

INTERNATIONAL ACADEMIC CONFERENCE ON SOCIAL SCIENCES

INTERNATIONAL ACADEMIC CONFERENCE ON LAW, POLITICS & MANAGEMENT

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KEYNOTE SPEAKER

**Josep Miquel Piqué**

President of Technova Barcelona – La Salle Innovation Park

President of International Association of Science Parks and Areas of Innovation

Josep Miquel Piqué is a Telecommunication Engineer from La Salle and UPC and MBA from ESADE. He holds also diplomas from Massachusetts Institute of Technology (MIT), University of California-Berkeley and Universitat Ramon Llull.

He is a disciple of Professors Henry Etzkowitz (co-founder of Triple Helix), Francesc Solé Parellada (Entrepreneurship) and Jerome Engel (Clusters of Innovation).

He is the President of XPCAT (Catalan Network of Science Parks), Vice-President of APTE (Spanish Network of Science Parks) and President of IASP (International Association of Science Parks and Areas of Innovation).

He is expert of the Directorate General for Regional and Urban Policy (DG REGIO) of the European Commission and member of the Team of Specialists on Innovation and Competitiveness Policies of the United Nations Commission for Europe (UNECE).

His long professional experience in university management has leaded him to promote and lead Postgraduate Programs, Technology Transfer Centers, University Incubators and Innovation Science and Technology Parks. He has promoted several hybrid organizations taking the partnership model University-Industry-Public Administration.

In the field of public administration has been CEO of the District Innovation - 22 @ Barcelona, Director of Strategic Sectors of the Agency of Local Development - Barcelona Activa and CEO of the Office of Economic Growth of the Barcelona City Council. Among other projects he has participated in teams of Barcelona European Capital of Innovation and Barcelona Mobile World Capital

He has published several papers in publications and congresses on Innovation Ecosystems. He has participated in several international forums in Europe (Bulgaria, Denmark, Spain, Finland, France, Italy and UK), America (Brazil, Canada, Chile, Colombia, Mexico, Peru, U.S.A.) and Asia (Korea, Philippines, Singapore, Japan and China).

The central line of his activity is the promotion of Knowledge-based Economy and Society in order to consolidate Knowledge Cities on Smart Cities.



Prof. Michal Chorośnicki

**Head of the Chair of Strategic International Relations,
Jagiellonian University, Poland**

Professor (titular professor) Michal Chorośnicki, PhD, has been the head of the Chair of Strategic International Relations from its formation in 2009, prior to that of the Department of Strategic International Relations (2002-2009). He is a lawyer by profession and obtained his Masters Degree at the Faculty of Law at the Jagiellonian University. He comes from the group of the first PhD graduates in political sciences open in the Institute of Political Sciences at the Jagiellonian University.

His scientific interest have ranged from problems in African nations and other non-aligned states (PhD thesis in: "The Activities on Nonaligned States – the Role and Meaning of African States") to the military politics of European nations.

In summer 1973 he took part in an internship at the Royal Institute of International Affairs in London. During his long stay in the USA (1978-1984), he was a scholar of the Ford Foundation and Professor employed by the Southern Connecticut State University, New Haven, CT and the Albertus Magnus College. At the same time, prof Chorośnicki was a part-time lecturer in the Concilium of Area Studies at Yale University. Within the Concilium, he took part in gathering data and publishing a book entitled "Arms and the Africans" developed in a team led by prof. Henry Binea, who was working on a research project which resulted in the publication of the book having the same title in 1984.

His academic journeys to the USA and his stay in numerous American educational institutions as a guest professor (he spent altogether over 6 years performing this function) culminated in publications on various aspects of US politics, particularly military politics. The most important book during that period was his thesis on political sciences and international relations entitled "The USA and Sub Saharian African Nations in the 1970's". The new edition of the book called "Non-commitment Movement in World Politics 1961-1992" was the continuation of this trend.

His scientific co-operation with American institutions led to changing the focal point of American politics and strategy on both a local and global scale. As a side trend from the mid 1980's prof. Chorośnicki became interested in the phenomenon of terrorism, although not being his main sphere of research, it is an important part of his interests. Apart from various articles, prof. Chorośnicki wrote a book entitled "Terrorism-Analyses and Facts". Actually it is a student's handbook for classes on Legal and Political Aspects of International Terrorism.

In recent years, the interest in world and US strategy has led to the publication of a few items on strategic conditions of the processes of economic integration based on the NAFTA (North American Free Trade Agreement) and US military politics. One of the successes was the National Polish Scientific Conference called New Strategies for a New Era- Limits and Possibilities of Regional Integration organized by his Chair.

Prof. Chorośnicki has many years of experience as a lecturer of International Public Law, and International Trade Law for students of Political Sciences and International Relations. He holds significant academic and research achievements gained during his numerous journeys abroad. He has promoted 18 PhD theses and has reviewed many other works.

Nowadays prof. Chorośnicki is a member of numerous scientific associations amongst others The London Institute of Strategic Studies, the Polish Society of Political Sciences and The Polish Academy of Learning (Faculty II in History and Philosophy, Committee of Warfare and Military History).

Areas of Innovation in Cities: Holistic Modelling of Urban, Economic and Social transformation

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Abstract: *The creation of innovation districts, scientific parks, urban clusters and smart cities has become a common tool for urban revitalisation. Usually, it has been applied in former industrial neighbourhoods in need of regeneration (brown field), as is the case with 22@Barcelona. In other cases, the projects are starting from scratch (green field) as in Skolkovo Technopark. The top-down approach to this type of urban development requires not only a clear methodology but also an in-depth knowledge of the context, and the stakeholders that participate in the transformation. Factors for success and failure related to the transformation of an area have been widely studied from many academic disciplines[1][2]. The aim of this paper is to propose a Holistic Model of Areas of Innovation of Cities. Several variables will be taken into account on the effect this type of development might have as a driver for change in the city.*

Introduction

After the third wave of globalisation that took place in the XX century, comparative (and competitive) advantages of cities and countries currently rely on new forms of production based on knowledge and talent. Rather than typical factor endowments associated with lower costs, countries - and particularly cities - aim to attract highly qualified people from all over the world at the same time as enhancing their own fertile soil through education and the development of skills.

The dichotomy between companies and people emerges as a key one in the new economy. Unlike in the past, not just companies but also people and talent are key elements for increasing economic growth. Therefore, ideas, creativity and, in summary, new inputs for the value chain becomes essential for the new arena of urban competition.

As a result, not only hard factors (infrastructures, transport, and connectivity, among others) typically involved in attracting companies, but also soft factors (atmosphere, leisure activities and tolerance, among others) are essential for attracting individuals, and turn traditional cities into nodes of the knowledge economy.

But to what extent are those creative and talented workers involved in the production of new innovative processes and products? How can cities and urban environments promote the engagement and attachment of talented people in the nurture of the knowledge economy? It becomes essential to provide mechanisms and tools to develop a dense network of relations that not only stimulates talent but also transforms it into added value creation.

Economic activity is necessarily associated with a particular geographic area: it is instrumental to locate innovation. However, a geographical area is more than just a business location: it is interaction space and residence, generating synergies between people, institutions and policies. In recent years, a growing interest has been identified in knowing which mechanisms are available on the ground to create innovation [3][4]. The approaches are varied, ranging from academia to local agents who want to improve their capacity to generate high added value.

In this framework the International Association of Science Parks and Areas of Innovation (IASP), defines “Areas of innovation” as places designed and curated to attract entrepreneurial-minded people, skilled talent, knowledge-intensive businesses and investments, by developing and combining a set of infrastructural, institutional, scientific, technological, educational and social assets, together with value added service, thus enhancing sustainable economic development and prosperity with and for the community.

1. Talent as a Basis for the New Economy

Among others, clustering of companies and technologies has been identified as one of the most effective strategies to group synergies and increase dynamism in the creation of economic value. However these strategies do not work properly where talent is concerned.

“The clustering of talent –especially entrepreneurial talent and knowledge workers– is different. Talent moves because it can move and cluster because it makes sense especially if the connectivity advantages come into play” [5].

The enhancement of a specific area with the aim of creating innovation requires identifying a local context with the potential to embrace challenges and able to generate a new way to connect with the rest of the city. Awareness about the power of new tools for connectivity is vital to understand how talent can be also attracted and retained. What does clustering knowledge activities in a city provide for talent from all over the world?

The capacity for transformation of the existing environment to attract companies and talent is a policy challenge: cities design development strategies and roadmaps towards innovation in certain districts in the light of other experiences, however, the major strategic lines of action require a process of adaptation and validation for each context and specific situation. Transferring models does not guarantee the transfer of results. Nevertheless, cities currently aim to assemble talent from all over the world, benefiting from the interaction of different people, from different backgrounds and with different abilities in a single project or endeavour. The role of the city is crucial in developing a particular image to appeal and hook those knowledge workers.

“In fact, there is a direct correlation between the ability of a city to gather highly skilled people and the region’s potential for innovation and economic growth. Generating ideas and their processing as innovative tools applied to business does not depend on classical items of business location anymore: the very personality of the city becomes crucial in creating an attraction for certain groups that provide new capacities and growth potentials for the region” [6].

Science and Technology Parks have an important role to play in the Knowledge Economy. We are already witnessing the evolution of the traditional models into new ones, the Areas of Innovation. This model was analysed by Luiz Sanz in 2001 as ‘Learning Village’ [7]. Three main elements were described: (i) businesses, (ii) educational centres and (iii) residential areas. The three elements are still at the centre of the study, as they include the key concept behind the areas of innovation: a place for working and living in the knowledge based economy and society.

2. Citizens as the Fourth Pillar (Quadruple Helix)

The definition and function of the Triple Helix concept combines industry, government and universities in the same environment arguing their capacity to provide a framework for action of the knowledge-based economy [8].

The model goes beyond linear systems based innovation policy of demand (market pull) or supply policies (technology push); it suggests strengthening synergies arising between agents in a bottom-up perspective to innovation initiatives strengthened at national or regional level, top to bottom [9].

This model may include the ‘markets’ as a fourth element. In this sense, demand becomes a key factor of innovation development. Stakeholders can act separately or coordinate actions through the development of new knowledge, new economic sectors or regions: promoting innovation ecologies, players assume the roles of others, and hybrid structures appear that allow permanent joint initiatives.

On the other hand, the importance of adequate educational facilities is crucial to ensure the production of talent in the country. The presence of both public and private schools of high quality, such as universities, ensures the availability of a highly-skilled workforce and attracts businesses to these places.

As mentioned above, the increase of global competition and cheaper sources of high-quality technological solutions means that companies can no longer rely on maintaining a competitive advantage based on ‘traditional’ drivers of price and quality. They must seek alternative sources of competitive advantage. Nowadays companies are undertaking major transformations in their innovation processes and business models in order to deliver more valuable products and services to the market. Open business models, a greater focus on understanding latent consumer needs, and more direct involvement of users in various stages of the innovation process are, among others, key drivers of these new strategies.

“The user-driven innovation approach is believed to promote the development of new more inexpensive public services and ways of operating them” [10]. Several authors have acknowledged the need to develop a new model (or models) that include the user perspective in innovation development. They all agree on user-driven innovation as an essential success factor for both private firms and public sector organizations.

Currently, the concept of “user-driver innovation” has shifted from a perspective where the consumer simply added value to already existing products developed by companies to the involvement of consumers to produce innovation along the process of product conception, development and market introduction among others [10].

Besides direct consumer involvement in the creation of positive innovation externalities in the company or along the value chain, there are other side effects related to the user as an inextricable element of the demand side of the market. As Piqué and Majó [11] summarise, the creation of ‘sophisticated demand’ has clear benefits in at least four distinct areas: the city itself, as well as its citizens, its business network and its scientific and technological environment. Better products and services compel companies to include the core of innovation in new services and products in increasingly competitive environments.

3. Cities as the Platform for the Knowledge Economy

Urban changes are conditioned by global transformations that have changed patterns of production and renewal of the industrial economies.

The urban space has been adapted to the dominant mode of production: the trading town, the industrial city or Fordist city are good examples. The most recent change in the relationship between capitalist development and urbanization is associated with increased post-Fordism primarily associated with the knowledge economy or the creative economy. Cognitive cultural capitalism [12] presents a city based on neoliberal policies characterized by central business districts, elegant shopping and entertainment areas and revitalized port areas that meet the requirements for industrial renewal and attract talent and tourists to the city. This is the scene in which global competition and global flows of values pose new challenges for policy and governance in urban communities, increasing the intensity of innovation and postmodern cultural trends.

Economic globalisation has made municipal governments much more concerned than in the past about the global aspects of local economic development.

In a sense, cities are becoming global networks of city-orientation with the strategic task of adjusting urban communities under the conditions of the global economy. Municipal governments can do so by increasing their competitiveness influencing the general context in which this competition between cities takes place. Municipal governments need to increase their capacity to govern and to design structures favourable government. Therefore, the creation of successful responses to the global interurban competition is essentially a problem of strategic positioning and governance [13].

“Place is the factor that organically brings together the economic opportunity and talent, the jobs and the

people required for creativity, innovation, and growth” [14].

The ability of cities to effectively attract external resources - particularly where high value-added activities are concerned - largely determines their position in the global urban hierarchy, which reflects and determines its overall appeal and capacity in the globalized environment. This reinforces the need for basic urban policies involving local people and capable of balancing development policies with the adoption of an integrated vision.

Ecosystems of innovation arise in this context as a keystone in the global-local synthesis: they attract external resources, enhance existing ones and create favourable conditions for global competitiveness. Thus, in the processes of renewal and urban revitalization that claim to stimulate innovation, we see the convergence of the improvement and upgrading of physical infrastructure on the one hand and, on the other, the development of investment in human capital and social improvement.

“The creation of innovation districts, the numerous scientific parks and urban clusters together with the so-called “smart city” label, have become usual tools and discourses associated to urban revitalization. Usually, it has been applied in former industrial neighbourhoods in need of regeneration. The top-down approach to this type of urban development requires not only of a clear methodology but also a deep knowledge of the context and actors that participate along the process” [15].

4. A Holistic Model of Areas of Innovation in Cities

Urban regeneration involves the participation of the community, companies, institutions and policies in order to generally improve the quality of life of citizens. However, policies have focused on different aspects to renovate or renew, pointing out at one type of regeneration (physical) or another (social). Integral approaches to regeneration are meant to combine both physical intervention but also social policies in order to improve the quality of life of citizens [16]. Later on, this focus has been predominant in the regeneration of cities and districts. An all-embedding intervention improving not only infrastructures or public spaces but also providing for intangible elements to the community to increase its quality of life has been generalized all around.

Certain cities definitely offer a better set of attributes for businesses and economic activity than others; these include simultaneously tangible assets in the

form of easily measurable physical elements (i.e. highways, airports) and more indefinite elements such as image, the quality of governance and social and cultural features [17].

4.1. Infrastructures and Urban Development

The historical development of cities has a huge influence on their current situation. The association of a city to a determined economic profile does not emerge immediately: to a large extent, the past determines the present of cities. Consecutive economic transformations inexorably leave their legacy in the territory.

The availability of good infrastructure and transport connections as well as centres of higher education, the availability of capital and labour with the necessary qualifications, together with an institutional context that favours the location of business through programs and specific actions such as fiscal exemptions or land at a below market price have been the factors traditionally considered as determinants of the economic location of business.

The opportunity to develop a Smart City strategy for both green or brown field districts is an strategic decision to include in the holistic approach.

4.2. Companies and Economic Development

Traditionally, huge importance has been given to the advantages of agglomeration economies, the economies of scale and clustering as promoters of economic growth. Industrial clusters have been analysed and identified as playing a highly relevant role in the analysis of innovation and the definition of political support to industrial activity [18]. Industrial clusters are defined as geographic concentrations of companies of the same sector or sectors related along the value chain that collaborate or compete and have also links with other actors (such as the universities). According to Porter [18], clusters reflect a top-down approach to promote a certain region, which basically consists of grouping different stakeholders (universities, technology and research centres, business, management and financial resources both private and public) interested in working together in an economic sector.

4.3. Talent and Social Development

These factors underline the importance of particular equipment or urban attributes that contribute to the creation of an attractive environment for people. Since talent has become the engine of the new economy based on creativity and knowledge, these

aspects associated with the region have become more important than location factors for economic activity. Quality of life, 'atmosphere' or tolerance are just some of these elements.

Personal or professional networks, implicit or explicit, become the connectors between stakeholders who participate in different parts of the economic activity. In fact, network factors are an alternative formulation to the classical location factors, closely related to the aspect of connectivity that offers a good provision of infrastructures. Besides, they also involve those aspects, which point out at the individual path of people and its attachment with the territory.

4.4. Governance

These factors underline the importance of particular equipment or urban attributes that contribute to the creation of an attractive environment for people. Since talent has become the engine of the new economy based on creativity and knowledge, these aspects associated with the region have become more important than location factors for economic

Areas of excellence create a model of dynamic innovation based on the concept of the "triple helix" [9], which enhances the confluence of public administration, universities and companies in order to develop synergies between these strategic partners to increase the competitiveness of the production system and assist in the creation, growth and consolidation of employment. Collaborative relationships form the basis of the development of the triple helix: this interaction results from the synergies created in the territory among stakeholders rather than from a 'prescription' from the authorities. Besides, the different stakeholders involved assume different roles than the traditional ones, providing the opportunity for innovation.

Vertical and horizontal governance will be necessary to articulate clusters (strategic sectors) and the Areas of Innovation (holistic approach).

The incorporation of citizens' needs and city challenges in the quadruple helix is another strategic decision to make when developing a governance model.

Conclusions

Cities are the platform of the knowledge based economy because they are the platforms of talent, the real raw material of the new economy. Cities must provide a good place for working and living if they want to attract, retain and create talent.

In other hand, Cities are also a goal of innovation. For this reason, they can be a place for learning new applications. Policy makers, universities and industry can use the city like a lab to learn locally in order to compete globally.

The Quadruple Helix involves the demand side of innovation. Citizens are the beneficiaries of the innovation, but also they could play a key role in the process of innovation. Cities that want to develop areas of innovation will need to develop hard factors and soft factors for urban, economic and social transformation.

Both greenfield and brownfield developments need to create an ecology of innovation that will include all the agents of the ecosystem (universities, Industries and government). The starting point may be different, but the vision must be clear in the direction of the knowledge based economy and society. Cities should understand the challenges to achieve this vision, and develop actions that are solving the urban, economic and social challenges, taking advantage of the capabilities of the agents of the ecosystem.

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For Getting More Happiness Being a Choir Singer in Golden Years

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Abstract: The main aim of this study is to determine the profile of choir singer in golden years (CSGY), to compare motivational factors with respect to some demographic variables and how effect being of a CSGY's life satisfaction in their golden years. This research is descriptive and population consists of 37 nonprofessional choir's choir singers taken from 43 total choirs in Antalya city center. In this study, the questionnaire was handed to retired 174 men ($X_{age}=62.58\pm7.20$), 198 women ($X_{age}=57.87\pm6.07$) total 372 choir singers. In this study, the designed questionnaire addresses demographic variables, The Satisfaction with Life Scale-(SWLS) developed by Diener et al. [1] adapted in to Turkish by Yetim [2], and The Motivational Factors Scale of being Choir Singer (MFSC) developed by Ardahan [3], and benefit lists. The LS data of non-choir singers, 113 man, 183 women total 296 persons who never sing/been in a choir before, was taken from Ardahan's study [4]. In addition to this, running period data, benefits and motivational factor's score of individuals who were still working/be employed somewhere were taken from Ardahan and Akdeniz's study [5]. In the processing of assessing data the descriptive statistic methods, Independent Samples T Test, ANOVA Test, and Pearson Correlations Test have been used, results have been assessed according to significant level 0.01 and 0.05. The findings show that majority of choir singers were 60 years old and more, attend to Turkish Art Music Choir, married, belong to a choir, well educated, have 700\$ or below monthly income, retired, living with family husband/wife/children, going choir alone, pay due, participate passive recreational activities and the major motivational factors for attending to choir were Liking Music, Relaxing as Mentally, Renovate and/or Developed, Socialization, Exemplifying, To be away and/or Escape, and Recognition and Social status. As a result, it can be said that individuals going to a choir in their golden years for Liking Music, Relaxing as Mentally, Renovate and/or Developed, Socialization, Exemplifying, to be away and/or Escape, and Recognition and Social status and create globally wellness and happiness in their life.

Introduction

There are several corners in social and professional career of individuals, like the first step when a baby, graduating from high school and starting university when young, graduation ceremony for university, getting married, divorcing, being parents, being retired, being grandfather/mother etc. It's like climbing up stairs. Being retired can be accepted as a main corner of individual's life which determines a pass from middle age to old age, it is end of professional life [6].

Retirement has five dimensions. These are a) legal dimension, b) economic dimension explain loss of economic power, c) physiological dimension, d) psychological dimension, and e) social dimension. When professional life ends with retirement, individuals have lots of free time, but many of them loss their economic power, social power and status, physical healthy, energy, productivity, change their way of life. If individuals do not make enough investment like home, materials, car, money, income-generating investments etc., golden years will be restrictive [7].

In many countries retired period can be defined as absolute poverty and/or perceived poverty period. To decrease the negative effect of poverty, many individuals usually delay retiring or after retirement usually continue working in same or different job [6]. On the other hand, this period can be accepted an opportunity period for realization of postponed

life/things. Professional career and social career as getting married, being parents, many other social roles and hobbies contemporaneously continue and usually there is conflict between these two roles. Individuals give their attention/priority to their professional roles for earning necessary money for life, for getting social and economic power. And usually, they delay their own life including hobbies and/or social life. After retirement, people focus on their delayed social life and personal preferences [8].

Social dimension of retirement is the most important part for individual's recreational life. After long and tiring professional life, retirement gives individuals lots of free time and opportunities that can be used for enrichment of recreational life including socialization. Usually many individuals dream long and/or overseas journeys, living in a chalet or a firm life with gardening, farming, and give opportunity to learn new hobbies or realize delayed hobbies/things. This is the positive face of retirement. In the beginning, having long free time seems to be pleasurable for all, but later many can find it boring. Some turn to their old hobbies for activating them or some try to create new hobbies. And usually, individuals make preferences among hobbies because of poverty of retirement.

Researchers accept that golden age hobbies are usually serious leisure activities and/or sometimes project-based leisure. Amateur or volunteer choirs are one of the good forms of serious and/or project-

based leisure [9]. Serious leisure activities can be amateur, hobbyist and volunteer which participant finds interesting, substantial, and create his/her social career that can support professional career by using their own knowledge, special skills and experience [10]. At the same time, serious leisure activities can be accepted as one of the most efficient way of learning, using and/or developing skills [11]. While amateurs were in science, sport, art, entertainment with professional approach, in contrast, hobbyists and volunteers lack the professional alter ego of amateurs [12]. Project-based leisure is a short-term which can be one-shot or sporadic carried out in free time for support a social project [13].

Main aim of professional choirs was usually economic, amateur or volunteer choir's are for a sociological and/or for supporting a social project. Stebbins defines amateur choir as a structure formed by amateur individuals have limited knowledge of music with professional expectation [10]. In addition to these, Stebbins defines music as opportunity for learning/training skills, center of someone's social life to generate their social career, a tool or objective for realizing their life for the individuals whose hobbies are music [11].

Usually individuals, especially in golden age individuals, do not change or abandon from their idea, social relations with his/her social groups, culture and religion, and try to run them all through their life, if they do not have any conflict, or any other problems [14]. A choir is a form of belonging to a group or social structure [5] and individuals get pleasure to keep on music in their life whether singing or making music. Dabble in making music, singing in amateur choirs make individuals happy because of the therapeutic effect of music. Silverman concludes that music have positive effect on fight against addiction [15]. Some mode of Turkish Art Music has been using for rehabilitation for some physical, psychological illness [16]. Rast Mode gives pleasure, Rehavi Mode gives oceanic feeling, Zırgüle mode gives sleeping feeling, Hüseyini mode strengths relaxing, Saba mode strengths braveness feeling and so on.

Heo et al. claims individuals get satisfaction and pleasure, when they have active or passive participation in to the leisure activities [17]. Singing in an amateur choir is an active participation to the recreational life, listening/watching a concert is a passive form of leisure. In addition to these, music is a tool and/or purpose of rehabilitation and it has positive effect on physical, mental and emotional health and wellness [18].

All individuals' expectation from their professional and social life are being happy, having wellbeing, wellness and satisfaction. Happiness, wellbeing, wellness and satisfaction seem to be same but they have different meanings. Happiness is fulfillments of individual's needs [19]. It is getting pleasure from life and having a well lived life and called scientifically subjective wellbeing [20].

Wellbeing is the state of healthy, vitality, being happy or comfortable in individual's life [21]. Wellness is "the active process of becoming aware of and making choices toward a healthy and fulfilling life" [22] and World Health Organization (WHO) [42] defines wellness as "a state of complete physical, mental, and social well-being, and not merely the absence of disease or infirmity".

Satisfaction has many classifications like Life Satisfaction (LS), Social Satisfaction, Role and Marital Satisfaction, Professional and Economic Satisfaction, Emotional Satisfaction, Leisure Satisfaction, Job Satisfaction, and etc. Satisfaction can be defined as realization level of expectations [3]. All these satisfaction effect other satisfactions and affected from them. At the same time, all these satisfactions affect and affected from individual's physical, mental, emotional life, professional and social interaction [23]. LS can be defined as the sensation and/or decision of individual's life, emotional attitude toward his/her life and can be measured by the realization level of expectations. LS effect and effected from many other things like physical, mental and emotional health, having a) meaningful relation and/or interaction with partner, wife/husband, children, friends, collages, family member, relatives and others, b) sufficient income for all expectations, satisfactory job or professional life, c) emotional, physical and mental wellness, positive personality, d) satisfactorily equipped neighborhood/environment, e) pleasure retrieved from social and/or professional life, e) material things, f) hobbies, enough time to realize hobbies, opportunity to participate recreational activities, g) high quality of life, and many other thing [1,24,25].

Happiness is not a) feeling good all the time, b) being economically rich or having economic power to afford every want, c) final destination. Researchers suggest that happiness is combination of how satisfied with the life and it is the only reality and the meanings of living. If individuals are not happy life, he/she cannot have satisfied, or vice versa. So, the things effect being satisfaction, wellbeing and wellness is important for being happy. For example, high income, living in a house with good scene, being married with a beautiful woman make individuals

satisfied but these do not make us happier. Being happy have positive effect on satisfaction. Their meanings of these words are different but they have interactive relation.

Dabble in making music, singing in amateur choirs, it has positive effect on socialization, developing skills or learn new ones, renovation, being away from daily routine, home and work escape from something, recognition and social status [3]. If something/someone seriously chosen or casually happen has positive effect on one's feelings/life, it makes happy. Singing can be a casual, project based or serious leisure activity. If it is casual, it causes short time happiness, if project based leisure; it causes midterm happiness. But if serious leisure, it creates way of life and long term happiness [10].

1.Method

The main aim of this study is to determine the profile of choir singer in golden years (CSGY), to compare motivational factors with respect to some demographic variables and how effect being of a CSGY's life satisfaction (LS) in their golden years.

This research is descriptive and the scope of this study is restricted to recreational choir singers in city center of Antalya. Sampling group of this study consists of 653 choir singers of 37 amateur choirs. The exact number of the choirs in Center of Antalya was 43 and six choirs excluded from study because, two of them were professional and four of them did not want to join to survey.

The questionnaire was handed to retired 174 men ($X_{age}=62.58\pm7.20$), 198 women ($X_{age}=57.87\pm6.07$) total 372 choir singers. The designed questionnaire addresses demographic variables, and The Satisfaction with Life Scale-(SWLS) developed by Diener et al. [1] adapted in to Turkish by Yetim [2] and The Motivational Factors Scale of Being Choir Singer (MFSCSGY) developed by Ardahan [3] was used. A five-point Likert scale was used for scales and benefit items and the range covers (1: definitely disagree, 5: definitely agree). In this study, the questionnaire was handed to all choir singers and collected back in 15 minutes. The LS data of non-choir singers, 113 man, 183 women total 296 persons who never sing/been in a choir before, was taken from Ardahan's study [4]. In addition to this, running period data, benefits and motivational factor's score of individuals who were still working/be employed somewhere were taken from Ardahan and Akdeniz's study [5]. In the processing of assessing data the descriptive statistic methods, Independent Samples t Test, ANOVA Test, and Pearson Correlations Test

have been used, results have been assessed according to significant level 0.01 and 0.05.

