology may be used to align with and reinforce these values, even though technological improvements may be seen as having the potential to be disruptive. FinTech adoption has the potential to become a driver for the modernization of family businesses without sacrificing the fundamental principles that guide them. This may be accomplished by integrating technology in a manner that is respectful of the traditions and ethos of the family.

In order to have a better understanding of the complexities involved in the implementation of FinTech inside family companies in Morocco, it is vital to draw insights from the experiences of firms that are comparable to those in other global settings. Comparative studies and case studies provide significant benchmarks and lessons learned that may be used to influence the creation of successful strategies for the integration of FinTech that are adapted to the unique requirements of family businesses in Morocco. In conclusion, the literature study sheds light on the myriad of consequences that the implementation of FinTech has for family businesses. These implications go beyond the area of operations and include governance, succession planning, and the maintenance of family values. In order to have a comprehensive knowledge of the complications that are involved in the incorporation of FinTech within the specific context of family businesses in Morocco, these aspects provide a rich tapestry. In the next parts of this study, we will dig into the methodological approach that was used to explore the adoption of FinTech, offer empirical data, and evaluate the consequences for the development of the local economy (Song and Appiah-Otoo 2022).

When the influence of financial technology (FinTech) on the development of the local economy is investigated, a complex link between the use of technology in family businesses and the larger economic landscape of Morocco is revealed. Although the global literature provides significant insights into the possible macroeconomic implications of FinTech, it is necessary to have a focused lens in order to comprehend how these dynamics emerge within the context of Morocco. One of the most important aspects of this investigation is taking into consideration the role that FinTech plays in working to expand access to financial services. There is evidence in the literature that shows that FinTech can close access gaps to financial services, particularly in areas that have historically been underserved by providers of financial services. In the context of Morocco, where socioeconomic gaps continue to exist, it is of utmost importance to investigate the ways in which the use of FinTech in family businesses might help to the expansion of financial inclusion.

Additionally, the literature sheds light on the connection between the adoption of FinTech and entrepreneurial endeavors. FinTech solutions that expedite financial procedures, remove obstacles to entry, and boost the entire business environment may be beneficial to family businesses, which are often considered to be the engines of local entrepreneurship. Therefore, it is vital to conduct an investigation into this connection in order to determine how the incorporation of FinTech into family businesses may stimulate entrepreneurial endeavors, which in turn may have an effect on the expansion of the local economy. In addition, the research that has been done on the topic highlights the potential of financial technology to encourage innovation inside family businesses. In the context of this discussion, innovation

encompasses not just technological developments but also unique business structures, product offers, and market tactics. To evaluate the effects that the adoption of FinTech has on the competitiveness and adaptability of family businesses in the Moroccan economic landscape, it is essential to have a solid understanding of how the adoption of FinTech helps to cultivate a culture of innovation within family businesses (Zhang et al. 2020).

In order to successfully negotiate the complex relationship that exists between the adoption of FinTech, family businesses, and the expansion of the local economy, it is very necessary to acknowledge the ever-changing nature of financial ecosystems. According to the available literature, the nature of FinTech is dynamic, with ongoing innovations in the industry influencing the environment. This dynamic nature highlights the need of adaptable tactics within family businesses, highlighting the significance of the relevance of continual learning and agility in the face of the growth of technology. In conclusion, the literature study posits that the adoption of financial technology inside family businesses is a phenomenon that is diverse and has ramifications that range from the efficiency of operations to the enhancement of economic development in general. An all-encompassing viewpoint is provided by the investigation of financial inclusion, entrepreneurialism, and innovation, which sheds light on the complex linkages that occur within the setting of Morocco. As the subsequent sections of this research move forward, the empirical findings will contribute to further enriching our understanding of these complexities and their implications for family businesses and the growth of the Moroccan economy at the local level.

The investigation of risk management procedures is an essential component in the process of comprehending the repercussions that might result from the implementation of FinTech within family businesses. When it comes to family businesses, traditional risk management frequently relies on experience and intuition. However, the literature suggests that the incorporation of FinTech can introduce risk assessment methodologies that are more data-driven and sophisticated. This shift is especially relevant in the context of Morocco, where family businesses frequently face novel challenges that are associated with fluctuations in the market, political unpredictability, and cultural nuances. The research that has been done on the topic highlights the potential of FinTech tools, such as predictive analytics and machine learning algorithms, to improve risk identification and mitigation strategies. Family businesses that successfully incorporate these tools are able to navigate uncertainty with greater ease, thereby ensuring the maintenance of their financial health and the continuation of their company's existence. Therefore, the purpose of this study is to investigate how the adoption of FinTech affects risk management practices within family businesses, as well as the subsequent impact that this adoption has on the resilience and adaptability of family businesses (Song and Appiah-Otoo 2022; Zarrouk, El Ghak, and Bakhouché 2021).

A significant amount of emphasis is placed in the literature on the role that FinTech plays in facilitating access to capital for family businesses, in addition to risk management. Funding has traditionally been difficult to acquire for smaller businesses, including family businesses. This has been the case throughout history. Because of their innovative lending models and crowdfunding mechanisms, FinTech platforms have the potential to make access to capital more accessible to more people everywhere. In order to get a better understanding of the role that FinTech plays in promoting financial stability and development (Arslan et al. 2022), it is essential to conduct research on the ways in which the adoption of FinTech affects the capital structure of family businesses in Morocco. In addition, the literature calls attention to the ethical issues that are involved with the use of blockchain technology. Ethical considerations such as data protection, cybersecurity, and transparency become of the utmost importance as family businesses negotiate the process of integrating new technology. To ensure that family businesses are able to strike a balance between innovation and ethical responsibility, it is vital to investigate the ethical implications of the adoption of FinTech within the framework of Moroccan culture and the legal system.

In addition to this, the literature analysis highlights the need of a comprehensive framework for analyzing the effect that FinTech has on family businesses. In order to do this, it is necessary to not only evaluate the immediate operational gains, but also to take into consideration the wider socio-economic repercussions. Using these insights as a foundation, the purpose of this research is to develop a robust analytical framework that considers the various aspects of FinTech adoption within family businesses (Zhang et al. 2020). This will contribute to a more nuanced understanding of the implications that FinTech adoption has for the growth of the Moroccan economy. In a nutshell, the literature study goes into essential aspects such as risk management, access to finance, and ethical issues. This provides a complete background for comprehending the myriad of effects that the implementation of FinTech inside family businesses might have. For the purpose of shedding light on the intricate relationships between FinTech adoption, risk management, access to capital, and ethical considerations, these insights will guide the exploration of how these dynamics manifest within the unique context of family enterprises in Morocco. This will take place as we transition to the empirical findings and analysis that will be presented in the subsequent sections.

Methodology

The study approach utilizes a purposive sample technique to pick a varied variety of family firms in Morocco. This strategy assures coverage across diverse sizes, sectors, and geographical regions, offering a complete perspective of FinTech adoption trends. Data gathering comprises the delivery of organized questionnaires to family firm owners and key decision-makers. These surveys try to evaluate the amount of FinTech adoption, identify perceived advantages and obstacles, and analyze the influence on different parts of corporate operations. The survey instrument is constructed based on ideas from the literature study and first exploratory interviews.

Complementing the quantitative data, in-depth interviews are done with a group of family business representatives. These interviews dive into qualitative elements of FinTech adoption, investigating cultural factors, ethical concerns, and the delicate relationships between technology and family systems. The qualitative data gathered via interviews adds depth to the knowledge of the complex elements impacting FinTech adoption. The combination of quantitative survey data and qualitative insights from interviews produces a solid dataset, allowing a detailed examination of the link between FinTech adoption by family firms and its influence on local economic development in Morocco. This mixed-methods approach enables for a complete investigation of the study goals without imposing false divisions between quantitative and qualitative viewpoints.

Results

The combination of survey and interview data presents a comprehensive representation of FinTech adoption tendencies among family firms in Morocco. Various degrees of adoption are visible, with a notable tendency toward tools such as digital payment systems, accounting software, and data analytics. This tendency is driven by a variety of reasons, ranging from the pursuit of innovative business models to the desire to improve operational efficiency. Perceived advantages of FinTech adoption, as revealed by quantitative data, comprise greater operational efficiency, enhanced decision-making processes, and expanded access to financial data. Concurrently, difficulties, like data security problems and the demand for constant training, are also highlighted. Qualitative insights dig into the complicated balance between perceived advantages and problems within the specific environment of family companies.

An examination into the influence of FinTech on company operations indicates good results, with family firms seeing enhanced financial management, simplified procedures, and faster decision-making. Qualitative data augments these results by illustrating how these

operational innovations help to the overall resilience and flexibility of family firms, notably in handling obstacles peculiar to the Moroccan business scene. The study expands its attention to explore the economic growth implications of FinTech adoption. Quantitative and qualitative evaluations merge to illustrate the potential of FinTech-equipped family firms to contribute positively to local economic development. The efficiencies obtained via technological integration allow these firms to play a role in encouraging economic development, revealing insights into how FinTech functions as a catalyst for growth within the Moroccan business ecosystem. In conclusion, the combination of quantitative and qualitative data presents a holistic picture of FinTech adoption among family firms in Morocco. The analysis provides insights into the dynamics of adoption, the interplay between perceived benefits and challenges, the impact on business operations, and the potential contributions to local economic growth (Zarrouk, El Ghak, and Bakhouché 2021; Zhang et al. 2020). These results serve as a vital addition to the understanding of FinTech's function inside family firms and its larger implications for the economic environment in Morocco.

The discussion extends to the broader implications of FinTech adoption within family enterprises, weaving together the multifaceted layers that emerge from the analysis of adoption patterns, benefits, challenges, and economic growth contributions. The nuanced nature of these findings prompts a reflection on the interconnected dynamics shaping the landscape of family businesses in Morocco. The examination of patterns of adoption of financial technology highlights the adaptability of family businesses to advances in technology. Both their operational requirements and their forward-looking attitude to innovation are aligned with the strategic selection of certain tools that they have available. According to the research, these tendencies reflect a purposeful effort made by family businesses to harness technology in a way that matches their traditional values while also creating resilience in an environment that is constantly changing in terms of business situations.

The conversation dives into the mutually beneficial connection that exists between the apparent advantages of FinTech adoption and the issues that it presents. The realization of operational efficiencies and the improvement of decision-making processes is counterbalanced by concerns related to the security of data and the requirement for ongoing training. To achieve their goal of technological integration, family businesses need to carefully weigh the benefits of technological integration against the challenges that it presents. This delicate equilibrium highlights the strategic decision-making processes that are involved in family businesses. Moreover, the significant beneficial influence that FinTech has on the operations of businesses emerges as a major subject over the course of the conversation (Arslan et al. 2022; Zhang et al. 2020). Family businesses can improve their overall competitiveness by integrating digital payment systems, accounting software, and data analytics. This not only increases efficiency but also contributes to the overall competitiveness of the family business. Family businesses are now in a position to navigate the complexities of the Moroccan business landscape with agility and foresight thanks to their increased operational prowess.

The study offers light on the revolutionary potential of family businesses that are equipped with FinTech, which is especially important when considering the consequences for economic development. The enhancement of their operational capacities and the expansion of their capacity for innovation are two ways in which they demonstrate their contribution to the expansion of the local economy. According to the results, family businesses that make use of FinTech technologies become active players in the economic development of Morocco. These businesses can serve as engines for the creation of jobs and sustainable growth. Ultimately, the adoption of financial technology, the development of family businesses, and the expansion of the local economy in Morocco all interact with one another to build a complex web of interconnected interactions. The findings of this study add to a better understanding of how

family businesses handle the complications of technology integration while yet maintaining their individual identities. The results not only demonstrate the resiliency and adaptation of these enterprises (Arslan et al. 2022), but they also indicate the potential for these businesses to be important contributors to the economic development of Morocco in an age of technological transition. The larger backdrop of the conversation involves the changing environment of family businesses in Morocco in the middle of the surge of adoption of FinTech that is undergoing a transformation. These enterprises have the ability to function as catalysts for sustainable economic development, which stimulates observations on the future direction of these businesses and their potential expansion. A thorough knowledge of the complex dynamics at play may be obtained via the integration of data from both quantitative and qualitative investigations.

When looking at the patterns of strategic adoption of financial technology within family companies, it is important to emphasize how important it is to connect the incorporation of technology with the values and traditions that are intrinsic to these types of firms. A careful approach is shown by the selective adoption of certain instruments, which strikes a balance between the pursuit of efficiency benefits and the preservation of the individuality of the member of the family. Through this strategic alignment, family businesses are placed on a path that allows them to seamlessly incorporate innovation into their operations. This helps to ensure that their legacies are preserved while also allowing them to take advantage of the opportunities that are presented by financing technology.

The detailed conversation that surrounds perceived advantages and obstacles gives insight on the decision-making process that is pragmatic inside family businesses. Concerns about data security and the need for ongoing training are two challenges that these companies face as they traverse the always shifting environment of the FinTech industry. When it comes to guaranteeing the long-term viability of the integration of FinTech, both acknowledging and resolving these problems become essential components. The family businesses that are looking for a balanced combination of history and technical innovation may benefit greatly from this nuanced viewpoint, which delivers useful insights. The debate has shed light on the fact that the beneficial influence that FinTech has on corporate operations goes beyond the immediate advantages that are gained in terms of operations. In family businesses, it helps to cultivate a culture of adaptation and creativity, which in turn contributes to the businesses' capacity to remain competitive in the always shifting business environment (Zhang et al. 2020). Based on the data, it seems that these companies, who are armed with FinTech technologies, are in a strong position to overcome obstacles, seize opportunities, and actively contribute to the economic vitality of Morocco.

Family businesses, with their acceptance of FinTech, have the potential to be essential actors in Morocco's economic development, as the study examines the ramifications of economic growth. This becomes obvious as the research moves forward. Their contributions go beyond just improving operational efficiency; they also actively participate in the development of a business environment that is both dynamic and resilient. The results suggest that the symbiosis between family businesses that are equipped with FinTech and the expansion of the local economy is not only conceivable (Fan et al. 2023 ; Song and Appiah-Otoo 2022), but also shows promise for the further development of the Moroccan business scene. In conclusion, this research trip that investigated the adoption of financial technology among family businesses in Morocco offers a comprehensive perspective on the transformational power of technology. The conversation not only sheds light on the complex dynamics that exist inside these companies, but also provides a glimpse into a future in which innovation and tradition may dwell side by side in a peaceful manner. As family businesses continue to negotiate the changing terrain, the strategic integration of FinTech solutions that they have implemented positions them to be vital contributors to the economic development and vibrancy of Morocco in the years to come.

Conclusion

In conclusion, the purpose of this study was to conduct an in-depth investigation of the implementation of Financial Technologies (FinTech) inside family businesses in Morocco and the subsequent influence that this adoption has had on the expansion of the local economy. A detailed knowledge of the complex dynamics at play inside these companies as they negotiate the ever-changing terrain of technology integration has been offered because of the combination of quantitative survey data and qualitative insights gleaned from interviews.

According to the findings of the survey, family businesses have used FinTech to varied degrees, demonstrating a deliberate alignment of technology with traditional values. The deliberate adoption of certain instruments, such as digital payment systems and data analytics, demonstrates a determined attempt to maintain the identity of the family while also embracing the benefits that are given by innovative financial technology. Through the use of this nuanced strategy, family businesses are positioned to become adaptable organizations that are ready to utilize technology to improve their operational efficiency without jeopardizing their distinctive legacies. However, the perceived advantages of adopting FinTech, such as greater operational efficiency and enhanced decision-making processes, have been counterbalanced by problems such as concerns around data security and the need for ongoing training. This precarious balance highlights the pragmatic decision-making that occurs inside family businesses, stressing the significance of resolving problems to enable the sustainable incorporation of FinTech instruments.

A culture of adaptation and innovation is fostered inside family businesses as a result of the good influence that FinTech has on company operations. This impact goes beyond the initial profits that are immediately realized. These enterprises are in a position to handle problems, embrace opportunities, and actively contribute to the economic vitality of Morocco because they are equipped with instruments that are associated with financial technology. The mutually beneficial relationship that exists between family businesses that are equipped with FinTech and the expansion of the local economy becomes more apparent, pointing to a future in which these companies will play a pivotal role in the formation of a business ecosystem that is both dynamic and resilient.

The strategic incorporation of FinTech tools by family businesses positions them as key stakeholders in the economic growth of Morocco. This is because family businesses are continuing to change in response to the transformation brought about by technology advancements. In addition to providing a view into the complex processes that characterize the junction of tradition and innovation within family businesses, the results of this study provide useful insights that may be used by politicians, business leaders, and academics. The flexibility and resiliency shown by these enterprises point to a bright future in which FinTech will act as a catalyst for sustained economic growth and development. This is coming at a time when Morocco is transitioning into an age of technological revolution.

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The Offense of False Identity in the Romanian Criminal Code

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ABSTRACT: The offenses of counterfeiting sanctioned in the Romanian Criminal Code refer to the set of illegal acts that harm social relationships of trust. The category of false includes such acts as counterfeiting of currency, stamps or other valuable instruments, counterfeiting validation or marking instruments, counterfeiting documents, and false identity. Trust between members of society, between them and state institutions, represents an essential value for the consolidation and smooth running of social relations. However, acts of falsification and the utilization of false information generate feelings of mistrust, undermining the foundations of societal trust. Serious damage can occur to both individuals and legal entities. This article analysis the offense of false identity as stipulated in the Romanian Criminal Code. False identity fraud is the deed of the person who presents himself under a false identity or assigns such an identity to another person with the intent to induce or mislead a public servant or the entity in which he works in order to produce a legal consequence.

KEYWORDS: false identity, offense, standard variant, aggravated variant, assimilated variant

1. Introduction

False identity is criminalized in the Romanian Criminal Code in a standard variant, an aggravated variant and an assimilated variant. The type variant consists of “The act of presenting oneself under a false identity or the act of ascribing such an identity to another individual, committed before an individual as set out in art. 175 or transmitted to a unit in which they carry out their activity, by fraudulent use of a document that serves for identification purposes or to prove one’s civil status or of such a forged document, to mislead or maintain the deceit of a public servant, in order to produce legal consequences for oneself or for another, shall be punishable by no less than 6 months and no more than 3 years of imprisonment.” – art. 327 para. (1).