2.Findings

The profile of choir singers in golden age (CSGY) and comparison of the motivational factor effect individuals run to recreational choir as a choir singer and life satisfaction (LS) with respect to some demographic variables were given in this part.

The profile of CSGY age was given in Table-1. As it seen in table; majority of the CSGY run to Turkish Art Music Choir and Organizational Choir, women, married, running choirs more than two or more years, living with family members/husband/wife/children, have personal monthly income 700\$ or below, family monthly income 1050\$ or below, running choir alone, well educated, running only one choir in a season, paying due, 60 years old or more, spend about four hours for running choir in a week, average running periods to choirs were about 7.75 ± 8.99 years, and has life satisfaction level 3.47 ± 0.81 . When compared LS level of CSGY (3.47 ± 0.81) and Non-Chorist Singers (3.11 ± 0.87), there is strongly meaningful difference in favor of CSGY. This means that participating choir as a singer increase LS level of participants.

[Insert Table-1]

The recreational activities of CSGY were given in Table-2. As it seen in table; majority of them prefer cultural and art activities rather than sportive recreational activities. Their favorite cultural and art activities are being interested in music, going cinema, going theatre. At the same time, they prefer watching TV, be in with family, resting at home and surfing in internet. Their sportive recreational activities are outdoor sports like trekking, hiking, foresting, water sports like swimming and recreational activities in City Park.

[Insert Table-2]

Comparisons of motivational factors and LS of CSGY with respect to some demographic variables were given in Table-3. As it seen in table; there are no statistically meaningful differences in motivational factors and LS with respect to Choir Type, running period, Running Choir with whom and Living with whom variables. But personal and family income variable create statistically meaningful difference only in LS not in motivational factors. When income increases, LS increases also. And income does not create any statistically meaningful difference in motivational factors.

There are statistically meaningful differences in Relaxing as Mentally, to be away/Escape, Recognition and Social status, and Exemplifying sub factors in favor of Private choirs. The mission of NGO and Organizational Choirs carry same mission of NGO and Organization itself, but private choirs can easily arrange, make necessity changes in their mission and structure/design of choir and it has positive effect on preferability and social closeness.

Gender and marital status are not a strong determiner on motivational factors of CSGY and LS. There are only statistically meaningful differences in Recognition and Social status sub factor in favor of man and in Exemplifying sub factor in favor of married. Being parents force individuals as example or idol for their children, family member and others. This were expected behavior in Turkish culture in last three or four decades. But nowadays this obligation is losing effect.

Age variable create statistically meaningful difference in three sub factor. While 59 and below years old CSGY were preferring choir for Relaxing as Mentally, 60 and more years old CSGY prefer choir for being away/Escape, Recognition and Social status.

Education variable has positive effect statistically meaningful difference on Recognition and Social status, and Exemplifying sub factors low level educated CSGY. When education level decreases individuals prefer running a choir as CSGY for Recognition and Social status, and Exemplifying. The reason of these can be that, exemplifying has been an expected behavior of primary and high school graduated CSGY, and primary school graduated CSGY could not find enough possibility to satisfactorily recognition and social status in their professional and/or social career.

Paying due has statistically meaningful difference in Recognition and Social status sub factor. Individuals willing to pay for running choir and this bring them recognition and social status or vice versa, willing to pay for recognition and social status and running choir for this reason.

Running more than one choir does not have positive effect on LS, but it has statistically meaningful difference on Renovate/Developed, to be away/Escape, and Recognition and Social status sub factors. When CSGY want to run more than one choir, their expectation for Renovate/Developed, to be away/Escape, and Recognition and Social status increase also.

[Insert Table-3]

Comparisons of running period with respect to some demographic variables were given in Table-4. As it seen in table; when the numbers of choirs run by CSGY, education level and age increase, running period of CSGY statistically increases also. In addition to this, man's running period to the choir is more than women, and paying due and being married have positive effect for running to choir more. There is not statistically meaningful effect on Choir Form, Personal and Family Monthly Income, Living with Whom, Attending with Whom and Working Status on running period.

[Insert Table-4]

The declared benefit lists of CSGY were given in Table-5. As it seen in table; all benefits have higher score and the first fifth benefits in order are Felt happier, make new friendship, Improved skills, felt comforted and refreshed, and Spend their free time more qualified and productive. All benefits are positive and they have positive correlation with LS. When compared benefits of BC with respect to working status (Retirement, Still Working), there is statistically meaningful difference only in one benefit, get rid of loneliness in favor of retired CSGY. This means can be that CSGY are running choir for getting rid of loneliness.

[Insert Table-5]

Conclusion

It can be concluded that majority of CSGY are willing to run Turkish Art Music Choirs because of the therapeutical effect of Turkish Art Music. This results overlaps by the results of Sezer's study [26].

Constitute and sustain a choir is not easy. It needs financial, organizational, human-resource allocation and managerial effort. In this study the findings shows that CSGY have long term continuousness to the choir. Because of this they prefer organizational and private choirs to achieve sustainability. And the majority of CSGY support their choir organization by paying due. The result show that, paying due CSGY has running period to choirs than others. Choir type is important for flexibility. Private choirs can be easily designed than others and creates more satisfaction to members. The advantaged motivational factors for running to a private choir are Relaxing as mentally, to be away/Escape, Recognition and Social Status and Exemplifying.

In contrast to outdoor recreational activities, there is women's hegemony in amateur choirs [27, 28]. The reason of this can be that all choirs practice is in

progress in a place the center of city, easy reachable, safe places and times [18]. The participants of amateur choirs mostly retired, so it is easy to arrange reasonable time schedule for practicing. These also motivate individuals to participate more than one choir. Even if, there is women's hegemony in current study, man's running periods of choir is more than women. The reason of this can be the role of women in family life and the necessities on women shoulder [28]. The results of current study support these conclusions. Man's Recognition and Social Status expectation is higher than women. This can be explained by Self Determination Theory [29] and Self-Determination Theory [30].

Türk-İş Labour Union declared that absolute poverty limits of 2016 as 1432 TL about 500\$ [31]. The majority of CSGY has personal income and family income in poverty limit. But, CSGY pay due, willing to pay accessing to choir practice every two or three days in a week, and daily spending with this amount monthly personal and family income. In addition to these, CSGY spent average about four hours for practicing music in a choir. These can be the result of cohesion to music and choirs' atmosphere, or being choir singer is serious leisure activity for CSGY. This conclusion support Stebbins [10] and Tipps [9] determinations about amateur choirs.

There is positive correlation between income and LS. When personal and/or family income increases, LS level of CSGY increases also [1]. The positive correlation between income and LS was confirmed in this study also.

Age is main determiner of outdoor recreational activities. But for indoor activities age is not determiner. Participating choir as singer can be done in age. When age of CSGY increase, they want to participate in to choir for being away or escaping something/somewhere, recognition and getting social status. Young aged retired CSGY participate to choir for relaxing as mentally expectation.

Furthermore, the education level of majority CSGY in current study is high school and university graduation. Stebbins concluded that being well educated individuals has positive effect on informed choice and recreational priority and preferences [32]. Ardahan realized this result in his study focus on volunteering [33]. In addition to education, aging also is another determiner of long running period. Tipps conclude that aged individuals usually never give up their recreational preferences and make sharp changes in their usual life [9]. The result of current study overlaps these conclusions. As education level and age increase, running period increases, too.

When people young usually they spent their time and energy in outdoor activities, aging decrease this year by year. The individuals in golden age usually prefer passive participation to the cultural and art activities, like watching TV, be with family, resting home, going to cinema or theatre [28]. The result overlaps with the findings of CSGY's recreational activities. But, they have active participation to amateur choir. It gives them pleasure and energy.

Contrary to what is believed, satisfactorily marriage motivates individuals for participating recreational activities alone and/or together [34]. Participating choir is also, recreational activity. It is found that in current study, majority of CSGY were married and running alone, and married CSGY has more running period than singles. This results overlaps with theoretic conclusion. Married CSGY's Exemplifying expectation from choir participation is higher than singles. This can be resulted from social roles of being parents or elders. There must be a connection between education level and exemplifying behavior. When education level decreases, exemplifying behavior, recognition and social status expectation of individuals increases.

Even if many of the CSGY were living with their family members, they prefer to run to choir alone. This is also same for mountaineer, rock climbers, fishermen, recreational bike user [34, 35, 36, 37]. Why this happen? It must be main goal of a new research.

Participating into a recreational activity requires one or more reason and it has positive effect on LS. The benefits show that realization of that reason. There is no statistically meaningful correlation between LS levels of retired CSGY and still working CSGY, but results of current study prove that participating into an amateur choir has positive effect on CSGY's LS level, when compared LS level of non-choir singers. When compared, there is also statistically meaningful correlation ($t=4.273$, $p<0.05$) with the LS levels of Kaplan Kalkan and Ardahan's study [35]. This means that participating recreational activity increase LS, but some of them has more effect on LS. In addition to these, the benefits of participating to amateur choir as CSGY have strong correlation with LS. The score of benefit "Felt Happier" is about 4.22 for retired CSGY, 4.26 for still working CSGY. These scores are really high score calculated on 5-point scale [35, 37, 38, 39, 40, 41].

When individuals are retired, they lose their professional power and social relationship or social connection based on their professional life. This sometimes brings loneliness to individuals [6, 26]. Participating amateur choir has positive effect of

socialization and give opportunity make new friendship. These help individuals for getting rid of loneliness. The result of current study overlaps this conclusion.

Even if majority of CSGY are running for one choir, people sometimes want to run more than one choir. There are many reasons for this. First; individuals can like to different music style, second; they can have enough time, money and other resources to support more than one choir, third; people have different social group and share time with them. In current study, CSGY participate more than one choir for getting more renovation/developing, to be away and/or escaping, and recognition and social status. This affects satisfaction level of participants.

4.Result

As a result of this study, for getting more happiness in golden years, singing in an amateur choir is a way. Singing makes happy individuals, increase their life satisfaction level. Motivational factors for singing in a choir are Liking Music, Relaxing as Mentally, Renovate and/or Developed, Socialization, Exemplifying, to be away and/or Escape, and Recognition and Social status. All these factors create globally wellness and happiness in CSGY's life.

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Table-1: Chorist Profile

Choir Type	n	%	Choir Form	n	%
Turkish Folk Music	116	31.2	NGO Choir	37	9.9
Turkish Art Music	256	68.8	Organizational Choir	189	50.8
Gender	n	%	Private Choir	146	39.2
Man	174	46.8	Marital Status	n	%
Women	198	53.2	Married	267	71.8
Running Period	n	%	Single	105	28.2
1 year and less	81	21.8	Living With Whom	n	%
2-4 years	110	29.6	Alone	74	19.9
5-10 years	101	27.2	With family members	134	36.0
11 years and more	80	21.5	With my husband/wife/Children	161	43.3
Personal Monthly Income	n	%	With friends	3	0.8
350\$ and below	20	5.4	Family Monthly Income	n	%
351-700\$	202	54.3	350\$ and below	12	3.2
701-1050\$	101	27.2	351-700\$	104	28.0
1051-1400\$	29	7.8	701-1050\$	121	32.5
1401 \$ and more	20	5.4	1051-1400\$	59	15.9
Running Choir With Whom	n	%	1401-1750\$	45	12.1
Alone	247	66.4	1751\$ and more	31	8.3
With family members	66	17.7	Education	n	%
With friends	59	15.9	Primary School	23	6.2
How many different choir	n	%	High School	136	36.6
One	225	60.5	University	161	43.3
Two	96	25.8	Master or Doctorate	52	14.0
Three or more	51	13.8	Paying Due	n	%
Age	n	%	Paying	275	73.9
59 years old and below	170	45.7	Free	97	26.1
60 years and more	202	54.3	Total	372	100.0
Comparison of LS	X±SD	t	Spend Time for Choir in a week	4.09±3.11	
LS of Retired Choir Singer	3.47±0.81	t = 5.372*	Average age	60.08±7.02	
LS of Non-Choir Singer	3.13±0.88		Average Running Period (year)	7.75±8.99	

PS: Currency rate is 1\$= 2.85 TL and minimum wage is 456\$ in Turkey in June 2016

Table-2: Other Recreational Activities of CSGY

Cultural and Art Activities	n	%	Sportive Recreational Activities	n	%
Being interested in music	261	70.2	Outdoor Sports	115	30.9
Watching TV	226	60.8	Water Sports	83	22.3
Be in with family	209	56.2	Recreational Activities in City Parks	45	12.1
Resting at home	178	47.8	Sports in Fitness Center	44	11.8
Surfing in internet	189	50.8	Folk and Sportive Dance	37	9.9
Going to cinema	187	50.3	Racket Sports	19	5.1
Going to theatre	164	44.1	Team Sports	18	4.8
Shopping	160	43.0	Individual Sports	15	4.0
Being interested in handicraft	125	33.6	Moto Sports	7	1.9
Being in social media	71	19.1	Struggle sports	4	1.1
Being interested in photography	32	8.6	Air Sports	3	0.8

Table-3: Comparison of Motivational Factors and Life Satisfaction with Respect to Some Demographic Variables

Factors ► Demographic Variables ▼	Renovate / Developed	Relaxing As Mentally	To be away Escape	Socialization	Liking Music	Recognition and Social status	Exemplifying	Life Satisfaction
Choir Type (t)	1.341	1.348	0.751	1.716	1.756	1.203	1.778	1.644
Folk Music	4.00±0.79	4.12±0.76	2.80±1.18	3.52±0.91	4.38±0.76	2.85±1.13	3.46±1.25	3.56±0.78
Art Music	3.87±0.94	3.99±0.88	2.70±1.15	3.34±0.96	4.23±0.80	2.69±1.16	3.21±1.19	3.42±0.82
Choir Form (F)	2.604	4.031*	9.153*	1.960	2.146	10.971*	7.333*	0.762
NGO	3.71±0.91	3.76±1.07	2.72±1.12	3.15±0.95	4.02±0.96	2.60±1.20	2.63±1.29	3.36±0.96
Organizational	3.86±0.90	3.98±0.84	2.50±1.09	3.37±0.93	4.32±0.67	2.51±1.10	3.27±1.25	3.44±0.77
Private	4.04±0.88	4.16±0.76	3.04±1.19	3.49±0.97	4.29±0.88	3.08±1.13	3.48±1.10	3.52±0.82
Gender (t)	0.163	-1.856	0.090	-0.113	-0.409	2.593*	0.159	-0.951
Man	3.92±0.83	3.95±0.83	2.74±1.22	3.39±0.95	4.26±0.78	2.90±1.12	3.30±1.26	3.42±0.83
Women	3.91±0.96	4.11±0.85	2.73±1.11	3.40±0.96	4.29±0.80	2.60±1.16	3.28±1.18	3.50±0.79
Marital Status (t)	0.330	0.830	-0.411	1.213	0.684	1.072	2.973*	0.080
Married	3.92±0.88	4.06±0.83	2.72±1.16	3.43±0.93	4.29±0.79	2.78±1.11	3.41±1.21	3.47±0.81
Single	3.89±0.94	3.97±0.86	2.77±1.17	3.30±0.99	4.23±0.80	2.64±1.25	3.00±1.19	3.46±0.81
Age (t)	1.458	2.002*	-1.959*	-0.847	0.890	-3.360*	0.463	-0.666
59 <=	3.99±0.88	4.13±0.79	2.60±1.12	3.35±0.88	4.32±0.74	2.52±1.11	3.32±1.16	3.43±0.80
60 >=	3.85±0.91	3.95±0.87	2.84±1.18	3.43±1.00	4.24±0.83	2.92±1.16	3.26±1.26	3.49±0.82
Education	1.040	0.106	2.289	1.055	0.638	5.161*	3.593*	0.914

(F)								
Primary School	4.18±0.7 5	4.01±0.8 5	3.00±1.2 4	3.60±1.1 4	4.45±0.6 7	3.32±1.2 9	3.47±1.2 7	3.71±0.9 1
High School	3.93±0.9 6	4.00±0.8 9	2.88±1.1 6	3.47±0.9 8	4.25±0.8 7	2.92±1.1 0	3.49±1.0 9	3.41±0.8 6
University	3.91±0.8 3	4.06±0.8 2	2.64±1.1 6	3.35±0.9 2	4.25±0.7 5	2.52±1.1 4	3.23±1.2 5	3.47±0.7 5
Postgraduate	3.78±0.9 8	4.04±0.8 3	2.49±1.0 8	3.26±0.8 8	4.35±0.7 4	2.72±1.1 1	2.88±1.2 8	3.49±0.8 2
Personal Income (F)	0.251	0.784	1.574	0.890	0.719	0.189	1.682	3.124*
350\$ and below	3.94±0.8 3	3.91±0.8 8	3.05±1.0 5	3.53±0.8 8	4.30±0.7 0	2.90±1.3 0	3.35±1.1 0	3.37±0.9 0
351-700\$	3.88±0.9 4	4.05±0.8 5	2.83±1.1 6	3.44±1.0 0	4.30±0.7 7	2.75±1.1 6	3.43±1.1 8	3.47±0.8 3
701-1050\$	3.92±0.8 5	3.96±0.8 0	2.59±1.1 8	3.32±0.7 8	4.22±0.8 5	2.73±1.1 5	3.12±1.2 3	3.32±0.7 6
1051-1400\$	4.00±0.8 4	4.06±0.9 4	2.51±1.0 9	3.17±1.0 0	4.15±0.8 2	2.62±0.9 9	3.11±1.2 0	3.71±0.5 7
1401 \$ and more	4.06±0.9 5	4.30±0.7 8	2.50±1.1 3	3.55±1.1 4	4.48±0.7 6	2.70±1.2 0	2.96±1.5 2	3.92±0.8 5
Family Income (F)	1.434	1.390	1.659	0.744	0.768	2.069	0.819	3.008*
350\$ and below	4.14±0.7 1	4.02±0.5 8	3.48±1.2 0	3.81±0.7 0	4.25±0.6 6	3.41±1.2 3	3.86±0.7 1	3.78±0.8 5
351-700\$	3.92±0.8 8	3.95±0.9 0	2.80±1.1 2	3.40±1.0 1	4.29±0.7 0	2.85±1.1 6	3.32±1.2 1	3.32±0.8 4
701-1050\$	3.99±0.9 1	4.04±0.8 1	2.76±1.2 0	3.44±0.9 5	4.28±0.8 4	2.80±1.1 7	3.26±1.2 1	3.49±0.8 3
1051-1400\$	3.64±0.9 1	3.91±0.9 0	2.67±1.2 3	3.34±0.8 5	4.17±0.8 2	2.62±1.1 8	3.25±1.2 3	3.43±0.7 9
1401-1750\$	3.95±0.8 0	4.20±0.6 8	2.60±1.0 7	3.30±0.9 0	4.23±0.8 6	2.43±1.0 3	3.11±1.2 5	3.39±0.7 1
1751\$ and more	3.97±1.0 4	4.29±0.9 3	2.43±1.0 4	3.27±1.0 5	4.51±0.7 9	2.53±1.0 3	3.43±1.3 4	3.90±0.6 3
Living With (F)	0.340	2.442	0.210	2.133	1.127	1.320	2.000	0.855
Alone	3.89±0.9 7	3.90±0.9 0	2.80±1.1 8	3.25±1.0 4	4.30±0.7 3	2.62±1.2 7	2.98±1.2 0	3.44±0.8 6
Family members	3.90±0.8 9	3.95±0.9 0	2.69±1.1 5	3.46±0.9 5	4.19±0.9 6	2.89±1.1 1	3.38±1.2 0	3.52±0.7 2
Hus./Wife/Children	3.93±0.8 8	4.17±0.7 5	2.73±1.1 6	3.38±0.9 0	4.34±0.6 5	2.67±1.1 1	3.36±1.2 1	3.43±0.8 5
Friends	4.41±0.5 2	3.85±0.5 1	3.00±1.3 3	4.50±0.5 0	4.66±0.5 7	3.08±1.8 0	3.44±2.1 4	2.86±1.0 0
Running With (F)	0.488	0.804	1.129	0.771	0.104	2.242	1.211	0.190
Alone	3.95±0.8 9	4.12±0.8 1	2.54±0.9 0	3.39±0.9 4	4.24±0.9 3	2.47±1.0 5	3.36±1.2 4	3.51±0.6 5
Family members	3.88±0.9 0	3.99±0.8 6	2.77±1.2 3	3.36±0.9 8	4.29±0.7 9	2.80±1.2 0	3.23±1.2 5	3.45±0.8 6
Friends	4.01±0.9 1	4.10±0.8 0	2.80±1.1 1	3.53±0.8 5	4.27±0.6 2	2.78±1.0 4	3.49±1.0 1	3.48±0.7 5
Paying Due (t)	1.381	0.851	1.231	-0.626	-0.151	2.108*	-0.164	0.660
Paying	3.95±0.8 9	4.05±0.8 5	2.78±1.2 2	3.38±0.9 8	4.27±0.8 0	2.82±1.1 8	3.28±1.2 4	3.48±0.8 4

Free	3.80±0.9 1	3.97±0.8 3	2.61±0.9 4	3.45±0.8 5	4.29±0.7 7	2.53±1.0 4	3.31±1.1 6	3.42±0.7 2
Running Period (F)	0.678	0.911	0.202	0.421	2.071	1.165	0.386	0.647
1 year and less	3.84±0.9 0	4.06±0.7 8	2.73±1.0 0	3.45±0.7 9	4.18±0.8 6	2.83±1.0 6	3.41±1.1 1	3.49±0.7 8
2-4 years	3.88±0.8 8	3.98±0.8 1	2.68±1.0 6	3.33±0.9 8	4.21±0.7 9	2.57±1.1 7	3.23±1.2 0	3.54±0.7 1
5-10 years	4.02±0.9 0	4.13±0.8 7	2.80±1.3 0	3.37±1.0 0	4.44±0.6 0	2.76±1.1 8	3.29±1.2 3	3.38±0.7 9
11 years and more	3.90±0.9 2	3.95±0.9 1	2.71±1.2 6	3.46±1.0 0	4.27±0.9 0	2.85±1.1 7	3.25±1.3 4	3.44±0.9 7
Different Choir (F)	2.964*	1.686	2.883*	0.148	1.374	4.770*	0.747	2.202
One	3.84±0.9 4	3.97±0.8 9	2.62±1.0 8	3.38±0.9 2	4.23±0.8 4	2.61±1.1 4	3.24±1.2 2	3.40±0.8 2
Two	3.97±0.8 1	4.08±0.7 5	2.93±1.2 0	3.39±1.0 6	4.32±0.7 2	2.84±1.1 2	3.31±1.2 3	3.51±0.7 8
Three or more	4.16±0.8 2	4.20±0.7 8	2.88±1.3 5	3.46±0.8 8	4.41±0.6 9	3.13±1.1 9	3.47±1.2 0	3.65±0.7 8
Working Status (t)	-1.454	-2.290*	-0.532	0.860	-1.558	2.003*	0.621	0.850
Retired	3.91±0.9 0	4.03±0.8 4	2.73±1.1 6	3.39±0.9 5	4.28±0.7 9	2.74±1.1 5	3.29±1.2 2	3.46±0.8 1
Still Working	4.03±0.8 4	4.20±0.7 4	2.79±1.0 7	3.32±0.9 7	4.38±0.6 9	2.52±1.2 6	3.22±1.2 8	3.40±0.8 2

* p< 0.05

Table-4: Comparison of Running Period with Respect to Some Demographic Variables

Choir Type	X±SD	t	Choir Form	X±SD	F
Turkish Folk Music	7.71±8.87	-0.054	NGO Choir	8.00±7.57	0.017
Turkish Art Music	7.76±9.07		Organizational Choir	7.75±8.39	
Gender	X±SD	t	Private Choir	7.69±10.07	
Man	9.55±10.42	3.687*	Living with Whom	X±SD	F
Women	6.16±7.18		Alone	7.22±8.02	0.184
Personal Monthly Income	X±SD	F	With family members	7.91±9.42	
350\$ and below	5.65±3.75	0.879	With my husband/wife/Children	7.9±9.16	
351-700\$	8.07±9.47		With friends	5.33±4.50	
701-1050\$	6.91±8.44		Family Monthly Income	X±SD	F
1051-1400\$	8.37±9.52		350\$ and below	7.50±9.49	0.461
1401 \$ and more	9.90±9.66		351-700\$	8.59±10.33	
How many different choir	X±SD	F	701-1050\$	7.25±8.14	
One	5.93±7.50	12.732*	1051-1400\$	6.76±7.35	
Two	10.09±9.64		1401-1750\$	7.88±9.15	
Three or more	11.37±11.53		1751\$ and more	8.64±10.13	
Age	X±SD	t	Education	X±SD	F
59 years old and below	5.86±7.03	-3.894*	Primary School	5.17±5.26	3.701*
60 years and more	9.34±10.11		High School	7.27±8.03	
Paying Due	X±SD	t	University	7.36±8.62	
Paying	8.77±9.64	3.752*	Master or Doctorate	11.34±12.47	
Free	4.85±5.97		Marital Status	X±SD	t
Attending with Whom	X±SD	F	Married	8.04±9.41	1.922*
Alone	8.39±10.93	1.485	Single	4.85±6.39	
With family members	8.01±8.72		Working Status (t)	X±SD	t
With friends	5.93±7.55		Retired	7.75±9.00	0.529
			Still Working	7.36±7.47	

* p< 0.05

Table-5: The Benefit List, Correlation with LS and Comparison of Retired (R) and Still Working (SW) CSGY's Benefits

The Benefits	LS	R	SW	t
	X ²	X±SD	X±SD	
Felt happier	0.424**	4.22±1.00	4.26±0.91	-0.521
Make new friendship	0.499**	4.15±0.98	4.21±0.91	-0.692
Improved my skills	0.468**	4.13±1.08	4.27±0.86	-1.524
Felt comforted and refreshed	0.521**	4.08±1.02	4.07±0.99	0.196
Spent my free time more qualified and productive	0.492**	4.00±1.04	4.11±0.93	-1.216
Felt satisfaction	0.381**	3.92±1.08	3.89±1.11	0.364
My musical knowledge increased	0.252**	3.89±1.30	3.96±1.23	-0.618
My self-confidence increased	0.370**	3.85±1.16	3.74±1.18	1.010
Belong to a group	0.364**	3.83±1.11	3.80±1.13	0.197
I succeed to be away from sameness, boredom, and stress	0.358**	3.79±1.27	3.79±3.65	1.186
My productivity increased	0.424**	3.75±1.10	3.91±1.09	-1.501
My dream widened	0.433**	3.65±1.17	3.69±1.21	-0.351
Get rid of loneliness	0.359**	3.48±1.32	3.19±1.36	2.353*

** p< 0.01, * p< 0.05

Understanding the Status of Women through the Deconstruction of Sexist Proverbs in Pakhtun Society in Pakistan

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Abstract: The present research was conducted in the village Toru in District Mardan, Khyber Pakhtunkhwa, Pakistan. The main objective of the research was to understand and analyze patriarchal structure and sexist ideology in Pakhtun society through Pashto proverbs. The second major objective of the study was to understand the role of Pashto proverbs in the construction of social reality. Through the selected proverbs one can understand the worldview of the males toward the status of females in male dominated Pakhtun society. The study also reveals that how a proverb becomes meaningful in a particular context and how it is used as a powerful tool by the men to construct endocentric social reality. How the prevailing sexist stereotypes and common sense helps in the construction of so called universal reality through the proverbs. In this paper we have challenged *matal*s (proverbs) as a regime of truth and by deconstructing and critically analyzing such derogatory and sexist proverbs we can highlight the hidden discrepancies in so called wise sayings and established facts and reality. The basic purpose of this study is to critically analysis the male chauvinism in Pakhtun culture through the deconstruction of sexist proverbs.

Introduction

Proverb is the shortest and precise expression in the unswerving possible words and forms. Oral literature of Pakhtun society carries special treasure of proverbs. Folklore of Pakhtuns is replete with proverbs. [1-2]. Significance of Pashto proverbs is crystal clear in daily lives of Pakhtuns as they often use in the current context also. Speaking and sharing of proverbs according to the occasion and context is a sign of wiser men in the Pakhtun society.

Proverb has a prime importance in the Pashto folklore. It is considered as the powerhouse of wisdom and wise saying. It is a precise and lucid way of expression of golden sayings. In Pashto language *matal* is a vehicle through which one can convey a self-explanatory and precise message, to the other person. Proverbs are presented as an established fact and representation of universal reality. There are specific proverbs for every social aspect of Pakhtun lives. With the help of proverbs one can easily understand the worldview and perception of the people about Pakhtun customs, traditions, social institutions, and ideology and the belief system. The *matal*s are used in daily life activities and are interpreted in the socio-cultural context to convey and get the embedded message [3].

One of the common Pushto proverbs is that, *Dasi matal nishta che rekhtiya na ve* (there is no proverb which is not true). Proverbs are presented as an expression of ultimate reality and established facts. No one can question the reality entrenched in the proverbs. This is one of the reasons that sexist

proverbs are also presented as established and proved reality. But the irony is that such proverbs are full of discrepancies and not representing truly the reality of the women if we critically analyze them from women vantage point of view. Secondly all such proverbs are produced by the men of the patriarchal society to perpetuate their dominancy, power and thus develop an endocentric worldview about everything including women and their statuses in the society.

There is a dearth of gendered based proverbs in written form because of the lewd language and most of them are avoided due to the general prism of morality by the scholars and researchers. This is one of the important aspects of the social structure of the *Pakhtun* society and without analyzing such proverbs one cannot understand the real status of women in *Pakhtun* society.

The basic aim of this paper is to examine how *matal* are used as a patriarchal tool to demote and subjugate women in an institutional and rationalized way of doing things from the men's perspective. The dominant groups keep intact their privileged positions and exercise their power by producing and manipulating truth in their own interest. Proverbs are one of the powerful tools in the hands of men to establish their supremacy over women.

Through proverbs one can better understand the social outlook and the beliefs of the people about the historical image of the women in a particular society. Proverbs of all societies are full of narratives and discourses which elaborate the nature of women, and their relationship with the other

segments of the society including men, children, ethnic group and even animals. [4].

1.2. Research Objectives

The main research objectives of the study were:

1. To examine proverbs as an expression of power and male chauvinism in *Pakhtun* society.
2. To analyze patriarchal discourses through gender related proverbs.

2. Theoretical Framework

As power is a fluid phenomenon so when expressed through a proverb it becomes a fluid phenomenon too. Proverbs as an expression of dominant, power are shared codes through which society establishes truth and reality. There is a critique on reality construction by Michel Foucault that there is no universal and ultimate reality, rather reality and truth is a socially constructed phenomenon, so the truth and reality represented by the proverb is not the reality of the society but the reality of a certain dominant class. The proverbs enable people to define their identities and systemize their knowledge as a representation of universal reality. Proverbs are the tools working at the service of the dominant groups within a society and gendered stereotypes are presented through such proverbs [4].

Human beings see and understand the world through the prism of their respective languages that they speak in their day to day conversation. As reality is constructed through the language, therefore every language is under the virtual control of the men. In this particular case too, the reality is andocentric and misogynistic in nature and not universal and neutral in nature. The linguistic resources are in complete control of the men which deprive the women to access the domain where reality is constructed, highlighting the way women are kept suppressed and repressed. As a consequence of that, a conscious enforcement by society impels women to become silent rather than giving liberty to expressing their powerful views. In the absence of linguistic discourse the women are powerless in finding suitable words that can adequately convey their views or create space for discussion. It can be rightfully comprehended that this perspective interprets gender and language use within patriarchal frame of reference.

The men established their domination through the proverbial expression. Dialectical construction is the tool as well as the technique by which gender ideologies are symbolically as well as metaphorically devised and then materialized. Subjugation and

discrimination is embedded in the way people construct their perception and feeling upto their belief system. Globally, stereotypical manifestation is deeply rooted in the maintenance and perpetuation of the very notion of femininity. To sum up, the after-shocks of such a stereotyping becomes the hallmark of women's agency. [5].

Proverbs are powerful rhetorical device for shaping of moral consciousness, opinions and beliefs [6]. Proverb as a representation of logocentrism has dominated the *Pakhtun* social thoughts since centuries. This logocentrism is responsible for the historical suppression and repression of women in the name of wise and golden sayings.

3. The Locale and Methodology

The study is based on an ethnographic fieldwork conducted during 2012-2014 in the village Toru, District Mardan, Khyber Pakhtunkhwa, Pakistan. The locale of the study is approximately eight kilometer away from the main city of Mardan. The village is famous for the production of high quality sugar cane, wheat and Virginia tobacco. A sizable landed gentry is living in the village and such people are famous for the traditional way of living and the use of proverbs are very common in their day-to-day conversation.

For the present research a mix methods approach was used for data collection. Four main qualitative methods; a) Key Informants; b) Focus Group Discussions (FGD), c) In-depth Interviews and d) Discourse Analysis were used for the collection and interpretation of data. At the initial stage of the research, three key informants were approached, keeping in view their knowledge about history and culture, their general reputation and political status in the society. For elaborative understanding, three FGDs were conducted to understand how people interpreted proverbs in the presence of each other. In this way the worldviews of the people in private and public was deciphered through such discussion in the presence of each other.

4. Results and Discussion

4.1. Understanding status of women through proverbs in *Pakhtun* society

There were so many Pushto proverbs which directly or indirectly related to the women. But the most relevant and common ones (total 16 proverbs) have been documented and elaborated by using the discourse analysis.

1. *Da khazi aqal pa pundo ke we* (a woman's brain lies in her toes). This proverb highlights the inferior position of women in Pakhtun society. She is considered as stupid and less intelligent as compared to men. She is the one who is lacking wisdom and good sense of doing things.

2. *Ko khazi okhyari we nu hujra ao jumat ba ye wo* (if women got wisdom, they would have their own mosque and *hujra*-a place to attend guests). In Pakhtun society mosque and *hujra* (men's guest house, where guests are entertained by the host) are the men's domain and both symbolizes knowledge, wisdom, power, sociability and public dealings. As women are denied access to *hujra* and mosque, it shows as an insignificant member of the society who has nothing to do with public dealings.

3. *Che khaze ta hal way, no dam ta ye wali na waye* (when you tell your secrets to a woman, why not tell it to a drummer). In Pakhtun society negative connotation is always attached with bard class especially the drummers and hair dressers. They are considered to be unreliable persons who never keep the secrets of people. They are always ready to share them with the people in general. Women are also placed into the same category of untrustworthy and unreliable people like bard caste. She doesn't keep the secret rather she will expose them sooner or later to the other people. It is better not to share any secret with the women.

4. *Budhay khaza da shaitan troor we* (the old woman is a devil's aunt). The old woman has a devilish nature and she will always create misunderstandings among people by backbiting and ill-mouth of other people's characters in the absence of opponents. So, she would always create feud and faction for her vested interests. Now, on the other hand an old man is the symbol of wisdom and is revered on the basis of age and experience, while an old woman is presented as bone of contention in the above mentioned proverb.

5. *Shetan che kum kar khapala nishi kowali haga boday tha hawala ke* (where the devil himself cannot do a mischief he assigns that to an old woman). Again in this proverb the woman is presented as the one with devilish nature especially the old one. It shows how men think about women in this society as she is always trying to downgrade them.

6. *Da khazi zai ya kor de ya gor de* (a woman either belongs to home or a grave). In this proverb the woman is presented as inferior and incapable of discharging her responsibilities outside of the house. So she is better to be at home and if she goes outside of

home she should be buried in a grave, in both places her honour will be safe. If she is allowed to work outside of her house she will bring dishonor to her family by interacting with men.

7. *Da khozo ko puza na we, nu ghwal ba ye khoral* (if women did not get the nose, they would eat shit). Again derogatory attributes are used for women, and she is presented as an inferior and stupid being.

8. *Kus tha gora che parri ghari* (a woman cannot make a roof). The word *kus* (genital/vagina) is semantic derogation alluding to a woman in Pakhtun society. As making of roof is men's domain so they associate prestige and status with such skills. Women being less intelligent and inferior cannot learn such manly skills.

9. *Che kus ye kog we, bakht ye khog we* (the ugly woman has the brightest fortune). It is a general perception in Pakhtun society that the pretty girls always marry in poor family while ugly girls always get affluent husbands. Through this proverb the men letdown and attach less significance with beauty of girl which generally considered as her asset in other societies.

10. *Che somra teeta we, domra paleeta ve* (the shorter the woman, the more wicked she will be). The short height of woman symbolizes cunningness, foxiness in Pakhtun society, while on other hand the short height of man is taken as a symbol of intellect and sharpness. So negative attributes are attached with short height of women and positive attributes are associated with short height of men.

11. *Che da salo she, nu qalandara she* (once she became hundred years old, she became a *qalandara* (female saint)). In Pakhtun society a *qalandara* has both positive as well as negative meanings. In positive context, the word means female saint with wisdom, piety and devotion while in negative sense *qalandara* means promiscuous, slut, prostitute, and a woman with no honour, who roams freely without following the moral standards of the society.

12. *Da khaze shal gaza zhaba ye* (a woman's tongue measures twenty meters). There is general perception in the society that a woman of good breed is supposed to be composed and reticent while a woman of lower caste talks nonstop all the time. Women are the most talkative species on earth planet according to men of the society. So again a man from a good family must be a good orator while a female from a noble family must be reserved and composed.

13. *Da khazo awra, mana ye ma* (listen to women, but do not obey them). Pakhtun never give importance to the sayings of women and that's why never heeds to what they are saying. They simply ignore their point of view as insignificant.

14. *Shatamana kheza ba darna ghulam jorave* (one who marries for wealth sells his liberty). This proverb is a sort of warning for those people who like to marry a wealthy woman. In this case he will be dependent on his wife and will have to compromise on his liberty and freedom. Secondly, in Pakhtun society the one who depends on his in-laws is looked down by the people in general and has no honour and respect in the society.

15. *Khaza da fasad jar ve* (a woman is the root of all evils). A woman being inferior being, the dominant male class of the society puts blame of every problem on her. The males are convinced that the background of every contention in the daily life can be traced to the ill nature of the women.

16. *Khaza che yawa we kor busya we, che dwa we samsara she ao che dhree we pa dewala sara swari we* (if you got one wife she will keep your house in order, if two then they are like monitor lizard, will fight with each other all the time, and if three then they will expose your domestic matters to the public).

Conclusion

Proverbs are the manifestation of hegemony and monopoly of the common sense of the dominant class of the society. The gendered proverbs favor the power structures manipulated by the males for their vested interest. As in Pakhtun society people give importance to folk knowledge of the old people so such knowledge is expressed through proverbs and is taken as ultimate representation of the reality.

Children are socialized through proverbs in Pakhtun society. Later on, they develop a certain worldview on the basis of such proverbs they learn throughout their life course from the old and experienced men. In gendered proverbs women are presented as feeble, inferior being and utter foolish and such notions are inculcated from the very early age in the minds of children. Very limited number of proverbs present a woman's positive image and while the majority portray her as sharp tongued, conspirator, stupid, inferior, less intelligent, incompetent, docile, fragile and empty headed and dependent on support and guidance of males in all walks of life.

It is not the case unique to the Pakhtun society only but to other societies too such as Turkish, Korean, Chinese and Persian where women's role is associated with honour, confinement to household activities, misfortune and bad luck while males are projected with positive images [7-10].

Hussein [11] cross-compared the manifestation of women in Ethiopia, Sudan, Sudan and Kenya, and established a synchronic prevalence of misogynistic proverbs which reflect that there are cross-cutting similarities in the way women are treated across the cultures. Hence there exists parallel connection in the patriarchal worldview in the countries that serve as ideological ammunition used to disseminate harbor the general public of the perceived weaknesses, fragility, and powerlessness of women [11].

The distinctive position of proverb from other folklore is that it is contextual and it comes to mind only until a particular situation arises. Language and proverbs are made by the men to suit and safeguard their interests. Under such language, proverbs facilitate the production of reality in androcentric way. All the derogatory proverbs have been produced by those who are economical and politically powerful.

Proverbs provide a window opportunity to the anthropologists and social scientists to peep into the socio-cultural aspects of the lives of the people in a traditional Pakhtun society. The worldview and perception of the people can be understood by critically analyzing proverbs to highlight the patriarchal values system. Through proverbs one can understand men's perception towards females. The negative connotations and attributes one attaches with females show their inferior and subjugated status in the male chauvinistic Pakhtun society.

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Principal Vectors in the Development of the Russian Poetical Avant-Garde

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Abstract: This text is about the Russian poetic avant-garde, about the avant-garde poetry that emerged on the brink of two centuries - the 19th and the 20th, and about the avant-garde trends penetrating the 20th century culture with their diverse forms of presence. Within this culture precisely the avant-garde became a curious response to the crisis in art. The road travelled by the avant-garde during the entire twentieth century can be divided into generally two periods. The first is most often called classical or historical period, which loudly proclaims itself among the varieties of futurism. During the period of the 50s -80s an illustrious and strong "other" art became established, which perceived itself not as a "contraculture", but as "art without treachery", if we apply V Nekrassov's formula.

Introduction

The perimeters and chronological frameworks of this phenomenon lying at the basis of this study, are outlined by the specifics of the avant-garde as an artistic trend and by its place in the cultural system in the brink of two centuries. The attempts to determine the specifics of the essence of the avant-garde as a cultural phenomenon have a long history in the Western literary science; in Russia and Bulgaria – mainly since the last two decades.

1. The Phenomenon

But the nature of this phenomenon is still evading the taxonomic passion of the literary historians, not only because the contemporary literary discourse is rather heterogenous at its outlet, „fragmented in its power of explanation”, but also because possibly the very nature of this phenomenon avant-garde prevents it from being eternalized in the shape of a monument.

The events of 1917, the decay, the civil war, changed the cultural situation in Russia. Futurism lost its leading positions of a pioneer in the discovery of new ways in art. During the 20s of the century numerous poetical groups appeared, which spurred off differently from the futuristic platform, though its modified elements could be found also with the imagi-nists, and the expressionists, and the nichevoks (never minders). Eloquence is demanded at the level of the tropes, of the the poetical syntax. The subject itself altered its abstract-universal parameters towards more specific and historically motivated such. The modernist categories of fear, horror, madness, were brought to life, and the motives of sorrow and despair, uncommon as a whole (with some exceptions) for the futuristic viewpoint. As Vassiliev says, basically a restoration takes place of the “early symbolic models of art, of decadent motives, that is, a personal modernistic inception is imposed, while at

the same time there is a claim of independence and rescinding of epigonism and repetitions” (1: 289).

The abstract urge towards the future and the hope for the transfiguring forces of art were replaced with the just as grandiose utopic plans of the Bio cosmicists, with the energy quests of Luminates, and the program for poetic synthesis of the Fuists. But in the meanwhile succession is observed with respect to the futuristic epatage.

During the 20s two coalitions emerged, genetically linked to futurism – constructivism and LEF (Left Front of the Arts), which developed a program to transform poetry into a tool for utilitarian impact on life and society. In opposition to the latter, the Coalition for real art (OBERIU) took on the baton of avantgardism in the race during the second half of the 20s. While leaning on the traditions of the zaumna poetry (abstruse poetry using sound words that have no meaning), the oberiuts held open the borders of art and reinstated the sense of limitless freedom transforming the avant-garde art system and offering their own paradigm. The constant pressure on the part of the totalitarian reality was among the factors giving rise to the sense of finality among the oberiuts. Unlike the futurists who demonstrated the possibilities of language in its poetic alchemy, they discovered rather its inability to be an instrument for the achievement of the world, correlating to the full the cognitive potential of art, while removing the claims to exceptionality of poetical language.

The oberiut discourse is related to playfulness, eschatological comism, decentralization of the utterance, notional absurd. The oberiuts surfaced as completers of the first stage in the development of the avant-garde movement of the 20th century. The renewal of the avant-garde art after the subsiding of the wave of socialist realistic models run arduously and spora-

dically, initially as discrete trends, as reference to the experience of the historical avant-garde since the beginning of the century (1: 291).

In the period 50s-80s "another" art was formed in a distinctive and powerful way, which perceived itself not as "contraculture", but as "art without treachery", if we apply the formula of V. Nekrassov (2: 200). The resemblances to phenomena from the first quarter of the century in many respects are related to typologically close and akin aspirations.

Both politically, esthetically and thematically there is a distinction between the examined poetical groups and coalitions and the cultural processes and realities of the socialist society. One of the first manifestations of this art is the Iliantsovski concretism, based on which later on the Muscovite conceptualism flourished.

If the muscovite poets "of the barracks" created a new poetical speech based on the street-informal language, taking tradition outside the brackets, the "Helenuts" and "VERPA" re-examined this tradition, unweaved it and once again weaved it, building on it a contemporary poetics, endowing with sublime value what was deemed profane.

To the futurist heritage as a source for renewal in literature allude "SMOG", "the philologists", the poets from the literary coalitions of Gleb Semyonov and of David Dar, outlining the need to reject the ubiquitously important values in order to create a vivid, vibrating text, to create a tissue of "flowing" verse.

During the 80s the need to change the notion about the values in literature, about the need for a new outlook on the familiar and for stepping outside the tenets of the generally accepted and banalized notions of creation was demonstrated by the meta-metaphorics, the "ironists", conceptualists, who renewed the form of embodiment of the creative thought and the poeticism of speech.

During the last two decades of the century the efforts towards experimenting with the possibilities of speech and with the technology of the various arts increased. These were attempts inclined towards the avant-garde of the beginning of the 20th century. The poetical choices related to the development of the sound and visual poetry, to the phonosemantics and the hybrid forms of art grew more and more abundant. The Art Poets relied on the piece of art as a move to action, a performance, a happening, an effective trick – a trend leaning towards futurism, which trend was continued by the conceptualists in Russian poetry during the 70s. The perspectives and

conventions were exposed, overcoming the norms and expanding the territory of art were exposed, and the transforming of the latter into a kind of gesture and motion.

Based on the idea that the avant-garde is a complicated phenomenon, which has various common grounds with other art phenomena and processes, and is characterized by a variety of the forms and manifestations, we shall outline the typologically characteristic courses of development of the avant-garde trends in the 20th century. Despite the varicolored individual groups, schools and tendencies, let us single out those manifestations of artful thinking, which reoccur, without striving to create phenomenology of the avant-garde, considering further that the individual characteristics may be evidently present, or less so, in one movement or another, but this does not degrade "the avant-garde potential of the literary fact" (1: 292).

Within the polychromatism of the creative manifestations it is exceptionally difficult to capture the internal trends, the systematic fusions, especially with respect to a phenomenon, the forms of which constantly demonstrate contradictions and lead to one or another cultural enigma.

The maximalism of the revolutionarily-minded avant-garde generally repulses and terrifies the recipient. The tempestuous story of avant-garde art is further complicated by numerous disputes, scandals, irreconcilable conflicts, which accompany the exhibitions, shows and poetical readings of the avant-garde artists. Each one of the poetical movements as a rule was accompanied by esthetic declarations and manifests. This is especially true for the old avant-garde and is much less typical for the avant-garde of the second half of the 20th century. The groups and schools emerged suddenly and fell apart just as suddenly, leaving behind them a series of ideas, artistic solutions, marking their empathy with the history of avant-garde art.

Each coalition claimed importance, run away from the ordinary and banal, re-distributed the functions of art, put to doubt the original objectives and ideas.

The avant-garde changed the status of the work of art, expanded the borders of the esthetic, and directed its energy toward change of the esthetic norms. The insurrection against them within the art required new proportions in the ratio of values, conquering new cultural areas – primitive art, myths, the esthetics of the outrageous, etc. Taking part in the avant-garde synthesis is the attempt to combine contrasting, so-

metimes perfectly incompatible, beginnings, to unite the intuitive and the individual.

The avant-garde is sceptic with respect to the existing notions, ideas, categories, it seeks alternatives for the limited human perception, approaching beyond the reach and the subconscious. The avant-garde denies the regularities and rational knowledge, rejects gnosology and seeks its own paths of knowledge.

The very process of creation changes: more often than not the text is created without a plan or a preliminary idea. At that the errors, pauses, omissions in speech in avant-garde art are often interpreted as form-shaping stimuli.

The artist - avant-gardist is exceptionally active with respect to the material. He is of the service of full and absolute freedom and freedom of any scruples, and here the paradoxical nature of the avant-garde manifests itself: the all-permissiveness, the ability for each combination of words and speech fragments to be presented as a work of art makes it (in its extreme forms) impossible to divide art and non-art.

The artistic reality created by the avant-garde has its own peculiar dualism – on the one hand it vexes and provokes, on the other it instigates to action. The avant-garde creator deliberately rejects comprehension, avant-garde art does not wish to be easily accessible and clear. Both the “early”, and the avant-garde from the second half of the century aim to unsettle the beholder, to break the automatism of reading, to trigger active lack of acceptance or lack of understanding, which “converts the addressee from a subject of perception into an object” as Shapir says (3: 4). Hence the techniques related to hindered reading, like the “zaumni” creations, the “cut-off” words, the numerous neologisms, the transgressed syntactic structures, the pairing of unmatchable esthetic or thematic phenomena. The reader must be relieved from the imposed interpretation as a prerequisite to the adequate perception of the text. The language was initially seen as inadequate to present the ever changing world. And the task of avant-garde art is to create such a form of art that corresponds to the principle of eternal renewal.

The rebellious nature is the business card of the avant-garde, and it is related to a degree with youth as a feature of the non-acceptance of stereotypes, like looking for new meaning and emotional horizons. The insurrection, the activism, become the content of art and begin to determine creativity from the inside, and the latter hopes to find its subject in the act of negation. Surpassing the borders of the real becomes

a regular expression of the innovative ideas of the avant-garde.

Avant-garde art does not speak out ready-made truths, it is far from didactics and instructions unless it uses them in a parody - transvestite form. The creators from the historic avant-garde feel like “cultural heroes”, typical for them are provident illusions and hopes, assigning transforming forces to art. The crisis consciousness of the avant-garde creator is nourished by the suspicion in the authority of science, ideology, philosophy. The undermined belief in turgid speeches and the pathetic of the official leads to resorting to the elementary forms, to the simplified vocabulary, to the marginal and secondary. The breaking apart of the ties between signifier and signified increases the level of arbitrariness of this kind of art.

If for the avant-garde from the start of the century it was typical to perceive the creator as a “cultural hero”, bestowed with the gift of prophesy, while art as an activity transforming the world, the avant-garde art of the second half of the century, upon finding itself in a different socio-cultural and literary environment, in the esthetic and ethical context, deprived of a center, underwent significant changes; it refused to speak from the standpoint of the extreme truths, “it loses its utopianism and its revolutionary urge to reconstruct, loses its Messianic claims, the social ambitions, the will for power and tribune, imbibing the “bread-bringing role of the private, “little” man” (4). This hero, unlike the Soviet construction worker, is an unostentatious man, but nevertheless he stands apart from the mass, he is conscious of his marginality. Rejecting the pompous pathos of the ideological clichés, poets like Satunovskii, Sapgir, Nekrassov, defend the right of the individual to be himself, as he feels it, to be whatever he wants. The shift of the heroic model of conduct is replaced by the shift of the “small goals”, glorifying coziness, the calls for philistinism and secularism - a challenge for the “great ideas”. Often, though, paradoxically, these calls and the stereotype of philistinism as a whole is found to be composed not of every-day life details of soviet life, but emerges as imagery for the chrestomathy authors of “its own” Russian literature.

In their experimentations the poets relentlessly seek the formula for the manifestation of the text, from which spurs the interest in the process of manifestation of the work of art, and it becomes even more important than the finished product. The need for accomplishment and goal of the text is subjected to reconsideration. Hence the variation of the work, the inundation of the random and unpredictable. For the conceptualists, for example, the reader constructs the

product in his mind, and each time this construction may lead to a different result. Instead of the meaning of the end product, the role of the relationship between the public and the work of art increases, the communication turns into a leading poetic intention.

For the “late” avant-garde it is typical not only to destabilize the internal center of the text, but also its external borders. The conditions for the creation of a work of art gain importance, the context of the creative act, which were marked down as part of the work itself – in other words: the work of art endeavoring to surpass its own borders.

The game, the parody and travesty become important manifestations of the avant-garde, the compulsory features of the “grand style” are prophanized, with its pathos, its citizen’s duty, supreme goals, responsibility and loyalty to the ideals. Playing with the collective myths and their debunking appeals to the author avant-gardist, what is more, not solely the myths of the “great empire” are subjected to ironic reconsideration, but also the ideas of mass literature having their impact on public consciousness. The depicted world is flexible, decentralized and variable, the peculiarities of the work of art itself are subjected to equivocal transformations.

The sense of failure in life and public absurd often gives rise in poetry to the image of the hero eccentric, loser, monstrous personality, a person having deviant conduct, which is readily manifested and declared. Just like with the classical avant-garde, the author as a rule considers himself asocial. Imaging structures appear where the absurd, ludicrous, illogical demonstrate the reaction of the artist against the insanity of the real life. Typical are the verse compositions inspiring in the reader the sense of ignorance and insecurity, taxing his emotions and intellect.

The borders between artistic and non-artistic texts and genres are obliterated, the borders between the various arts fluctuate: painting and architecture, music and poetry. It is not by accident that a large part of the creators having in common with the avant-garde movements of creation are poets and painters at the same time (Evgenii Kropivnitski, Lev Kropivnitski, Henrich Sapgir, Dmitrii Prigov, Ri Nikonova, S. Sigei, etc.), poets and musicians (E. Mnatsakanova).

While attempting to reject literature understood as a museum work and a standstill existence of a finished product, the avant-gardists reject the rules and tenets, institutionalize the impromptu speech, the “errors” and “omissions” in speech, the noises and the obstructions in general in the way to smooth

communication. Instead of the written actuality of the text, instead of its “professional” finish, preference is given to the individuality of the resounding voice, the improvisation of oral speech.

Oral speech entices also with its spontaneity, with the opportunity to improvise and with the unrehearsed statements, which encompass the moment of surprise typical for the avant-garde actions and public activities. An extreme form of unwelcoming the utterances – legalizing the screaming rhetorics and the officious void is the rejection of any kind of utterance in favor of the spectacular, campaigning, which is evident in the empty sheets of paper, the poems – paintings, the series of hieroglyphs and formulas of visual poetry, the campaigns, accompanied by the incineration or crumpling of the product or art, etc. Hence the key role of silence, the principle institutionalization of the omissions in the texts, of the incomplete and unfinished statement, of the word as a figure of the what was unsaid, “the form of which is outlined by the other words”, as Michael Eisenberg says (5:120).

The technique of the collage takes the lead. Foreign speech widely infiltrates these works of art. In this respect the principle intertextuality is typical for most of the studied schools and trends. The images and ideas in the works of the poets are built up as a conglomerate of various texts and references to texts. In the poetry of the conceptualists and the socialist artists the very image of the author “develops into a function of language communication, into a compiler, thinking in a centonic (patching up versus from different poems) way... The creative thinking is understood mainly as semiotic activity destroying the differences between the esthetic and extra esthetic, artistic and empirically practical. The avant-garde artist strives to rise “above the barriers”, set forth by the categories of “author”, “reader”, “esthetic code” (1:308).

The poetry under the banner of avant-garde from the second half of the century established differently disengaged relations with the classics, on the one hand, and with mass culture, on the other.

Unlike the avant-garde from the beginning of the century, the “late” avant-garde is generally not distinguished by aggressiveness, Messianic enthusiasm and isolationist moods. It does not reject tradition, though it reconsiders it and undermines it. While acquiring at the same time the experience of classic poetry, of the futurists, the oberiuts, and of the European modernism, these poets understand that directly persisting with tradition is impossible. While bringing forth names of their predecessors, the “late”

avant-garde as a whole does not break the ties with the avant-gardist tenets, since the irony here is a form of its personal and intimate perception. Being the children of their era, the poets of the 50s–80s painfully feel the interrupted ties with the previous tradition, the absence of teachers. Therefore for them succession is more on the agenda than nihilism, the feeling that they are part of a chain, which they prolong through their poetry. And in this respect the connection with the tradition is important, even though perceiving for example the “Silver Century” as an indisputable value, they converse polemically with its ideas, truths, heroes and imagery. But these polemics remind of high-strung parody.