The aggravated variant is retained: “When the document was produced by using the real identity of an individual, the penalty shall consist of no less than 1 and no more than 5 years of imprisonment”. – art. 327 para. (2).

The assimilated variant assumes that “The act of handing over a document that proves civil status or serves as identification, to be used unlawfully shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine”. – art. 327 para. (3).

False identity can be defined as the act of a person who presents himself under a false identity or attributes such an identity to another person, through the fraudulent use of a document that serves for identification, legitimization or proof of civil status or such a forged document, before a public servant or a person exercising, under the law, a service of public interest, in order to induce or misleads such persons, in order to produce a legal consequence, for himself or for another (Pascu 2016, 327).

Presenting under a false identity or attributing the false identity to another person or the fraudulent use of documents that serve to identify, legitimize or prove civil status, under the conditions and purposes provided in the criminal law, constitutes an alteration of the truth that can generate serious consequences, given the fact that the formation and development of an important number of social relationships are linked to the identity of persons (Dongoroz et al. 1972, 462-463).

False identity obviously undermines people's trust in the means by which people's identities are ascertained. That is why there is a rigorous system in which proof of identity is done by presenting identity cards or cards made in such a way that committing the offense of false identity is more difficult to commit, but not impossible, especially when it is allowed that identity must also be proven by other means, especially different cards, identification cards, certificates etc., which can easily be used by other persons than their holders (Pascu, Buneci and Buneci 2020, 207). Reality shows us that the technique of falsifying such documents is being perfected, which requires finding new countermeasures and justifies the criminalization of false identity (Dongoroz et al. 1972, 463).

2. Pre-existing elements

The legal object of the offense of false identity is the social relations whose birth and development are based on the public trust given to findings made by a public servant or a person exercising a public service, regarding the identity of persons, findings based on the agreement between the identity under which they present themselves to the public servant or the unit in which he carries out his activity and their real identity (Pascu 2016, 567-568).

The material object in the standard offense and the aggravated variant of the offense of false identity, as a rule, is missing. Identity is an immaterial attribute of the person. However, if false identity is committed by presenting false documents or by using them without the right, these documents, which constitute means of committing the act, can also be considered a material object of this offense (Pascu and Gorunescu 2009, 575). Here we mention as examples the identity card, passport, student ID card, employee card, etc. In the assimilated variant, the document entrusted to be used unjustly can be considered not only as a means of committing the act, but also as its material object.

Direct active subject, namely the perpetrator of the offense, can be any person criminally liable. Criminal participation is possible in the form of instigation and complicity.

If the author assigns under the conditions of art. 327 para. (1) a false identity for another person, the latter, if present and confirm that false identity, will be a co-author of that act. If, however, that person will not be present at the time of the act, but has consented to be presented with the falsified identity, he will have the role of an accomplice in the commission of the offense (Butiuc in Basarab and Pașca coord. 852).

When the perpetrator entrusts another person with a document to be used without right regarding the latter's identity, the first person will be liable for the offense provided for in art. 327 para. (3). If the person who receives the respective document uses it without the right for the purpose shown in the incrimination norm, he will be liable for the offense of false identity in the standard variant (Vasiliu et al. 1977, 303).

The passive subject of this offense is the authority or the institution or the person that performs a service of public interest, for which it was invested by the public authorities, and that was misled by a natural person, by presenting under a false identity or by assigning of such an identity to another person, but also the person whose identity was usurped, in the case of substitution of persons.

The premise situation: The act of false identity has as its premise the existence of a state of fact to which certain legal consequences are linked to a person or a category of persons who, in order to benefit from those consequences, must prove their identity. Without such a state of facts, presenting under a false identity or assigning a false identity to another person or entrusting a document that could be used unfairly to prove the identity would be completely irrelevant facts from a legal point of view and therefore not susceptible to constitutes a criminal offense (Pascu 2016, 569).

3. Constitutive content

The objective side

The material element can be achieved through the actions, with the means and under the conditions of art. 327 of the Romanian Criminal Code. In the standard and aggravated variant of the offense of false identity, the material element can consist either in the action of the perpetrator to present himself under a false identity to a person from those provided for in art. 175 of the Romanian Criminal Code, either in the assignment of such an identity to another person, made to a public servant or transmitted to a unit where the public servant carries out his activity, through the fraudulent use of an act used for identification, legitimization or proof of civil status or such falsified act, to induce or mislead a public servant, in order to produce legal consequences, for himself or for another.

The second action to achieve the material element of this offense in the standard variant is that of assigning a false identity to another person, i.e. declaring, attesting to a public servant entitled to establish the identity of that person, that the said person has an identity which, in reality, is not his.

In the variant assimilated to the offense, the material element consists in the act of entrusting a document that serves to identify, legitimize or prove the civil status, in order to use it unjustly.

Essential requirements: In the case of the type and the aggravated variant, the action must take place in front of a public servant competent to identify a person or be sent to a unit where the public servant carries out his activity. In the case of the assimilated variant, it is necessary that document be one of those that serve for identification, legitimization or proof of civil status and to be used unfairly.

The norm of criminalizing false identity also requires that the illegal activities be carried out with a view to producing legal consequences, in the case of the standard and aggravated variant, and in the assimilated variant, entrusting the act, which has a real content, is done with the aim of being used unfairly.

The immediate consequence consists in the creation of a state of danger determined by obtaining, in the case of the type variant and the assimilated variant, fraudulently, a finding regarding the identity that is not true and therefore likely to be the source of illegitimate legal consequences (Dongoroz et al., 1972, 466).

The causal link. There must be a causal link between the actions that constitute a material element and the immediate consequence.

The subjective side

The subjective element: The form of guilt in all three variants of criminalizing the act of forgery regarding identity is the intention, that is, the perpetrator knows that the identity under which he presented himself or that he assigned to another is false, or that the entrustment of an act that serves for identification, legitimization or the proof of another person's marital status was made to be used by him without right.

Essential requirements: In the type variant of the offense, it is required that the incriminated actions carried out under the conditions provided in para. (1) to have the purpose of inducing or maintaining in error a public servant who has the obligation to establish the identity of a person, in order to produce a legal consequence, for himself and for another.

In the case of the aggravated variant, the presentation must be made using the real identity of a person.

In the case of the assimilated variant, the intention must be accompanied by the essential requirement that the act of entrusting a document that serves to identify, legitimize or prove civil status is done for the purpose of unauthorized use by another person.

4. Forms. Modalities. Penalties

Forms

Preparatory acts (moral and material), although possible, are not criminalized.

The attempt in the interrupted mode is possible but is not criminalized.

Consummation - with the execution of the incriminated action specific to each normative variant and the production of the immediate follow-up, namely that state of danger for the social value of public trust in the documents that serve to identify, legitimize or prove the civil status of a person.

For the consummation of the offense in the assimilated variant, it is not relevant if the document used to identify, legitimize or prove the civil status entrusted to another person to be used without right, was or was not used without right by that person because the use of that document constitutes the purpose and not the result of the action.

Exhaustion. If the state of facts that constitutes the premised situation in the structure of the offense of false identity involves the performance of a periodical benefit, in such a way that, at each term, the perpetrator, misleading the public servant or the unit in which he works, through the fraudulent use of an act that serves to identify, legitimize or prove civil status, it acquires the character of a continuing offense, at which we distinguish a moment of exhaustion corresponding to the date when the periodic benefits will cease or when the deed will be discovered (Dongoroz et al. 1972 , 467-468).

Modalities

Normative ways. In the case of the type variant, there are four normative ways:

- presenting under a false identity in order to induce or mislead a public servant, in order to produce a legal consequence for oneself;
- presenting under a false identity in order to induce or mislead a public servant, in order to produce a legal consequence for another;
- assigning a false identity to another person in order to induce or mislead a public servant, in order to produce a legal consequence for himself;
- assigning a false identity to another person in order to induce or mislead a public servant, in order to produce a legal consequence for another.

In the aggravated variant, there is only one normative way, namely the presentation under a real identity of another person in order to produce a legal consequence.

The assimilated variant is entrusting a document that serves to identify, legitimize or prove the civil status to be used without right.

Modalities in fact: They are varied according to how the false identity concerns the person of the perpetrator, his nature, the beneficiary of the false identity or the nature of the created profile.

Penalties

False identity is punishable by imprisonment from six months to three years. In the aggravated variant, the penalty is from one to five years in prison. When committed under the conditions of the assimilated variant, the penalty is imprisonment from three months to two years or a fine.

Procedural aspects

From a prosecution and trial perspective, false identity is subject to the usual procedural rules. The criminal action is initiated *ex officio* (for more details see Bitanga, Franguloiu and Sanchez-Hermosilla 2018). The criminal investigation bodies of the judicial police operating under the direction or supervision of the prosecutor are competent to carry out the criminal investigation. The court has jurisdiction in the first instance.

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New Aspects of Extradition to Russia and Belarus in the Context of the War in Ukraine

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ABSTRACT: Given the intensification of the fight against terrorism and also the obligation to respect the fundamental rights and freedoms of suspects or accused persons in criminal proceedings, including those involving requests for judicial cooperation, the analysis of the optional grounds for extradition shows that they arise whenever, as a result of surrender, the extraditable person's situation risks being substantially adversely affected, disregarding the factors giving rise to such a risk, such as, for example, the person's age or state of health, without, however, limiting the impediments to extradition to the latter two elements. Consequently, it is necessary for the court dealing with the extradition request to identify all the circumstances and risk factors relevant to the incidence of the optional grounds for refusal of extradition by examining all the relevant information, including the objective situation existing in the requesting State. In this context, data showing the existence of a significant risk as described by repeated assessments by competent bodies, which point to the violation of fundamental human rights in the requesting State and/or the subjection of the extraditable person to inhuman or degrading treatment, may be considered.

KEYWORDS: extradition, impediments, terrorism, military conflict, fundamental human rights, inhuman treatment

1. Introduction

International judicial cooperation, as a rapidly expanding and developing branch of law, governed by international normative acts (usually bilateral treaties) and, at European level, by Union acts, suffers from certain shortcomings in the context of military conflicts. These are likely to make it difficult to execute requests for judicial cooperation, which should normally be dealt with swiftly and in compliance with the legislation and deadlines imposed by the state executing the request on the basis of the principle of loyal cooperation provided for in Article 4(3) TEU (Pătrăuș 2021, 442).

In the context of a military conflict, the execution of requests for cooperation raises legal issues relating to the appropriateness and, in particular, to the existence of international rules with the force of law which have been designed to be applied under normal conditions, as well as to the real and concrete possibilities of conducting the necessary correspondence between the authorities involved, especially if electronic correspondence is not possible or accepted. For these reasons, the existence of the military conflict between the Russian Federation and Ukraine raises particular legal issues, in the context of the Russian Federation's notification of its intention to withdraw from the Council of Europe and its intention to denounce the European Convention on Human Rights and Fundamental Freedoms. Following this notification, on 16 March 2022, following the extraordinary meeting of the Committee of Ministers, the Russian Federation's membership of the Council of Europe ceased under Article 8 of the Statute of the Council of Europe (2022 - Resolution CM/Res(2022)2), although under Art. 58 of the European Convention on Human Rights and Fundamental Freedoms, the European Court of Human Rights retained jurisdiction to rule on applications against the Russian Federation concerning human rights violations falling within its competence (relevant Decision CM/Del/Dec(2024)1490/2.3).

In line with this perspective, there are particular legal problems and controversies in the execution of extradition requests from the Russian Federation and Belarus, arising from the latter's proximity to the former. The present study aims to identify both legal and practical solutions to the difficulties of applying the applicable law in the context of armed conflict and its legal consequences, including in situations where the requesting state might request the extradition of persons who may be guilty of serious crimes, such as terrorism (with reference to the attack on Crocus City Hall in Moscow, in which 144 people lost their lives and which was claimed by the Islamic State organization) and what possibilities the courts have in assessing such situations in conjunction with the application of legal provisions. Of course, relevant arguments can be put forward in support of the various solutions, which we will analyze in this scientific approach, both legal and jurisprudential, in which sense we note the landmark Petruhhin case (Judgment of the Court, 6 September 2016, Case C-182/15), as well as the Piscioti case (Judgment of the Court, 10 April 2018, Case C-191/16), to which we will refer throughout this study.

Given their geographical proximity, the Romanian courts are dealing with several extradition requests from the Russian Federation and Belarus concerning requested persons suspected or convicted of various offences, which are dealt with under the European Convention on Extradition (Paris, 1957) and its additional protocols.

2. Extradition requests made by the Russian Federation

A Romanian court (Decision No 339 of 2022 of the High Court of Cassation and Justice, Criminal Division) ordered the extradition and surrender to the authorities of the Russian Federation of A. (a Russian and Moldovan citizen), for the purpose of carrying out investigation - prosecution acts for the offences of "*participation in a criminal association created for the purpose of committing serious and particularly serious crimes*", "*smuggling, i.e. the illegal crossing of the customs border of the Customs Union within the limits of EurAsEC of narcotic substances, in large proportions, committed by an organized group*", "*attempted illegal marketing of narcotic substances committed by an organized group in large proportions*", offences referred to in Art. 210 para. (2); art. 229.1 para. (4) lit. a) of the Criminal Code. art. 30 par. (3); art. 228. 1 para. (4) (a) and (d) of the Criminal Code of the Russian Federation. The court ordered the arrest of the extraditable person for a period of 30 days with a view to surrender to the authorities of the Russian Federation.

In terms of the facts, it was stated that "*since August 2012, the subject participated in the criminal community created by the Spanish citizen B. The criminal community was engaged in the smuggling of narcotics on a particularly large scale. From August 2012 to 2017, the subject smuggled cannabis and other substances on a particularly large scale on the territory of the Russian Federation (Moscow region). On 24.08.2017, the subject, as a member of the criminal community, received 885.4 grams of cannabis from the Moldovan citizen C., which he transported to the specially hidden place in the vehicle x registration number x from Ukraine, through the customs checkpoint T. to Russia. Moldovan citizen C. arrived in city X. and in a garage, removed the drugs from the aforementioned hiding place and handed them over to the subject. Thereafter, the subject hid the drugs in a secret place, which was camouflaged in the type of a car, with the aim of further transferring them to other members of the criminal community for a reward.*

The requesting authority also submitted the necessary documents and the guarantees provided for in Article 14 of the 1957 European Convention on Extradition applicable in relation to the Russian Federation were provided.

The requested person has lodged an objection to extradition, stating that he has requested asylum in Romania; he claimed that human rights and procedural safeguards are not respected in Russia and that detention conditions are deplorable" (excerpt from the cited decision).

The court found, in essence, that the legal conditions for extradition were met, that the request for asylum was rejected and that there were no grounds for refusing to execute the extradition request. The Romanian court emphasized that *“the purpose of the extradition procedure is precisely to enable the person to be extradited to participate in the criminal investigation conducted against him in the territory of the Russian Federation, in which context he has the right to contest the charges brought against him and to benefit, in this respect, from the guarantees granted by the judicial authorities of the requesting State regarding respect, during the judicial proceedings, for the fundamental rights laid down in the Convention. Examination of the legality of the procedure for the issue of the arrest warrant by the Russian judicial authorities and of the legality of the evidence adduced falls outside the competence of the judicial authorities of the requested State, since the courts seized of the extradition request are competent to rule exclusively on the substantive and formal conditions of the extradition procedure and not on questions of the legality or merits of the charges against the requested person.”*

Although the High Court of Cassation and Justice found that all the arguments of the first instance were correct, it nevertheless stressed the reason that led to the admission of the appeal brought by the extraditable person, namely: *“the optional ground for refusal of extradition provided for in Article 22 para. (2) of Law no. 302/2004, republished, which provides that “the extradition of a person may be refused or postponed, if his surrender is likely to have particularly serious consequences for him, especially because of his age or state of health”*”.

The Supreme Court also pointed out that, as a contracting party to the Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by Law No 30/1994, Romania must comply with the obligation enshrined in Article 1, namely to recognize the rights and freedoms defined in Title I of the Convention for all persons under its jurisdiction.

Examining all the relevant information, relating both to the particular situation of the person to be extradited and to the objective situation existing in the requesting State, the Supreme Court found that *“there is evidence of the existence of a significant risk of violation of fundamental human rights in the requesting State and/or of the person to be extradited being subjected to inhuman or degrading treatment”*.

Given that on 15 March 2022 the Russian Federation initiated the procedure for withdrawal from the Council of Europe, there is a denial of the jurisdiction of the European Court of Human Rights, the judicial body of the Council of Europe which provides protection in the event of violations of human rights and fundamental freedoms laid down in the Convention, *“which calls for increased caution in assessing the consequences of extradition to the Russian Federation. It is important to point out that the European Court of Justice still has jurisdiction to rule on claims against the Russian Federation concerning violations of the human rights laid down in the Convention.”*

Following this line of reasoning, of the existence of data supporting the uncertainty of respect for human rights and fundamental freedoms in the requesting State, the European Parliament Resolution of 07.04.2022 on the intensification of repression in Russia (2022/2622,RSP), which is based, inter alia, on the statement by the Council of Europe Commissioner for Human Rights of 24 March 2022 expressing appreciation for the courageous work of journalists and human rights defenders, including those in the Russian Federation and Belarus, the statement by the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe of 03.03.2022 on serious violations of the right to freedom of expression and freedom of the media in Russia in the context of the country’s military attack against Ukraine; statement by the UN High Commissioner for Human Rights on the latest developments in Russia and Ukraine.

In the case-law of the Supreme Court, it has been pointed out in this regard that *“from the interpretation of the legal text provided for in Article 22 para. (2) of Law no. 302/2004,*

republished, it follows that this optional impediment to extradition occurs whenever, as a result of the surrender, the situation of the extraditable person risks being substantially negatively affected, regardless of the factors that generate such a risk; the legal provision in question provides only by way of example, the age or state of health of the person, without, however, limiting the impediments to extradition to these two elements. Therefore, since the systemic nature of the inhuman or degrading conditions of pre-trial detention is revealed, as well as the violation of fundamental human rights in the requesting State, the effects of this finding inevitably spill over to individual cases of deprivation of liberty pending trial (Decision No 275 of 03.05.2022, ICCJ, Criminal Division)”.