The fact that tradition as a whole is not rejected, is not strange, not solely due to the overwhelming desire to build a bridge–zeugma, joining together the broken ties of the times. The avant-garde as a whole is an antinomic phenomenon. Various trends exist inside it, locked in inexorable battle, but they are also in constant interaction (6:30). The shifting of the Russian poetry of the 50s–90s towards the archive of the cultural classics has its counterparts in Western art from the second half of the 20th century. (we may give an example with the study by Foster of the “late” avant-garde which, according to him, generally works based on constant retracing one’s steps back to cultural memory. see 7:5–32).

The avant-garde versions of art from the second half of the 20th century focus on the resistance against the labeling expressions of culture – an idea with very ancient roots, which the avant-garde art revived. As an alternative to these labeling expressions, the authors oppose the reduced, careless, poor form, affirming by negation the cut through to the sacral and authentic, seeking new positive meanings brought by art.

To support similar viewpoints we may refer to the words of Lev Rubinstein who says: “The restructuring of language in my texts – this is to endow them with new positive codes. Generally speaking I fully seriously believe that the chief vector of my works is positive, even though many do not think so” (8: 211). In this respect, even though in its external manifestations it relinquishes its re-educational burdens, with its outlook about reality in its incompleteness and variability, the avant-garde art is storing the hopes of change. It stores also the claim of significance of the creation, of significance of speech with respect to the fate of culture and art. Through the externally insignificant, through the unexpected, through the illogical and marginal, the avant-garde aims for the non-embodiment. Its system

of values is characterized by a vertical line, not horizontal.

Experimenting with various ideas, with the poetic, with the manner in which art is perceived, changing the notion of itself, the avant-garde poets become emissaries of “experience having the status of an event” (1: 311).

In its activity the avant-garde art struggles with the exemplariness of literary creation, with being stagnated into relic forms, because the museum is the graveyard of literature, to cite the famous thought from the modernist era. In the violation of rules the avant-garde creators find a productive artistic approach, which represents part of a new convention, a somewhat alternative classic. Avant-garde art resists flicking through it. Effort is needed so that the individual does not sink into complacency. Pre-modeling the world to the paroxysmic visions of the grotesque, weird, dreadful, the poetic works in the field of avant-garde reflect the horror and distress of the person, located at an eternal border, but also his will to resist evil. The self accomplishment of the creator is seen as an attempt to cross the borders, an attempt to surpass the limited framework of human existence.

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Posthumanism, androids and artificial intelligence: an aspect cultural, biological and ethical

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Abstract: *Humanity, as we know it, has long coexisted with machines, adapting to new living conditions constantly through technological progress. The topic of rational automata is culturally present for many centuries, and nowadays, due to the accelerated pace of discoveries in the field, the problems of posthumanism and artificial intelligence which would be completely different from human one, arise. It is not just a domain of science fiction, but ever increasingly the field of learning and seeking answers to fundamental questions – Is it still a machine, if it can do what I can? And consequently, who am I? Who could I become? Would I still be human then? There is no unequivocal answer to such fundamental questions, but in the article there's an attempt to trace the subject and intricacies of artificial intelligence, beginning with cultural, technical and biological aspects of the material world, finishing with the philosophical and ethical issues.*

Introduction - Galatea's myth?

In the process of human development from the dawn of history one can notice the presence of topic of the creation of a new being or being, where man is placed in the role of the creator of, not the created one (as was generally accepted in most religious-philosophical systems). The first traces of such man with the desire to create life are already seen in the myth of Galatea and Pygmalion (which also got a modern take in adaptation and expansion by GB Shaw), who still believes in the inability to give the immutable substance a supernatural element, animating it - man as a creator is incomplete, the work of creation requires something that he himself cannot give. This motif is repeated for centuries both in the religious circles - such as the golem (who, despite being created, has no rational soul, *neszama*) and lay people – as, for example, an alchemical homunculus. Interestingly - apart from examples of works that, according to the story, remained unconscious - beginning with Faust's Homunculus, through the Pinocchio - animated puppet, up to modern machines (androids), all such hypothetical creatures want to become fully human [1]. In the Philip K. Dick novel, "Do Androids Dream Of Electric Sheep?", its adaptation "Blade Runner" or "futuristic" variation on Pinocchio ("A.I." movie by Steven Spielberg), the androids appear to have human characteristics such as love, empathy, or compassion, which, by definition, they should not be capable of, as automatons or deterministic machines - thus asking questions about what humanity is, and whether it can be attributed to anything else. What consequences of moral and legal nature are connected with it? Are the real technical abilities capable

to accomplish such visions? And also - what this kind of representation of thinking machines in the culture can tell us about ourselves?

1. So, man created a machine in his own image... And your neighbor as yourself.

Since the times of the technological revolution, people are surrounded by machines, the number and complexity of which is increasing. From weaving machine, through steam, up to electronic ones, the amount of technology in our lives is increasing more and more. Interestingly, despite the fact that the computing power we casually call artificial intelligence surrounds us at every turn (for example, software in microwaves, traffic lights, or automatic vacuum cleaners), most of our reflections, fears and hopes are associated with artificial intelligence in anthropomorphic form. We are not alarmed nor is there any literary motif of rebellion or self-awareness of a machine automatically assembling parts on a production line in a big motorcycle factory (though it already has the first human casualty of a wrong algorithm [2]), while the same theme with respect to anthropomorphic machines becomes almost omnipresent, although the creation of such machines is not practical at the present time (self-balancing when moving with two points of support requires considerable computational power and motor efficiency). What is it so special in a form which, although filled with the same content, raises in us different sensations and makes us treat the machine as a tool or as a conscious being? Perhaps it is a matter of a certain projection - humans as such have the need for building relations - usually with another human, but there are exceptions (long relations with pets are often very

anthropomorphized) - which gives him the ability to mirror himself in the eyes of another being, which will help him to define, to complement his own being in a certain way, fulfilling in the same time the desire to be someone for someone. But since man cannot always - or does not want to - become such a partner, the myth of Galatea appears as an alternative, in addition providing the will of power and power of the creator over the created being and the fear of losing control over such being (conceived as a reliant extension of oneself) [3]. The relation to such creatures is also mentioned in the robotic laws of Isaac Asimov, which would be mentioned a bit further. Considering the android robots an extension of the will and ability of human (and thus treating them in an utterly instrumental way, following Heidegger's approach to technology) can be easily compared to the general attitude of man to modern tools. With easy access to changing and expanding the possibilities of one's own body, man creates himself so that he can control and blend with his surroundings more and more. Z. Bauman writes, quoting Bryan S. Turner, that the human body was "an opportunity molded by culture and realized through human interaction" [4].

Nowadays, both culture and interactions become something new, by adding the prefix "cyber" - the body is no longer an antique or modern tool of physical work or an element of worship of health and beauty, but it is targeted at processing more and more information, sometimes at the expense of itself and of traditional relationships. We are creating ourselves again in the pursuit of the models we have provided for management of information overload. Homo cyberneticus, immersed in a biotechnosphere composed of genes and bits, is eternally linked and connected to other subjects and objects. He is constantly exchanging countless amounts of data and information by filtering, analyzing and verifying them with open intelligence composed of his mind, the minds of other cybersubjects and computers [5]. Is it spiritual enrichment, or is it the opposite? Different approaches are possible here. As Ilnicki notes in "Bóg cyborgów..." (Cyborg's God): "Transhumanist homo futurus identifies the spirit with technology, giving up the metaphysics (isn't it a real deus ex machina? Although it is possible to reduce man to a biological machine, it will always be a certain reduction, robbing him of the non-biological sphere belonging to him). In opposition - homo religiosus of posthumanism "strives to preserve the existing humanism with the available forms of religiousness, opening up at the same time on new forms emerging as a result of structural entanglement between man and the technical media" - so to say incorporating new possibilities under control of humanity [6].

In addition, we can wonder about the motives behind the reasoning of the would-be cyborgs. P. Majewski, among others, has been looking for an answer to the question "Why do some people want to stop being human to the extent that they invent theories and write books about it?" and concludes that the reasons that pushes them towards this goal are:

1. Hatred of one's own species due to the imperfection of its physical and spiritual form [...]
2. Powerlessness, or rather a sense of impotence. Its cause is the Pascal's disproportion between the measure of our bodies and minds and the scale of physical reality [...]
3. Frustration. Its source is a strong sense of the ultimate exhaustion of the vital forces of Western civilization.
4. Curiosity, as it is known, has always been one of the main motives for the development of civilization.
5. Fun [...] If the technical inventions allow us to make autoevolution, let's do it "just for fun".
6. Boredom [...] people have already realized all their existential possibilities and, if they do not do something spectacular, they will remain in eternal ennui. [7]

Looking at this list for a bit longer, we cannot deny that according to the author of this statement, the posthumanists fill a list which the humanity already knows - wrath, sloth, envy, greed, gluttony and finally pride (and the seventh position which is missing from the list probably could be filled here as well). There can be a debate for such a rigorous evaluation of transhumanists, however, the danger of changing our humanity into pure numbers game in the pursuit of information - exists.

2. Slavery, v. 2.0

It has been mentioned earlier the treating of robotic entities as tools, defined by robotic laws created by Isaac Asimov in the 1970s, which were stated as follows:

1. A robot may not injure a human being or, through inaction, allow a human being to come to harm.
2. A robot must obey the orders given it by human beings except where such orders would conflict with the First Law.
3. A robot must protect its own existence as long as such protection does not conflict with the First or Second Laws. [8]

As can be seen, human rights are set in an order which is overriding the rights of a "thinking ma-

chine" and do not differ much from the laws that in the course of their existence, the people gave to the others standing on the lower rung of the social and technological ladder. The question to be asked here is whether the machine can be an ethical, feeling and thinking being? If not - it does not need any rights greater than those of any other tool of human thought. If yes - can it be just a moral subject or a moral agent - and therefore are our rights and obligations regarding that agent not submitted to change and ethical judgment? At the present time, the theme of our relationship to machines is still poorly recognized (perhaps because of the origins of this field) - it focuses more on the legal and moral responsibility of the human being for the computer - as a moral subject. If Is it right – it's debatable and can be judged from different points of view. On those, it is possible to present a brief reflection on the nature of intelligence – the human and the artificial one.

3. Neurocomputer with a soul?

In order to reflect on what artificial intelligence is and how its capability for a free will looks like, it is necessary to present a model of "true" intelligence - self-aware and self-defined. What does our "humane" neurological system look like and how does it process information? Without going into details at the cellular level, but at the higher level of the structure - the human brain consists of an evolutionarily older part similar to that of an animal, controlling the unconscious life functions (breathing, digestion) and a newer one (neocortex), evolutionarily present in minimal amounts in non-human primates and in exceptionally large amounts in humans. Neurons of the cerebral cortex are connected in a hierarchical structure responsible for pattern recognition - this basic skill is unique for humans and is so far only in development stages by computer makers. The lowest elements of the hierarchy are able to recognize the contours and shapes, the higher ones gathering the right amount of signals are able to combine them into a greater whole (face or speech recognition) and the highest ones are able to decide on a sense of irony or invent a new idea. The ability to correctly connect smaller structures into the larger picture, corresponds to a network of connections between neurons - evolving during the whole life of an individual, reinforcing through learning process the connections leading to the desired concepts / patterns and removing those that are not being used. An additional element found only in the brains of humans and in small quantities in some social mammals (dolphins, monkeys, elephants) are spindle neurons - structures not created at birth, forming (in human child brain) between 6 months and 3 years old – discovery of

which was linked to the ability of thinking that transcends and goes beyond one's own "self"[9].

So are we nothing more than just a neurocomputer? There is no explicit biological answer. However, from philosophical reflections it can be inferred that we are not – human being is more than just the sum of his parts, he has inextricable higher values such as dignity and humanity, independent of his ability to use the mind (handicapped people or those affected by anencephaly also have humanity) or body (physical deficiencies do not deprive individuals of belonging to the species). So the brain alone, doesn't make a man yet.

4. The creationism vs genetics war, or - machine, make yourself.

And how does it look from the machine side? Here, too, the focus is not on the complexities of construction, but on the very idea of functioning of machines and digital robots. Deriving from the early assumptions of Alan Turing and von Neumann (and historically speaking even Charles Babbage), computers are fully deterministic machines adapted to perform symbolic operations according to a set of rules – it is not especially significant what these symbols are. Equipped with the appropriate ruleset that govern the processing of symbols, the machine is able to reproduce music from the score, prove mathematical theorems, or follow the rules of chess (and the quality of the game will depend on the quality of the set of predicates given to the machine by the creator). It can safely be regarded as a manifestation of human creationism - the machine itself is not capable of producing anything that has not been made possible by its creator - it processes only the symbols (zero and one) in a strictly defined manner which does not allow any deviation. So, even the most advanced in its functions, the machine is still dependent on man, on his idea about how it works. Any intentionality that may appear in the operation of the machine is, therefore, solely a human intentionality. [10]

However, this kind of paradigm is being held as outdated in the field of artificial intelligence research. According to the principle of imitation of reality, the current approach is no longer based solely on the binary logic of the rules, but on the fuzzy logic - the stochastic models, similar to the construction of the human brain model that has been mentioned earlier. The programmed machine continues to operate on the symbols, however, they no longer apply explicit rules, but only the probability system that allows them to classify the patterns. It makes this according to the current state of the machine and the data being

diagnosed, estimating the response with a small margin of error, and if it is committed, probabilities are appropriately adjusted - it can be said that the machine "learns" the correct answers to the applied set of data, just as brain cells adapt their connections to the reality. In addition, the use of models borrowed from genetics - the ability of computer programs to evolve in the direction that their creators not predicted, allows to find solutions to problems that the creator of the system had no idea of [11,12] Furthermore, the mathematical construct, the so-called hidden hierarchical Markov models (HHMM) allows to turn a computer's case into an electric brain neurotransmitters simulator [9]. But can there be any creativity there? The consensus says it cannot - any solution, although not previously anticipated by man, is still limited by computer program and its limited intrinsic variables. In other words - the computer response space, however larger than the programmers are able to define unambiguously, is still limited by its structure from the outside. In addition, the processing of symbols according to the learned rules does not yet mean that they are understood - as was postulated in John Searle's "Chinese Room" thought experiment[13].

Derrida's approach seems to be quite right here [14], according to which machines only react to the conditions they meet, but do not respond; they are not rational beings in the sense that man is rational, they do not enter into dialogue. Neither do they speak the language in such an advanced way and with full awareness of the words conveyed by the human being - they are only a product of Chinese room. Even the best engineered and programmed machine will not be as proficient in using a language or translating texts as a human being. And for the most part, he was right, but he was mistaken about the skill (which goes hand in hand with interpreting, but not understanding the text) - in 2011 computer called "Watson" beats two human opponents in the verbal knowledge game show Jeopardy! - which required advanced abilities to manipulate common spoken and written language with reference to the encyclopedic knowledge base. [9] So the computer won a million dollars. But was he aware of it? Was he a free and autonomous being, or an advanced translator?

5. Freedom! Autonomy! Purposefulness!

Any consideration about the essence of machine freedom can also refer to men and animals. Are there completely autonomous entities? It can be said that only a roadside stone can be as such, but even it is shaped by its environment. Everyone and everything is dependent on each other, so how can one distinguish a human from inanimate or unconscious

beings? An example of an answer is given, among others, by Spaemann: "Negativity distinguishes living being from inanimate one" [15]. The difference between these beings consists, among other things, on the fact that the animated being has a teleological structure ("being-towards") expressed by the desire. The desire constitutes a double difference: between the "interior" and the "outside" of the living being and between "already" and "not yet" (anticipates what is anticipated in it). The first difference is the basis of perception of space, the second is the basis of perception of time. The animated being has its "interior" (it has an inner side) that is not accessible cognitively from the outside. An observer cannot directly know the internal states of an entity. The "interior" of a living being is constituted by "being-towards", which is manifested by the desires (basic teleological structure). This "being-towards" establishes the inner difference between a living being, what is "real" (living being perceived from the outside), and what it is actually (the living being from within, from the side of "being-towards"). Animated beings, unlike inanimate beings, may not achieve their natural goals, may miss the goal, and fail to achieve their goals. This is because the link between pursuit and fulfillment is not a law of nature (*Gesetzlichkeit*), but it is not accidental either. Performance is the result of normality, failure (of achieving natural goal) - abnormality. Normality is the biological equivalence of natural regularity. The latter, characteristic for the realm of inanimate beings, excludes the possibility of underachieving, error. The error occurs only in the field of beings that aspire to something [16]. The foregoing reasoning implies that the deterministic machines are doomed to failure in their humanity without the possibility of making their own mistakes, and the HHMM machines, despite having a hidden "interior", lack any anticipation - though we can discuss if they lack drive.

So how does the problem of action look like from the teleological point of view? According to Judycki, for example, action is considered to be a specifically human type of behavior, which is guided by intention, so it is a conscious behavior, aiming for a goal. The conditions that an actor should perform include: ability to be aware and self-aware, identity in time, ability to react to values, possibility of choice, autonomy of the subject. They are only performed by a human subject. They make him capable of a deliberate action (consistent with intentions, purposes). Animated entities, which do not have such properties, are not teleologically determined in their behaviors (by natural means). Natural teleology in the context of the "psychologization" of the purpose has been restricted strictly to human action [17]. And as for all living entities (both animalistic and human)

and their relation to machine entities, there is M. Coeckelbergh definition, who defines causality as the ability to act, comprehended as something more than just doing things; causality is the result of desire, intention, or decision ("being-towards"). Therefore, the causality itself assumes the existence of intention directing the actions of the actor. In this way, the animal can act intentionally, but the plant or inanimate matter does not [18]. The growing of the trees or rusting of machinery is not connected with the causality, but it is only *Gesetzlichkeit*.

So can the effect of an operation of a machine be called intentional, and consequently, subject to morality?

6. Morality and law

As have been noted earlier in relation to Asimov's laws, one can consider whether a machine can be a moral agent or even a subject. Referring to animal rights, T. Regan states that a moral agent has all the capabilities that allow him to be morally responsible for what he does. In turn, the moral subject lacks the features that would enable him to control his own behavior in a way that would make it morally responsible. Therefore, a moral subject cannot do anything right, in the moral sense, or wrong. Only a moral agent can do something that can be judged in terms of good and evil. The moral subject works rather within the framework that was created for him, and is not able to act beyond them (as I have noted before, this situation is analogical to the constraints imposed on the evolutionary system of artificial intelligence) - and all moral responsibility can be directed at most to the moral agent by evaluating the actions of which the subject is the recipient [19]. As you can see, here are some similarities between the situation of animals and machines as a moral subject. But having in mind the problem of determining the intentionality of the machine, can we speak of equating it with an animal? If the machine could be an ethical subject, and consequently the recipient of good or evil, another question appears - is the robot able to "feel" emotions or be the recipient of suffering? There is no explicit answer to this question, claims Gunkel [20], trying to define the very meaning of feeling. He notes that the problem of suffering and experiencing any feelings is an internal problem (as in the case of Spaemann) and it is not possible to be judged by an outside observer. He refers here to Animal Liberation in which Singer proves that we cannot be sure that the other person is suffering [21]. The conclusion about experiencing any feeling, including suffering, is drawn solely through observation, but without access to internal state, without knowing whether it is suffering itself or, for example, a program that plays a scene of

suffering (which itself is merely a tool). When it comes to HHMM machines it becomes even more particularly important. According to Gunkel, the problem is not the question of whether the machines suffer, but, whether any beings who seem to feel suffering like a human being - an animal, a plant or a machine really suffers? Our evaluation of emotional states is based on external observation and on our own subjective perception, which do not necessarily have to enter into dialogue with the experience or the interior of the other being. In these categories, a machine both is and is not comparable to an animal - both are unfathomable, but this do not predetermine their similar status.

It is therefore possible to try to establish a legal responsibility (and therefore partially the ethical one) of the machines [2] but on this point the law is vague. As Gunkel notes again - when talking about a person, it is important to remember that corporations or companies are legal persona. They have a legally assigned status of a person with a specific legal responsibility. According to Gunkel, such an argument prompts reflection on the proper understanding of the term "person". If non-human beings have a personal status, why should we deny it to machines? Why can a company be a legal person and the machine cannot? [22] Consequently, the issue of modern time's slavery returns again - who is responsible legally, if not morally, for errors of a machine? (or rather its creators ones, because the machine, according to Spaemann [15] and Wróblewski [16], cannot make mistakes). Again, this is an area where more questions arise than answers.

7. Summary

Summing up the above considerations, it is evident that the closer we are to a more and more detailed mapping of the processes of nature, the closer we get to the creation of machines technologically / biologically similar to people. We are able to give them a humanoid shape (though it is caused only by aesthetic reasons or by a human necessity to create, since it is not the most economical use of resources). But the machines created this way still do not have the causality and freedom which characterize people. Will they ever be able to possess it is a question to be debated, just as the legal and ethical aspects connected with it. I would like these multi-faceted reflections to become a starting point in the discussion about the future of machines and their creators - homo cyberneticus.

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Religion, Kinship and Politics in Pakistan: The Case of District Jhang

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Abstract: *The role of religion and kinship is very dynamic in the case of District Jhang (Pakistan) where most of the custodians of religious shrines are actively involved in the national and provincial level politics deriving their political power from the religion and kinship. These shrines and kinship provide them both political and religious powers to exert in everyday life in rural areas of the district. These spaces are also used for resolving religious, kinship and political disputes of various communities who are both devotees and voters of these custodians of the shrines. The influence of these custodians is very much reflected in the decisions that they make, thus enrolling voters as devotees. Usually voters are not devotees of the custodians of the sufi shrines. Therefore this paper has looked at the role of religion and kinship in influencing political behavior of the voters of the district. In most of the cases these custodians win the elections because both religion and kinship play a pivotal role in the elections. The custodians not only rely on the power of religion which they derive from their shrines but also from kinship which always come forward in the electoral process.*

Introduction

Rural masses across the Punjab province are very inclined towards the *sufi* shrines. They depend on these shrines for the spiritual reasons. The custodians of these shrines are always using these spaces to fulfill their economic and political goals. The devotees who are mostly spread throughout the province not only regularly visit shrines but also cast votes for the shrines' custodians and give some donations for the functioning of the shrines. In some cases where the custodians/*pirs* are not directly participating in the elections they influence their followers to cast vote to selective contestants.

During the election campaign, the *pir* visits each village of their devotees and ask them to cast vote for the nominated contestants. In such cases, the devotees can't refuse to the *pirs* for the favour they ask from them. The role of kinship is also very influential not only in the electoral process but also for being the devotees. In most of the cases the whole kinship is devotee of the *pir* and it becomes easier for the *pir* to convince them for the vote.

The role of *sufi* shrines in electoral process has been studied by a number of researchers across disciplines. These researchers found that *pirs* enjoy political patronage because they are the caretakers of shrines. The devotees serve for them as the voters allow them to rule on them [1-6]. The participation of *pirs* in the election is considered a legitimate right because people believe that they bear inherited, extraordinary spiritual and material power [7-9].

The kinship structure was very dynamic in the rural settings of Jhang. They were mostly practicing

endogamous marriages and were closely depending on each other for many of the life aspects. They were making collective decisions for the electoral choices and when their *pirs* were contesting they can't refuse them. There are so many examples throughout the rural Punjab and even in the rural settings of Sindh where the custodians of the shrines had won elections because they had a huge number of following in such constituencies. In the case of Jhang there were so many shrines but some of these were much influential and the custodians were particularly active in the politics.

The shrine of Hazrat Shah Jewna (also known as *pir Karoryia*- the *pir* who is followed by millions) is about 30 km from Jhang on the Jhang-Lalian road. The real name of the Shah Jewna was Syed Mahboob Alam, R.A. (1493-1569). The tomb of this pious leader is a symbol of spirituality and attracts thousands of people who adhere to his faith. The annual *urs* of the shrine is celebrated on 10th May each year and thousands of the devotees visit the shrine for about three days- where different entertainment activities and games are planned for the visitors. Makhdoom Faisal Saleh Hayat (ex-Member of National Assembly and Federal Minister) was the current caretaker of the shrine. The ancestral father of Hazrat *Pir* Shah Jewna (RA), Makhdoom Sher Shah Jalaluddin Surkh Bakhari (RA) came to sub-continent from Bokhara in the time of the Slave dynasty (The Nation, 10 May 2012).

Faisal Saleh Hayat has won election for record six times since his first appearance in 1977. He remained very influential in national level elections. He was considered as one of the trustworthy colleagues of the former deceased Prime Minister Benazir Bhutto. He has served as a Federal Interior

Minister and also the chief executive of the Punjab Province for some time. His brother Syed Asad Hayat was also elected as member of National Assembly in 1990 elections. Faisal Saleh Hayat is very famous among the devotees not only because he has the custodianship of the shrine of Hazrat Shah Jewna but also for his act of kindness. He has accommodated thousands of his voters on provincial and federal level jobs.



Fig.1. The Shrine of Hazrat Shah Jewna (Source: The Nation)

The second major shrine in Jhang is of Hazrat Sultan Bahu, R.A. (1630-1691) - who was not only a famous spiritual leader but also a mystic poet. His shrine is situated in the village known with his name near Garh Mahraja in District Jhang. He has written so many (approx. more than 100) books on the various topics including Islam, Islamic mysticism in Persian and Punjabi languages. His verses are sung in many genres of Sufi music including *qawwali* and *kafi*, and tradition has established a unique style of singing his couplets. In 1998 University of California published a book "Death Before Dying: The Sufi Poems of Sultan Bahu" in which they presented the translated form of Hazrat Sultan Bahu's poetry.



Fig. 2. The shrine of Hazrat Sultan Bahu

Sahibzada Muneeb Sultan is the current caretaker of the shrine of Hazrat Sultan Bahu and his father-in-law and other close relatives like, Sahibzada Muhammad Nazeer Sultan and Sahibzada Mehboob Sultan contested for national assembly elections for number of times. The uncle of caretaker, Sahibzada Hameed Sultan, also served as Nazim (Mayor) of district Jhang alongside Syed Asad Hayat as deputy Mayor. This whole family was in politics and the role of shrine in their political careers was very influential as majority of the voters were casting votes only because of their affiliation to the shrine.

There were number of violent cases reported during 2016 when this family had some differences with other residents of village Sultan Bahu over the land. The shrine and land associated to it serves as political patronage and economic source for the caretaker and his close allies.

1. Methodology

The current research was conducted in District Jhang where the role of shrines in local, provincial and national level elections was very influential. Qualitative research techniques such as in-depth interviews and focus group discussions were used to collect data on kinship and religion and the roles of the pirs, role of shrines in the electoral process and conflict resolution in the rural settings of district Jhang. The respondents were selected through the use of purposive sampling with a criterion; a) should be male with 18 years or above, b) who have casted vote, at least once in their life time, and c) who were devotees of the shrine.

The selected respondents were asked about the number of sub-themes of the research, such as: a) what makes people to have firm belief in shrines and the caretakers, b) how this disciple-caretaker relation works in the case of electoral process and conflict resolution, c) where does kinship interplay in the discipleships, shrine, and the caretaker, d) how devotees are influenced and what they get by following the directives of the caretakers, e) what makes them to depend on the *pirs*/caretakers, f) can they afford to refuse their *pirs* for the votes and conflict resolution, and g) what kind of economic facilitations devotees provide to the *pir*/caretakers.

2. Results and Discussion

2.1. Sufi Shrines and Political Patronage

The caretakers of Sufi shrines exert huge political power in Pakistani society, especially in rural areas [4-5]. According to the Sufi rituals, the followers

(*murids*) are supposed to obey their spiritual masters (*murshids*) and this allegiance gives high and powerful status to the *murshid* [8]. Khan and Sajid [10] mentioned about the role of shrines in establishing political careers for the *pirs*/caretakers. Shrines remained main source not only for the political patronage but also in accommodating their economic needs. The rural masses in Jhang always believe in *pir* and their shrines.

Majority of the respondents think that they can't deny the will of *pirs* in the case of the vote casting and the conflict resolution. These were the very shrines whose caretakers, in some case the mystics themselves converted the great grandfathers of these kinship and were always devotees to the caretakers of these shrines. One of the respondents from the Shorkot tehsil discussed about the people's affiliation to the shrine of Hazrat Sultan Bahu in the following way: "Hazrat Sultan Bahu was a pious leader who was very religious and preached Islam to the number of families across Indian Subcontinent. We are always obliged by his services for the religion and the masses. The political motives are the recent thing which one can associate to the mystic's shrine. Although, the main purpose of the shrine was to educate people about the true nature of the Islam and to educated them about what they could do for the welfare of the general public. Since, the caretakers have a huge following they used this power for the electoral process and most of caretakers stood successful."

On the other hand, the custodian of the shrine of Shah Jewna, Makhdoom Faisal Saleh Hayat was very influential in national level elections because of the position he holds. Kalsoom [11] wrote in her Urdu versioned book on Hazrat Shah Jewna that the pious leader converted number of tribes such as Sial (also written as Siyal), Rai Lali, Rai Kalyar, Rai Bhatti, Dhudhi, Rai Kharal, Gadhi, Bharwany, Chuchkanay, Sanpal, Sipra, Naul, Kanwan, Baloch, Noon, etc. Majority of these tribes still inhabit the constituency of Makhdoom Faisal Saleh Hayat and thus are still devotees to the shrine and caretaker. One of the respondents from outskirts of Shah Jewna said about the bond they were having with the shrine in the following way: "We can't even think about casting vote against our *pir* (Makhdoom Faisal Saleh Hayat). What we are today, it's all due to their elder mystical directions. We don't expect that our *pir* visit us to ask for the vote rather it becomes our moral obligation to support him in the electoral process."

In the due course of the time, in some case like the case of Rai Lali tribe, the preference had been given

to the kinship as one of the opponents of the Makhdoom Faisal was from that kinship and majority of the devotees from that group turned their affiliations to their member rather than the *pir*. In National Assembly seat NA-87 contest of 2013 Ghulam Muhammad Lali got 93651 votes in comparison to 80541 of Makhdoom Faisal Saleh Hayat. The son of Syeda Abdia Hussain (Ex-MNA, Federal Minister and Pakistani Ambassador to the USA) who also shares the same clan of Hazrat Shah Jewna, was also contesting for this seat but got third position. We can see such results as a shift from discipleships to the kinship unity- in which the kinship members preferred their candidate rather than supporting the *pirs*/caretakers to whom they follow for the spiritual needs.

2.2. Sufi Shrines and Conflict Resolution

The disputes are common in Jhang which occur due to the three major reasons, *zan*, *zar zamin* (women, wealth, and land). Majority of the conflicts were intra-caste conflicts in which they had either killed someone or had injured. Such disputes were very common for the people but the resolution remained very challenging. The role of *pirs*/caretakers was very influential in resolving such disputes. One of the respondents from Ahmedpur Sial (a tehsil of the district Jhang) mentioned about the role of caretakers/*pirs* in conflict resolution in their kinship. "The conflicts are resolved at many levels, purely depending on the nature of the conflicts. If it is of smaller scale in which no one was injured then the elders of the group gather around and try to resolve it at its own, since they say that it is very important in the group. But if the nature of the conflict is fatal then the issue has to be taken up by the *pirs*/caretakers. The case is pleaded at both the official-cum-judiciary level and also in the informal level (*parhyialpanchayat*)- in which the relative gather around and try to set aside differences. But, if the informal platform is unable to resolve it then the accused group involves the *pirs* and tries to settle the case through their influence. Since, the devotees can't set aside the decisions made by their *pirs*, thus the accused group gets the refuge.

The role of *pir* in conflict resolution was very important. *Pirs* were normally involved by one of the parties and they want them to live the prosperous life since they were not only their devotees but also voters. In such disputes resolutions, *pirs* normally impose some penalties on the accused party. Another respondent mentioned about the role of *pir* in conflict resolution in the following way: "*Pirs* are very influential in each and every part of life; they are always there in the time of crisis people face.

When *pir* visit the devotees' house, it becomes a moral obligation for them to act as per the will of *pir*. If someone refuses to the *pir's* decision, the community doesn't consider it something healthy for them and morally pressurize that family not to refuse *pir*. It is very common that if we refuse to the *pir* we should be ready for the miseries."

Conclusion

The role of shines in the rural settings of the Jhang was very eminent not only in the electoral processes but also for the conflict resolution. *Pirs*/custodians of both the shrines were very influential in the local, provincial and national level elections. The devotees were always following the directives of the *pir*/caretaker; if someone tries to set a side *pir's* desires the other community member influence them not to do so.

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Atomic Diplomacy and Ahmad Qavam's Iranian Cold War: Peripheral Challenges to Stalin

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Abstract: *This work examines the Iranian Crisis of 1946 and its active role in shaping the Cold War that followed. The primary objective is to understand how the international community achieved a relatively peaceful withdrawal of Soviet forces from Iranian territory. I contend that: 1) Iran possessed a degree of leverage in negotiations with the United States and Russia that other nations did not; 2) that the Iranian prime minister, Ahmad Qavam, shrewdly manipulated both superpowers with his own brand of masterful statecraft while pursuing his own "Iran-centric" objectives; 3) that the United States used its preponderance of military, economic, and diplomatic might to effectively achieve its postwar aims; and 4) the primary actors in the crisis solidified the legitimacy of the United Nations and its Security Council, which had previously been in jeopardy. This paper touches on each of those contentions, but focuses primarily on the role of Qavam's diplomacy in resolving the matter. This event provides a stunning example of crisis management by the primary participants. The Iranian Crisis was indeed the birth of the Cold War, and it established a model for state actions during and after this long conflict. The Crisis also provides a powerful example of how third-party entities outside of Europe, despite possessing relatively meager military and economic might, had the ability to alter and occasionally manipulate superpower behavior.*

Introduction

"I cannot forecast to you the action of Russia. It is a riddle wrapped in a mystery inside an enigma; but perhaps there is a key."
-Winston Churchill, 1 October 1939, BBC Broadcast

The United States' dropping of atomic bombs on Japan in August 1945 is widely acknowledged as having forever changed war and diplomacy. What is less understood, however, is the role that America's atomic monopoly had on international diplomatic efforts in the months immediately preceding the epochal assault on Japan, as well as in the chaotic months that followed. It was in these months following the conclusion of the war in the Pacific that the United States would flex its newfound might during the struggle with the Soviet Union over the territorial integrity of Iran and its province of Azerbaijan. This event, which would grow into the Iranian Crisis, was one of the first true battles of the Cold War. It was also the first real-world case ever heard by the newly formed United Nations Security Council, and its outcome was dependent on the shrewd political maneuverability of Iran's aged prime minister, Ahmad Qavam, the technological superiority of the U.S. military, and the willingness of many in the American government to stand firm in the name of international justice.

Archival work in government facilities in Azerbaijan, the Russian Federation, and the United States, when coupled with the valuable body of

literature in the field, suggests the following: that beginning at the Potsdam Conference in July 1945 and ending in the northwestern provinces of Iran in the winter of 1946, the daring diplomatic undertakings of an Iranian statesman combined with genuine U.S. leadership, the U.S. possession of the atomic bomb, and mounting international pressure from the United Nations to spare the world from the continuation of global hostilities of seemingly unfathomable proportions. The following sections examine the role of the Iranian, Azeri, U.S., and Soviet negotiations, as well as the atomic weapon as a means of diplomatic leverage, in these proceedings.

As the war in the European theater drew to a close in May 1945, Iranian officials wrote to the Soviet Union, Great Britain, and the United States to remind them of the troop withdrawal agreement stipulated in the Tripartite Treaty of 1942.[1] According to the document, all Allied forces were to be removed from Iranian territory no later than six months following the cessation of hostilities. Unmoved, Britain and Russia each rebuked Iran's attempt to expedite the troop withdrawal, claiming that the Allied powers remained at war with Japan, and that they had the right to maintain their occupation until six months after the conclusion of the war in the Pacific. Privately, though, the European leaders began to eye one another's movements in Persia with an interest unmatched since the days of the Great Game. Prime Minister Winston Churchill noted in a letter to U.S. President Franklin Roosevelt in early 1945 that pressure being exerted

by the Soviets was at odds with the spirit of the Tehran Conference, and that if the Soviet Union succeeds in Persia, "then bad effect will be felt" elsewhere, too.[2]

Sir Reader W. Bullard, the British ambassador to Iran, closely monitored the situation on the ground with increasing concern. In a cable to the Foreign Office, Bullard noted that

There are many signs that the Russians are making a tremendous effort to obtain virtual mastery over this country before the moment of evacuation arrives... I have as yet no confirmation of recent reports that Tudeh are forming Soviets in Resht, Tobriz and elsewhere in the north but their complete independence of control is shown by the fact, witnessed recently by our press attaché... that Tudeh agents wearing arm bands setting out their functions search all vehicles leaving for the south and confiscate all rice found in them.[3]

The concerns raised by Churchill and Bullard revealed nothing new about British thinking on Russian activities. As discussed at length in Chapter Three, the British and the Russians had centuries old conflict in the region. In recent decades, loose partnerships had been forged between the two, but trust had not. As early as 1923, British officials were creating personality reports on the new Soviet leadership. Two decades later, the earliest intelligence reports that the British legation had produced on Joseph Stalin rang clearer and truer than ever:

Stalin is said to be a man of remarkable force of character and considerable ability. Although ruthless in the attainment of his objects, he apparently disassociated himself from the indiscriminate brutality which characterised the activities of the Extraordinary Commissions. He has a reputation for personal bravery. He has been a loyal adherent of Lenin. His influence recently has been on the increase, and he is regarded now as a possible successor to the post of President of the Council of People's Commissaries.[4]

While equally vigilant of heightened Russian activity, the United States separated itself from its Allied partners and announced that it would honor both Iranian requests and the terms of the Tripartite Treaty. Additionally, the U.S. government stated that on 1 June 1945, the Army's supply mission to the Soviet Union (through Iran) would end. The United States asserted that it was going to keep a small number of troops in Iran to maintain its presence at the Abadan airbase (which was considered a vital link to East Asia), but that it was still

planning on complying with the terms of both the Atlantic Charter and the Tripartite Treaty [5], all the while maintaining a skeptical vigilance over its Russian counterpart. National security documents reveal that the Roosevelt administration was indeed attempting to bolster America's image in the country, primarily by encouraging the Department of State to launch positive propaganda campaigns by means of screening American movies in Iran. [6] Such benign initiatives would soon give way to more direct forms of influence.

Shaping the Postwar World: America's New "Master Card of Diplomacy" in Action

President Harry Truman's concern over mounting disagreements with the Soviet Union grew rapidly in the waning months of the European war. Having been briefed on the existence of the Manhattan Project only in April 1945 [7], Truman did not yet know what role the super weapon would play in the conclusion of the Second World War, or even if the device would work. Evidence discussed below suggests, however, that as the president prepared for the Potsdam Conference scheduled for July 1945, his thoughts increasingly turned to the possibilities that could be afforded his diplomatic efforts with Stalin if a successful test of the atomic bomb were to take place.

While travelling to Potsdam, Truman remarked to former U.S. Ambassador to Moscow Joseph Davies that "If it [the atomic bomb] explodes, as I think it will, I'll certainly have a hammer on those boys." [8] Repeating this same enthusiasm to Secretary of State James Byrnes, Truman noted that the bomb would allow the United States to "dictate our own terms at the end of the war." [9] The ambiguity of whether Truman was referring to negotiations with the Soviets in the European theater or those with the Japanese in the Pacific may be partially cleared up by the fact that Truman purposefully, and secretly, postponed his participation at the Potsdam Conference until after the atomic bomb had been successfully tested (it is not coincidental that the atomic bomb was first detonated on 16 July 1945, and that Truman's involvement at Potsdam began the following morning on 17 July). [10]

The president's conduct did not go unnoticed by one of his primary allies. Prime Minister Churchill remarked to U.S. Secretary of War Henry Stimson that Truman, after having read the report of the successful test of the atomic bomb, "was a changed man" who came to dominate the discussions with the Russians and "generally bossed the whole meeting." [11] It seems quite reasonable to assume, given

Truman and Chur-chill's comments above, that the atomic bomb had a very significant influence on U.S. diplomacy before it was used, especially on the president's strategy at Potsdam. As Stimson noted, the atomic bomb had become a "master card of diplomacy,"[12] and a tool that could perhaps alter Soviet ambitions in postwar Europe and around the globe. Soviet activities in the Persian Corridor were soon to test Stimson's contention.

The topic of troop removals from Iran was among the pressing matters discussed at the conference. Stalin once more refused to withdraw Soviet forces from Iran until Japan was defeated. This justification for a Russian presence, however, would soon end. In addition to the negotiations concerning Europe and the Middle East, the Potsdam Conference produced the Allies' ultimatum to the Japanese government (with Allied at this point in the Pacific campaign referring only to Britain, China, and the United States, as the Soviet Union had yet to declare war against Japan). Demands issued to the Imperial Japanese government, including the stipulation of unconditional surrender at the risk of prompt and utter destruction, were, in the mind of a noted military historian, clearly rooted in America's possession of "a new weapon of unusually destructive force." [13]

Although most U.S. policymakers were not fully aware of all the consequences stemming from the use of the new weapon, some in positions of power were cognizant of its potential. In 1945, calculations by the Brookings Institution based on the capabilities of the atomic bomb indicated that the force from its detonation would be equivalent to approximately 20,000 tons (or 40 million pounds) of TNT; that a single aircraft bomber capable of launching the weapon could travel approximately 6,000 miles on a one-way mission; and that ten atomic bombs of this size could completely destroy any industrial-urban complex in the world.[14]

Although a full discussion of the decision-making process for dropping the atomic bomb on Japan lies outside the scope of this project, the at-times contentious scholarly debate over this issue requires a few remarks.[15] We have learned that General George C. Marshall believed that the use of the atomic bomb against Japan would greatly assist the primary U.S. objective of invading the Japanese home islands.[16] Some estimates indicated that approximately 500,000 U.S. lives would be spared by dropping the atomic bomb. Marshall was, however, insistent that the decision to deploy a weapon of such consequence must be made by civilian political leadership, and not by military commanders.[17]

It is this issue of political decision-making concerning the atomic bomb that dominates Gar Alperovitz's controversial book *Atomic Diplomacy: Hiroshima and Potsdam*. In it, Alperovitz claims that "evidence strongly suggests that a major reason for using the bomb was to 'make Russia more reasonable.'" [18] Such evidence includes the fact that the Japanese had been sending out "peace feelers" throughout 1944 and 1945; that the planned invasion of the home islands was not a definite, agreed-upon strategy; and that, among many other factors, some leading officials believed that the dropping of the atomic bomb was not necessary to facilitate Japanese surrender.[19] For example, General Dwight Eisenhower believed that "Japan was already defeated and dropping the bomb was completely unnecessary," and that using the weapon was "no longer mandatory as a measure to save American lives." [20]

This study makes no attempt to refute the large body of scholarship that suggests that the dropping of the atomic bomb against the Japanese was critical to U.S. military objectives.[21] Yet one must also take into consideration other factors, such as the desirability of possessing a tool of such diplomatic leverage over the Soviet Union, may have been at least partly responsible for arriving at such a consequential decision. This study therefore incorporates the range of motives that helped guide American decision making over this important issue. The dropping of two nuclear weapons on Japan marked the most potent display of military power in history, and a brief examination of the political decision-making surrounding these events reveals that grander global ambitions may have been more involved than previously acknowledged by those in positions of authority.

After using the United States' successful use of the atomic bomb against Japan, the U.S. monopoly of atomic weapons came to dominate international negotiations. Within American policymaking circles, such a position of power soon "exercised considerable influence...in producing a course of national action." [22] However, it was understood by some within the U.S. scientific and intelligence communities, respectively, that the Soviet Union already possessed the necessary knowledge of theoretical physics to eventually construct its own bomb, and thus, the U.S. monopoly would likely be short-lived.[23] In the meantime, the Truman administration was determined to make its intentions known in international affairs, and as Secretary of Defense James Forrestal later noted, "as long as we can strike inland with the atomic bomb, we can assume certain risks otherwise unacceptable." [24]

The World's Eyes Turn to Northern Persia

A situation capable of testing the new American aims was on the verge of presenting itself in the Middle East. Japan's surrender on 2 September 1945 design-ated 2 March 1946 as the ultimate troop withdrawal date from Iran (due to the six-month timetable stipulated in the Tripartite Treaty). Both the Soviet Union and Great Britain agreed. As autumn wore on, tensions mounted when it became evident that rather than beginning the process of an orderly withdrawal, American military intelligence units reported that "the Soviets [were] instead reinforcing their military installations in northern Iran." [25]

In actuality, records from government archives in Baku, Azerbaijan indicate that the Soviet Union had already launched extensive commercial enterprises and separatist initiatives in northern Iran and southern Azerbaijan, including geological prospecting missions for oil, Politburo directives for creating and sustaining regional communist political parties, and clandestine intelligence ventures (referred to in the Kremlin rather unambiguously as "Secret Soviet Instructions on Measures to Carry out Special Assignments"). [26]

The level and intensification of Soviet involvement in Azerbaijan and northern Iran from mid-1945 to late-1946 is noteworthy. In meticulous detail, Stalin had decreed several oil prospecting and other industrial enterprise initiatives in June 1945. [27] After laying the groundwork by means of creating educational facilities and a foundation of economic exchange, Stalin and Molotov launched a remarkable political barrage on the area. Recently declassified documents reveal that Russian leaders created a sympathetic Azerbaijan Democratic Party, numerous local "organizing committees," propaganda campaigns through press agencies, ensured the election of favorable candidates to the Azeri *Majlis*, supported strikes and other demonstrations, readied themselves to expel rival politicians, and actively "organize the separatist movement," province by province. [28]

Moreover, the Russians had been equipping the Azeris and Kurds (who were launching their own Soviet-sponsored separatist movement in the western Iranian city of Mahabad) with military hardware, and encouraging political sympathizers (namely Mir Bagirov, the secretary of the Communist Party of Azerbaijan) to rebel against the Iranian government in order to establish an autonomous regime within Azerbaijan. [29] In fact, the Soviets

had underhandedly armed the Azeri separatists with 100,000 rifles, 3,000 light machine guns, and 1,000 heavy machine guns; an arsenal that two years prior to the crisis, Moscow had ordered Tehran to turn over for use by the Red Army in the Allied war effort.

Between October 1945 and January 1946, Soviet Major-General Yemel'yanov oversaw the transfer of a stockpile of weapons recently acquired by the Azerbaijan SSR to allied forces in northern Iran. A memo from the period reveals that the transfer included the following:

1. "Mauser" rifles, Iranian models - 11,516
2. "Brno" light machineguns - 350
3. Various kinds of machineguns - 87
4. Various kinds of pistols - 1,086
5. Hand grenades - 2,000
6. Rifle cartridges - 2,654,500
7. Pistol rounds - 96,916

The following quantity of weapons are [currently] available:

1. "Mauser" rifles, Iranian models - 5,171
2. "Brno" light machine guns - 310
3. MP-38 submachine guns - 500
4. Various kinds of pistols - 1,060
5. Rifle cartridges - 3,965,150
6. Armor-piercing, incendiary, and tracer rounds - 175,409
7. Pistol rounds - 426,042. [30]

Matters came to a head on 19 November 1945 when Soviet forces, which had kept Iranian national troops encircled at the northern city of Tabriz for the previous three months, offered the Iranian commander an ultimatum. Russian officials instructed the Iranian commander that he could choose to either surrender and return to Tehran with his officers, or join the new Azeri army. Choosing the first option, the commander relayed the information to the Imperial Chief of Staff in Tehran. Iranian relief forces were soon dispatched from the capital city to test Soviet intentions, and they were stopped by a concentration of Russian armor and infantry east of Kazvin. [31] The frequent messages from Baku, usually coming from Mir Bagirov, the secretary of the Communist Party of Azerbaijan, to "Comrades Stalin, Molotov, and others" in the Russian high command, had kept the Soviet leaders abreast of troop movements in and around northern Iran. [32]

In late November, Hussein Ala, the Iranian ambassador to the United States, wrote to President Truman in desperation. Appealing for help and the

recognition of the avowals to honor the previous treaties and declarations, Ala implored the president:

I earnestly beg you, Mr. President, to continue to stand up for the rights of Iran...Your country alone can save us, for you have always defended moral ideas and principles and your hands are clean...The only solution [is the] immediate and simultaneous withdrawal of Soviet and British forces from Iran and insistence on allowing Iran to have a free hand in her own territory.[33]

Later that week, Ala continued by noting that Iran has been the Bridge of Victory over which enormous quantities of American and British war material and supplies reached the U.S.S.R. with clockwork precision, hastening the defeat of our common foe. The valuable help furnished by my country in the prosecution of the war was duly recognized in the [treaties and declarations]... That affirms that the three allied powers 'are at one with the Government of Iran in their desire for the maintenance of the independence, sovereignty and territorial integrity of Iran'... It is the confident expectation of Iran that her territory [be] completely evacuated by the occupying foreign forces whose continued presence within the borders of an allied country has no justification.[34]

Honoring its international commitments, the United States removed the vast majority of its forces from Iran on 1 January 1946, and it continued to monitor the status of its Allied counterparts in the region. That same week, Foreign Minister Molotov doubled down and agreed to send Soviet advisors to the disputed occupied territory. Molotov even remarked in his message to Mir Bagirov that he should direct his attention to those being sent "so that they conduct themselves appropriately on arrival on site, not advertising their Soviet citizenship." [35]

President Truman, known for his direct approach and no nonsense style of discussion, minced no words in a private handwritten letter to Secretary of State James Byrnes. Displeased with the recent turn of events and with what he considered to be Byrnes' conciliatory response to Russian aggression,[36] Truman, a man "tired of babying the Soviets," at once made the secretary aware of which one of them actually made foreign policy decisions, and what the president's views are on the major events of the day:

I received no communication from you directly while you were in Moscow...The protocol was not submitted to me, nor was the communiqué. I was completely in the dark on the whole conference... Now I have the utmost confidence in you and in

your ability but there should be a complete understanding between us on procedure. Hence this memorandum...There isn't a doubt in my mind that Russia intends an invasion of Turkey and the seizure of the Black Sea Straits to the Mediterranean...We should let our position on Iran be known in no uncertain terms...Then we should insist on the return of our ships from Russia and force a settlement of the Lend-Lease Debt of Russia.[37]

A review of the minutes from many of President Truman's cabinet meetings from this period reveal that regardless of the proposed topic of discussion, conversation often turned to the Soviet Union and/or U.S. military preparedness around the globe. In one such meeting, which was originally called to discuss several of Truman's "domestic points" on labor, etc., the president briefed his cabinet on foreign affairs. Noting that China and Rumania appeared to be in good shape, Truman lamented that Iran and Bulgaria proved to be less promising. Extremely concerned with what he considered to be the United States' rapid demobilization efforts over the past few months, the president called for General Dwight D. Eisenhower, the chief of staff of the Army, and Admiral Chester Nimitz, the chief of Naval Operations, to conduct an "intensive study of the demobilization problems," and to have the two men jointly present their views to Congress the following week.[38] American leaders were unsure of how to maintain troop readiness and discipline during this period of de-escalation.

The next month would bring with it a firmer understanding of Soviet intentions and U.S. capabilities. An epochal shift in American foreign strategy was underway. In late February, George Kennan, the head of the U.S. diplomatic mission in Moscow, sent his famous "Long Telegram" to Secretary of State Byrnes. In it, Kennan helped to establish the strategic concept of containment as he contended that the Soviet Union was essentially expansionist and that the United States could "contain" Russian influence in vital strategic areas of the world. This outline of the Soviet Union's general behavior and objectives led the Truman administration to toughen its stance against the Soviet threat in support of the recently penned UN Charter.[39]

The Need for Ahmad Qavām

Within Iran, Ahmad Qavām, who had served his third term as prime minister earlier in the war (1942-1943), was quietly amassing considerable attention from certain factions within the *Majlis*. With the level of dysfunction of the Iranian state on display over the last several years, some wondered whether

or not there was a capable option to lead the country through this daunting challenge. On 26 January 1946, the *Majlis* nominated and elected Qavām to serve as prime minister. Whether or not it was fully compre-hended during the moment, this was the most impor-tant election in modern Iranian history, and a hotly contested one at that.

The political scientist James Bill describes Qavām as “the quintessential old-school Persian statesman who shuffled back and forth between the British and the Soviets as he sought to preserve Iran’s independence...As a result, the British and the Russians alternately worked with him and against him; they seldom trusted him.”[40] Qavām’s election to prime minister was protested by nearly all other prominent political figures in the country. Mohammed Reza Shah Pahlavi, like his father, did not fully trust Qavām, who in the past had often touted his intimacy with the Qajar dynasty and appeared to be a political opportunist. Zia’eddin Tabataba’i and his British supporters feared that Qavām would all too quickly acquiesce to Soviet demands, as he had been friendly with Russian delegates, and in this past had even been occasionally openly hospitable to Tudeh members of the *Majlis*.

Few supportive voices emerged, but those that did were crucial ones. The Soviets considered Qavām to be a political realist who had run afoul of the Shah and the British (with relationships like these left in his political wake, he must be trustworthy!). The United States mildly supported Qavām’s election, as he had demonstrated earlier in the war that he was willing to use America as a third external force to balance both Soviet and British objectives. Somewhat ironically, and certainly confounding the outside world’s under-standing of Qavām’s political leanings further, recen-tly declassified political profiling reports from the National Security Archive reveal that U.S. inte-lligence specialists considered the Soviet-leaning Tu-deh party to be a leftist threat to the young Shah’s grasp on power, while Qavām was thought to be the threat from the right.[41]

When combining the reports from the greatest intelli-gence communities of the 1940s, a baffling picture of Qavām emerges: somehow Qavām had managed to create an environment in which the Soviets feared his British leanings, the British feared his leftist sympathies, U.S. officials considered him as a natio-nalist and rightist threat to the Shah, and the Pahlavi dynasty considered him a dangerous relic from a bygone aristocratic era. No group fully trusted him, and each group feared not aligning with him.

The most important source of support that Qavām would receive at this moment, however, came from his own powerful cousin in the *Majlis*, Mohammed Musaddiq. While the two men rarely backed one ano-ther (and would pit themselves against one another again in the future), Musaddiq, ever the practitioner of realpolitik and steadfastly working towards the better-ment of Iran, desired direct negotiations between the Soviet Union and Iran, and sought to avoid any complicity between the three imperial powers. In his estimation, Ahmad Qavām was the only man with the political skill and experience to handle the unfolding crisis.[42] On 26 January 1946, Qavām narrowly edged out another seasoned politician Hossein Pirnia, and won the election by a vote of 51-50.[43]

The Old Fox’s Most Daring Move: Qavām and A World Hanging in the Balance

Immediately, Qavām showed his worth and political astuteness by temporarily holding together his domes-tic coalition and simultaneously placating any foreign (especially Russian) concerns over his appointment and intentions. With a firm understanding that Bri-tain’s will was then less potent than that of the United States or the U.S.S.R., Qavām could take chances by briefly alienating the British to appease the Russians; this was a necessary, but plucky, move in order to carry out the plan he was concocting on the fly. Cognizant of the fragmented and slim nature of his domestic coalition, Qavām knew that he would be gi-ven very little slack by the *Majlis* to operate freely. He provided more flexibility to himself by micromana-ging his foreign and interior ministers to “guarantee a minimum of interference from members of his own government.” Concurrently, he “removed a few right-wing Anglophiles and carefully controlled a few Tudeh sympathizers.[44] These moves undoubtedly roused the fears of the British and Ame-ricans while placing him on solid footing to work with the Ru-ssians.

As the British withdrew troops from Iran in accordance with the treaty, the auspicious date of 2 March 1946 came and went, with Soviet troops alone remain-ning. Stalin informed the Iranian prime minister, who he now believed he was on good terms with and had established a level of trust, that he would withdraw his forces from Khurasan and Semnan, but keep them in Mazandaran, Gilan, Azerbaijan, and Kurdistan.[45] Not only did Russia maintain its military presence in Iran, but the following day, Russian forces initiated a three-pronged advancement towards Tehran and the Turkish and Iraqi borders. Hundreds of tanks,

accompanied by heavy concentrations of artillery and infantry, now covered much of northwestern Iran.[46] Communications, already commonplace, between the Soviet leadership and Mir Bagirov, the secretary of the Communist Party of Azerbaijan, increased dramatically throughout the month, and focused primarily on practical financial matters and business transactions between the two regions.[47] Rather than the anticipated decline in Russia's regional presence, it appeared that matters were on the verge of escalating very quickly.