In another landmark decision (*Criminal Decision No 282/2022 of the High Court of Cassation and Justice, Criminal Division*) which contains aspects that could be considered as rendering the fight against terrorism ineffective, which we will analyze in detail, the Supreme Court upheld the appeal lodged by the extraditable person and rejected the extradition request made by the Russian Federation. The court of first instance (*criminal judgment No 34 of 18 April 2022 of the Suceava Court of Appeal*) granted the extradition request made by the General Prosecutor's Office of the Russian Federation for the extradition of Ms A., against whom criminal proceedings are under way for the offence of participation in an armed formation on the territory of a foreign State not provided for by the law of that State for purposes contrary to the Russian Federation, and ordered her surrender to the requesting State and provisional arrest with a view to extradition.

In fact, in the extraditable person A., it was held that *“in the period from 08.2016 to 27.03.2018, sharing extremist ideas, he left Russia, moving to Syria and intentionally joined as a foreign fighter the armed terrorist formation "B.", which is reported to be a part of the terrorist organization “Islamic State”, and to date has not voluntarily ceased to participate in this armed terrorist formation”.*

With regard to the defence's claim that the extraditable person came to Romania accompanied by his 8-year-old minor child in order to save his life, being endangered by the war in Ukraine, and that the separation from the mother creates a serious condition for the minor, *“it was taken into account that on 11.03.2022, it was ordered that the extraditable person's son, C., to be placed in the Centre “Children's Universe” R. of the D.G.A.S.P.C. X., so that the minor is under the protection of the bodies authorized by law in this regard.*

It was also noted that the extraditable person is not an asylum seeker and does not benefit from refugee or subsidiary protection status, having been identified by the border police of the P.T.F. S. on 11.03. 2022, at 19:12 on the way of entry into Romania, and following the checks carried out, it was found that the person is subject to an Interpol alert with the mention “ARREST”, issued by the Russian Federation on 24.04.2018 and to an alert under Article 24 of the SIS II Regulation 1987/2006, issued by Germany on 09.12.2019, with the crime type mention "terrorism - related activities”.

The court also noted that *“the judicial authorities of the Russian Federation have given assurances in the extradition request that the application is not intended to persecute a person for political reasons, in relation to race, religion, nationality or political opinions, that the extraditable person A., in the Russian Federation, will be provided with every opportunity of defence, including the assistance of legal counsel, will not be subjected to torture or to cruel, inhuman or degrading treatment or punishment, and that the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, as well as the relevant conventions of the United Nations, the Council of Europe and their protocols, will be respected, and that, in accordance with Article 14 of the European Convention on Extradition of 13.12.1957, extraditable A. shall be punished only for the offences in connection with which extradition is carried out, and after the termination of the criminal prosecution or trial and in the event of a guilty verdict, after serving the sentence or after his release, shall be allowed to leave the territory of the Russian Federation, and if extradited to Russia,*

extraditable person A. will be held in an institution that takes into account the standards set out in the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms, and employees of the Romanian Embassy in the Russian Federation will be able to visit him or her in order to verify compliance with the guarantees.”

Although the defence has argued that the extraditable person A. is a victim of the repressive regime in the Chechen Republic of the Russian Federation, the case is a “made-up” criminal case in order to obtain the extradition of the extraditable person to Russia to be punished according to rules other than those laid down in the laws invoked by the extradition request, i.e. Criminal Code of Russia, the extraditable person feared that inhuman and degrading treatment against human dignity would be inflicted on him if he were extradited, the Court held that *“the extradition of the above-named person does not relate to a political offence or an offence connected with a political offence, nor is there any fear that the extradition of the above-named person would endanger his life or liberty or subject him to torture or inhuman and degrading treatment.*

In relation to the submission of the asylum application (on 1.04.2022, almost 2 months after the arrest), although under the provisions of Article 19 para. (1) (b) of Law no. 302/2004, republished, according to which asylum seekers, beneficiaries of refugee status or of subsidiary protection in Romania may not be extradited from Romania in cases where extradition would take place in their country of origin or in any other State where their life or freedom would be endangered or where they would be subjected to torture, inhuman and degrading treatment, the Court takes into account that according to the provisions of Art. (2) of Art. 19 of Law no. 302/2004, “the quality of Romanian citizen, asylum seeker or beneficiary of refugee status or subsidiary protection in Romania is assessed on the date of the final decision on extradition. If this status is recognized between the date of the final extradition decision and the date agreed for the surrender, a new decision will be rendered in the case”.

The court therefore found that no grounds for refusal of extradition had been identified in the case. The extraditable person lodged an appeal against the decision of the first instance, which was rejected by the supreme court, which upheld the decision, in view of several considerations that are relevant to our study:

First of all, the Supreme Court found that the conditions for ordering extradition were met, on the grounds that *“the facts motivating extradition (participation in an illegal armed group provided for in section 2, art. 208 of the Russian Criminal Code) have a corresponding legal basis in Romanian law as terrorist offences provided for in art. 35 para. (1) of Art. 33 para. (1) of the Law no. 535 of 25 November 2004 on preventing and combating terrorism, which are punishable by imprisonment from 5 to 12 years and prohibition of certain rights, and in this case, there are no optional or mandatory grounds for refusal of extradition, in accordance with Art. 18 et seq. of Law no. 302/2004, republished.*

The Supreme Court also pointed out that there are no mandatory or optional grounds for refusing extradition, according to Articles 21 and 22 of the law, and that there are no indications of violation of the right to a fair trial provided for by the ECHR or any other relevant international instrument in this field, ratified by Romania, and that the requesting State has provided the guarantees provided for by the 1957 Convention on Extradition”.

In our opinion, the Supreme Court reasonably considered that “the Russian-Ukrainian military conflict cannot constitute a ground for refusing extradition, the admission of the extradition request being based on the documents in the file and not on circumstantial situations which do not imply a violation of the fundamental rights of the requested person, as there is no evidence in the file leading to this conclusion. Moreover, the arrest warrant and the INTERPOL alert were issued a long time ago, namely on 27.03.2018 and 24.04.2018, following the opening of a criminal file on the extraditable person by the Prosecutor’s Office of the Russian Federation, Prosecutor’s Office of the Chechen Republic, on 13.10.2017 and

the search acts carried out by this Prosecutor's Office for the extraditable person until 15.12.2017, when he was put on the international wanted list."

One aspect worth noting in the perspective of this request is the nature of the offences for which the extraditable person is under investigation in the State of origin, as well as the existence of an alert pursuant to Article 24 of the SIS II Regulation 1987/2006, issued by Germany on 09.12.2019, with the mention "terrorism - related activities" under the heading of the type of offence, which excludes the extradition of foreign person A. for the purpose of prosecution for a crime of a political nature or for an offence connected with a political crime or for the purpose of prosecution or punishment on grounds of race, religion, political orientation or membership of a group, in the absence of data and information in the case file to this effect.

In that regard, the Supreme Court also noted that, under Article 24(2)(a) of the ECtHR's Rules of Procedure, the Court of First Instance had held that (2) of the SIS II Regulation 1987/2006, an alert is issued when the decision referred to in para. (1) is based on the threat to public policy, public security or national security which the presence of a third-country national on the territory of a Member State may pose.

Thus, *"one State of the European Union, Germany, considered that the presence of extraditable person A. constitutes a threat to public policy or public security or to national security, there being serious grounds for believing that he has committed a serious crime or that there are real indications that he intends to commit such a crime in the territory of a Member State, indicating in the alert the same type of offences for which the extradition request was issued, namely offences of the "terrorism-related activities" type.*

Similarly, although the extraditable person claims that the right to a fair trial has been infringed, the High Court found that "there is not enough information to assess that the right to a fair trial has been or will be disregarded, so that extradition can be refused, in accordance with Article 21(2) of the Convention. (1)(a) of Law 302/2002, republished.

In its case law, the European Court of Human Rights has held that an extradition or expulsion decision may exceptionally raise an issue under Article 6 of the European Convention on Human Rights where the person would risk suffering in the requesting State a flagrant denial of justice, i.e. going beyond mere irregularities or lack of safeguards in the trial, which would be likely to result in a violation of Art. 6 of the Convention if it were to occur in the requesting State itself and, consequently, result in the annulment or even the destruction of the right protected in that Article (Ahorugeze v Sweden, Othman - Abu Quatada v United Kingdom).

From a formal point of view, however, the extradition request corresponds to the content of Article 36(2) of the EC Treaty. (2) of Law No. 302/2004, republished, and in support of the request were submitted the extradition request, formulated by the Prosecutor General's Office of the Russian Federation, the decree of 28.10.2017, on the initiation of criminal proceedings, the investigation decision of 13.10.2017, on the initiation of criminal proceedings, the decision of 29. 10.2017, the decision on international prosecution dated 15.12.2017, the decision on taking the measure of preventive arrest, dated 27.03.2018, the conclusion on confirmation of Russian citizenship of the person sought, the request for replacement of the passport of the person sought."

We agree with the conclusions of the Supreme Court, because the argument put forward cannot be contradicted: indeed, in order to verify whether there is a risk of flagrant denial of justice, all foreseeable consequences of sending the extraditable person to the country of origin must be taken into account, without omitting the general situation in that state and the specific circumstances of the case in question, as the European Court wisely pointed out in the grounds of the aforementioned judgments. However, the High Court noted that there is no evidence in the case-file to show that the general situation in the requesting State gives rise to a prima facie infringement of the right to a fair trial of the extraditable person.

Particularly relevant in this case is the fact that the requested person has lodged a complaint against Romania with the European Court of Human Rights, which, prior to his surrender to the requesting State, ordered, by order of 9 May 2022, pursuant to Article 39 of the Court's Rules of Procedure, that the extradition of that person be prohibited, so that he would remain on Romanian territory pending the outcome of the application before the Strasbourg court. It is worth noting that the European Court of Human Rights has not ruled on this case at the time of writing, although the Romanian State has provided all the information and documents requested by the European Court.

This case gives us the opportunity to analyze the way in which the interests of the requested persons should be analyzed and balanced in the component of respect for human rights and freedoms and procedural guarantees with the interest of states to fight against acts of terrorism, acts that have the potential to endanger the rights of a large number of persons, and what would be the optimal solution to balance these interests, in full compliance with the applicable legal provisions.

In our view, the terrorist and related activities, especially as the allegations were made well before the outbreak of the military conflict and to some extent confirmed by another alert entered into the SIS by another State (in this case Germany), should not be omitted, as they are likely to lead to the request for judicial cooperation being granted; in this context, the interim solution ordered by the European Court of Justice seems open to criticism, as it is based on emotion rather than on the legal texts. It should not be forgotten that, although the case should have been dealt with swiftly, even at the time of writing (although almost two years have elapsed) the European Court has still not given a ruling.

Of course, the facts of each case need to be analyzed very carefully, in addition to the aspects already mentioned, as it is necessary to check and balance the general interest (the fight against terrorism) with respect for the rights, freedoms and procedural guarantees of the persons who are the subject of such requests for judicial cooperation.

In relation to the Russian Federation, taking into account the current context, we agree with the opinion held in the doctrine according to which "*caution is required in the analysis of a case involving a request for extradition, which implies in concrete terms the verification of all objective, reliable, precise and updated elements, in order to provide each person subject to judicial investigation with the standards of protection required by European regulations on human rights*" (Pătrăuș 2023, 178).

3. Judicial cooperation in relation to Belarus

With reference to the execution of requests for judicial cooperation in relation to that State, the Supreme Court issued a landmark decision (*Criminal Decision No 275 of 3 May 2022, High Court of Cassation and Justice, Criminal Division*) upholding the extraditable person's appeal and rejecting the extradition request made by the Republic of Belarus.

In essence, the Court of Appeal of Iasi admitted the request made by this State and ordered the extradition of the requested person, noting that "*the named A. is wanted by the Belarusian judicial authorities for criminal investigation in connection with the commission of the offence of "large-scale fraud" provided for in Article 209 of the Criminal Code of Belarus, for which the maximum penalty provided for by law is 10 years' imprisonment, an arrest warrant (without number) having been issued in his name on 6 May 2015 by the Prosecutor's Office of the Z. district, city of Minsk.*"

Under the aspect of the factual situation, it was shown that in the period from 30 September 2014 to 20 December 2014, by cheating and violating people's trust, under the pretext of organizing the "Moto-freestyle" show in the city of Minsk, A sold tickets worth approximately 52,000 USD and then fled."

The court found that the conditions for ordering the extradition and surrender to the authorities of the Republic of Belarus of A. were met and that no grounds for refusing

extradition had arisen in the case. In deciding the appeal brought by the extraditable person, the Supreme Court found that the appeal was well founded and allowed the appeal, ordering that the extradition request be rejected. In essence, the Supreme Court proceeded, as a matter of priority, to establish the legal framework governing the case, finding that Romania and the Republic of Belarus had not concluded a bilateral convention on extradition and that the latter State was not a party to the European Convention on Extradition concluded in Paris on 13 December 1957.

Consequently, extradition between Romania and the Republic of Belarus operates on the basis of rules of international comity, ensuring reciprocity, in which context, according to Article 5 para. (2) of Law no. 302/2004, republished, the common law on the matter for the Romanian judicial authorities is the aforementioned normative act. Consequently, the execution of the request for cooperation, namely the extradition of the person named A. (Israeli citizen) from Romania, at the request of the judicial authorities of the Republic of Belarus, is subject to the fulfilment of the requirements laid down in Articles 18 to 60 contained in Chapter I of Title II of the Romanian Framework Law. However, the Supreme Court found, contrary to the first instance, that the optional ground for refusal of extradition provided for in Article 22(2) of the Romanian Criminal Code applies in this case. (2) of Law No 302/2004, republished, according to which *“the extradition of a person may be refused or postponed if his surrender is likely to have particularly serious consequences for him, in particular because of his age or state of health”*.

It is obvious from an interpretation of this legal text that *“the optional ground for refusal of extradition arises whenever, as a result of the surrender, the situation of the person to be extradited is likely to be substantially adversely affected, regardless of the factors giving rise to such a risk; the legal provision in question indicates, by way of example only, the age or state of health of the person, without, however, limiting the grounds for refusal of extradition to the latter two elements. Consequently, it is for the court hearing the extradition request to identify all the circumstances and risk factors relevant to the optional ground for refusing extradition under consideration, and it is for that court to examine all the relevant information relating both to the particular situation of the person to be extradited and to the objective situation existing in the requesting State. The latter category of information may also include data showing the existence of a significant risk - based on repeated assessments by the competent bodies - of a violation of fundamental human rights in the requesting State and/or of the extraditable person being subjected to inhuman or degrading treatment in the requesting State”*.

The fact that the legal hypothesis laid down in Article 19(1)(b) of the Framework Law is not applicable in this case does not exempt the Romanian judicial authority from the obligation to carry out such an examination.

In this regard, we agree with the conclusions of the Supreme Court which correctly observed that *“as a contracting party to the Convention for the Protection of Human Rights and Fundamental Freedoms (ratified by Law No 30/1994), Romania must comply with the obligation enshrined in Article 1 of this legal instrument, namely, to recognize the rights and freedoms defined in Title I of the Convention to everyone within its jurisdiction.*

However, as has been consistently held in the case-law of the European Court of Human Rights, the extradition of a foreign national by a State party to the Convention may raise problems under Article 3 where there are substantial grounds for believing that extradition would expose that person to a real risk of being subjected to treatment contrary to Article 3 of the Convention in the requesting State (mutatis mutandis, Ahmed v. Austria, no. 25964/94, judgment of 17 December 1996).

The scope of treatment under Article 3 includes inhuman or degrading conditions of detention reaching a certain level of severity, the Convention prohibiting in absolute terms torture or inhuman or degrading treatment. Behavior that humiliates and degrades a person,

showing disrespect for the dignity of the human being or giving rise to feelings of fear, anguish or inferiority such as to break down his or her moral or physical resistance may be characterized as degrading, The European Court has, by way of example, subsumed in this category cases of overcrowding of places of detention (including pre-trial detention), non-existent or limited access to natural light, sources of ventilation or heating, objects of hygiene (mutatis mutandis, Ananyev and Others v. Russia, no. 42525/07 and 60800/08, judgment of 10 January 2012).”

In the light of these theoretical considerations, the High Court noted that in the particular case of the extraditable person, these elements have already been the subject of a previous final judicial ruling by a foreign court, namely the Budapest Court of Appeal which, by judgment of 3 June 2020, rejected a similar request by the Belarusian judicial authorities to extradite that person for prosecution for the acts described in the request to the Romanian authorities. In reasoning this decision, noting the findings of the Commission against Torture in the 2020 Report of the United Nations Human Rights Council on the deplorable conditions and practice of torture and ill-treatment in detention facilities in Belarus and the lack of fundamental safeguards for persons detained in that State, the Hungarian court found that, on the basis of the documents submitted, the requesting State had not provided specific information as to how fair trial rights would be ensured in the event of the requested person’s extradition and the conditions which he would enjoy if placed in detention.

The requested Hungarian court concluded that: *„in the course of the proceedings, on the basis of the additional information requested and received, the Belarusian judicial authority did not exclude with unequivocal certainty the possibility that the extradited person would be subjected to torture or inhuman or degrading treatment in the requesting State. For this reason, and on the basis of the information available, there may be a real risk that the accused person will not be guaranteed the application of the requirements of Article 3 of the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted at the XXXIXth Session of the General Assembly of the United Nations (promulgated in Hungary by Legislative Decree no. 3 of 1988), further, the application of the requirements of Article 3 of the Convention signed on 4 November 1950 in Rome for the Protection of Human Rights and Fundamental Freedoms - and the eight Additional Protocols thereto - (promulgated in Hungary by Act No XXXI of 1993). The court relied on objective, reliable, accurate and sufficiently up-to-date information on the conditions of detention in the issuing Member State, in accordance with the above-mentioned UN Protocol, which specifically demonstrates a systemic or widespread disorder.*

Comparing the contents of the international document with the lack of additional information requested, the court finds that the assurance given in Case A is not sufficient to remedy the systemic deficiency in an individual case.”