Records from Iran, Azerbaijan, and Russia indicate that Prime Minister Qavām had been traveling between Tehran, Baku, and Moscow regularly during this period. This new crisis hit its boiling point during Qavām's stay in the Russian capital from 19 February to 7 March 1946, during which time he met with several high-ranking Russian officials, including privately with Stalin and Foreign Minister Molotov, to discuss granting the Soviet Union its highly sought after oil concession, and perhaps even the formation of a joint Soviet-Iranian petroleum company.

Piecing together the fragments of these conversations that can be found scattered across foreign archives provides extraordinary insights into the power dynamics within the Kremlin at this stage in the negotiations. It appears that Stalin, already engaged in subterfuge and revolutionary activity in Azerbaijan, was very interested in supporting Qavām in a coup d'état in Tehran, apparently with the end goal of overthrowing the Shah and establishing a Soviet-leaning democratic republic. Once Qavām was leading the Moscow-friendly government, he would push through the oil concessions so highly sought after by Stalin as a thank-you gift for bolstering the new regime.[48] This is a clear example of local and regional politics directly affecting, and occasionally guiding, super-power thinking.

Stalin and Molotov Test Qavām's Intrepidity

In what some have referred to as "diplomatic horse trading,"[49] Qavām attempted to – in a daring venture – convince the Russians that he would be able to propose and pass a bill in the *Majlis* that would all but ensure the approval of a Soviet petroleum contract. The details for such a project, according to Qavām, included the following terms, among others:

For the first 25 years of operation of the company 49% of the stock will belong to the Iranian side and 51% to the Soviet side; for the second 25 years 50% of the stock will belong to the Iranian side and 50%

to the Soviet side... The period of operation of the company is 50 years... On cessation of the period of activity of the company the Iranian government will have the right to buy the shares of the Soviet side or extend the period of operation of the company... A treaty about the organization of a Soviet-Iranian oil company, which will be concluded later according to the text of this letter, will be presented for approval as soon as the new *Majlis* begins its legislative activity.[50]

Qavām assured his Soviet counterparts that he could likely have this ratified by the *Majlis* in as little as seven months. Soviet ambassador to Iran Sadchikov promptly agreed to Qavām's offer the very same day.[51]

As Qavām informed Russian leadership, however, there was a catch: the *Majlis* could not and would not grant the Russians an oil concession while they still occupied Iranian territory, as per Musaddiq's legislation from 1944. During one particularly tense exchange with Molotov on 23 February, Qavām pulled out all the stops after the Soviet position seemed unbending. On his way out the door he asked Molotov, one imagines with tongue firmly in cheek, if he had any advice for him for what he should do regarding entertaining negotiations with the British. This open and rather brazen display of Qavām's willingness to play the powers against one another infuriated the Russian high command. After Molotov informed Stalin in writing that the Iranian coup seemed untenable and Qavām generally unworkable, Stalin seethed with anger at the apparent Soviet failure and wrote "Dirty swine!" on the front page of the Qavām report. Other Soviet officials claimed that the Soviet premier was personally offended at the lack of good will shown by Qavām regarding the oil concession.[52] Qavām, once described by British political intelligence dispatches as "a clever man, but sly, intriguing, and unreliable..."[53] was in the thick of one of the most elaborate political ruses of all time.

America's Growing Involvement

At this juncture, the Iranian prime minister was also making sure that he had American support behind him. While some historians have interpreted Qavām's actions in Moscow as an indication that he was "apparently despairing...UN action" and earnestly attempting to broker a deal with the Soviets,[54] the prime minister was actually treading lightly, maintaining an open, albeit unproductive, dialogue with the Soviets while the United States again firmed its stance and urged the Iranian government to present its case to the new UN

Security Council. On 6 March, after the Soviets ignored U.S. protests and continued to rein-force their army and encourage Azeri separatism, Secretary of State Byrnes reportedly “beat one fist into his other hand and growled, ‘Now we’ll give it to them with both barrels.’” As the historian Douglas Little points out, barrel one was a “U.S.-sponsored United Nations resolution branding the Kremlin’s presence in northern Iran a threat to world peace”; while barrel two “consisted of vague hints that the U.S. stood ready to use armed force to expel the Soviets from Azerbaijan, a scenario that generated a flurry of headlines forecasting a third world war.”[55] President Truman purportedly stated that Soviet behavior in Iran “was an outrage if I ever saw one.”[56] The events taking place in Iranian Azerbaijan were beginning to truly shape President Truman’s strategic thinking.

The line of communication from the United States to the Iranian leadership at this point was direct and coming from diplomat George Kennan, who was stationed in Moscow during Qavām’s stay in the capital. Kennan met with the Iranian leader twice, and he subsequently informed the secretary of state back in Washington, D.C. that Qavām was concerned over what support he would receive from the United States if events continued to sour with the Russians. Expressing the desires of many in Truman’s presidential cabinet, the U.S. Department of State recommended that Qavām continue his complaints with the UN Security Council, which, two months prior, had produced its first ever real-world resolution on this matter in January 1946, promising to monitor the situation. Qavām acquiesced, and the Security Council scheduled another round of discussions for 25 March in New York City.[57]

It appears that several factors compelled Stalin to finally order the withdrawal of his armed forces from Iranian territory, which was sent at long last to the Soviet Army commander of the Baku District and the commander of the Soviet 4th Army on 24 March 1946 (the withdrawal was completed on 8 May 1946).[58] It is no coincidence that Stalin came to this momentous decision one day before the UN Security Council had scheduled discussions on the topic. In his own words, which are discussed below, a very globally conscious Stalin claimed that maintaining a Soviet troop presence in Iran jeopardized his objectives elsewhere and provided justification for increased British and American involvement.

In addition to the mounting international pressure, it should be remembered that the Soviet High Command (or *Stavka*) was still highly desirous of

obtaining an oil concession at the next meeting of the *Majlis*, and appears to have been at least partly beguiled by Qavām’s rhetoric and initial promises. The lure of gaining invaluable oil concessions, and just as importantly, denying the Americans and the British access to such concessions, provided the Russians with enough material to fuel their wishful thinking that Qavām would work towards their interests in the *Majlis* once the Red Army had been pulled back.

Threats of Force

Furthermore, direct U.S. involvement in the matter seems to have shaken Stalin’s resolve. The arrival of the USS *Missouri* battleship off the coast of Istanbul during the crisis seems to have conveyed to the Soviets the message that the Americans were willing to support the political sovereignty of regional allies in the face of perceived signs of Russian aggression. It seems clear that Qavām would not have made the lofty promises that he had, and which he knew he could not keep, unless he was positive that the United States would stand behind him in the name of the Atlantic Charter and Tripartite Treaty, even if doing so risked the continuation and perhaps escalation of global conflict. The Truman administration accepted this risk and continued strengthening its hand in the region while its somewhat fluid foreign strategies began to take shape.

Although it is well documented that the United States had continued to strongly urge Qavām to maintain his case in the UN, the role that American threats of force played in the affair, especially those possibly pertaining to the United States’ atomic monopoly, remain unclear. In his farewell address, Truman recalled the events:

The first crisis of the Cold War came in 1945 and 1946, when the Soviet Union refused to honor its agreement to remove its troops from Iran. Members of my cabinet came to me and asked if we were ready to take the risk that a firm stand involved. I replied that we were. So we took our stand. We made it clear to the Soviet Union that we expected them to honor their agreement, and the Soviet troops were withdrawn.[59]

From the summer of 1945 through 1947, Truman spent considerable time working on the Iranian Crisis. During that period, Truman’s official White House appointment calendar was littered with meetings or announcements to be made regarding the developments in Iran (in addition to the scores of cabinet and other meetings where the topic arose organically), including sit-downs with Iranian

Minister to the United States Mohammed Shayesteh, Iranian Ambassador to the United States Hussein Ala, American Ambassador to Iran George Allen, and multiple Oval Office discussions with Princess Ashraf Pahlavi (the Shah's sister), with other members of the Iranian delegation.[60]

The debate over how the Truman administration actually "made it clear" to the Soviet Union has sparked a complex historical debate, which is best discussed by Kuross A. Samii. Weighing in on this debate, he rebukes those who criticized Truman's firm stance with Stalin as being nothing more than a political myth, created years after the event, by better contextualizing the negotiations of the period. It is true, however, that as time passed, Truman and his colleagues came to remember the event differently with each telling of the story. Accounts range widely, and include vague remembrances of Truman issuing an ultimatum to Stalin and ordering Byrnes to send a "blunt message" to the Soviet premier, to Truman informing Stalin that he had "ordered [American] military chiefs to prepare for the movement of ground, sea, and air forces," and even one recollection of Truman informing a Soviet ambassador that "the United States would use the atomic bomb if the Red Army failed to evacuate immediately." [61]

What is definitively known and corroborated in State Department records is that the Truman administration sent at least three messages to the Soviet government during the fateful weeks in March 1946. The first, dispatched by Byrnes on 6 March, informed Stalin that the United States could no longer "remain indifferent" to Soviet encroachments in Iran.[62] The second communiqué was sent on 8 March, and inquired into Soviet plans in the region. Significantly, this dispatch was sent at the same time that Truman ordered the USS *Missouri* to Istanbul for a diplomatic mission and an unequivocal and symbolic demonstration of U.S. force in the region. The third and final message was delivered to Stalin by General Walter Bedell Smith, the U.S. ambassador to the Soviet Union, in late March. Smith had just participated in an off the record meeting with Truman before his departure, and reportedly informed Stalin that "the U.S. will react exactly as we have in the past" if faced with a wave of progressive aggression.[63]

As Samii insinuates, even though the message does not explicitly threaten the Soviet Union with nuclear war (as many of Truman's critics on this issue have contended), Stalin likely took the message very seriously in light of the United States' recent willin-

ness to display such awesome and horrific methods of warfare in the preceding months.

It should also be noted here that in this fateful week in March 1946, amid the tense exchanges between the United States and the Soviet Union, Britain's then former prime minister, Winston Churchill, delivered a speech titled "The Sinews of Peace" at Westminster College in Missouri while visiting with President Truman. This robust speech soon became lauded in the Western world as the "Iron Curtain Speech," outlining an ideological framework that openly mused on the rift that had emerged between the British, American, and Russian grand alliance:

The United States stands at this time at the pinnacle of world power. For with primacy in power is also joined an awe inspiring accountability to the future...The awful ruin of Europe, with all its vanished glories, and of large parts of Asia glares us in the eyes...A shadow has fallen upon the scenes so lately lighted by the Allied victory. Nobody knows what Soviet Russia and its Communist international organisation intends to do in the immediate future, or what are the limits, if any, to their expansive and proselytising tendencies...We understand the Russian need to be secure on her western frontiers by the removal of all possibility of German aggression. We welcome Russia to her rightful place among the leading nations of the world. We welcome her flag upon the seas...It is my duty however... to place before you certain facts about the present position in Europe. From Stettin in the Baltic to Trieste in the Adriatic, an iron curtain has descended across the Continent. Behind that line lie all the capitals of the ancient states of Central and Eastern Europe. Warsaw, Berlin, Prague, Vienna, Budapest, Belgrade, Bucharest and Sofia, all these famous cities and the populations around them lie in what I must call the Soviet sphere, and all are subject in one form or another, not only to Soviet influence but to a very high and, in many cases, increasing measure of control from Moscow.[64]

As epochal as the speech came to be in the Western world, it was equally as consequential in the Soviet Union. In March 1946, Stalin spoke at length with a *Pravda* journalist on his thoughts concerning Churchill's message. After comparing Churchill's dire language to that of Hitler's in the 1930s, and throwing a few jabs at the former prime minister for his recent loss at the polls in Britain, Stalin responded in terms just as stark as those used by Churchill:

Every word of this is a gross and insulting calumny...

I don't know whether Mr. Churchill and his friends will succeed in organising a new armed campaign against Eastern Europe after the Second World War; but if they do succeed—which is not very probable because millions of plain people stand guard over the cause of peace—it may confidently be said that they will be thrashed...[65]

Outside of the blustery rhetoric coming from all inte-rested parties, Stalin found himself facing increased international pressure from the United States and from the UN Security Council. Holding on hope that Qa-vām would still somehow, some-way, come through for him when the *Majlis* reconvened, Stalin aban-doned the Azeri separatist movement that he had fostered for years and began to increase his contact with the Shah of Iran. Switching his favor to whom he considered to be the winning horse in the race, Stalin unambiguously pandered to the man who was the sworn enemy of the Azeri separatists, and whom he had just weeks prior still been orchestrating a coup against to oust from power.

Going as far as hosting royal members of the Pahlavi dynasty in Moscow, Stalin heaped praise upon the Shah's twin sister Ashlaf while not so subtly attempting to smooth relations between the two nations and keep the oil talks alive.[66] When the leaders of the now unsupported separatist movement expressed their rage and confusion over Stalin's foreign policy about-face, the Soviet premier responded with a mixture of candor and spin-doctoring, providing further insight into his decision making process. In a letter to Ja'far Pishevari, the founder and chairman of the separatist and communist Azerbaijan People's Government, Stalin wrote that Soviet troops could not remain in Iranian Azerbaijan because their continued presence in Iran undermined the very foundations of our liberation policy in Europe and Asia. The British and the Americans urged that since the Soviet troops remained in Iran the British troops could have extended their presence in Egypt, Syria, Indonesia, and Greece, and the Americans in China, Iceland, and Denmark. We decided to pull out of Iran and China to deprive the British and Americans of this weapon, to invigorate liberation movements in the colonies and put our liberation policy on a more substantial and effective basis. I hope that as a revo-lutionary you see that there was no other way.[67]

Mir Bagirov and other dedicated separatists, feeling neglected and betrayed by the Soviet withdrawal, attempted to change Stalin's mind by informing him that chaos was creeping into their regions because of the lack of a Soviet presence. Bagirov in particular

painted a dramatic and horrific scene in one such letter to Stalin:

After our telegram about the situation in Southern Azerbaijan not only new facts of beatings of active members of the People's Party and pro-Soviet Iranians have been registered, but instances of beatings and humiliations of individual Soviet citizens have taken place... On 30 March two policeman together with two Iranians beat engineer Yakishenko, who worked in our military unit in Tabriz. On 8 April... Two boys, one of them the son of the General Consul Matveyev, were beaten and the young woman with them, the daughter of Captain Novikov, was raped by seven men. Similar outrageous facts directed at discrediting our representatives are being organized by reactionary elements not without the participation of foreign intelligence services.[68]

Bagirov's entreaty to Stalin, complete with accounts of grisly crimes, the threat of anarchy, and the conspiratorial tone of foreign subterfuge, failed to accom-plish the desired effect. Stalin did not want to, and could not without facing grave ramifications, reverse his decision.

One would be correct to assume that Pishevari and Bagirov felt bewildered and betrayed by Stalin's chan-ge of policy (and heart). The historian F.S. Raine pro-vides a description of Stalin's leadership style along his southern periphery, noting the power and opaque nature of his relationship with his separatist allies that he had been sponsoring

"The mystique around the Dictator, and the sparseness of his orders had his subordinates in constant fear of overstepping their goals, for they assumed there was a grand plan, and they wanted to be sure they would fit into it. But for the first four years of the war, Stalin had no plan in Iran, let alone a grand one, and bum-bled along...giving vague orders to increase influence [of Soviet-style programs]...but to stay out of trouble."[69]

The revolutionary separatist movement that he had once appeared supportive of proved to be nothing more than an opportunistic means to an end. As Raine concludes, "Stalin only bit when diplomacy had failed to achieve an oil concession, and the only option left for pressuring the Iran government into compliance was to 'squeeze on' Iran's most sensitive spot: Azer-baijan."[70]

Qavām's Capstone

Throughout the remainder of 1946, the United States bolstered its indirect presence in Iran by issuing financial and military aid to help secure domestic security. In the late fall, Qavām made his intentions known to U.S. Ambassador to Iran George Allen that he planned to send Iranian forces throughout the country (specifically into the contested provinces of Azerbaijan and the city of Mahabad) to secure the election process for the *Majlis*. The Soviets warned that military activity in the north would be perceived as a threat to Russian security, but the United States again stood by Iran and encouraged the deployment of its military to secure domestic elections.

By mid-1946, Qavām was pulling all of the strings in his tight-knit political coalition. For many months, he had regularly moved to the left in terms of his political appointments and public comments on Soviet policies and strategies, most conspicuously dismissing the pro-British General Hassan Arfa and replacing him with Russian-leaning General Ali Razmara.[71] Of course elated with the removal of Soviet troops from Iranian soil, many foreign powers lamented the fact that Qavām clearly *negotiated* said removal, implying that he had bartered away a portion of Iranian sovereignty in exchange for the Red Army's heralded pull-back. British diplomats summarized this mood succinctly by commenting that "Qavām definitely sold his country to the Russians." [72]

It was at this moment, though, that Qavām struck. The relaxed strategies he displayed towards the Soviet Union and its Tudeh party in early 1946, as seen with his many negotiations and concessions, ended abruptly upon the removal of Soviet troops. Right away, Qavām set out to repress the separatist movements and weave a most complex patchwork of political and social forces.[73] The crackdown on, and punishment of, rebellious factions, as Qavām saw them, needed to be swift. Qavām had to strike while the iron was hot. Many who lived in the separatist regions thought the bloody reprisals too severe. Bagirov had once again contacted Stalin and Molotov to inform them that "for some reason Qavām has delayed his promised talks with the leaders of the national government of Iranian Azerbaijan. At the same time [we see] an intensified concentration of large military units, gendarmerie, and special punitive detachments." [74]

Over the next few days, Bagirov repeatedly sent messages to Stalin and Molotov, notifying his comrades that Qavām was dangerously toying with the fate of his region. After informing his Russian counterparts

that public opinion in Iranian Azerbaijan is "riveted on the question of Qavām's trip to Moscow," Bagirov presents his best case as to why he distrusts the Iranian prime minister. According to him, Qavām has taken every opportunity in his professional life to "suppress the vital interests of Azerbaijan," including crushing the revolutionary movement of 1908 and suppressing the national liberation movement of 1920.[75] Despite Bagirov's last ditch efforts to reengage the Soviets in what he saw as the plight of his people, the dramatic reduction in Soviet messages being sent to him tells the story. Even on the rare occasion when Soviet leadership did correspond with Bagirov after April 1946, the dispatches must have been disheartening in tone and content to the Azeri rebel. On 20 May 1946, Soviet Major General Attackishyev reminded Bagirov that no papers or correspondence and generally no written documents coming from Soviet representatives...in the affairs of the national government of Azerbaijan and there should not be, since all orders and advice to the representatives of the national government have in principle always been given verbally...As regards the archive of secret correspondence of the Democratic Party and other governmental institutions of Iranian Azerbaijan...we advised him that in case of complications to take the archive of the national government to the USSR with our aid.[76]

The Soviets, in ridding themselves of a paper trail and offering to help make their former correspondence disappear, were clearly disassociating themselves from the separatist movement.

Seizing the opportunity presented by dwindling Soviet activity in Iranian Azerbaijan, Qavām made his move. After so many moves to the left, Qavām began to unequivocally shift his Democratic Party to the right. He recruited Bakhtiyari and Qashqayi tribal leaders and wealthy industrialists to his ranks, leaving one of his associates to comment that "...the Democratic party became the refuge for all who feared the Tudeh...It appeared to be the last bulwark against communism." [77] Qavām followed this up by challenging the Tudeh party directly by forming the Central Syndicate of Iranian Craftsmen, Farmers, and Workers (ESKI) to recruit workers, managers, and engineers to his ranks. The Tudeh party ordered its followers to go on strike against this, but to little avail.[78] An extremely fragile political coalition such as this would be impossible to sustain, but for the moment it would prove formidable.

With an alliance now in place, Qavām continued discussing his plans to deploy Iranian troops throughout the contested portions of his country with American

diplomats. Ambassador Allen listened as Qavām informed him that he was ready to, should any security issues arise upon the deployment of the Iranian military, take matters directly to the UN Security Council, as this would be a situation which “might endanger world peace.”[79]

Watching the swelling mobilization of Iranian troops on the outskirts of what was once nearly their own sovereign nation, Pishevari, Bagirov and other separatist leaders of Iranian Azerbaijan made one last appeal to Stalin. Pleading for military aid, the separatists outlined the recent concessions they made to Tehran, as well as the Patrick Henry-esque notion that despite their lack of firepower, they would “prefer to die proudly and honorably than live shamefully without liberty.” They elaborated:

We have turned our national Majlis into a district *enjumen* [local council]; completely disbanded our national government; accepted the appointment of a governor-general and also all leaders considered by Tehran... agreed to merge our national army with Iranian troops and to the appointment of a commanding general from Tehran... In spite of this, after a nine-month delay Qavām violated the agreement concluded between us and openly intends to take away our few rights by force... We have no doubt of this, for it has been shown by brutal reprisals... on democrats, their wives, and children [in the form of] murders, throwing people from roofs, killing children, outrages against young women in front of the people, etc... Newer and newer detachments of peasants, workers, and intellectuals are turning to us with a request to send them to the field of battle, but we do not even have a rifle to arm these people. We have 4 cannon total in Azerbaijan and Kurdistan and they have no shells. In addition, two mortars are idle for lack of shells. In this regard we need your aid very much. And without it our *fedai* (fighting opposition forces) will rush against ranks with clubs and fists, but this is not enough... You know well that the Azerbaijani people are close friends of the Soviet Union. You know better than we that with the destruction of Azerbaijan Qavām is trying to root out Soviet influence and the freedom-loving front in all of Iran.[80]

On 11 December 1946, Iranian forces entered the northern city of Tabriz, the former hotbed of the Soviet sponsored separatist movement, and took control of its Azerbaijan province.[81] Stalin’s abandonment of the Azeri separatist movement was now very real, as no Russian support manifested and the Iranian military subdued the region.

Many leaders of the short-lived Azerbaijan People’s Republic fled north to the neighboring sovereign nation of Azerbaijan or directly to the Soviet Union. Many other rebels in Tabriz and Mahabad were jailed or executed in what some have considered to be a brutal crackdown by the Shah’s forces. *Majlis* elections were held one month later on 12 January 1947, and when the legislative body finally reconvened later in the year, its sovereignty was being publicly supported by the United States, and the issue of a Russian oil concession was effectively dropped. The Qavāmler *Majlis* accomplished this by claiming that earlier agreements with the Russians during the Second World War or the proceeding crisis were made under duress, thus were not to be ratified. The vote was an overwhelming 102 votes to 2 in favor of dismissing Soviet oil concessions.[82] An armed conflict of seemingly unimaginable proportion had successfully been sidestepped by shrewd diplomatic maneuvering and the specter of American power.

Almost immediately after the triumphant vote, Qavām’s tenuous coalition crumbled. It was comprised of too many factions for long-term survival. Rivals reemerged, often missing the forest for the trees, they attempted to capitalize on Qavām’s maneuverability and dismiss his actual role during the crisis. Feeling betrayed, Qavām unabashedly claimed full credit for what transpired, perhaps rightfully so. On more than one occasion he asserted to the press and to the *Majlis* that he “worked for that conclusion from the very beginning,” while arguing that it was his credibility in Moscow that kept them at bay.”[83]

Some believe that Qavām fell haphazardly into, and successfully out of, the crisis with the Soviet Union, possessing neither a grand strategy to play the imperial powers off of one another nor a stalwart sense of Iranian patriotism.[84] Iranian Azerbaijan expert Jamil Hasanli writes that “Beyond any doubt, Qavām was a skillful statesman and crafty diplomat,” but that overall Qavām’s role was less significant than what many in the West and in Iran put forth, because ultimately, Qavām “was helpless on this issue.”[85]

However, too many pieces of circumstantial evidence exist that suggest otherwise. Qavām’s patience, ability to compromise, coalition building skills, opportunism, and knack for self-preservation proved to be the lynchpin in securing Iranian sovereignty. Although believing Qavām’s presence during the crisis was less influential than some have offered, Hasanli refers to the aged prime minister as someone who “came to power as a Soviet hen-

chman, but at the decisive moment, preferred to rest upon the United States...he correctly appraised the U.S. potentialities in the postwar world.”[86] Within this veiled criticism lay Qavām’s decision-making capabilities, boldness, and courage in the face of almost unimaginable pressures. He made a judgment at the necessary moment to hitch his fate, along with that of the nation he was representing, to the Americans. This decision ensured Iranian autonomy.

Although the extent to which U.S. threats of force played a role in international negotiations from the end of the Second World War to the early months of 1946 remains uncertain, evidence suggests that America’s atomic monopoly greatly influenced U.S. relations with the Soviet Union and allowed U.S. policymakers to assume risks that would have otherwise been considered brazen steps towards war. American officials’ handling of the Iranian Crisis clearly and resolutely reinforces this notion, perhaps more so than their management of any other event in the immediate postwar world.

As indicated in his memoirs, President Truman truly believed that in early 1946, “Russian activities in Iran threatened the peace of the world.”[87] Indeed, the United States and Britain were “seriously talking of the possibility of war with the USSR over Iran.”[88] Scores of media outlets hinted at the same.[89]

Many scholars of U.S. foreign relations consider America’s explicit support of Iran in the UN as representative of a decisive turning point for the United States and its allies, as it “marked the transition from a passive to an active policy” in the postwar world. The newly established UN Security Council gained credibility during the negotiations, as it hosted the most consequential discussions on the Iranian Crisis and its members vowed to use everything at their disposal to ensure the equitable application of international law. With the Soviet defeat in the *Majlis* and the Iranian/American triumph in the UN, the United States had “effectively won its first diplomatic victory of the Cold War.”[90]

The historian Marc Trachtenberg contends that the effect of the events in Iran served to “sharpen the line of demarcation between east and west,” with each side testing its limits and coming to terms with the new status quo.[91] The preeminent Iranian Azerbaijan scholar Jamil Hasanli provides a powerful and succinct synopsis:

The Soviet Union was seriously interested in Azerbaijani territory and Iranian oil. At first, Moscow wanted to succeed in both of these issues. However, when it realized that it did not have enough power against the strategic and economic interests of western countries, the USSR, by sacrificing Iranian Azerbaijan for oil interests, tried to manage the situation and, as a result, failed in both of them.”[92]

Despite initial futile attempts by the Soviet government to propagandize the event as a victory, it soon “relinquished itself with disillusionment.” The Russians had to “give up territorial and economic interests and, thus, to recognize consolidation of U.S. power in Iran and its status of superpower in general.”[93] This realization became vividly clear when Qavām’s government solidified its relationship with the United States on 6 October 1947 by finalizing military agreements, further cementing its status as an entity within the American sphere of influence from that day forward.[94]

A period of “nuclear exceptionalism,” in which a nation’s “geopolitical status was directly proportionate to the number of atomic bombs it possessed,” arrived with the Soviet Union’s successful testing of a nuclear weapon three years later in late 1949.[95] Before the ushering in of the brute force epoch that is the nuclear age, Qavām, representing a so-called “third party” power, employed the tools he had at his disposal to alter the course of world events with shrewd diplomacy and the flexing of his individual agency and national sovereignty. Peripheral actors forced the backroom tensions that had emerged between the United States and the USSR out into the open. When faced with crisis, the United States effectively applied its atomic monopoly as a tool of diplomatic leverage against the Soviet Union while bolstering the territorial and political integrity of its greatest regional ally in the Iranian Crisis of 1946. The foreign policies of the Truman administration had been transformed by the events that spread from Tehran, Tabriz, and Baku, to Moscow, New York, and Washington, D.C.

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The Creation of a Language Norm as a Mechanism for Achieving Political Goals

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Abstract: *The report examines spelling reforms in the Republic of Bulgaria and the Former Yugoslav Republic of Macedonia in 1944/1945. By these reforms, the two communist state governments justify the political division of the Bulgarian nation in two different nations and its existence in each of the two countries under two different names.*

By Decree No. 42 the Bulgarian Ministry of National Enlightenment in issue No. 47 of the Bulgarian State Gazette from February 27, 1945, publishes an Ordinance which establishes a new Bulgarian spelling. It is established by the Bulgarian Worker's Party (communists) which began to govern Bulgaria after a coup d'état on September 9, 1944 [38]. With this decree, the Communist Party replaces the Drinovsko-Ivanchevski spelling. This spelling was in existence for almost five decades under the bourgeois governance. The Bulgarian linguists used to call it etymological spelling [7] and it was the first official Bulgarian spelling introduced in 1899.

In the history of the Bulgarian language construction the new spelling is named after the Fatherland Front – Fatherland Front spelling. It was firstly introduced in 1945. Its foundations are laid between 1941 and 1944. Materials written in the new phonetic spelling are published in the illegitimate communist press of that time [7]. The Fatherland Front is a new political organization. The Bulgarian Communist Party dominates it but it also includes non-communist political formations.

On July 17, 1942, the five-member governing board of the Bulgarian Workers' Party (communists), situated in the Soviet Union, published the program of the new political organization. It is decided that Bulgaria will exit from the Tripartite Pact and will establish a Great National Assembly. The Great National Assembly has to decide the abolishment of the monarchy in the country [29].

Authors from that time [5], [2], [3], [4]; [17], [22]; [32], [33]; [9], [10], [11] and others, and contemporary authors [7]; [43]; [46] and others work on problems of the Fatherland Front spelling. Neither the first group of authors nor the second one pay attention to the fact that in parallel to the Fatherland Front reform, which happened in the autumn of 1944 and the winter of 1945 in Bulgaria, another spelling

reform is being carried out in a newly established country neighboring to Bulgaria. On August 2, 1944, the Anti-fascist Assembly for the National Liberation of Macedonia (ASNOM) was established in the Prochor Pčinjski Monastery, now a part of Serbia. ASNOM 1) proclaims Vardar Macedonia as a constituent republic of the Yugoslav federation [6] and 2) decides to create a Macedonian alphabet and a Macedonian literary language [39] in order to serve the administrative needs of the newly established Federative Republic of Macedonia (now FYROM). In this newly formed Federative Macedonia only one of the three regions of the geographic area Macedonia is included – the Vardar region. The other two parts were Pirin Macedonia, which remained within Bulgaria, and Aegean Macedonia in Greece.

By the 19th century, the geographical area of Macedonia is within the boundaries of the Ottoman Empire, and as a result of the Balkan Wars at the beginning of the 20th century and the First World War, this geographical area falls within three countries - Greece (Aegean Macedonia), Serbia and Yugoslavia (Vardar Macedonia) and Bulgaria (Pirin Macedonia). After the Second World a small part of the area remains in Albania. The historical sources are unconditional - the Macedonian state of Philip and Alexander of Macedonia ceases to exist in the 2nd century BC. From the 2nd century BC until the beginning of the 9th century, the geographical area of Macedonia is within the boundaries of the Roman Empire. From 837 to 1282 the predominant part of the geographic region of Macedonia belongs to the Bulgarian state, where the main and dominant ethnicity is Bulgarian. For 107 years (1282-1389), parts of the geographic area of Macedonia are within Serbia. After the Battle of Kosovo Field in 1389, the geographic region of Macedonia, as well as vast parts of the Balkans, become parts of the Ottoman Empire [1]; [44]; [23]; [15]; [25]; [27]; [35]; [34]; [24]; [42] and others. The decision of the Third Communist International from 1934 could only be explained from a viewpoint of the geostrategic

interests of the Soviet Union. The Communistic International existed from 1919 to 1943. Its seat is Moscow and the Russian Grigory Zinoviev runs it. The Bulgarian communist Georgi Dimitrov manages the Bulgarian section of this organization. On January 11, 1934, the Balkan Secretariat of the Executive Committee of the Communist International accepted in Moscow as its official document (approved by Protocol No. 207 of the Political Secretariat of the Organization) "Resolution on the Macedonian Question" [8]. Even today, this document is identified as one of the most important ones. This document leads to the artificial creation of the Macedonian state, nation and language in 1944, nearly twenty-two centuries after the Philip and Alexander of Macedonian state ceased to exist. An answer to the question why it is necessary to resurrect the Macedonian idea after twenty-two centuries (!!!) gives the Serbian ambassador to Constantinople (present-day Istanbul) Stoyan Novakovich. In his report to the Minister of Education in Belgrade Stoyan Novakovich presents his plan for replacement the Bulgarian national consciousness, in the geographic area of Macedonia, with a Serbian one by creating a temporary Macedonian self-consciousness. *"Since the Bulgarian idea, as it is known to everyone, has laid its deep roots in Macedonia, I reckon it is almost impossible to shake it completely by opposing to it only the Serbian idea. This idea, I am afraid, would not have been able, as a pure and naked opposition, to suppress the Bulgarian idea. This is why, the Serbian idea would benefit from an ally who would be abruptly against the Bulgarianism and who would have in itself the elements that could attract people and people's feelings and cut them off from the Bulgarianism. I see the Macedonism as an ally."* [45]. Even during the Second World War, *"the Macedonian question is a subject of backstage negotiations between the leaders of the Yugoslav Communist Party, the Macedonian Communist Party and the Bulgarian Workers' Party (communists). The controversial questions are elaborated by the Soviet leadership, which has the right to be an "unbiased" arbiter on an undisputedly non-Soviet issue. The facts show that, as a party to these unprincipled negotiations, the leadership of the Bulgarian Communist Party betrayed without any pressure the Bulgarian national interests. It accepts unreservedly all Yugoslav demands and agrees with all "friendly" advice coming from Moscow. The Bulgarian Workers' Party (communists) negotiates on the Macedonian question and in particular about the future of Pirin Macedonia secretly, behind the Bulgarian people and behind their allies from the Fatherland Front"* [6]. A subject of the negotiations is the fate of Pirin Macedonia, as Vardar Macedonia was included in 1944 as a federation unit of the

Yugoslav republics and Aegean Macedonia, during the Second World War, was within the borders of Greece. The rapprochement at that time of the positions between Bulgaria and Yugoslavia on the fate of the parts of the geographical area of Macedonia does not remain in secret. This issue is followed with interest from England, Turkey and Greece [6]; [12]. English are well aware that the solution to the Macedonian question depends mostly on the interests of Moscow [13]. Due to the far-seeing British insight, that if the left parties came to power in Bulgaria and Yugoslavia after the Second World War, this fact would not be in unison with the English interests in the region. England takes vigorous actions and eventually manages to spoil the intention for inclusion of Aegean Macedonia and Pirin Macedonia in the planned Balkan Federation [6]. If the question for the Aegean part of the geographic area of Macedonia to remain a part of Greece can be considered as eventually settled, the same cannot be said about the Pirin part (the Vardar part already had the status of a federal state in Federal Yugoslavia). The Yugoslavian and the Bulgarian sides *"do not only make public declarations for the "imaginary unification of the Macedonian people" and for the closest rapprochement but act purposefully for these achievements"* [14]; [30]. The attitude of the population of Pirin Macedonia towards the planned "unification of the Macedonian people" and the accession of this part of Macedonia's geographical area to the Yugoslav federation, however, is completely negative [6]. Therefore, since the beginning of 1945 *"there has been a change in the annexation strategy towards Pirin Macedonia"* [6]. The goal remains the same. A transitional period is planned in which the Macedonian self-consciousness of the population in this geographical area will be incorporated by studying "Macedonian language" at the schools of Pirin Macedonia [40].

In Skopje (the capital of Federal Macedonia, as a constituent part of Federal Yugoslavia), from the late autumn of 1944 (27 November) until the end of spring 1945 (3-7 May) the so-called language commissions are sitting. In the period November 27 to December 3, 1944, the so-called First Language Commission is sitting and taking decisions. Its main task is to solve the question with the alphabet on which the Macedonian literary language will be created. Blaze Koneski, a member of the commission and a future academic linguist, *"scandalously tries to impose his own position on the complete acceptance of the Serbian alphabet"* [16]. He proclaims that the typical Serbian letters **ћ** and **џ** must persist in the alphabet [36]. These letters have nothing in common with the phonetic side of the dialects spoken in the geographical area of Macedonia. Another suggestion

is the letter **ѣ**, which the bookmen there were using for centuries, to be excluded from the alphabet. This letter is absent both from the alphabet of Vuk Karadžić and from the Bulgarian alphabet. Not only that. As mentioned above, the Serbian Ambassador to Constantinople (today's Istanbul) Stoyan Novakovic, in his letter to the Minister of Education in Belgrade in 1887, sets out his ideas on the work of the Serbian propaganda in the geographical area of Macedonia. Stoyan Novakovic states his Macedonian-Bulgarians-becoming-Serbian plan in the following way: *"...A Macedonian ABC book must be composed. It has to be integrated and mixed with Serbian language. It must contain two-thirds Macedonian language and one-third Serbian but in the second half. The Serbian spelling, which successfully separated the Serbian language from the former Russian-Slavic blend, the Macedonians would miss their own native dialect and would alienate them from the heavy, and tangled historical spelling which the Bulgarians use. As a simpler and more convenient process, it would shake the deepest roots of the Bulgarian propaganda, the Bulgarian literacy that had been widely spread by the Bulgarians [45]. According to Koneski, "everything that is typically Serbian is needed for Macedonia and what is a reminiscence of the Bulgarian alphabet must be discarded". No matter the fact that it was used over a thousand years in Macedonia. The arguments of the other participants in the discussion, who had a much better understanding of the theory and long experience, remain of no importance [16]. However, these "open pro-Serbian positions" [16] were defended unsuccessfully by Koneski. The members of the Commission decide by 9 votes (!?) "For" and 2 "Against" that the alphabet must contain the letters **ѣ, ђ, љ и њ**. With 8:3 votes - the letter **ј**, with 9:2 votes - the letter **ѣ**, 10:1 votes - the letters **и** and **с** [26]. Koneski figured out that ten out of twelve members of the Commission were strongly against the complete introduction of the Serbian alphabet. Koneski *"demonstratively leaves the work [16] of the First Language Commission "in protest that the entire Serbian alphabet was not being entirely accepted. He started to discomfit secretly the decision of the official commission" [37].* The leave of a future linguistic icon of the Republic of Macedonia (FYROM) did not impress at all the only political person in this commission - Epaminonda Popandov, a representative of the Anti-fascist Assembly for the National Liberation of Macedonia (ASNOM). During a meeting of the Presidium of ASNOM (held on 7.12.1944) Epaminonda Popandov reads the resolution adopted by the First Language Commission on the Macedonian alphabet. In his introduction, he emphasized that the best experts on Macedonian language in*

Macedonia were involved in the work of the Commission. Therefore, he believed that the Commission has duly fulfilled the task and everyone in ASNOM should be happy with its work [16]. The political situation in the newly formed country at the very end of 1944 and at the beginning of the new 1945, however, changed. During its Second Meeting (held on 29.12.1944) ASNOM decided to establish a "Law for the protection of Macedonian national honor" [6]. At the beginning of 1945 in Skopje, Bitola, Veles, Kumanovo and Prilep the authorities killed 1260 people [41] only because they had the courage to manifest their Bulgarian national self-consciousness [41]. Various occasions for lynching those who dared to express different self-consciousness from the Macedonian one are used [6]. The Second Language Commission (15.02.1945 - 15.03.1945) is formed and functions under such conditions. The Commission quite understandably *"chooses for Macedonian the entire Serbian alphabet" [16] in its full form [16]. However, the return of the Serbian alphabet into use "provokes indignation among the majority of the Macedonian intellectuals" [16].* That is why, from Belgrade the senior functionary of the Central Committee of the Communist Party of Yugoslavia, Milovan Djilas, with a telegram to the Central Committee of the Communist Party of Macedonia, urgently calls three members of the Second Commission (Blazhe Koneski, Venko Markovski and Veselinka Malinska) to resolve the Macedonian alphabet issue [16]. Blaze Koneski is the representative of the members of the Second Commission, who insists on the Macedonian use of the Serbian alphabet, while Markovski defends the decisions of the First Language Commission. It is no coincidence that at the beginning of the first meeting of the Second Language Commission, Markovski realizes that its purpose is to revise the decisions of the First Language Commission. Markovski states: *"The scholars would laugh at us" [16].* Thus, the representatives of the two sides of the argument stand in front of the head of the Agitation and Propaganda Department of the Central Committee of the Communist Party of Yugoslavia Milovan Djilas and also in front of four Serbian professors of philology Radomir Aleksic, Radoslav Boskovic, Mihaylo Stevanovic and Radovan Lalic [16]. In their presence, Blaze Koneski gives up on his claims that Serbian graphemes **ѣ** and **ђ** must be presented in the newly created alphabet. On the other hand, Venko Markovski gives up on the presence of the Bulgarian **ѣ**. Thus, *"in the alphabet imposed by Djilas the Serbian graphemes ѣ, ђ, ј и љ remain and the Bulgarianism ѣ is dropped" [16].* The task of the Third Language Commission held on 3 May 1945 in Skopje (immediately after the decision in Belgrade) is to draw up a

resolution explaining the arrangements made in Belgrade for the alphabetical composition of the Macedonian alphabet. The government of the newly formed Federal Macedonia legalizes this resolution by publishing it in festive editions of the semi-official "the New Macedonia" [16]. Eventually, after the meetings of the three language commissions in Skopje, the goal has been achieved. The Bulgarian graphic system, used for centuries in Vardar Macedonia, is replaced by a Serbian graphic system in order to replace the Bulgarian national consciousness with "Macedonian". At that time, *"the great Serbian interests force the alienation of the Macedonian literary norm from the Bulgarian language in order to achieve a gradual assimilation of the Bulgarians in Macedonia and the imposition of the Yugoslavian, that is, a Serbian nationality"* [37]. Meanwhile, during the meetings of the three language commissions in Skopje, in Sofia the communist coup d'état government of the coalition Fatherland Front (under the conditions of Soviet occupation of the country) appoints a 25-member committee of linguists, experts in literature and writers. From September 1944 to February 1945, the committee organizes a discussion which aim is to reform the Bulgarian spelling used until 09.09.1944 [7]. Some of the experts approve the proposed changes [17], [18], [19], [20], [21]; [9], [10], [11]; [31], others either accept them in a reserved manner or strongly oppose to the changes. [28]; [32], [33]. Eventually, in issue No. 47 of the Bulgarian State Gazette from February 27, 1945, an Ordinance disclosing the spelling changes [38] is published. The new spelling is simpler, and if the deletion of some letters from the alphabet (**Ѣ** and **Ѣ** at the end of the word do not have a sound value), the removal of others (**Ѣ**) can reasonably be qualified as antinational [37].

Instead of affirming the pronunciation of **Ѣ** in place of **Ѣ**, something that prevails over the entire Bulgarian language territory, the Commission decides that in its place **я** or **Ѣ** must be written or pronounced depending on the phonetic conditions [38]. This decision splits the Bulgarian language territory into two equal parts - the eastern one, in which the **Ѣ** is spoken as **я** and predominant **Ѣ**, and the western part, in which for centuries instead of **Ѣ** people say **Ѣ**, regardless of the phonetic conditions. The vast part of this western half of the Bulgarian language territory is formed by the Vardar part of the geographical area of Macedonia, which, however, since August 1944 already has a federal status in federal Yugoslavia. The other part of this western half of the Bulgarian language territory is formed by the Pirin part of the geographic region of Macedonia. The Yugoslav and Bulgarian communist elite intend to include

this part in one united Macedonian country [6]. In place of **Ѣ**, in Vardar Macedonia and in Pirin Macedonia, the vocal **Ѣ** is pronounced for centuries. With Article (4) from the Ordinance, the Bulgarian communist authority betrays the Bulgarian Macedonian dialects ("Macedonian" means Bulgarian dialects from the geographic area of Macedonia) in Pirin Macedonia and in Vardar Macedonia because the meaning of a nationally responsible language reform is to unite, not to divide. Thanks to the active and persistent British diplomacy "with the assistance of the United States and not without the participation of the USSR" [6] the annexation of Pirin Macedonia to Vardar Macedonia is prevented [6], but in the history of the creation of a language norm the meetings of the language commissions at the end of 1944 and early 1945 at both sides of Pirin will remain as an example of how a language can be used as a mechanism for achieving political goals.

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Are Our Memory Predictions Absolute Or Relative?: The Effect Of Comparison On Memory Judgments

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Introduction

Memory is operationalized as a series of processes in which information is encoded, stored, and retrieved (Metcalf & Dunlosky, 2008). As for metamemory, as indicated in its name, it can be defined as the monitoring, controlling, and regulation of all these memory processes. In the literature, it is a well-known fact that divided attention impairs cognitive rehearsal processes and thus memory accuracy (Mulligan, 2008). However, in the literature, there are only a few studies that have investigated the relationship between divided attention and memory predictions. The findings of these studies agreed that participants were significantly less accurate in their memory judgments for words, presented in the divided attention condition, compared to words in the full attention condition. (Kelley & Sahakyan, 2003; Sacher, Taconnat, Souchay, & Isingrini, 2009). The aim of the current study is to understand whether divided attention affects metacognitive judgments in an absolute or relative manner.

In order to see whether people use the silent condition as a baseline while monitoring their performance in divided attention condition, one group of participants should be exposed to both conditions in a within subjects design, and their scores should be compared with participants from other two groups; the pure divided attention group and pure full attention group to see if there is a significant difference between those groups in terms of memory evaluations. Thus, it was expected that if the effect of divided attention was relative in nature, participants who were allowed experience both full attention and divided attention would give significantly lower JOLs for words accompanied with a distracting task compared to participants who experienced only divided attention conditions. Put, differently, it was expected that within group variations would be greater than between group variations. Also, in line with the previous studies, it was hypothesized that participants under full attention condition, regardless of within or between subjects, would recall more words in the subsequent memory test compared to participants under divided attention condition.

2. Method

2.1. Participants

Ninety participants were recruited from individuals between the ages of 18 and 30 with normal vision and hearing.

2.2. Materials & Design

Forty words that were given in the study session to the participants were taken from the pool developed by Göz (2003). Their frequency values change from 70 to 105 were used.

In order to distract participants in the encoding phase, participants were presented with a heavy traffic sound at the level of 80 dBA 2 m.

In the current study, there were two independent variables, which were attention type and list type. The levels of attention type were full attention and divided attention. In the mixed condition, the levels of attention type were manipulated within subjects. For the pure-list conditions, levels of attention were manipulated between subjects. All participants were randomly assigned to one of three groups.

In this study, there were two dependent variables. The first dependent variable of the present study is judgments-of learning (JOL) scores. In order to assess this variable, participants used a scale ranging from 0 to 100. On this scale, the score of 0 means, "I definitely won't remember this word on the later test", whereas the score of 100 corresponds to "I will definitely remember this word on the test". Thus, lower scores signify lower confidence for the target word, but the higher scores mean higher confidence. The second dependent variable is participants' proportion of correct recall on the free recall test. Because the memory test was a free recall test, participants' total score in each condition was determined by summing up the words that they recalled from the list. For each word that participants correctly recollected, they got one point. In pure list conditions, recall scores were divided by the total critic number of words (32). In the mixed attention condition, participants' recall scores were computed separately

according to their attention type. In this condition, number of words correctly recalled was tallied up and divided by the half of the total critical words (16).

2.3. Procedure

There were three phases of the experiment: study phase, distractor phase, and test phase.

In the first phase of the study, all participants, regardless of their attention condition, were instructed to study a list of words for an upcoming test. Each word was presented at the center of the screen to the participants in random order for 3 seconds. After each word was presented, participants were instructed to rate their confidence about the likelihood of recalling this word in a subsequent memory test by using the scale. In the divided attention condition, participants memorized the words with the distracting sound, which was heavy traffic sound. Also, in the mixed attention condition, half of the words were presented with the sound in random order.

After completing the study phase, all participants, were given a filler task to eliminate the recency effect on test phase.

Later, participants moved on the test phase. In this phase, all participants were requested to try to recall as many of the words as they could from the studied list and type them via the keyboard. They were given a total of five minutes to complete this phase.

2.4. Results

2.1.1. Judgments of Learnings (JOLs).

Participants studied the words with a distractor sound in the mixed condition gave higher JOLs ($M = 56.16$, $SD = 17.03$) compared to participants presented without the distractor ($M = 52.93$, $SD = 20.04$). When we look at the between groups differences, in the pure divided attention condition ($M = 50.17$, $SD = 21.28$), gave lower scores than in the full attention condition ($M = 56.48$, $SD = 17.82$). Thus, ANOVA results did not show significant interaction effects between the variables of attention type and list type, $F(1, 65) = 3.99$, $MSE = 44.701$, $p > .05$.

2.1.1. Recall Performance. The simple comparisons showed that in contrast the expectations, participants in the mixed condition remembered slightly less words in the full attention level ($M = 0.26$, $SD = 0.14$) compared to participants in the divided attention level ($M = 0.31$, $SD = 0.13$). The

comparisons of between groups showed that in the pure full attention condition ($M = 0.24$, $SD = 0.09$), participants recalled slightly less words than in the than participants in pure divided attention condition ($M = 0.26$, $SD = .10$). Thus, contrary to our hypothesis, the interaction effect between attention type and list type did not reveal significant effect on memory performance, $F(1, 77) = 3.97$, $MSE = .005$, $p > .05$.

2.4. Discussion

The hypotheses of the current study were not supported with the results. The reason of these insignificant and contradictory results might have caused from the limitations in the present study.

First of all, we did not found significant detrimental effect of divided attention on memory performances in contrast with previous studies. The possible reason of this, we thought, might be weak manipulation. Thus, future studies might use more demanding task to divided participants attention rather than a using a passive task. In this way, people might understand more clearly attention's crucial role in their memory.

Another possible reason of this null result might be to use word list as a main task rather than passage to read. While reading a passage, we need to focus more deeply than while we are studying a single word. Thus, future studies might design a study that gives passages to study as a main task.

Also, we hypothesized that in the within group variation would be significantly greater than between groups variation. However, the results did not support this hypothesis. The possible reason might be that the presentation of the noise was very short. In the mixed attention condition, as stated in the method section, participants were given the secondary task intermittently, with the prerequisite that no more than two trials of the same type were presented consecutively. We thought that because the shift between full and divided attention levels was very close, participants might have habituated the situation and could not understand the difference between silent and noise conditions. In order to get rid of this limitation, future studies might replicate this study by presenting the distracting sound for a longer time.

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Influence of Emotions on Facial Working Memory

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Abstract: *Previous studies have found that faces with emotional expressions are remembered better than faces with neutral expressions in working memory. In this study we asked whether emotional faces are remembered better than neutral faces when emotion is task-relevant. In addition, we tested the direction of the bias, whether there is a happy or angry bias. Nine young participants viewed two faces with two different emotions. After they were presented the cue, they were asked to choose the face with correct identity and correct emotion among other five faces. Recordings of eye movements and reaction times indicated that significant happy faces are remembered faster when it is shown with a neutral face than neutral and angry faces. Furthermore, these results show that neutral faces demand more time to respond when they are presented with an emotional face but especially with a happy face. These findings suggest that positive expressions facilitate working memory when the emotion is significant for the task.*

Introduction

Faces as a visual stimulus are unique in the sense that they provide people two kind of information. First, they hold the identity information. Recognizing faces enable people differentiate the identity of one person from the other. Long term memory is activated for deciding whether we know the owner of the face or not. Secondly, faces convey emotional value which means that faces provide clues about what kind of mood the person is in at the moment. According to our interpretation of the facial expression, we try to guess if this person is dangerous for us or not.

Jackson, Wu, Linden & Raymond [1] investigated the interaction of facial expression and identity. The authors probed whether this interaction affects visual short-term memory. Their hypothesis was that faces with emotional expressions are remembered better than faces with non-emotional expressions due to the fact that emotionally significant visual stimuli facilitate perceptual encoding in the visual cortex [2]. In addition, emotional stimuli might be better at catching attention. Since attention is extremely involved in visual short term memory [3], expressional faces are more effectively processed than neutral ones. What is more, long-term memory can play an important role in VSTM processes [4]. As we mentioned above, LTM studies showed that emotional faces, especially happy faces provide an advantage for LTM [5].

The task that Jackson et al [1] used was comprised of recognition of between 1 and 4 faces. Whilst the expressions of the faces were the same (angry, happy or neutral), the identities of the faces were different. In other words, all four faces were all angry, or happy, or neutral. After a 1000 - ms

retention interval, participants were presented a single face and they were asked if this face was present or not in previous screen. In order to prevent usage of verbal short - term memory, participants were asked to repeat two letters. It is important to note that in this study, expression of the faces was task irrelevant as the participants were presented only one emotion in one trial and they were not asked to remember the emotion of faces.

The results supported previous findings showing that angry faces are significantly remembered better than happy and neutral faces, however a significant difference between happy and neutral faces could not be found. Angry bias was observed in every load condition (1, 2, 3 or 4 faces). It has been found that participants were able to create mental images for angry faces more quickly (in less than 2000- ms) than happy and neutral faces. The authors expanded their research by examining the possible other influences such as arousal and study time. In terms of arousal, VSTM was not influenced by arousal level. In a third experiment the effect of study time was investigated and the same angry benefit was again observed. One interpretation of these findings is negative facial expression improves working memory. Secondly, this study provided evidence for angry benefit over positive or neutral facial stimuli without involvement of selective attention. Moreover, according to Jackson et al. [1] findings provide support for the interaction approach rather than independency of facial expression and identity although there are other studies showing contrasting results [6].

In two recent experiments reported by Thomas, Jackson & Raymond [7] used modifications of Jackson et al.'s [1] VSTM tasks. Thomas, Jackson & Raymond [7] aimed to probe influence of emotional expressions on working memory and analyse the

effect of happy or angry expressions on WM. The participants were shown four faces in two different conditions. After being presented four faces, one test face was shown. The participants were instructed to report whether the test face was presented or not in the previous display. In the first condition (uniform condition) there were four faces and all faces had the same emotion; happy, neutral or angry. In the second condition, namely singleton condition, three faces had no emotion (neutral) whereas one of the faces was expressive (happy or angry). The results showed that when all faces had the same expression, the WM performance of angry face was better than neutral however there was no significant difference between neutral and happy conditions. Also, singleton condition in which there are three neutral faces and one emotional face was found to lead better WM than uniform condition. When the singleton face is angry the effect was greater than when the singleton face is happy. No apparent negative influence of the emotion benefit was found on WM for neutral stimuli in singleton condition. In terms of reaction time an emotion bias was observed, as well.

The purpose of this part of the study is to investigate emotional bias in face working memory. Although in previous studies there were evidence for emotional bias in VSTM [7], [1], since expression was not task relevant in these experiments, there were no clear evidence for it. We particularly intend to explore the possible emotion bias when emotion of the face is task - relevant. Our aim is not only to find out if this benefit occurs but also to find out whether it occurs for faces positive emotions or faces with negative emotions. The nature of the possible emotion bias was another question that we attempted to answer. Does it facilitate working memory? Does it prevent to ignore faces with this particular emotion?

To address these issues, we carried out two experiments. In experiment one; we aimed to decide which faces we would use for our experiment. After the pilot experiment, we decided to use only young male faces as it was the most consistent group among others (old male, old female, young female, middle aged female, middle aged male) in terms of especially hair diversity which we believe that since hair might occupy big amount of space in a picture it may dominate the memory processes. We have eliminated middle aged group as we intended to study the age difference as clear as possible. As we have seen in the pilot study, the raters have tendency to rate old people more similar than young people. They also evaluate female faces more dissimilar than male faces probably due to variety of length and color of the hair. In experiment two, we aimed to investigate the effect of expression on face recog-

nition between young and older adults. In order to test this, we presented two faces which can be angry, neutral or happy. Following that, green and orange colours were shown implying which face is supposed to be remembered. In the test screen participants were asked to choose the target face among 6 pictures which are three different expressions of test face and target face by pressing the keys 1 to 6.

Although human faces are used as stimulus in many fields such as attention, memory, perception there are a few valid and reliable data base. One of the recent data base studies was done by Ebner et al [8]. The authors aimed not only create a database for faces from different ages (young, middle age, old) for both genders (female, male) but also six facial expressions (happy, sad, neutral, disgust, fear, anger) were gathered in an organized and manipulated manner. The participants who were recruited from a model agency were trained to show expressions as intense and natural as possible. Each picture was evaluated by 8-14 raters. Also the validation study showed that new FACES data base is consisted with the previous created face data bases.