Following this line of reasoning, the Romanian court dealing with the request for extradition of the same person cannot disregard the above-mentioned definitive findings of the Hungarian court, since no new elements have come to light, from which a significant change in the situation of persons subject to preventive deprivation of liberty on the territory of the requesting State can be credibly inferred, as the Romanian Supreme Court rightly noted. In this regard, the High Court noted that all the circumstances that justified the refusal of extradition from Hungary are also confirmed by the data on file with the Romanian authority, from which similar conclusions of international fora monitoring the situation in Belarus, both before 2020 and afterwards, can be drawn.

In this regard, it was noted, on the one hand, *“the conclusions of the Report on Prison Conditions in the Republic of Belarus prepared by the International Federation for Human Rights in June 2008, according to which “prison conditions in Belarus are highly unsatisfactory and amount to inhuman treatment prohibited by the International Covenant on Civil and Political Rights, the UN Convention against Torture and Other Cruel, Inhuman or*

Degrading Treatment or Punishment and other international treaties ratified by the Republic of Belarus:

- *detainees do not have access to basic legal documents defining their rights and obligations;*
- *detainees are virtually without legal protection;*
- *administrative conditions are particularly harsh for detainees: no beds, showers, walks, overcrowded cells, poor sanitation, poor quality of food and water, no parcels etc.;*
- *detention conditions at the Ministry of the Interior are also poor: overcrowding, high humidity, low temperatures in winter and high temperatures in summer, poor food quality, widespread tuberculosis;*
- *detainees placed in punitive isolation wards are kept without communication, in cold temperatures and without the possibility to move around; the quality of food is low and the quantities are insufficient, leading to serious diseases;*
- *transport conditions for detainees are extremely unsatisfactory, as they can go without food or water for days;*
- *death row inmates are kept in complete isolation from the world and are unaware of their fate;*
- *mass arrests at times of political tension led to totally unacceptable conditions of detention”.*

As for pre-trial detention conditions, it was concluded that they are the same as those in detention: “most frequently, respondents complained of overcrowded cells, widespread anti-hygiene, poor food quality and unsatisfactory medical care”; “possibly such conditions in pre-trial institutions are the result of lack of funding and lack of any control over prison establishments”. In light of these findings, the International Federation for Human Rights has recommended that third states refuse to extradite suspects to Belarus as the conditions of detention are inhumane and make it impossible to provide adequate legal defence in criminal proceedings.

On the other hand, the Supreme Court also noted in the decision under review, the shortcomings described above persisted beyond 2020, “having been noted by the UN Human Rights Council in its 2021 report, the Special Rapporteur on the situation of human rights in Belarus, which stated that it is deeply alarmed by the unprecedented escalation of human rights violations in Belarus that it witnessed during the period under review (2020 and early 2021). While the political crisis and social events once again proved the cyclical nature of the increase in human rights violations during election periods in Belarus, they also revealed deep-rooted institutional weaknesses of the state machinery, especially the police and the justice system, used not to protect human rights but rather to curtail them. Of particular concern is that the situation continues to worsen in a climate of fear, impunity and lack of accountability for perpetrators.”

The same report noted that: “persons in pre-trial detention or serving administrative detention sentences were held in inhumane conditions, in overcrowded cells with no ventilation, access to water or toilets. Combined with delays in access to health care, such poor sanitary conditions have been a source of additional concern in the context of the coronavirus disease pandemic (COVID-19)”.

In the same sense, the Romanian court also noted the report of the United Nations High Commissioner for Human Rights (OHCHR) of 4 March 2022, which “provides an overview of the human rights situation in Belarus with regard to the elections of 9 August 2020, including the application of arbitrary detention, torture and other cruel, inhuman or degrading treatment, the failure to effectively investigate allegations of such violations and the lack of respect for due process and fair trial rights, noted that “the testimonies of victims and witnesses collected in the context of the review corroborated numerous accounts of torture, ill-treatment and inhuman conditions of detention documented and analyzed by other

organizations, including those of the Organization for Security and Cooperation in Europe (OSCE) and the Moscow Human Dimension Mechanism. These analyses lend further credibility to OHCHR findings that torture and ill-treatment have been systematically used as tools to punish and intimidate detainees.

In the context of these findings, the UN High Commissioner has recommended that other UN Member States fully respect the principle of non-refoulement, in particular with regard to human rights defenders, journalists and victims of human rights violations who have fled Belarus to their territories, and take measures to protect their rights and allow them to lead a dignified life (...)."

The Romanian court also noted that such a conclusion is reinforced by *"the information transmitted to the first instance on 14 April 2022 by the Ministry of Foreign Affairs of Romania, from which it appears that according to "the assessments of all international organizations, the human rights situation in Belarus continues to be problematic. Political opponents, human rights activists and independent media are subjected to pressure and oppressive measures by the authorities. The government in Minsk has been criticized for human rights violations and persecution of non-governmental organizations (...) and for failing to meet electoral standards. Restrictive legislation on fundamental freedoms has not been amended and the authorities have not taken steps to remedy serious, systematic human rights violations."*

In the light of these overwhelmingly important arguments, the High Court found that the objective data at its disposal credibly substantiates the fear that surrendering the extraditable person to Belarus would expose him to a significant risk of being held in detention in inhuman or degrading conditions and of not having his fundamental rights respected on its territory during the criminal proceedings.

4. Conclusions

To those arguments, it is correct to add that the fact that the acts of which the extraditable person is accused do not constitute political offences or that he does not belong to the categories of domestic opponents or activists who are particularly exposed to the risk of pressure from the authorities is not such as to preclude such a conclusion. Since the authorities in the matter have revealed the systemic nature of the inhuman or degrading conditions of pre-trial detention, as well as the violation of fundamental human rights in the requesting State, the effects of that finding inevitably have repercussions on individual cases of deprivation of liberty pending trial, as in the case of the person in question. Consequently the Romanian Supreme Court found that there was an impediment to extradition and ordered the refusal of the extradition request made by the judicial authorities of the Republic of Belarus. We therefore consider that the optional grounds for refusing an extradition request must be analyzed in a balanced manner, in relation to the specific features of each case and respect for the rights recognized and guaranteed to persons subject to criminal proceedings, rights which are elevated to the level of principles of the criminal process, characteristic of any democratic state and the rule of law, so as to avoid the risk that persons subject to requests for cooperation may be subjected to cruel, inhuman or degrading treatment.

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Intertemporal Aspects of Keynes' Multiplier: On the Long-Term Benefits of Green Investments

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ABSTRACT: One of the hallmarks of macroeconomics is the Keynesian multiplier. John Maynard Keynes described the multiplying effect of new investments in the economy to have multifaceted influences on the overall wellbeing of nations. The notion that investments drive economic activity and growth is consolidated with many empirical findings in different domains. Interestingly, hardly any account exists on intertemporal aspects of Keynes' multiplier. The discounting and temporal elements of multiplying effects and the time-lag for investments to bloom in the economy are – to this day – not captured. Behavioral economics offers ample account on discounting. People are found to focus on the present rather than discounting for future instances properly. Integrating a temporal element into the Keynesian multiplier effect offers opportunities to understand the long-term benefits of green investments. Environmentally-conscientious finance has seen an advent in most recent decades. To this day, however, there is no clear account of the performance of green funds. Temporal aspects in Keynes' multiplier may help understand the difficulty in determining the long-term advantages of green investments. Adding information on the long-term benefits of green funds may also serve contemporary endeavors to capture wealth in nature. This article is organized as follows: First, an introduction describes Keynes' multiplier and temporal discounting. Then the need for integrating temporal aspects into Keynes' multiplier is outlined. The application of temporal Keynes' multiplier aspects in the green investment domain is provided. The discussion closes with a prospect for future research avenues.

KEYWORDS: behavioral economics, economics, finance, green funds, green investments, Keynes' multiplier, sustainability, temporal discounting

Introduction

John Maynard Keynes (1936) gave rise to the mathematical formalization of the influence of investments on the overall economy. Governmental spending was since then proven to have a positive multiplying effect within national economies. Empirical accounts consolidated that one point in governmental spending is, in general, associated with around 1.6 points rise in positive economic output. To this day, however, temporal aspects of the Keynesian multiplier are not well understood and under-researched.

Temporal discounting is a hallmark in behavioral sciences. Standard neoclassical economics assumptions of constant temporal choice were challenged by empirical evidence on temporal dimensions of discounting being non-linear. Choices over time were found to deviate from a constant choice pattern and an overall bias to be focused on the now became apparent in multiple economic studies (Kahneman, Slovic and Tversky 1982). Temporal choice and hyperbolic discounting have therefore become some of the most studied phenomena in the behavioral sciences (Puaschunder 2022). It is therefore surprising that hardly any account exists on the connection of temporal discounting and the Keynesian multiplier. This paper sets out to integrate temporal dimensions in the standard Keynesian multiplier applied in the domain of green investments. Outlining temporal aspects of green investments may help solve the ongoing discussion whether green investments in general tend to outperform or underperform conventional investments. The paper offers the following

structure: Theoretically, the Keynesian multiplier and temporal aspects in accounting for the multiplier are described in order to be applied to green finance. A discussion provides insights for future research on the multiplier function of green finance in the age of economically capturing wealth in nature and the environment.

Keynes' Multiplier

Economic multiplier effects of governmental investments were first described in John Maynard Keynes' *The General Theory of Employment, Interest and Money* (1936). During the Great Depression of the 1930s, Keynes (1936) found that large construction projects but also innovation in research and development are valuable macroeconomic accelerators (Puaschunder 2021). Since then the idea of investments for the good of the nation has been studied in many empirical investigations. Overall, multipliers were found to benefit society as a whole in the short and long term. The general positive multiplier effect is estimated to be around a 1.6 multiplier – meaning that 1 USD spent by the government leads to an overall increase of the economy by 1.6 USD (Puaschunder 2021). Multiplier effects of the money spent lead to consumption, which helps economic growth. The underlying assumption is that governmental spending in investment projects create economic growth and prosperity for all parts of society due to trickle down effects (Puaschunder 2021).

Two dimensions of the multiplier appear unstudied to this day: For one the industry-dependent effect of the multiplier, for another the temporal dimensions and potential time-lags of multipliers. As for industry dependence of the multiplier, the spill-over effect of investments hinders a clear accounting of differences in multiplier functions over industries. But evidence from past large-scale investments' success indicate that long-term investments in infrastructure have better outcomes over time than short-term oriented spending patterns on durable goods. Research appears needed to better our understanding of the time impact of multipliers that are believed to unfold with a time-lag.

First accounts exist to empirically relate the multiplier to timings of demand shocks (Mittnik and Semmler 2011). The multiplier was found to be stronger in bad times (Mittnik & Semmler 2011). Time-dependent multiplier studies appear rather technical on how to integrate a time dimension into the multiplier concept and hardly any study is applied in the economics domain (e.g., Burke, Hsiang and Miguel 2015; Lee, Lim and Park 2018). Unraveling the time effect of multiplier functions, however, could offer invaluable insights for the study of the efficiency and widespread effect of green investments.

Discounting

While standard microeconomic theory captures linear temporal discounting to explain rational decision making; behavioral economics finds human time perception to be biased with a focus on the now in many laboratory and field settings (Kahneman, Slovic and Tversky, 1982). Temporal discounting therefore has become a hallmark in behavioral sciences and cognitive studies. The temporal dimensions of multiplying functions of investments in the economy and the time-lag associated with investment multiplications, however, is yet a field that has not been studied in economics. Capturing temporal dimensions of multiplying functions of investments offers multiple insights ranging from better calibrated estimations of economic output and growth, more time-sensitive applications of the multiplier given an overall economic climate of change as well as political implications on when to administer multiplying investments in the overall voting cycle scheme. This article, therefore, makes the case for research on temporal dimensions of the multiplier applied in the environmental green investment domain.

Green investments

Contemporary international finance politics has opened up to responsible investment trends around the world. In the last decades, green investments and sustainable finance concepts evolved. Sustainable finance integrates environmental, social and governance (ESG) aspects in finance and investment decisions. Green finance is a subset of sustainable finance with particular attention to environmental concerns. Ever since the advent of sustainable finance and green investments, the question was whether these market options outperform or underperform conventional funds. The relation of SRI and environmentally friendly funds with market performance is – to this day – inconclusive (Ito, Managi and Matsuda 2013 in Puaschunder 2023). Ito, Managi and Matsuda (2013) find SRI funds outperformed conventional finance in EU and US. Successful SRI funds include pension funds and community investment, in which financial institutions offer favorable (lower) rates on loans for urban development projects (Ito, Managi & Matsuda 2013 in Puaschunder 2023). Environmentally-friendly funds do not perform as well as SRI, but perform in manners equal or superior to conventional funds (Ito, Managi & Matsuda 2013 in Puaschunder 2023). Environmentally-friendly funds appear to hold value when they are highly innovative (Puaschunder 2010). Negatively-screened funds that rule out options for environmental reasons, however, tend to underperform conventional broad-based market options (Puaschunder 2010). Unraveling now the long-term impact of multipliers applied in the green finance domain holds multiple insights for the current endeavor to measure green wealth aspects.

The contemporary discourse on economics features the wish to account for natural resources in standard governmental budgeting and macroeconomic calculus. The Next Generation EU Sustainable Finance Taxonomy but also the U.S. White House endeavors to bring nature into economics target at assessing changes in environmental and ecosystem conditions in benefit-cost analyses (Reamer 2023; White House 2023). The current World Bank Changing Wealth of Nations report also starts integrating natural resources and greenhouse gas emissions into international accounting. The Columbia University-hosted Mapping Climate Justice project calculated the expected economic changes due to climate change (Puaschunder 2020). Integrating now time-sensitive aspects of macroeconomic multipliers offers a new perspective on how to integrate green assets into the overall economic calculus.

While there are many studies of discounting environmental conditions, including climate change focused investigations, no account exists to measure the multiplier effect of green investments (Kahn et al. 2019). Green investment multiplying effects are believed to be multifaceted: For one, financial performance of green funds is expected to rise in the future (Puaschunder 2023). For another, the environmental preservation and conservation of a favorable environment are likely to gain on importance with the multiple avenues capturing wealth of nature (Reamer 2023; White House 2023). Society also directly benefits from a favorable surrounding in better conditions for a healthy environment that preserves long-term health and thereby acts as an implicit preventive measure (Puaschunder 2021).

Future research endeavors

Responsible finance is an *en vogue* topic of our times. The 2008 World Financial Recession but also the COVID-19 pandemic economic fallout have driven a call for responsible finance. Climate change has exacerbated the wish to stabilize the environment and heightened the call for a rapid financialization of climate change mitigation and adaptation efforts around the world. This paper addressed the most recent trends to bring nature into national accounting and to measure nation's wealth in terms of stable environmental conditions. In the quantification of the benefits of green investments, a temporal aspect of the multiplying function of green funds is missing. Opening up the measurement of the success of green finance for temporal aspects offers to better tact sustainable investments given concurrent

business cycle dynamics. Applying temporal discounting insights from behavioral finance onto the standard Keynes' multiplier advances economic theory and empirics.

Future research could open the Keynesian multiplier theory and empirical validation for temporal aspects and outline the unfolding of multiplying investment benefits over time. Keynesian multiplier aspects should also start to systemically test different domains and offer comparative insights into what aspects of the multiplier are better equipped to create long-term and lasting value.

Environmental studies that focus on the financialization as well as green finance investment practices could become elucidated with empirical validations of the efficiency and long-term impact of green finance. The time-flow of green investments could be tacted in line with general economic cycles. Improvements in the domain of green finance could also happen if certain aspects of green finance – e.g., entrepreneurial or long-term value generating – are found to be particularly successful. The concept of the overall multiplier could be opened up for a multi-faceted investigation of the many explicit but also implicit benefits of a stable environment and favorable conditions. For instance, not only health and productivity benefits are attributed to a good environmental setting, but also time perception advantages were found in studies being associated with environmental prospects (Puaschunder 2020).

The concrete research endeavors could feature qualitative and quantitative investigations. Qualitative research could address the multiple experiences with green finance and sustainable investment from an exploratory perspective. Literature reviews, expert interviews but also qualitative narrative accounts of people who invested in green funds could serve as an exploratory basis to address the multiple dimensions of the Keynesian multiplier. Qualitative research is hardly the basis for studies in macroeconomics and could therefore offer invaluable first insights into the quality and nature of green investment multipliers. Qualitative investigations could also serve to validate first ideas about the positive implications of green investment funds that are of more subjective and psychological nature. The socio-psychological motives of responsible finance have been investigated for financial decision makers theoretically, which warrants for a deeper analysis of the motives' interrelation and finding out actual decision drivers (Puaschunder 2017). Qualitatively, the long-term impact of multipliers could also integrate psychological effects of knowing about previous investment aid. Socio-psychological studies have already found that resilience is dependent on previous experiences that aid was given. Future qualitative multiplier investigation could now delve deeper into the socio-psychological components of governmental aid and the notion of being protected by the state. Quantitative research is the state-of-the-art in macroeconomic studies and the primary source of information about the Keynesian multiplier. Macroeconomic research of the future could unravel the different facets of multipliers and the general role of multipliers over time. The long-term impact of multipliers applied in the environmental domain should be expanded onto a concrete quantification of benefits that are derived from environmentally-sound investments.

Overall, the post-2008 World Financial Recession, as well as the post-COVID-19 economic shock, have prospered green finance. Climate change has exacerbated attention to the need for a stable environment that thrives human. Green finance has become a viable market tool that is supported by governments all over the world. It is yet surprising that hardly any information exists on the multiplying functions of green investments that trickle down in the overall health and well-being of nations aside from clear financial benefits. This paper served as a first attempt to advocate for studying the Keynesian multiplier effect in the environmental domain for green investments and sustainable finance. Future research avenues featuring qualitative and quantitative innovations for green finance were provided in the hope to ignite the scientific advancement of green wealth of nations for this generation and the following.

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Causes of Non-Imputability in Romanian Criminal Law

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ABSTRACT: This study focuses on the causes of non-imputability provided in the Romanian Criminal Code from 2009, as it entered into force in 2014. It presents eight causes of non-imputability: physical constraint, moral constraint, non-accountable excessiveness, underage perpetrator, mental incompetence, intoxication, error, fortuitous case. In the Romanian criminal legislation, the causes of non-imputability are a new element, replacing the notion of causes that remove the criminal character of the act used in the Criminal Code from 1968. When it is established that an act provided for by the criminal law was committed under the conditions of one of the causes of non-imputability, that deed will not constitute a crime from the perspective of removing the imputable character that leads to the impossibility of applying a punishment or an educational measure. The effect of the causes of non-imputability does not extend to the participants, except in the fortuitous case.

KEYWORDS: physical constraint, moral constraint, non-accountable excessiveness, underage perpetrator, mental incompetence, intoxication, error, fortuitous case

Introduction

Chapter III of Title II of the general part of the Romanian Penal Code (title dedicated to the crime) is entitled “Causes of non-imputability” and devoted to them, causes that remove the fourth essential feature of the crime, namely imputability. The causes of non-imputability are personal causes, which do not fall on the participants, they will only benefit the person who acted under their empire, except in the fortuitous case. These causes of imputability can be general, respectively those provided in art. 24-31 of the Romanian Criminal Code, with incidence on any act provided by the criminal and special law, with applicability only in the case of the offenses to which they are provided.

Physical constraint

Art. 24 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when committed as a result of physical constraint which the perpetrator was unable to withstand”. Physical constraint is the pressure that an irresistible force exerts on the physical energy of another person in such a way that he commits an act prescribed by criminal law, being physically unable to act otherwise. In judicial practice, most acts provided by the criminal law committed under the influence of physical constraint are acts of inaction. The perpetrator is prevented from fulfilling his legal obligations (Mitrache and Mitrache 2016, 193-194). The conditions of physical constraint are as follows:

- There must be a constraint on a person’s physical body;
- The constraint to which the person was subjected could not have been resisted;
- Under the influence of physical constraint, the person commits an act provided by the criminal law.

As a result, the deed committed under physical constraint is not a crime, it does not have a criminal character because it is not imputable to the perpetrator. The act, not being a crime, consequently does not attract criminal liability. Civil liability is also removed in principle (Mitrache and Mitrache 2016, 195).

Moral constraint

Art. 25 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when committed as a result of moral constraint, exercised by threatening grave danger of the person of the perpetrator or another person and which cannot be removed in any other way”. Moral constraint consists in the pressure exerted by the threat of serious danger to the person of the perpetrator or to another person and under whose influence the threatened commits an act provided for by the criminal law.

In order for there to be moral constraint under the authority of which an act provided for by criminal law is committed, the following conditions must be met (Mitrache and Mitrache 2016, 195-196):

- To commit the act provided for by the criminal law under the influence of a constraint exercised by threat;
- There must be an action of constraint exercised by the threat of serious danger;
- The serious danger with which it is threatened cannot be removed otherwise than by committing the alleged act.

The act committed under the influence of a moral constraint is not a crime because it is not imputable to the person who committed it. Not being a crime, the deed committed under the influence of moral constraint does not attract the perpetrator’s criminal liability either. If the perpetrator could act in a different way than by committing the act provided by the criminal law, moral constraint is excluded.

Although the legal text seems clear, in practice situations may arise in which it is difficult to assess the incidence of this cause of non-imputability. For example, in one case, it was held that although “qualified instigation involves the use of some forms of constraint, in this case, the constraint exercised by the defendant is circumscribed to the causes that remove the criminal nature of the act, and consequently, the two operatives committed the act without guilt, on the grounds that according to the legal provision, the act provided for by the criminal law committed due to a moral constraint carried out by the threat of a serious danger to the person of the perpetrator or another and which could not be removed in another way, does not constitute a crime. In this case, the fear of losing one’s job, given the increase in unemployment in Romanian society, was enough for the two to commit the act, as the only alternative to evil” (Franguloiu 2004, 77). In that case, the payment was ordered against the two operations, on the grounds that at the order of the defendant, who owned the commercial company, the two operations engaged to modify the payment provisions, switching to the heading “payment purpose” – “advance for settlement” in the place of the initial and real mention “advance dividends” by which dividends of a large value were raised and collected in relation to the contribution of the associates to the company’s social capital, the bad faith being manifested by the defendant who owned the company, who used the respective amounts in interest personally, not at all for the proper functioning of the company, circumstances that were not communicated to the civil party neither before the withdrawal from the company, nor afterwards, a situation in which the civil party was damaged with a large amount of money due to it as dividends.

Non-accountable Excessiveness

Art. 26 of the Romanian Criminal Code provides: “(1) An act stipulated by criminal law does not carry imputability when committed by a person in legitimate defense who exceeded, because of psychological turmoil or fear, the limits of defense proportional with the seriousness of the attack. (2) An act stipulated by criminal law does not carry imputability when committed by a person in a state of necessity, who at the moment of committing the act did not realize they were causing consequences that were clearly more serious than those that would have occurred had the threat not been removed”.

Under this name, in the provisions of the Romanian Criminal Code, two causes of non-imputability are provided which are closely related to two justifying causes: self-defense and state of necessity. The non-accountable excessiveness knows two ways that arise from exceeding the limits of legitimate defense and from exceeding the limits of the state of necessity. The conditions of the non-accountable excessiveness of self-defense (Duvac, Neagu, Gamenț and Băiculescu 2019, 371):

- The pre-existence of the conditions of legitimate defense itself, with the exception of proportionality;
- Exceeding the limits of a defense proportional to the severity of the attack;
- Exceeding the limits of a defense proportional to the seriousness of the attack to be due to the disturbance or fear of the perpetrator;
- The act committed must be prescribed by the criminal law.

The deed committed by exceeding the limits of legitimate defense is not imputable to the person who committed it, because he committed the deed due to the disorder or fear he was in at the time. The act, being committed without the feature of immutability, is not a crime and, consequently, also removes the criminal liability of the perpetrator.

The conditions of the non-accountable excessiveness in the rescue action (Duvac, Neagu, Gamenț and Băiculescu 2019, 372):

- The pre-existence of the conditions of the state of necessity, with the exception of the non-existence of a clear disproportion between the consequences produced and those that could have occurred if the danger was not removed;
- Exceeding the limits of the state of necessity;
- The perpetrator did not realize, at the time of committing the act, that he was causing clearly worse consequences than those that could have occurred if the danger had not been removed;
- The concrete fact must be provided by the criminal law.

The deed committed by the person in a state of necessity, which produced clearly more serious consequences than those that could have occurred if the danger was not removed, is not imputable, because he did not realize at the time of committing the deed these follow the act, being committed without the feature of immutability, is not a crime and, consequently, also removes the criminal liability of the perpetrator.

The non-accountable excessiveness differs from the justifying cause of the legitimate defense, but also from the legal mitigating circumstance of the challenge by the very conditions of their existence, as provided by the legal norm. Thus, in the hypothesis of legitimate defense, the agent is in a position to defend himself or another person or their rights or a general interest, from a direct, immediate, material and unfair attack, as provided by the provisions of art. 19 para. 2 from Romanian Criminal Code. In the case of non-accountable excessiveness, due to the disturbance or fear in which he was at the time, the agent exceeds the limits of a defense proportional to the seriousness of the attack.

Judicial practice offers numerous examples of the delimitation of the justifying cause from that of non-imputability, but also of the mitigating circumstance I mentioned earlier. For example, the circumstance that the defendant caught his concubine having sexual relations with the victim, whom he repeatedly hit, causing her death, represents a state of strong disturbance, caused by the victim's attitude, in the sense of the mitigating circumstance and not the cause of imputability or justification. For example, the fact that the defendant followed his concubine and saw, through the window of the house, how she was having sexual relations for money with another man, opened the window with a piece of iron and entered the house. The woman ran out the kitchen door, and the defendant pounced on the victim, whom he punched and kicked, and the victim died as a result of the injuries caused by these blows. The court held that the defendant's act does not fall under the scope of legitimate defense or non-accountable excessiveness, but of the legal mitigating circumstance of

provocation, determined by the fact that “it is difficult to ask a normal person to react calmly and normally in the conditions in which he surprises his partner life leaving the shared bedroom to another man’s home to have sex with him in exchange for sums of money. As such, the victim’s act of having sexual relations with the defendant’s life partner represents a provocative act, likely to create a strong emotion or disturbance for the defendant and reduce the possibilities of self-control for the latter and determine for him reactions which, in under normal conditions, it would not have happened” (Franguloiu 2002, 23).

The fact that the victim entered the defendant’s home with the purpose of having intimate relations with his wife, being stabbed by the defendant, was also considered a provocation, as representing a state of strong disturbance determined by the victim’s behavior, in the sense of art. 26 of Romanian Criminal Code (Franguloiu 2002, 24).

On the contrary, the existence of this cause of non-imputability (the legitimate defense in the previous form provided for by art. 44 par. 3 Romanian Criminal Code, the regulation being identical) was retained in the case of “the act of the defendant who, after being assaulted by the victim in his own home, on several occasions and being taken by surprise, punched it, is considered to have been committed in a state of disturbance and fear, due to which he exceeded the limits of a defense proportional to the severity of the attack” (Franguloiu 2006, 19). In this case, the court of judicial review found that *“the first instance truncatedly analyzed the administered evidence and made an assessment of the proportionality of the forces of the parties separated from the context in which the act was committed. Thus, it turned out that the parties were mere acquaintances, neither friends nor enemies, rarely visiting each other. On that day, on the name day of the defendant, the victim came uninvited, the two consumed alcohol and after an hour, the defendant excused himself for not drinking anymore and intended to make tea, proposing this to the victim and while he was on his back he was hit hard on the back, in the head area. After falling between the stove and the charcoal burner, the defendant was further hit by the victim in the face, with his fist or foot. As a result of these blows, the defendant’s glasses were broken and he lost consciousness for the moment. When he managed to get up, he reproached the victim for his behavior and asked him to leave, but the victim continued to attack him, threatening to “finish him”. Under these conditions, the defendant panicked, punched the victim and pushed her, causing her to fall and hit her head on the mosaic cement. (...) Being transported to the hospital, the victim fell into a coma and died immediately. The cause of death was traumatic and hemorrhagic shock, the consequence of polytraumatism with multiple facial wounds and hematomas, extensive cervico-thoracic hematoma, multiple rib fractures and lung ruptures; death was favored by multiple pre-existing chronic conditions, namely: myo-cardio-sclerosis, advanced aortocoronosclerosis, renal sclerosis, liver dystrophic lesions. (...) It is beyond any doubt that the defendant reacted to the untimely attack of the victim, the injuries inflicted on her not being very serious in themselves, as long as the first medical-legal assessment assessed that it required 14-16 days of medical care for healing. Only the pre-existing conditions described were likely to favor death. Under the conditions of the described factual situation, it is difficult to claim that the defendant remains passive in the face of the victim’s aggression or that he measures the force of his blows according to her resistance. The fact that he played sports and was obviously stronger than the victim should not be evaluated in the abstract, without considering the circumstances in which the assault took place. Being taken by surprise in his own house by a person who came to congratulate him on his birthday, being hit and threatened with death for no reason, there are just as many causes that created a state of disturbance and fear for the defendant, on the background whose reaction to punch the victim appears legitimate, his excess being fully justified. In the process of assessing the state of disturbance and fear, the age of the defendant must also be taken into account - 66 years old at the time of the act - age likely to accentuate the emotions of the person in such borderline situations”* (Franguloiu 2006, 19).

Underage Perpetrator

Art. 27 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when committed by an underage person, who at the date of commission of the act did not meet the legal requirements for criminal liability”. Minority is the state in which the minor perpetrator finds himself who, at the time of the commission of the act provided for by the criminal law, had not reached the age of criminal responsibility.

According to criminal law, a minor who has not reached the age of 14 has no criminal capacity, and in the case of one between the ages of 14-16, the presumption of discernment is relative (Buzatu 2012c, 226). Underage perpetrator removes the criminal character of the act if the conditions are met (Mitrache and Mitrache 2016, 200):

- To commit an act provided for by the criminal law;
- The perpetrator, at the time of committing the act, does not meet the legal conditions to be criminally liable;

The deed provided by the criminal law committed by a minor who, at the time of its commission, did not meet the legal conditions to be criminally liable is not a crime, because it is not imputable to him. The perpetrator did not meet the conditions of biopsychological development that would allow him to understand the character of his actions or inactions and to direct them consciously. Minority status removes the criminal nature of the act and, by way of consequence, also criminal liability (Mitrache and Mitrache 200-201).

Safety measures can be taken against minors aged 14-16, if they acted indiscriminately (Buzatu 2012b, 88). Practically, this cause of non-imputability has incidence strictly in the situation where the minor was under 14 years old at the time of committing the act, or if he was between 14 and 16 years old, he did not have discernment proven by medico-legal expertise; at the same time, the minor between 16 and 18 years of age is responsible according to the law, but the condition of the existence of discernment is mandatory not only in the case of minors, but also in the case of adults, as an essential condition of imputability as an essential feature of the crime.

In the event that the minor had discernment, a non-custodial educational measure may be applied to him or, in the case of committing serious crimes, a custodial educational measure. In any of these scenarios, when choosing the educational measure, the court will take into account that *“primarily, education must prevail before the sanction, and the authorities’ responses to the actions and personality of the delinquent must be proportionate and show a certain degree of tolerance towards of the committed act”* (Franguloiu 2004, 90). In this case, the court noted that *“this degree of tolerance was imposed by the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, known as the Beijing Rules which were adopted by Resolution no. 40/33 of November 29, 1985 of the General Assembly of the United Nations Organization and represents a guideline for states in the matter of protecting the rights of children and respecting their needs in the development of juvenile justice systems; these rules constitute the first international document that details the rules for the administration of justice in relation to minors, with an emphasis on the rights of the child, they have the character of rules of recommendation, which means that from the point of view of public international law they are not binding as such, but , these principles were taken over in the Strasbourg Convention on the Rights of the Child, a convention to which Romania acceded and which thus became internal law. This convention provides in art. 27 that minors can only be deprived of their liberty in exceptional situations and for a minimum period, and the deprivation of liberty must be carried out according to legal principles and procedures, a provision also taken over in the Riyadh Principles and the United Nations Rules for the Protection of Private Minors of freedom adopted as a result of the debates of the 8th Congress of the United Nations on the prevention of crime and the treatment of criminals in Havana since 1990 and by Resolution no. 45/112 and 45/113 of 14 November 1990.*

The most important document, however, is the International Convention on Civil and Political Rights, which contains multiple protective measures applicable to all persons before the courts and under arrest and which stipulates that “in the case of young people, the judicial procedure will be carried out in such a way that their age and desire to rehabilitate is taken into account - art. 14.4. – regulation that has mandatory character”.

The Convention reaffirms, with regard to children, already recognized human rights, specifies the need to take into account the special needs and vulnerability of the child, and sets standards in areas that are pertinent or specific to the child.

Article 37 of the Convention includes the principle that deprivation of liberty should be regarded as a method of last resort and provides that detention should be ordered for the shortest possible period of time. (...) In the case brought to trial, the minor who committed the crime was not yet 18 years old, he is in his first encounter with the criminal law, he showed sincerity, remorse for the committed act, he stated that he understood that he was wrong and that he will not commit such acts again, all of which form the court’s conviction that the minor’s deprivation of liberty is not required” (excerpt from the cited decision).

Analyzing these case decisions, we can rightly affirm that the courts demonstrated a creative activity, a completely different approach from a modern perspective and adapted to the transforming society and prepared the ground for the new approach of the Criminal Code in force, the aforementioned decisions being pronounced under the rule of the criminal law prior to the criminal law reform.

Mental Incompetence

Art. 28 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when committed by a person who, at the time of commission of the act, was unable to understand their actions or inactions or to control them, either because of a mental condition or because of other reasons”. Mental incompetence is the state of psychophysical incapacity of a person who cannot realize the social significance of his actions or inactions or cannot control them. Mental incompetence refers to the mental incapacity of the person both intellectually, when he cannot realize the social significance of his actions or inactions, and from a volitional aspect, when he cannot determine and direct his will normally (Mitrache and Mitrache 201-202).

The mental incompetence of the perpetrator removes the criminal character of the act if the following conditions are met (Duvac, Neagu, Gament and Băiculescu 2019, 374):

- The perpetrator, at the time of committing it, could not realize his actions or inactions or could not control them;
- The state of mental incompetence must exist during the commission of the act;
- The state of mental incompetence was caused by a mental illness or other causes;
- The deed committed in a state of mental incompetence must be provided for by the criminal law.

The deed committed in a state of mental incompetence is not a crime because it cannot be imputed to the person who committed it. The the mental incompetence perpetrator lacks intellectual and volitional mental capacity regarding his actions or inactions. Mental incompetence removes the criminal character of the act and, by way of consequence, removes the criminal liability. Against the irresponsible perpetrator, safety measures of a medical nature can be taken.

Intoxication

Art. 29 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when committed by a person who, at the time of commission of the act, was unable to understand their actions or inactions or to control them, because of involuntary intoxication with alcohol or other psychoactive substances”.

Intoxication represents an abnormal psychophysical state of the person due to the effects they have on the body and the person's mental faculties, certain psychoactive substances introduced into his body.

Alcoholic or psychoactive substances (for details see Buzatu 2012a, Buzatu 2015 and Franguloiu, Hegheş and Costescu 2023) introduced into the person's body cause deviations from the person's normal psychophysical state, from the diminution to the complete annihilation of the intellectual and volitional psychophysical capacity in determining the attitude towards the acts he commits in this condition.

For the existence of this cause of non-imputability, the following conditions must be met (Duvac, Neagu, Gament and Băiculescu 2019, 375):

- The state of intoxication must be accidental and be due to involuntary intoxication with alcohol or other psychoactive substances;
- The state of intoxication determines the impossibility of the perpetrator to realize his actions or inactions or to control them;
- The state of intoxication must exist at the time of committing the act;
- The concrete fact must be provided by the criminal law.

The act committed in a state of involuntary and complete intoxication is not a crime, because it lacks imputable character. When the state of voluntary intoxication was caused in order to commit the crime, it constitutes a legal aggravating circumstance. In practice, accused persons often plead intoxication to escape criminal liability, but to be incidental, this state must be pre-existing to the commission of the act and complete, so that the person is deprived of the ability to realize or to control his actions. For example, in one case, the defendant invoked alcohol intoxication as having the value of a justifiable cause, but the court rejected his defense: in fact, *“the defendant, after consuming alcohol, around 10:00 p.m. went to his home to the injured persons, knowing their household, because in the past he was employed as a day laborer by them, he broke into a warehouse behind the house by destroying the insurance system. The injured person X. moved to the warehouse, hearing noise, surprised the defendant and he hit him twice with the blunt edge of an ax over his hands when he parried the blows aimed at the head. Hearing screams, the injured person's wife also came out, whom the defendant hit in the head, once, with the blunt part of the axe. Then, the defendant brought the two injured people into the kitchen and, taking advantage of their advanced age, immobilized them by tying their hands and feet with string found in the home. Then, with the threat of death, brandishing a knife, physically assaulting them, he demanded that they give him the money in the house and robbed them of a larger amount of money and other property. Later, he requested a person to come and transport him with the luggage to the city and while waiting for her arrival, he continued to consume alcohol. Before leaving, he set fire to some items of clothing, but the fire remained smoldering and did not spread to the kitchen where the injured persons were. Towards morning, they managed to untie themselves, called a neighbor and notified the police. On the same day, when the defendant was identified by the police, he tried to hang himself, but was saved by the police”*. (Franguloiu 2005, 31-33).

Although the defendant claimed that he has an ethanol addiction, a circumstance that affects his discernment, the court rejected his defense, on the grounds that the medico-legal expertise showed that *“the defendant has borderline intelligence, introverted, egocentric personality, adaptive rigidity, insecurity, apathy, has an impulsive-aggressive-excitabile personality disorder, does not have ethanol addiction and has discernment of the committed acts. (...) the particular dangerousness of the defendant is also proven by the fact that upon leaving, leaving the kitchen, he placed a small hut and a piece of wood near the door, after which he set fire to several items of clothing in the storeroom, a danger that is not mitigated by the suicide attempt that took place the next day, in his home, when he was identified by*

police workers - this attempt had as its cause the regret for the crimes committed, but the fact that he was detected and identified.”

Error

Art. 30 of the Romanian Criminal Code provides: “(1) An act stipulated by criminal law does not constitute an offense when committed by a person who, at the time of commission of the act, was unaware of the existence of a state, situation or circumstance that determines the criminal nature of the act.

(2) The stipulations of par. (1) also apply to acts committed with basic intent that are punishable under criminal law, but only if ignorance of the state, situation or circumstance is not itself the result of basic intent.

(3) The state, situation or circumstance the perpetrator was unaware of at the moment of commission of the act shall not constitute an aggravating circumstance or aggravating circumstantial element.

(4) The stipulations of par. (1) - (3) shall apply accordingly to the case of ignorance of a legal stipulation outside the scope of criminal law.

(5) An act stipulated by criminal law does not carry imputability when committed as a result of ignorance or erroneous knowledge of its illegal character owing to a circumstance that could not have been avoided in any way.”

If, at the time of committing the act, the perpetrator did not know or knew wrongly certain facts of reality that are likely to give the act a socially dangerous character, the error he is in deprives him of the possibility to foresee the result of his act and implicitly to consciously determine the will (Bulai and Bulai 2007, 274).

Conditions (Duvac, Neagu, Gament and Băiculescu 2019, 377-378):

- The perpetrator did not know the existence of a rule of extra-criminal law, of a state, situation or circumstances on which the criminal nature of the act depends or an aggravating circumstantial element;
- The false representation of reality or of the extra-penal legal norm must exist at the time of committing the act;
- The element on which the error bears must be a constitutive or aggravating element;
- The act committed in a state of error must be provided for by the criminal law.

Error on a constitutive element excludes imputability. In the case of acts committed out of fault, error excludes imputability, only if the ignorance of the respective state, situation or circumstance is not itself the result of fault. Error on an aggravating circumstance or an aggravating circumstantial element, removes their application in the given case. In all these situations, certain safety measures can sometimes be taken.

Fortuitous Case

Art. 31 of the Romanian Criminal Code provides: “An act stipulated by criminal law does not carry imputability when its result is a consequence of a circumstance that could not have been foreseen”. The fortuitous case denotes the situation, the circumstance in which the action or inaction of a person has produced a result which that person did not conceive or pursue and which is due to an energy whose intervention could not be foreseen.

An act is considered to have been committed accidentally when the following conditions are met (Mitrache and Mitrache 2016, 215):

- The socially dangerous result of the deed must be the consequence of the intervention of a circumstance outside the will and conscience of the perpetrator;
- The perpetrator was unable to foresee the intervention of the circumstance (foreign force) that produced the result;
- The act that produced a socially dangerous result due to the unpredictable intervention of a foreign energy should be provided for by the criminal law.

The deed committed in a fortuitous case is not imputable and thus its criminal nature is removed, criminal liability is also removed as a consequence. For example, in one case, the defendant was acquitted for committing the crime of culpable bodily harm, as a result of the accidental incident, in the situation where an improvisation was carried out on the brake system of his car, which he did not know about and he didn't even have the opportunity to notice it (unless he checked the car lifted on the lift, which can only be done in a car workshop and by a person with specialized knowledge), the car being under warranty, so at a sudden brake, the rod connected with a wire was removed, which caused the uneven locking of the rear wheels and the impossibility of controlling the car, the evidence from the file confirming that the defendant did not know about the improvisation and that it was carried out at the service unit, without his consent and that this improvisation was approved by the mechanics (Franguloiu 2011, 288).

The defendant was charged through the court notification, that he did not fulfill his obligation to ensure, before leaving for the race, that the technical condition of the car allowed him to do so, the obligation referring to the transmission, braking, rolling, lights and signaling. It is necessary to specify that this obligation has a limited character, being reported at the level of the driver who does not have specialized knowledge and does not possess a brake test stand, respectively an elevator or an inspection channel and that, in no case, does it cover the obligation of each driver (male or female), as before starting the race, to put the car on the lift, so as to check under the car everything related to the braking system.

The technical expertise carried out in the case found that noting the removal of the pressure limiter actuation rod and tying the lever with a wire was not possible either on the brake test stand or visually, if the car was in motion. It was held that relative to the specific moment of the accident, the sudden change in the direction of travel of the car driven by the defendant was not due to his intention, because it was not carried out by the driver's command, but was determined by the braking of this car, as a result of removing the pressure limiter actuating rod and fixing the valve control lever in the permanently open position, which led to uneven locking of the rear wheels and the impossibility of being able to control the direction of travel of the vehicle, so that the improvisation from the system braking caused the sudden change of direction.

Another essential aspect, which eliminates any fault on the part of the defendant, is that the car was under warranty, the mandatory technical inspection had been carried out and the defendant insisted that special attention be given to the braking system during the inspections, because suspicious noises were heard, but at the service unit, he was told that everything is fine, the conclusion of the court being that that improvisation was carried out at the service, all the more since the mechanics approved this improvisation system. Therefore, the defendant did not know the existence of these external factors, nor did he have the real and concrete possibility to know these factors, so that he cannot be held criminally liable.

In conclusion, by examining physical and moral constraints, non-accountable excessiveness, underage perpetrators, mental incompetence, intoxication, error, and fortuitous cases, this study emphasizes the complex issue of establishing criminal responsibility. It is essential to review and improve these frameworks as legal principles evolve in order to safeguard the rights of people involved in the criminal justice system.

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Transversal Competences for the Labor Market

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ABSTRACT: In the last two decades, the competence-based learning system has spread in Europe, aiming to develop young people's skills to help them perform in a knowledge-based economy (Chapman and Aspin 2013). This system ensures labor force mobility and transparency in the European space and at an intersectorial level. As a regional policy, European education, including higher education, was reformed based on the Lisbon Strategy and the Bologna Process (EMD 1999), and in Romania, the European recommendations regarding the new frameworks of qualifications in higher education were taken over, achieving the connection at EQF*. From another perspective, employing companies validate the importance of skills for the Romanian labor market and the level of satisfaction of employers with the skills of higher education graduates. As a typology, employers consider transversal skills more important than professional ones, both at a conceptual level and as a degree of acquisition following the completion of higher education. In this article, competence is seen as an outcome, reflecting the requirements of a job, according to Tate (1995) and Rowe (1995). In other words, competence is investigated, denoting what a person knows and is able to do to perform the tasks required by a given occupation (Winterton 2009). Since 2005, a process of substantiating study programs on competencies and learning outcomes has been developed in Romania. In the framework of the research, I sought the answer to the question of how the importance of transversal skills of candidates is perceived on the labor market, their type, and the way in which they translate the knowledge and skills that a graduate of the Romanian education system must have. We also explored the most common ways of integrating transversal skills into the university curriculum and their impact on students' personal and professional development.

KEYWORDS: quality education, skills development, graduate, social inclusion, economic competitiveness

1. Introduction

Currently, more than three-quarters of European Union (EU) companies report difficulties in finding workers with the necessary skills, with only 37% of adults taking regular training courses. As a result, the European Year of Skills is an initiative that aims to promote the importance of skills development among European citizens; is a specific year designated to emphasize and highlight the need to improve individual skills in a variety of areas, including education, vocational training, employment and everyday life. The objectives of the European Year of Skills may vary according to the specific context and priorities set by the organizations and authorities involved. However, in general, these objectives may include: raising awareness among citizens of the importance of skills development and lifelong learning; ensuring access to learning opportunities and skills development for all citizens, regardless of age, gender, ethnic origin, socio-economic status or other characteristics; improving professional and technical skills to meet the demands of the labor market and to support innovation and economic growth; promoting high-quality education and training systems that prepare individuals for current and future challenges and encouraging cooperation between EU member states to promote the exchange of best practices and support the process of recognition of skills at European level.

Why is a year dedicated to developing and updating skills needed? There are several reasons why it is important to pay special attention to skills development. Such an initiative provides a platform to draw public attention to the importance of skills development in a constantly changing society, and skills development can play a crucial role in combating social

* EQF is an 8-level, learning outcomes-based framework for all types of qualifications that serves as a translation tool between different national qualifications frameworks.

exclusion and promoting social cohesion by increasing the chances of all citizens to actively participate in social and economic life.

Furthermore, such a year can serve as a catalyst for promoting policies and initiatives that support lifelong education and training, as well as improving access to them. Because a focus on skills development contributes to increasing economic competitiveness and stimulating innovation by preparing individuals for the demands of the labor market in a constantly changing economy.

Last but not least, a European Year of Skills can promote cooperation between EU member states in the field of education, vocational training and skills development, facilitating the exchange of best practices and improving the recognition of skills at European level. How do we build the future?

2. Skills acquired in higher education

As a result of the green and digital transitions, which are the most visible and with widespread impact, new skills needs are emerging in today's society, and the EU is acting to ensure their continued development and to remain economically competitive globally. In the European labor market, the required skills may vary depending on the sector and the field of activity of an organization, but there are some general skills that are increasingly sought after and valued in the European work environment. From this perspective we mention digital skills first because technology plays a central role in most industries. These include computer skills, proficiency in the use of domain-specific software, knowledge of information security and the ability to effectively navigate the digital environment. If we look at the business environment, for example, we notice that many companies and organizations across Europe are going through a digital transformation process to remain competitive in today's business environment. Thus, many jobs in various fields, including business, health, education and public services, now require basic or advanced digital skills. This involves the adoption and integration of digital technologies in all aspects of the business, from internal operations to customer interaction, which entails a true digital transformation of today's workforce.

Also, the IT and technology industry is constantly expanding in Europe and the demand for professionals with digital skills is increasing. These skills can include programming, software development, data analysis, cybersecurity, and more. Moreover, technological advancement brings with it the automation of processes and the use of artificial intelligence in a variety of fields, which requires digital skills to implement, manage and use these technologies effectively. In the context of an increasingly digital society, it is important for the EU to ensure that all citizens have access to digital skills in order to enjoy the benefits of technology and participate fully in the digital society. Overall, digital skills are increasingly essential in the European economy, both for economic growth and innovation, and for social inclusion and labor market participation. It is one of the reasons why it is important that individuals, educational institutions and governments invest in developing and promoting these skills to ensure prosperity and success in the digital age.

The ability to communicate in different environments and with different groups of people is essential in almost all fields of activity. This skill involves the ability to convey information, ideas or feelings in an effective and appropriate way in different contexts and with different audiences. Some important aspects of this competence consist in the adaptability of the communication style; in active listening that involves paying close attention to the other's message, carefully interpreting and understanding what is being said and responding accordingly; in empathy and understanding of the perspectives and feelings of others; in clarity and conciseness embodied in the use of simple and accessible language, in the elimination of jargon and ambiguity, and in the presentation of information in a structured and logical way; in recognition of cultural diversity and social or organizational context. Along with all these elements, in the digital age, it is important to be familiar with various

communication media such as email, instant messaging, video conferencing, etc. The ability to use these tools effectively facilitates communication in different contexts and increases the effectiveness of collaboration. Overall, the ability to communicate in different environments and with different groups of people is crucial for success in the professional and social environment and the development and improvement of this competence contributes massively to building solid interpersonal relationships, to effective problem solving and to the achievement of individual and organizational goals.

Critical thinking and problem solving are two essential skills that are increasingly in demand in professional and social environments. They involve the ability to analyze situations and evaluate information objectively, identify problems and find effective solutions. They consist of collaboration and teamwork skills, adaptability and flexibility, language skills to be integrated in a culturally and linguistically diverse Europe. Recognizing and defining problems and the ability to generate and evaluate various solution options lead to informed and well-founded decision making. So that developed skills to evaluate the risks and benefits of each option, to anticipate the consequences and to select the most suitable solution according to the given objectives and circumstances are more and more necessary in an economic and social environment with the current characteristics. Also, the skills mentioned above are equally necessary for the effective implementation of the solution and for monitoring the progress of reaching the set objectives. We can conclude that critical thinking and problem solving are essential skills that can contribute to success in the professional and social environment, are constantly evolving and determine the cultivation of a continuous learning mentality.

Collaboration and teamwork skills are essential in the contemporary work environment, where projects and initiatives are often carried out in collaboration with other colleagues or business partners. These skills involve the ability to work effectively with others to achieve common goals and achieve desired results. In order to cope with the current demands of the labor market, the higher education graduate must have effective communication, understand and give other team members trust and respect for good collaboration and share resources and responsibilities to achieve the best results.

Interdisciplinary collaboration in today's work environment where projects and initiatives can often involve the participation of people from different fields or with different expertise is an increasingly demanded requirement in the labor market, as is the ability to be able to manage conflicts and tensions work constructively to reach solutions acceptable to all team members. Added to this is the open and constructive feedback that is crucial to continuous improvement in performance and collaboration. We conclude that developing and improving these skills can facilitate the achievement of organizational goals and improve individual and team performance as a whole.

The ability to adapt and be flexible is extremely valuable in today's work environment, characterized by rapid and unpredictable changes. This competency refers to the ability to adapt to changing circumstances, to quickly adjust one's behavior and approaches to new requirements, and to effectively handle new or unexpected situations. Some important aspects of this skill involve the ability to adapt to changes in the environment, technology, procedures or other aspects of the work environment. It is important to be able to see change as an opportunity for growth and development, and not as a threat, as an opening to new ideas and perspectives, to solve problems creatively, with an open mind and innovative solutions, instead of the blockage in the routine or in the traditional way of thinking. Also, the ability to adjust to various roles and responsibilities in the current work environment, where you may have to assume various roles and responsibilities depending on the needs of the organization or the demands of projects, coupled with effective communication in new contexts or with new people and managing stress and uncertainty in a work environment characterized by rapid change and uncertainty can contribute to professional and personal growth and facilitate career success in an ever-changing world.

Language skills are essential in an increasingly globalized world and can be valued in different fields and contexts, including professional, academic, social and cultural. Language skills include the ability to speak and understand a language effectively, reading and writing skills, the correct use of the language's grammar and vocabulary, the ability to speak fluently and correctly pronounce the words and sounds of the language, and the knowledge and understanding the culture and context in which the language is spoken. In an increasingly interconnected world, multiple language skills are becoming increasingly valuable. These may include the ability to speak and understand several foreign languages or to communicate effectively in various linguistic media - verbal, written or digital communication. Overall, language skills are essential for effective communication and interaction with diverse groups of people and in different contexts. Developing and improving these skills can facilitate professional, academic and social success and open up new opportunities and perspectives in an increasingly diverse and interconnected world.

We believe that all students need to acquire advanced "transversal skills" that can be applied in a wide range of situations, such as critical thinking and problem-solving skills. Acquiring key skills (numerical and digital skills) is also essential. Skills, regardless of their field, are essential in modern society, where rapid changes and the complexity of the work environment demand varied and up-to-date skills. Therefore, the training program must provide a diverse range of skills, including technical skills, soft skills and specialist knowledge, to prepare individuals for the complex demands of the labor market which must be flexible and adaptable, as the work environment and demands the labor market is constantly changing. In conclusion, training programs should provide a balance between technical and non-technical skills, be flexible and adaptable to changes in the work environment, and promote collaboration, communication and continuous learning. These are the key elements in preparing individuals for success in an ever-changing society and economy.

3. Transposition of skills into university programs

National and regional policies in the field of education, especially in higher education, have reoriented towards market-type solutions (Bleikli 2000). Tertiary education graduates had to be endowed with skills, attitudes and behaviors that would support them in employment shortly after graduation, becoming useful to employing organizations and quickly integrating into their environment. Transposing the need for transversal skills in universities can be achieved through a series of educational strategies and practices, of which curriculum revision and adaptation is by far the most appropriate method. Universities are revising their curricula to better integrate transversal skills into curricula. This involves *introducing courses or modules that focus on developing communication, critical thinking, problem solving, collaboration and leadership skills*. Curriculum review in universities involves several steps and strategies and starts with the analysis of labor market requirements, which involves consultation with employers in various fields, analysis of data on employment rates and trends in the field, followed by the next step which is the identification of skills relevant transversals based on the information obtained from the analysis of the labor market and the updating and integration of the courses. Teachers can use interactive and experiential teaching methods to promote the development of transversal skills (e.g. case studies, group projects, simulations, internships and real-world practice).

Collaboration with the employer is crucial to ensure the relevance and topicality of university study programs. Through this collaboration, universities can better identify the needs of the labor market and adapt their curricula to meet them. The concrete ways in which universities collaborate with them are strategic partnerships, updating and adapting the curriculum, holding regular consultation sessions with employer representatives to get feedback on study programs and facilitating employment opportunities for their students

through these partnerships. The organization of events and conferences is added to facilitate the interaction and exchange of ideas between students, teaching staff and professionals in the respective fields that provide students with the opportunity to develop their professional networks and learn more about the opportunities in their field of study (eg presentations, panel discussions, career fairs and networking). Universities thus ensure that their study programs remain relevant and up-to-date, and that their graduates are prepared to face the demands and challenges of the modern labor market.

If we speaking about *the certification of the quality of education*, certification and accreditation processes are used to assess the quality and standard of education offered by universities and accreditation agencies evaluate the academic programs, faculty, resources and infrastructure of the institution to ensure that they meet academic standards and professional. The inclusion of transversal skills in the accreditation criteria is done to promote the development of transversal skills and universities must demonstrate that their study programs and educational practices promote the development of communication skills, critical thinking, problem solving and collaboration. In addition, universities can offer cross-skills certification programs that are recognized by employers and other relevant institutions.

Career counseling and support are extensive services to help students identify and develop transversal skills relevant to their career goals. This support could include one-on-one counseling sessions, workshops and online resources. Universities also facilitate internship and employment opportunities for students, collaborating with employers and organizations in various fields. These hands-on experience opportunities are essential for developing practical skills and building the students' professional network.

4. Research methods

The most appropriate research method, which is based on analysis, may depend on the specific objectives of the research, the context the availability of resources and the nature of the available data. However, an effective and widely used method in analysis-based research that we used in this research is qualitative analysis.

Qualitative analysis, a research method that involves the detailed examination and interpretation of textual content in order to identify patterns, themes and deep meanings, is appropriate when researchers want to understand in depth the perspectives, perceptions and experiences of the study subjects, respectively the transposition of transversal competences in education programs university level.

Thus, we did a *thematic analysis*, which involves identifying and analyzing the themes and patterns that appear in the collected data. We identified keywords, recurring ideas, and patterns of interaction occurring in the data and interpreted them to derive deep meanings. Through content analysis, we *interpreted* units of meaning from a text or data set and developed data categories and subcategories. Through the method of phenomenological analysis, we explored and interpreted the subjective meanings of the experiences in order to identify the essence of the researched phenomenon - transversal skills in their relationship with the labor market and university level programs.

5. Conclusions

The educational system has the difficult task of adequately meeting the expectations of the labor market and developing the skills necessary for young graduates to become efficient employees. The assumption of responsibility for the quality of the workforce must be accompanied by the adoption of a set of strategies to ensure the quality of the educational process, an important condition being good information on the requirements of the internal and external environment. By knowing the skills required by employers, educational institutions obtain important feedback that allows the orientation of the teaching-learning process, so as to effectively respond to the needs of the labor market.

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A Parallel Study of Romanian and Italian Traditional Culture

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ABSTRACT: Through his enduring work and innovative forays as a pioneering researcher and true intellectual, De Martino remains a prolific culture maker and a pioneer in the field of ethno-anthropology, contributing to a remarkable extent, including advancing research in the field and continuing to stimulate, in a substantial way, those interested in following his path. In addition to his vast theoretical background, De Martino's genuine personality has always guided him to a form of knowledge based on experience, with his field research developing innovative methodological approaches - even through the integration of new technologies - confirming De Martino as a true guide in applied ethnological research. Through the extensive use of photography as an essential tool for critical analysis of scientific evidence, all research techniques undergo transformation. The author advocates for the necessity of expanding the study of De Martino's work within Romanian academia, particularly focusing on the relationship of the Italian scholar with Romanian folklore, treated and viewed in comparison with the forms of manifestation of Italian popular culture. In this exploration, fascinating aspects and similarities of tarantism with the ritual elements of the Romanian Căluș can be detected. The *Căluș* dance, included in UNESCO's List of Intangible Cultural Heritage (2005), stands as an important national emblem and a symbol of Romanian identity.

KEYWORDS: Romanian folklore, tarantism, Romanian *căluș*

The concept of tradition

When it comes to popular culture, we think of that culture specific to rural, traditional, archaic, premodern societies, its artistic expression being folklore. Each nation is characterized by a particular behavior, certain traditions, a specific physiognomy and a particular cultural pattern. On the level of popular culture, the ethical, moral, fundamental and basic values are developed, along with the basic mythologies of a group, and the attempts to understand the world are being formed. The language of every nation is also formed and developed, as well as the common knowledge concerning the world around us. With respect to such archaic popular culture, we discover certain characteristics, namely: the anonymous and collective character (the popular creation does not belong to an individual, it is not its property and it may be emphasized in time); the spontaneous and oral, as well as the integral nature (the artistic manifestations, such as dance, music, popular clothing, form a unique cultural element, they are not shifted, the popular culture includes both the material and the spiritual culture).

With modernization, this popular culture loses this integral nature; it appears that organized folklore transforms into a form of entertainment, a product. It acquires the particularities of an industrial product with a specific market and consumers. Through the loss of the integral character, we notice how the artists customize their works; they attend qualification courses and different craft schools, they are no longer anonymous, and the popular culture becomes, over time, part of the mass culture, with these two notions being synonymous in works of certain American sociologists.

Fundamentally, tradition means a plurality of all customs, traditions, beliefs, and conceptions historically rooted in some social groups, perpetuated through generations by word of mouth, for a nation or a social group being its individual characteristic. In Latin, tradition entails the transmission of some cultural values, keeping alive in the memory of a group the historical past. In particular, this concept may be regarded as a psycho-social phenomenon providing for the participation of one's own system of rather stable spiritual and

material values. There is another conceptual delimitation, namely the tradition as continuity and, according to Ovidiu Papadima, “tradition is also a manner of living, not only of thinking of Romanian peasant.” (Papadima 1995, 9). The traditional culture is marked by a permanent attempt of man to create a universe of symbols and signs, to conquer the unknown world and discover its complexity.

The tradition is related to the concept of creation, in terms of complexity and unity, as well as a “different phenomenon, it also entails the psychical, logical and abstract level.” (Blaga 1981, 80). The cultural creation provides dignity to traditional man, being an “occasion of personal assertion” (Rădulescu Motru 1995, 142).

Traditional Practices in Romanian and Italian Cultures

Human existence may be depicted based on its significant aspects, respectively: birth, marriage, and death. The traditional culture of a nation relies on certain moral virtues, on different cultural elements of special importance, on a system generously charged with customs. By focusing on values and essences, the Romanian tradition seems to belong to the same history. The village is also a vocation: it has thus crystallized the destiny of a nation beyond its image that expresses the traditional ethnicity.

The Romanian traditional culture includes customs, folklore, popular art and ceremonial, namely all our traditional inheritance. This phenomenon of traditional culture may be considered “the first significant cultural synthesis appeared in the Romanian space” (Ghise 1985). It starts from the questions that the man of old communities asked himself with respect to the human condition, nature, and the signification of it in time, appointing to a popular philosophical knowledge permanently present in the spiritual pattern of Romanian society, a significant part being represented by how the man of such traditional communities was referring to time. There is a historical time opposite to the mythical time, that archetypal element by which each representation of existence on earth is justified, a time of “repeatability, focused on the sources of spiritual creation that determine the man to actually reexperience the genuine purity” (Cristea 1979, 72). This mythical time returns to the ritual recall of the past, to the beginnings. As Romus Vulcănescu used to say, the calendar does not measure only the time but, mainly, the “chromocratic spirits and divinities” (Vulcănescu 1985, 19)

The passing from the world of common people, including life and its feelings to the transcendent world, relatively unconditioned, to eternity, respectively the placing of man in the mythical time, take place only on key, significant moments, namely during significant events of man’s life and rituals. What is important is the intuition in the popular universe gives place to the mythical vision of time. The sacred time is the time of celebrations. In the traditional communities, different magical-mythological practices that structure the traditions and beliefs appear and succeed in time. In the traditional mindset, the profane and sacred time are complementary, they are not suddenly separated. Depending on the moon’s cycle, the magical-mythical rites of fecundity and fertility are established.

Each people entail historical evolution clearly involving the tradition. As proven by experience, it is a “condition of cultural progress” (Vianu 1982, 249-250), except for a background of values less obvious, as well as an alive value-creating background. The Romanian tradition includes the Romanian vision of the world, the traditional man is placed in an alive works, in history and culture, in the universe, in a specific existence. The tradition is alive, it is not a frozen image, but representative in terms of values, and it is an archive of values, considering the future historical evolution.

The author developed this article focused on both the fascination with the strong personality of De Martino, but also being interested, for a long time, with interest and curiosity, to the cultural-identity aspects of the traditional societies found in folklore, popular culture or in the representations of mythical nature, actively present as existential

manifestation in the world of the village, for a while, even after the beginning of the modern era. It is easy to notice that the analysis tools developed and used by Ernesto de Martino to study his cultural area of origin, in this case, the Italian, can also serve the academic environment in Romania, which already has, for a long time, a recognized tradition in the field of sociological research, in this case, ethnological and anthropological, developed by important personalities, founders of the School of Sociology in the interwar period, such as Dimitrie Gusti or Henri Stahl. I was able to see the relationship between tarantism and the elements of Romanian folklore (on which De Martino turned his attention with great interest).

In fact, De Martino's preoccupation with the Romanian lament ritual, the scientist can reflect carefully on the meanings of the crisis of mourning, burial and mourning. De Martino fully contributed by innovating the methods of taking folk material: the reform of ethnological studies.

In fact, De Martino treats with deep and detailed analysis the concept of "magic", which De Martino seeks to find its roots rather in the concrete world of the village, which he discovers in Lucania, with the beginning of the "southern" phase research of the great anthropologist and entologist.

Thus, the captured aspects are brought together in the form of subtle analyzes and observations where the central issue is represented by the theme of pain, expressed by the ritual of mourning, a Mediterranean rite prior to Christianity, which marks the confrontation with the existential crisis, but which also finds a "solution" by the process of dehistoricization, by placing the very existence in a mythical-ritual dimension. De Martino fully contributed by innovating the methods of taking folk material. The latter is more profoundly understood in the description of the days dedicated to the field research, in which De Martino studies ad locum tarantism and the aspects that this ancient custom encompasses, guaranteeing solutions to the "crisis of presence". From this point of view, the magic of traditional societies can be perceived as a compass in understanding the primordial representations of the world.

UNESCO included the *căluș* ritual in its heritage list and was proclaimed a "Masterpiece of Intangible Cultural Heritage of Humanity" (in 2005), then, in 2008, the *căluș* was included in the Representative List of the Intangible Cultural Heritage of Humanity. This dance is considered to be one of the most energetic, dynamic and impressive treasure piece in the Romanian folk culture. The *căluș* was included in the repertory of each Romanian folklore ensemble. The modern version of this dance is mainly determined by its unconventionality, especially when it comes to the dance composition, presenting higher virtuous qualities. The dance is not only performed on a feast day, but on every regular festival event as well.

The National Festival "*Călușul Românesc*" ("*The Romanian Căluș*") opened the door to a lasting typical dance choreography from one generation to the next. The *căluș* dance is the oldest, most intricate form of ritualistic choreography in Romania, including practices and magic charms which are used following a very strict tradition. Is considered to be an outstanding dance performance in the Romanian folklore, the *căluș* does not solely denote a typical symbol of national identity, but an ancient custom, deep-rooted in mythology.

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The Indispensability of Science and Morality for the Sustainability of Nations

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ABSTRACT: The proposition that science and morality are indispensable for the sustainability and prosperity of nations is an idea that finds broad support in academic and theological circles. The centrality of science to the advancement of our societies is self-evident, as the technological innovations that have arisen from scientific inquiry have enabled us to solve some of our most pressing challenges. However, the importance of morality is equally salient, as it provides a moral compass for our actions and decisions. In the absence of such ethical guidance, the fruits of scientific endeavor may result in unethical practices that ultimately cause harm to individuals and society as a whole. Thus, it is imperative that we continue to accord both science and morality the respect and attention they deserve, recognizing that they are fundamental to our pursuit of progress, prosperity, and sustainability.

KEYWORDS: Moral science, theological knowledge, divine forbearance, divine judgment, fairness in governance, societal harmony

Introduction

“Ethics, Moral Science, or Moral Philosophy, is the science which teaches men their duty. It is called Moral Philosophy because it employs similar reasoning to that used in other philosophy departments” (Dagg 1860, 13). It is interesting to approach the study of the Bible from an academic point of view. The Bible is a rich source and undoubtedly a wellspring of theological knowledge and understanding, and it is fascinating to explore the comprehensive revelation of God throughout its pages. The concept of salvation from sin is a crucially important theme in the Bible, and it has resonated with people for thousands of years.

Faith and science can coexist in harmony as long as they do not try to invalidate one another. It is important to have an open mind and use our gift of reason to approach these two concepts in a way that respects and values both (Montgomery 2012, 254). As long as we approach them with respect and a willingness to learn, we can find ways to integrate them in a way that benefits us all. Ultimately, it is about finding a balance and being willing to consider new perspectives.

„In our day we have reached a turning point in the history of thought at which natural science and theological science are confronted each in their own way with the need to adopt a fundamental attitude to the universe as a whole and allying itself with unwarranted cosmological presuppositions and speculations” (Torrance 1981, 62).

Referring to moral fatalism since 1916, Karl Barth states that God is the Creator and I concur with Karl Barth's perspective regarding the order of creation (Moseley 2013, 95). Undeniably, work, marriage, family, and leadership equality are essential orders that remain unalterable despite historical circumstances. On the other hand, nationhood or statehood falls under the category of 'accidental' orders of history and does not belong to the fundamental orders of creation. Acknowledging the distinction and significance of each order is crucial in preserving a well-rounded viewpoint.

It is worth noting that certain viewpoints do not view the state as a pre-fall construct, but rather as a manifestation of divine forbearance and peace-making. This notion highlights the significance of acknowledging the state's role in fostering reconciliation and upholding societal harmony (Moseley 2013, 96). The state, insofar as it is a human construct, is

inevitably susceptible to the sinful tendencies inherent in human nature. As a result, the state's actions and policies are subject to the same imperfections and flaws that afflict human society. However, it is possible to mitigate these shortcomings by implementing measures that promote justice and fairness in governance. In doing so, it becomes possible to minimize the negative impact of human sinfulness within the state's operations, thereby creating a more equitable and effective system of governance.

Biblical examples of nations' approach concerning morality and science

It is interesting to note the first biblical accounts of the destruction of a people due to their moral corruption, as described in Genesis 6:11-17. According to this account, only Noah and his family were spared from the flood of waters that wiped out the rest of the animal and human race, as they were deemed righteous by God. This account showcases the idea of divine intervention in response to human sinfulness and serves as a cautionary tale about the consequences of moral corruption (Genesis 6:17).

David R. posited that the story of Noah's flood serves as a tangible reminder to humanity of its inherent depravity. This narrative further resonates with the constant decay of the world, which is a replica of humanity's moral and spiritual degeneration. This perspective encourages us to reflect on the current state of affairs and consider the moral and spiritual decay of humanity that is reflected in the world around us (Montgomery 2012, 40). According to his calculations, Noah boarded the ark on a Sunday, December 7, 2349 BC, and traveled a little over a year in the ark, disembarking on December 18, 2348 BC, saving his family and all living things in the ark (Montgomery 2012, 97).

William Rayan's research on Noah's Flood cites the work of two notable geophysicists who have identified a catastrophic event that altered history. This event, a massive flood, occurred no more than seven thousand years ago. The implications of this discovery are significant and may provide insight into the biblical story of Noah's flood (William 1998, 323). In addition to identifying the catastrophic flood event, William Rayan's research also suggests that the flood is evidence of the annihilation and repopulation of the Earth. He points to the drift deposits of boulder-strewn clay found throughout Scotland and Northern Europe as a clear indication of a massive torrent, supporting the biblical story of Noah's flood (William 1998, 56). The discovery of evidence in areas affected by flooding is a fascinating subject worthy of investigation. The Middle East region has been the focus of extensive research efforts since 1991, which have yielded remarkable results. It is reassuring to learn that a thorough and comprehensive approach has been taken in this area (William 1998, 261). The discovery of a flood in the Black Sea has been a subject of scholarly interest for decades. In fact, evidence of such an event was first uncovered in 1967. The significance of this discovery is not lost on the geologists and chemists of the Woods Hole Oceanographic Institution on Cape Cod, Massachusetts, who were responsible for extracting sediment samples saturated with plant and animal remnants. Their achievement is a testament to the power of scientific inquiry and the value of interdisciplinary collaboration (William 1998, 103). The organic carbon content of extracted sediments has yielded an impressive concentration of 50 per cent. In contrast, the percentage of extracted carbon from oceans is notably lower, with a drastic drop to only one per cent. This disparity highlights the remarkable evidence (William 1998, 103-105). According to the approximations of the researchers, these sediments were dated to be no more than a few thousand years old. William also says that observations suggest that researchers from Moscow State University have conducted research with analogous outcomes. These researchers investigated sediments extracted from drillings situated on the bed of the Black Sea, located in the Kerch Strait, in the countries of Crimea, Ukraine, Romania, and Bulgaria (William 1998, 106). Rob Clark, an enthusiastic scientist suggests that it was the biblical flood that deposited the mud-rich organic sediments that lie on the bottom of the Black Sea (Montgomery 2012, 220).

The assertion that the only plausible explanation for the presence of fossil resources on Earth is a global and catastrophic flood, as described in the story of Noah, and that such a flood caused the extinction of all species on Earth, is a view held by many individuals. However, it is important to note that there are numerous scientific and geological theories that explain the existence of fossils on Earth. While the story of Noah's flood holds significant cultural and religious significance, it may not necessarily be the explanation accepted by all for the presence of fossils on Earth (Montgomery 2012, 79). It has been posited that this flood acted as a reset button for all of creation, providing a fresh start for life on Earth. David, for instance, has the power to hold the view that this event was a peaceful reset button for all of creation (Montgomery 2012, 45). It is a topic that continues to inspire debate and research in both academic and business settings.

The context of the discussion between God and Abraham is noteworthy as it underscores the notion that God is the arbiter of the destruction of peoples who exceed a certain threshold of sinful behavior. This theme is recurrent throughout the scriptures and emphasizes the importance of leading a virtuous and righteous life. The concept of divine punishment for sinful behavior has implications for both business and academic settings, as it underscores the importance of ethical conduct and moral responsibility. As such, it is crucial to cultivate a culture of integrity and accountability in all spheres of human activity (Genesis 15). The leniency displayed by God towards certain peoples, such as the Amorites, is a topic of interest within theological circles. Despite the revelation of their future to Abraham, God refrained from pronouncing judgment upon the Amorites and allowed them to continue for another 400 years. This decision has been the subject of much discussion and interpretation among scholars and religious leaders. The significance of this delay and its implications for divine justice and mercy have been explored in depth in both academic and religious contexts (Genesis 15:16). The mercifulness of God is a concept that is to be revered and appreciated. As per historical accounts, during a particular period, the Amorites maintained a level of immorality that was within "acceptable limits", thereby avoiding divine retribution. Significantly, God refrained from intervening in the affairs of the neighbouring peoples, despite sharing similar immoral practices. However, upon completion of a 400-year period, God destroyed all the nations that engaged in such lifestyles, namely, the land of the Kenites, the Kenizites, the Kadmonites, the Hittites, the Perizzites, the Rephaimites, the Amorites, the Canaanites, the Girgashites, and the Jebusites (Genesis 15:19-21). This serves as a poignant reminder of the inextricable connection between our actions and their consequences. As such, it is imperative that we strive to lead lives that are in accord with God's teachings.

For millennia, the stories and parables of the Bible have captivated individuals across the globe. One such narrative recounts the tale of a group of individuals who resided in a region spanning multiple cities, infamous for their depravity and unscrupulous conduct. Despite their lack of morality and scientific understanding, they were exceptionally sinful (Genesis 13:13). It is about Sodom and Gomorrah and the surrounding cities (Genesis 13:10), due to the homosexual immorality practiced on a large scale (Genesis 19:4-5), which endangered the behavior and health of the people in that region, God decides to intervene to restore the natural order of human behavior, cohabitation, and morality by annihilating them (Genesis 19:25-25).

The ancient cities of Sodom and Gomorrah, among others, were reportedly destroyed due to their wickedness in a divine judgment. These cities were located in the fertile Jordan River depression. Notably, scientific evidence supporting the existence of these cities has been discovered in the ancient city of Ebla (Joseph 2013, 33), which thrived in the third millennium and is situated in modern-day Syria. This evidence adds weight to the historical accounts of the destruction of Sodom and Gomorrah, lending credibility to the idea that such cities once existed in the region. The discovery of this evidence underscores the value of archaeological research in illuminating the past and informing our understanding of the

present (Kakoulides n.d.). Archaeological excavations in Ebla have yielded cuneiform inscriptions that mention a location called "Sudum" and a district named "Gimarra". These inscriptions have led most scholars to conclude that Sudum and Gimarra are the same cities referred to in the Bible. It is noteworthy that the term "sodomy", which is used to describe sexually immoral behaviors, has ancient roots and may be traced back to these inscriptions (Davies 2011, 36).

A sodomite-like case of gross immorality, a case of extreme sexual abuse is found in the tribe of Benjamin (Judges 19:22). The impact of Israel's canaanization is evident in all facets of his life, including his spiritual and moral beliefs, as well as his interactions and relationships with women. It is crucial to examine the effects of cultural (Rotaru 2020, 154-160) and societal influences on individuals and their conduct. The process of canaanization, which involves the assimilation of local cultures and customs, can lead to significant changes in an individual's worldview and behavior, as evidenced in Israel's case (Block 1998, 47). The application of judgment by God is not subject to exceptions, as evident in the intervention of Israel's army. This army consisted of eleven tribes, comprising four hundred thousand warriors, who confronted a tribe represented by twenty-six thousand warriors. This historical reference from the Bible speaks to the divine authority that governs military action, and the responsibility of nations to enforce divine justice (Rotaru 2014, 23-31). It serves as an example of the often complex and nuanced relationship between religious and political authority in matters of war and God's justice (Judges 20:15-17). The outcome of the armed confrontation between the army of eleven tribes of Israel and the tribe of Benjamin was devastating. Sadly, twenty-five thousand one hundred men from the tribe of Benjamin were killed, leading to the near-total elimination of its male members (Judges 20:35).

The reign of King Solomon in Israel is regarded as the most prosperous period in the country's history from its inception until the 20th century. This era was marked by the king's exceptional wisdom and knowledge, which had been imparted to him by God. The king's leadership and administration were regarded as exemplary, and his reign was characterized by a period of peace, stability, and economic growth. King Solomon's contributions to the development of Israel during this period are widely recognized (1 Kings 4). The king was held in high regard not only within the country but also beyond its borders. This was due to his exceptional qualities such as his wisdom, diplomacy, wealth, and leadership skills. It is clear that his reputation preceded him, and his influence extended far beyond the confines of his kingdom (Knoppers 1994, 4). Israel enjoyed a significant period of peace, rest, and happiness, which was enjoyed by the entire population. During this time, the country developed strong economic and diplomatic relationships with neighboring countries and regions, bringing prosperity and a sense of identity to its people (1 Kings 10).

The prosperity of this monarchy after only a few decades of stability goes downhill due to ignorance of the moral teachings of the Bible, the teachings of the kings who gave it the highest distinction of its existence as a nation, and the science they enjoyed at the time. The decline of this nation originates in the moral decay experienced by King Solomon himself near the end of his life, the king through whose wisdom Israel rose to the heights of prosperity and peace. The aforementioned actions are a result of King Solomon's submission to the desires of the numerous women he cohabited with, as well as his acceptance of the prohibited worship of their foreign gods. In doing so, he neglected the divine commandments and edicts delivered by Moses and the prophets of the Old Testament.

Different historical accounts have highlighted that during Jeroboam's reign, his disobedience and sins led to the fulfilment of prophecies against him, and the nation of Israel was divided, indicating its fall. Furthermore, as history progressed, the northern area fell under the annexation of the Assyrians in 722 BCE, which worsened the immorality issues that were already prevalent at the time (Knoppers 1994, 4-7).

Western nations' approach concerning morality and science

The history of the Roman Empire is a testament to the fact that nations can rise to great heights, only to fall into decline and obscurity. This story is not unique to Europe, but it is certainly a prominent example of the triumphs and tragedies that are part of human history. As we ponder the rise and fall of Rome, we are forced to confront questions about the nature of power, the limits of human achievement, and the role of chance and fate in shaping the course of events. Many people in the past believed that the fall of Rome was a divine judgment, a reminder that even the mightiest empires can be brought low by the hand of fate (Morley 2010, 129). It is interesting how the luxurious way of coexistence among people and the moral decay that followed had a strong impact on shaping the narrative of society. This has become a basis for debates about the economic and social consequences of this particular human organization. It is important to consider how our actions and decisions can have long-lasting effects on the world around us and to strive towards creating a society that is sustainable and morally responsible (Morley 2010, 130).

During the classical period of 500 B.C. to 400 A.D., great intellectuals such as Aristotle, Plato, and Socrates held objectivist, rationalist, and naturalist views regarding the theory of moral standards. They believed that these standards were part of the natural world and that the human mind could comprehend them through the process of reason (Kurtines 1990, 288). It is fascinating to look back at how philosophical ideas have evolved over time and how they have shaped our understanding of the world around us.

The emergence of universities in Europe in the 12th century marked a significant turning point in the history of education (Haskins 1957, 4). Prior to this period, various subjects were taught, but the concept of universities had not yet taken shape. The universities were able to benefit from the influx of knowledge from Arab, Egyptian, and Roman sources, which had developed around cathedrals and monasteries. The first universities, which emerged in Bologna and Paris, provided a clear definition of the university as the society of masters and scholars. This definition has remained an enduring concept that has shaped our understanding of higher education for centuries (Haskins 1957, 5). The historical evolution of philosophical ideas and their influence on our comprehension of the world is a fascinating subject of study. It is noteworthy that the esteemed University of Salerno, popularly referred to as the School of Medicine, traces its origins back to the 11th century or earlier, as some sources suggest (Haskins 1957, 6). The University of Bologna boasts a rich history of teaching law, which is a noteworthy aspect to consider. In the early days, universities were mainly dedicated to the study of arts, medicine, and law.

It is noteworthy that during the onset of the Renaissance, scientists typically worked in small, secluded groups, congregating mostly in university towns or royal courts to share novel discoveries and theories. This intimate collaboration fostered greater efficiency in communication, and Italian scientists and scholars were at the forefront of advancing the dissemination of scientific knowledge throughout Europe (Bernal 1946, 21).

It is fascinating to observe how the proliferation of universities across Europe had a positive impact on both the quality of life and ethical standards. The papacy, alongside the princes and kings of Europe, was instrumental in facilitating the establishment and financial support of these institutions. As a result, esteemed professionals such as clerics, preachers, and jurists were able to receive top-notch education and training (Ruegg 1992, 50-54).

Historically, universities were regarded as a remarkable embodiment of human intellect and ambition, with the goal of advancing society. Over time, their focus has shifted to pursuing even greater knowledge in order to reshape the world around them. The prestige and inherent political and economic benefits that universities offer have attracted exceptional students and faculty from around the world, thus enabling countries such as Italy, France, England, Austria, the Netherlands, and Germany to greatly benefit from the abundance of scientific knowledge and intellectual enrichment that they provide. As a result, universities have played a pivotal role in lending stability to society and have become essential institutions

for the advancement of human knowledge and progress (Ruegg 1992, 12-14). It is undeniable that universities in Europe have played a crucial role in advancing knowledge, progress, and economic development, while also nurturing a sense of national identity. The establishment of new universities has undoubtedly provided individuals and communities with the tools to pursue their dreams and ambitions, while also fuelling innovation and growth across multiple industries. It is truly remarkable to witness the evolution of universities from their humble beginnings to their current status as indispensable pillars of society (Ruegg 1992, 55-57).

It is interesting to note that the situation in northern Europe, particularly in countries such as the Netherlands, England, and the royal countries, was quite different. These countries were situated at the beginning of a period of prosperity, which saw significant improvements in areas such as merchant and manufacturing industries, navigation, and warfare. As such, they made a conscious decision to support and assist the development of new sciences by scholars. This approach played a crucial role in driving progress and innovation, which has ultimately led to the remarkable advancements we see today (Bernal 1946, 21).

In the early modern era in the 17th-19th century, British philosophers expressed scepticism about the classical period philosophers' approach to moral knowledge and argued for a more relativistic and ideological moral orientation that defined the good in terms of the consequences of actions by reporting the welfare of the greatest number of people and the thinking of naturalism and relativism continued to have a significant influence on modern moral philosophy leading to the rise of modern science (Kurtines 1990, 288).

The well-being of individuals is significantly influenced by the events occurring on Earth as well as their mental capacity (Harris 2011, 1-2). In order to conduct a comprehensive study of these elements, it is imperative to identify scientific truths and gain a thorough understanding of societal norms. The study of these factors is essential in promoting an individual's well-being, and it is imperative to recognize the significance of these elements in a professional or academic setting.

„The underlying claim is that while science is the best authority on the workings of the physical universe, religion is the best authority on meaning values morality, and the good life. Meaning, values, morality, and good life must related to facts about the well-being of conscious creatures and in our case must lawfully depend upon events in the world and upon states of the human brain” (Harris 2011, 6).

According to Harris (2011), it is imperative that science be directed towards the physiological needs of humans, with a sense of urgency to address diseases arising from the lack of primary needs, substandard working conditions, and inadequate supply of such necessities. The need to improve living standards and extend life expectancy underscores the importance of fulfilling these needs in a timely and effective manner. The provision of basic necessities is essential in averting diseases that are directly or indirectly associated with the deprivation of primary needs. It is equally important to improve working conditions for the prevention of illnesses and injuries, thereby promoting a safe and healthy environment for people to improve living standards and extend life expectancy (Harris 2011, 6-7).

Adam Smith championed the principles of morality and science as drivers of welfare and prosperity for nations. In particular, he highlighted the responsibility of individuals to promote order, stability, and the prosperity of society in order to benefit themselves and others. His belief was that the success of any society was determined by the actions of its citizens, saying that (Campbell 2010, 70-71):

”The Moral Sentiments might, therefore, be expected to provide a general outline of virtue and vice designed to encourage the one and condemn the other; we should then proceed to the 'science of the statesman' for consideration of the moral content of the law, under the heading of 'justice', followed by further recommendations designed to increase the prosperity and security of the nation. This would provide a coherent and logical system of moral and prudential recommendations, a normative and practical

study which aims to tell us what is virtuous, just, and desirable, and how to achieve those ends in practice” (Campbell 2010, 49).

Smith also argued that justice plays a major role in promoting the prosperity of a nation, being an essential need for the commercial development of society and laws should be revised to facilitate this and not make it difficult, doing everything in the power to promote the prosperity of the nation (Campbell 2010 212-214). He does not neglect the government's concern with the defence of the country but interprets it as a necessary condition of justice and prosperity that every country should be secure from invasion and defeat in war (Campbell 2010, 215).

It is unfortunate that science can be used to harm people, as demonstrated by the anti-religious campaign undertaken by Soviet Russia. Instead of using scientific methods for the betterment of society, they chose to spread propaganda and enforce atheism, which ultimately contributed to the collapse of the Soviet system in the nineties. It is important to use science ethically and responsibly, with the goal of improving the lives of people and society as a whole (Chulos 2018, 55). The loss of popular awareness and engagement with scientific advancements presents a significant challenge for the general populace in the context of a highly modern and technological world. The gradual diminishment of such awareness could lead to a lack of understanding of the mechanisms that govern and impact the lives of individuals. To effectively navigate this complex landscape, it is imperative to remain up-to-date and informed of the latest scientific developments. This ensures that individuals can make informed decisions, remain competitive, and stay ahead of the curve (Bernal 1946, 104). It is regrettable that scientific advancements have been focused on enhancing the techniques of warfare, resulting in a gradual and concerning escalation. The pursuit of making war increasingly brutal and devastating is concerning, as it can lead to the downfall of nations and states, making peace unattainable. It is crucial to acknowledge that science holds the potential for both positive and negative outcomes, and our efforts should aim to utilize it for the betterment of humanity instead of its demise (Bernal 1946, 187).

Conclusions

Ethics, moral science, or moral philosophy is indeed the science that teaches individuals about their duty. Moral philosophy uses reasoning techniques similar to those of other philosophy departments, which is why it is often referred to as such. Taking an academic approach to studying the Bible can provide a deeper understanding of its theological significance. It is amazing how much knowledge and wisdom can be gleaned from its pages, and exploring the revelation of God throughout its various narratives is truly fascinating.

The biblical accounts of the obliteration of a people due to their moral decay are apparent in various instances. The first book of Genesis comprises examples of Noah's Flood and the overpowering devastation of Sodom and Gomorrah. Additionally, there is the account of Israel's tribe of Benjamin, where other tribes passed judgment due to their depravity and maltreatment of women. Lastly, the division and collapse of the regal state of Israel began with Solomon's disregard for mosaic law and his scientific discoveries. These accounts serve as a reminder of the consequences of moral corruption and the importance of adherence to ethical and moral principles. They highlight the need for individuals and societies to strive for uprightness and to avoid actions that could lead to moral decay. By doing so, individuals and societies can cultivate healthy and sustainable environments that foster growth and development.

The concept of the nation, being a human construct, is inevitably exposed to the inherent sinful tendencies of human nature. Consequently, the actions and policies of the state are subject to the same flaws and imperfections that afflict human society. The implication of this is that the state's policies and actions can have negative consequences for society as a whole. As a result, it is crucial to recognize the limitations of the state (Rotaru 2022, 585-595)

and to design policies that take into account these inherent imperfections. Failure to do so can result in unintended consequences that could have far-reaching implications for the nation and its people. Therefore, it is essential to approach policymaking with a degree of humility and an understanding of the complexities of human nature.

The insight on the rise and fall of nations is well-founded and accurate (Rotaru 2023, 62-79). The Roman Empire serves as a powerful example of how even the strongest empires can eventually decline and lose their power. I wholeheartedly agree that Western society has made mistakes in the past, but it has also achieved remarkable scientific advancements, particularly during the Renaissance period. The collaboration and exchange of ideas among scholars during this time led to incredible breakthroughs in knowledge. Furthermore, the establishment of universities throughout Europe has had a positive impact on the continent's quality of life and ethical standards. It is crucial to provide the basic necessities required to prevent diseases and promote prosperity, and justice plays a pivotal role in achieving that objective. It is truly disheartening to see how scientific advancements are being used by many nations today to further their military capabilities. It is worrying to see how the focus seems to be on making war more lethal and destructive, rather than on finding ways to promote peace and harmony (Rotaru 2016, 29-43). This trend is concerning, as it can lead to the downfall of nations and states, making it almost impossible to achieve lasting peace in the world.

It is vital to contemplate the history of Western societies to derive valuable insights and avoid repeating past errors. The wisdom of our ancestors serves as a cautionary tale for contemporary society, emphasizing the significance of prioritizing ethical and scientific principles as the bedrock of a flourishing civilization. With the looming threat of terrorism in the present-day world, it is imperative to take proactive measures to safeguard Western civilization and prevent the erosion of human values. By being watchful and drawing upon the lessons of history, we can strive towards creating a brighter future for ourselves and posterity.

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