As we aimed to investigate emotional working memory for faces in different ages, we have chosen our stimuli from FACES data set. The FACES data set is very successful at eliminating all the other possible factors which may interfere for recognition such as lighting, head angle, quality of the picture etc. All the pictures are similar except the identity and expression.

To answer these questions, we did not only analyze correct / incorrect responses but we also recorded eye movements of the participants. By the eye movement recording, understanding that how people respond to different faces in a wider scope will be possible. Since eye-tracker enables us to record eye movement, we have the chance to take many different measurements and replay the gaze as many times as we need. With behavior response, we can only say whether participants did the trial correct in or incorrect in, while with eye tracking we have the opportunity to observe the behavior and measure about why and how it has occurred.

Eye tracking method has been used in other memory studies, as well. Eye tracking is a helpful tool, especially to measure attention by gaze following. Namely, the more people attend the stimulus the more and the longer they fixate at it. Detection of not only explicit memory but also implicit effects of memory (even if they are not associated) are probable thanks to the combination of recording behavioral responses and ocular motility [9]

1. Method

1.1. Participants

Participants were recruited among the students of University of Birmingham. They were paid £10 in cash for their participation in the experiment. Five participants were Asian and three participants were white. Mean age of all participants was 27.2, the standard deviation was 3.63.

2.2. Apparatus

Stimuli were presented on a 19 inch LG monitor (1024 x 768 pixels) with a 60 Hz refresh rate at a distance of 70 cm. In order to maintain viewing distance was controlled with a chin rest with forehead restraint. 100 for brightness, 70 for contrast and 0 for gamma were used for the monitor settings.

For gaze following we used Eyelink ® 1000 CL Illuminator TT-890 Version 1.5.0. Programing software Matlab was used for designing the stimuli. Experiment table and chain rest were adjusted according to the participant's preference. The camera was set to 500 Hz sample rate and only right eye of the participant was recorded.

2.3. Procedure

After participants were arrived, they were asked to sign the informed consent and they were provided verbal instructions. Sample trials were shown in order to orient to the experiment and follow the instructions as correct as possible. The task was to remember one of the two faces which will be associated with the target color. After some trials 9-point calibration were done. At last computer based instructions were given and practice trials took place.

In a trial mainly there were five displays. First, a fixation dot appeared for 1000 msec following by a drift check. Then, a memory array was presented for 2000 msec. In the memory array two faces were presented and participants were asked to remember both of them. After that, a fixation point appeared for 1000 msec. Then, a cue display appeared for 2000 msec. The orange/green bar indicated the location of target face. Finally, test array came and stayed until response of the participant. Participants were supposed to choose the target face among other five faces by pressing the corresponding key.

2.4. Design

In each trial the study array displayed comprised a target and a non-target face. The emotion of the target face and the emotion of the non-target face were different. The target face had the possibility to have three different emotions (happy, neutral, or angry) and the non-target face could have the other two emotions since they were supposed to have different emotions. Therefore, the independent variable, emotion had six conditions. Namely the conditions are;

1. Condition = TGT Happy –NTG Neutral (56 trials)
2. Condition= TGT Happy –NTG Angry (56 trials)
3. Condition = TGT Neutral –NTG Happy (56 trials)
4. Condition = TGT Neutral –NTG Angry (56 trials)
5. Condition = TGT Angry –NTG Happy (56 trials)
6. Condition= TGT Angry –NTG Neutral (56 trials)

In the test display 2 identities (target, non-target) with 3 different emotions (happy, neutral, and angry) were presented in 2 rows. A picture could be;

1. Identity correct, emotion correct (target face)
2. Identity correct but emotion is wrong (emotion of non-target face)
3. Identity correct but emotion is wrong
4. Identity is wrong but emotion is correct
5. Identity is wrong and emotion is wrong (emotion of non-target face)
6. Both identity and emotion are wrong

2.5. Data Analysis

We used a repeated-measures design. We had two independent variables. One is the condition, meaning that combination of expression of the target face and expression of the non-target face. Condition has six levels; happy – neutral, happy – angry, neutral – happy, neutral – angry, angry – happy, angry – neutral. All participants were subjected to all six conditions. There were four dependent variables which are reaction time, dwell time, first fixation and fixation count.

2.5.1. Measure of reaction time. The trials with wrong responses were eliminated for reaction time analysis. We also calculated mean RT and standard deviation for each condition and we did not take into account the trials with the outliers which were above

the mean plus three standard deviations. An analysis of variance (ANOVA) using condition (happy – neutral, happy – angry, neutral – happy, neutral – angry, angry – happy, angry – neutral) as a within-subject factor, was used to analyze response times.

2.5.2. Measure of dwell time and fixation. The trimmed trials which have only correct responses were considered for eye movement analysis. Dwell time is described as total time spent on the area of interest. Areas of interest were two pictures of faces in the memory array whereas in the test array the areas of interest were six pictures. An analysis of variance (ANOVA) using condition (happy – neutral, happy – angry, neutral – happy, neutral – angry, angry – happy, angry – neutral) or valance (emotional expression versus neutral expression) as a within-subject factor, was applied to analyze dwell time, fixation count or first fixation. Number of first fixations in a particular interest area was calculated. After that, the number converted to percentages.

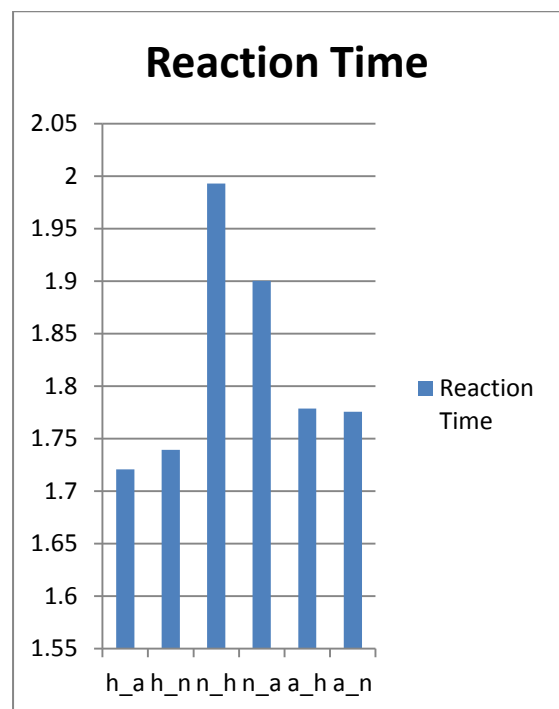
3. Results

3.1. RT and condition

To examine the effect of emotion of the target face with another competing face with another emotion, we conducted repeated-measures ANOVA on reaction times with condition. The conditions were namely happy - neutral, happy - angry, neutral – happy, neutral - angry, angry - happy, angry - neutral, and meaning that the first emotion is the expression of the target face and the second one is the expression of non-target face.

RTs were 272 ms significantly faster when the target face had a happy expression, the non-target face had a neutral expression versus when the target face had neutral expression, the non-target face had a happy expression ($p = .037$). We also found that there is a significant difference between happy - neutral and neutral - angry conditions ($p = .033$). Participants reacted 180 ms faster to happy - neutral condition than angry - neutral condition [$F(1, 8) = 7.289, p < .05, \eta^2 = .477$]. Although participants were able to find the target face faster on angry - neutral condition ($M = 1.776, SD = 0.080$), than neutral - angry condition ($M = 1.900, SD = 0.120$), response times for angry - neutral versus neutral - angry conditions were not significantly different ($p > .05$) (See Figure 1). On angry – happy condition ($M = 1.778, SD = 0.284$), reaction times were slightly slower than happy-angry condition ($M = 1.739, SD = 0.280$), but the difference between these two conditions was not significant ($p > .05$) (See Figure 1).

Figure 1: . Mean reaction times for emotion conditions



3.1.1.Hit rate and error types among conditions.

For each participant we examined the accuracy rate and type of error made. Except for one, each participant had a performance that has more than 90% accuracy and all participants were over 80% correct in finding the target face among other five faces. The most common error that was made in the experiment was that participants chose the correct emotion but not the correct identity (2.71%). The second most common wrong choice was the right identity with the emotion of non-target face.

A repeated-measures ANOVA on error type in percentages and condition brought out that error type 1, identity correct with the emotion of non-target face is significantly made more than error type 5, incorrect identity and emotion ($p = .027$). Moreover, we found that identity correct with the emotion of non-target face error and identity incorrect emotion non-target face slightly missed the significance level ($p = .067$). Regardless of the condition, the sixth response category, which is the identity error and emotion error, was hardly made. Especially when the target is angry in spite of the emotion of non-target (happy or neutral) this type of error was almost never made (among all subjects only 2 times) (See Figure 2).

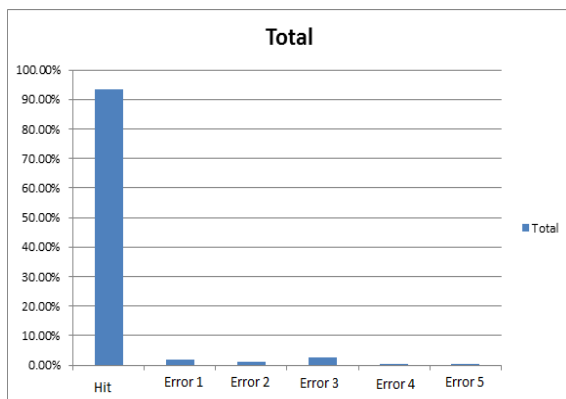


Figure 2: . Response categories in percentages

We next examined the relationship between response category and condition. Accuracy levels were quite high with the percentages of 94.85%, 93.29%, 92.31%, 93.68%, 93.39%, 93.89% for happy-neutral, happy-angry, neutral-happy, neutral-angry, angry-happy, angry-neutral conditions respectively.

3.2. Six emotions and dwell time

To examine whether there is a relationship between the time spent on face types (1 to 6), we analysed dwell time in the test array where we presented six faces. A repeated-measures 2 way ANOVA confirmed our expectations. There was a significant face type effect on dwell time [$F(1, 8) = 115.224$, $p < .01$]. Naturally, participants spent more time looking at the target face than other faces directly showing that they successfully learnt the task. This result is also consistent with the accuracy rates. The target face was looked at longer ($M = 853.222$, $SD = 64.781$); the rest of the faces are looked at in the following order; face number 2 (Identity correct but emotion is wrong (emotion of non-target face), $M = 229.352$, $SD = 24.451$), face number 3 (Identity correct but emotion is wrong, $M = 219.056$, $SD = 19.560$), face number 4 (Identity is wrong but emotion is correct, $M = 83.630$, $SD = 17.168$), face number 6 (both identity and emotion are wrong, $M = 59.500$, $SD = 7.661$), face number 5 (Identity is wrong and emotion is wrong (emotion of non-target face), $M = 58.222$, $SD = 10.940$).

In the test array, parallel with the previous findings we observed a significant main effect of condition [$F(1, 24) = 7.469$, $p = .005$, $\eta^2 = .483$]. Condition 1, target face has a happy expression and non-target face is neutral ($M = 234.944$, $SD = 17.481$), is significantly elicited shorter dwell time than the condition 3, target face has a neutral expression and non-target face is happy ($M = 278.019$, $SD = 21.833$). We also observed that condition 1 evoked shorter dwell time than condition 4, target face is

neutral and non-target has an angry expression ($M = 259.685$, $SD = 19.313$).

We observed a significant interaction of condition and face type in the test array $F(1, 8) = 5.132$, $p = .001$, $\eta^2 = .391$). When we tested the time spent on the target face in the test array, mean dwell time was shorter for the happy face (non – target is neutral) ($M = 815.222$, $SD = 68.721$), than the condition in which target face is neutral (non –target is angry) ($M = 879.333$, $SD = 72.097$).

3.3. Four emotion vs neutral dwell time

We aimed to investigate more directly the effect of valence (emotional versus neutral expression) on dwell time in the test array by using a two-way ANOVA. There was a significant main effect of valence [$F(1, 8) = 23.396$, $p = .001$], showing that when the target face has an emotional (happy or angry) expression and the other face is neutral, participants looked 75.444 ms less than that when the target face is neutral and non-target face is emotional (happy or angry). A plot illustrating valence effect is presented in Figure 2.

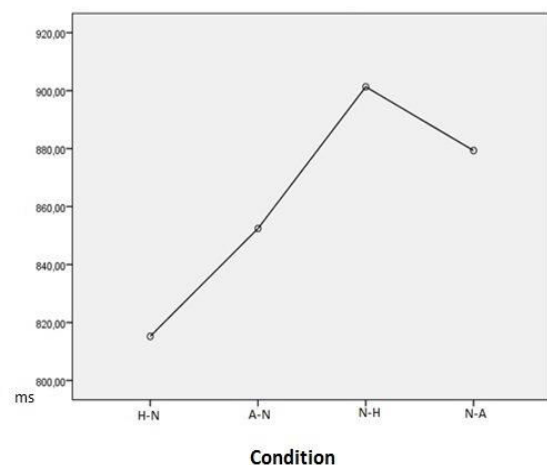


Figure 3: Mean dwell time for four conditions

3.4. Fixation count test six emotions

The number of fixations that have been made in a particular interest area was tested and emotion benefit was not significantly observed. However a repeated-measures ANOVA on fixation counts and condition showed there is still a tendency [$F(1, 8) = 2.163$, $p = .121$], hence degrees of freedom were corrected using Greenhouse - Geisser ($\epsilon = 0.585$). If we prefer to use a more liberal test, such as Huynh - Feldt Sphericity test, significance level is moderately close to significance $p = .081$.

4. Discussion

The aim of our study was to find out how the underlying cognitive mechanisms of emotion bias affect working memory for faces. Firstly, we asked whether emotional faces are remembered better than neutral faces when emotion is particularly task-relevant. Thus it was basically predicted that faces with happy or angry expression would cause a better memory when the expression of the face was supposed to be remembered. In our experiments, as expected, we found that emotional faces were remembered better than neutral faces. This finding is consistent with previous brain and behaviour studies that have been proved superiority of emotion. For instance Hamann [10] demonstrated that arousal, which is caused by an emotion, affects memory by the means of attention.

Whilst stimulus – driven capture hypothesis supports the idea that attention is captured no matter what is the overlap between the target and the distractor, contingent – capture theory assumes that preattentive processing has the potential to cause capturing attention to a certain object that shares features with previously seen object [11]. Our results appear to support contingent – capture hypothesis. We found that although the participants were quite accurate at finding the correct identity with correct emotion, most common error, that participants made was choosing the correct emotion but picking the wrong identity. Since the correct emotion was displayed before, attention might be driven to that emotion more than others. Another supporting evidence for contingent – capture theory is that, our participant almost never chose the face with both wrong emotion and wrong identity.

Secondly, we asked whether there is a happy or angry bias when the emotion is task relevant. We found that happy faces were remembered better than angry and neutral faces although we did not find any significant difference between angry and neutral faces. These findings clearly support the happy bias hypothesis. Our findings are not consistent with the majority of previous studies that have found angry bias on working memory. For instance Jackson et al [1] showed that a singleton face with a negative expression is remembered better than a singleton face with a positive expression. In Thomas et al [7] study working memory was measured by using a task that is similar to what Jackson et al [1] used. It was found that angry faces enhanced working memory for faces whereas happy and neutral faces did not show any effect. In parallel with this, Although Mather and Knight [12] used a different task; they did not find happy benefit. It was shown

that threatening faces are detected significantly faster than happy faces.

The results of our experiment showed a happy bias that is consistent with some of the previous findings from long – term memory literature. D`argembeau and Van der Linden [13] showed that regardless of the age of the participants, faces with a happy expression were reported as “remembered” (R response) more than faces with an angry expression. Our findings are also consistent with Baudouin et al study [14]. It has been found that a face with a smiling expression is recognized easier than a faces without a smile. Since smiling expressions cause an increase on familiarity attitude [14] and people are quicker at processing familiar faces than unfamiliar faces [15].

A third question that we asked was what the nature of the emotional bias was. Does it facilitate the memory or does it prevent to ignore or does it cause both of these? Our results showed that when a happy face was presented with a neutral face, it was remembered faster than a neutral face that is presented with an emotional face. This finding suggests that happy faces facilitate and quicken working memory. Importantly, we also found that when a neutral face was accompanied with a happy face and the neutral face was asked to be remembered, it took longer to remember this neutral face. This pattern of results provides evidence for the notion of prevention to ignore. In other words, it took longer to remember a neutral face when it was displayed with a happy face. It means that not paying attention to a happy face was harder than not paying attention to a neutral or an angry face.

We found clear evidence for happy expression superiority whereas previous visual working memory studies found the opposite. Where does this difference come from?

One possible explanation for why the present study found different results than previous ones might come from the differences in the experimental designs. In the studies that obtained angry biased results, emotion was not task relevant. In other words, emotion and identity were presented together meaning that emotion and expression of the face did not have to be encoded separately. Participants were asked to remember the facial identity but they were not supposed to report the exact facial emotion. Even if they do not remember the precise expression they could still report the correct answer. However in the present study emotion was task relevant. We basically asked our participants to choose not only the right identity but also to find out the identity

with the certain emotion. In that case, expression of the face and identity might have kept separately.

Another explanation can be that, faces in general hold important and socially relevant information. People observe faces of the others and when the face has a positive expression it usually shows positive attitudes such as satisfaction and acceptance. We might have found happy bias because people have tendency to acquire positive input more than negative information [16]. In our experiment, only happy faces had positive information whereas the others either have negative or neutral. Since people choose to pay attention to positive feedback implicating social approval, perhaps happy faces have remembered better. However there is also evidence that attention of people directs more to negative traits than positive traits [17]. Meeting a happy face does not require behavioural alteration because it implicates approval, however an angry face might be more attention demanding as it demands change of behaviour. A precise manipulation of social meaning of the faces might address such issues better in further research.

Finally, finding a contradictory result with the previous literature might stem from the fact that people are motivated to avoid negative stimuli and they are motivated to approach positive stimuli [18]. We also found that participants spent less time looking at the angry target face than they spent looking at the neutral target face. Although the difference was not found significant, people might have avoided attending to the negative stimuli. We possibly might have the chance to observe the difference more clearly.

Although we observed a certain bias in happy condition, it might not be due to the fact that the face actually has a happy expression but it might be due to the teeth exposition. In almost all happy stimuli, the teeth of the models were present whereas in angry and neutral conditions they were not visible. Since the teeth were white and they contrasted with the background, this contradiction might catch attention of the participants. For further research using angry faces with teeth exposure or using happy faces without teeth exposure and comparing them could test this hypothesis and it would help to have better idea what the origin of the effect stems from.

For the eye movement data we had to make some post corrections for some trials especially for some participants. Due to a constant shift, we had to adjust the areas of interest on both memory and test arrays. Thanks to the data viewer, we could re-locate the areas of interest by assuming the gaze was on the

fixation spot during fixation sport display. Thus, we had the chance of placing interest areas around the centre to correct the data. However, because of the post corrections there is the possibility of missing or misinterpreting some of the data. Better eye tracking would enable us to have more accurate data and therefore to have more accurate results.

Although the task itself was not very easy, all of our participants were young and highly educated people. Since the accuracy rate was quite high (it was around 90%), for further research we might consider to make the task a little harder. In the present study, two identities presented in two rows, meaning that in one row the same identity was presented with different emotions and in one row there were never two different identities. We might shuffle the faces and make the task more complicated for future research. This kind of shuffling might cause participants to produce more errors and give us better idea about how the faces were processed.

Understanding the mechanisms of emotional bias on working memory is important for number of reasons. Firstly understanding and remembering faces are relevant and important in everyday life. Secondly, smile, an indicator of positive expression, is particularly special because it is capable of being easily discriminated among other expressions. Last but not least, in the last decades security has become an important issue all over the world. Since contribution of human power is inevitable on security processes in addition to importance of eye witness testimonies, implications of studies on this area can help with improving security conditions of public places such as shopping malls and airports.

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Legal Provisions of Ethics in Local Government in Poland – is it Possible to Fight Corruption Behaviour among Representatives of Local Authorities by Rules of Law?

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Abstract: *The issue of ethics in the activity of public administration, and thus also of local self-government, becomes more and more subject to legal regulations in Poland. They concern shaping of ethical behavior and fighting corruption behaviour of both representatives of local public authorities, as well as local government employees. The purpose of the study is to analyze the legal provisions which are in force in Polish legal system aimed at shaping ethical attitudes and combating corruption behaviour among local government representatives, an attempt to assess their effectiveness and an attempt to answer the question whether the legal provisions are able to serve as an effective instrument for combating corruption behaviour and shaping ethical attitudes of the officers of local public administration. The current tendency in Poland is to develop the abovementioned legal regulations, while it is important to consider the development of more effective in the area under consideration self-regulatory mechanisms.*

Introduction

The issue of ethics in the activity of public administration, and thus also of local self-government administration, becomes more and more subject to legal regulations in Poland. They concern shaping of ethical behavior and fighting corruption behaviour of both representatives of local public authorities – first and foremost members of legislative bodies of local government units, which in Poland are the municipality as the basic unit, and also the county and the local-government voivodships - as well as local government employees. Such legal provisions include, for example, provisions prohibiting the performance of work under the employment relationship at the office of the local government unit in which the function is performed, the prohibition of performing a function of head of the organizational unit of the local government unit and its deputy, the prohibition of taking of additional activities and receiving donations that are able to undermine the confidence of voters to the exercise of the mandate, the prohibition of pursuit a business activity on their own account or jointly with other persons using the property of the local government unit, in which the function is performed, the prohibition of holding a specific block of shares in commercial law companies with the participation of local-government legal entities, the obligation of file a statement on the financial position. At the same time the current trend in Poland is to intensively develop such legal regulations. It is possible to observe the phenomenon of not only the development but also tightening of the provisions in question and tightening of sanctions resulting from them.

The analyzed provisions are referred to as "anti-corruption" provisions, although they relate only to some of the corruption threats. They sanction primarily the prevention of situations that may expose certain conflicts of interest [4, p. 224 and next; 6; 7; 2, p. 369]. Although conflict of interest as such does not necessarily deserve a negative rating in every situation, in many cases it can lead not only to breach of ethical standards, but also to breach of legal norms [3; 2, p. 369].

The purpose of this study is to analyze the legal provisions, which are in force in Polish legal system, aimed at shaping ethical attitudes and combating corrupt behavior among local administration representatives, an attempt to assess their effectiveness and an attempt to answer the question whether the legal provisions are able to serve as an effective instrument for combating corruption behaviour and shaping ethical attitudes of the officers of local public administration.

1. The notion of corruption

In Polish legislation, the notion of corruption in the context of public life, and therefore the exercise of public functions in public administration, is defined in the Act of 9 June 2006 concerning the Central Anti-corruption Office (Journal of Laws 2016 item 1310, with amendments). According to Article 1 Paragraph 3a of the Act of 2006, a corruption is the act:

a) consisting in promising, proposing or giving by any person, directly or indirectly, any undue advantage to a person performing a public function for himself or herself or for any other person, in

return for acting or refusing to act in the exercise of a function performing;

b) consisting in request or acceptance by a person performing a public function, directly or indirectly, any undue advantage for himself or herself or for any other person or accepting a proposal or promise of such advantage, in return for acting or refusing to act in the exercise of a function performing;

c) committed in the course of an economic activity involving the fulfillment of obligations to the public authority, consisting of promising, proposing or giving, directly or indirectly, to a person who is directing an entity not affiliated to the public finance sector or working in any capacity for such entity, any undue advantage for himself or herself or for any other person, in return for acting or refusing to act, which violates its duties and represents socially harmful reciprocity;

d) committed in the course of an economic activity involving the fulfillment of obligations to the public authority, consisting of demanding or accepting, directly or indirectly, by a person who is directing an entity not affiliated to the public finance sector or working in any capacity for such entity, any undue advantage or accepting a proposal or promising of such advantage, for himself or herself or for any other person, in return for acting or refusing to act, which violates its duties and represents socially harmful reciprocity.

Such a definition of corruption in public life, in performing a public administration, relates also to performance of public administration by self-government units and by members of the bodies of that units.

2. Anti-corruption legal provisions concerning members of legislative bodies of local government units

The largest range of anti-corruption provisions applies to the members of legislative bodies of local government unit, so to councillors of a council of the commune, councillors of a council of the county and councillors of a council of the local government voivodships.

As it is, according to Article 24b of the Act of 8 March 1990 concerning the municipal self-government (Journal of Laws 2016 item 446, with amendments), Article 24 of the Act of 5 June 1998 concerning the county self-government (Journal of Laws 2016 item 814, with amendments) and Article 26 of the Act of 5 June 1998 concerning voivodship

self-government (Journal of Laws 2016 item 486, with amendments), a person elected on the councillor is not able to work in the employment relationship with the Municipal Office (the County Seat, the Marshal's Office), where he or she obtained the mandate, and is not able to perform a function of head of the organizational unit of the local government unit and its deputy. Prior to commencing the mandate, such a person is obliged to apply for the free of charge leave within 7 days of the date of the announcement of the results of the election.

In the light of the Article 24e of the Act concerning the municipal self-government, Article 25 of the Act concerning the county self-government and Article 27 of the Act concerning voivodship self-government, the councillors are not able to take any additional activities and to receive donations that are able to undermine the confidence of voters to the exercise of the mandate.

The councillor could not perform a function of head of the organizational unit of the local government unit and its deputy. The executive body or the chairman of the board of a local government unit may not entrust a councillor of the local-government unit, in which a councillor has obtained a mandate, performing the work under a civil law contract, what is deriving from Article 24d of the Act concerning the municipal self-government, from Article 23 Paragraph 5 of the Act concerning the county self-government and from Article 25 Paragraph 4 of the Act concerning voivodship self-government. The latter Act contains moreover a more general provision, according to which the councillor of a council of the local government voivodships is not able to enter into civil-law relations in property matters with the voivodships or with voivodships organizational units, except for the legal relations resulting from the use of publicly available services under general conditions and the lease of premises for own residential purposes or for own economic activity and rent, as well as other legal forms of the use of property, if rent, lease or use are based on terms and conditions generally established for that type of legal action (Article 24 Paragraph 1 of the Act concerning voivodship self-government).

According to Article 24f of the Act concerning the municipal self-government, Article 25b of the Act concerning the county self-government and Article 27b of the Act concerning voivodship self-government, the councillors are not able to pursue a business activity on their own account or jointly with other persons, using the property of the local

government unit, in which the councillor has obtained its mandate, as well as they could not manage such business activity or to be a representative or a proxy in carrying out such activity.

The Polish Supreme Administrative Court seems, however, to look for a reasonable way of applying of abovementioned provisions of systemic Acts concerning local government. In this regard in the judgment of 31 January 2013 (signature of the act II OSK 2926/12), the Supreme Administrative Court considered that 'the functional interpretation of Article 24f Paragraph 1 of the Act concerning the municipal self-government leads to the conclusion that it could be said that the councillor is conducting a business activity using the municipality's communal property when the councillor uses the municipal property on privileged terms, using his position in the municipality'. Whereas in the judgment of 22 January 2013 (signature of the act II OSK 2864/12), the Supreme Administrative Court pointed out that 'the purpose of the legal provisions referred to as anti-corruption provisions (and that is, for example Article 24f Paragraph 1 of the Act concerning the municipal self-government) is to prevent situations in which councillors could achieve any benefit from the exercise of their mandate', and 'it is possible to talk about the potentially corrupt use of property of a self-government unit by a councillor, when a councillor during participation in the work of the competent authorities of a self-government unit may influence the content of resolutions and decisions taken by these bodies in the conduct of the economic activity or the management of such activity'.

The councillors and their spouses and also the spouses of the administrative officers of the commune and spouses of deputies of the administrative officers of the commune, secretaries, treasures, heads of the organizational units of the local government units and managers and members of governing bodies of local self-government legal persons are not able to be members of the governing, control or audit authorities nor representatives of commercial companies with the participation of local government legal persons or entrepreneurs in which such legal persons participate. The choice or appointment of these persons for these functions is void by law (Article 24f Paragraph 2 of the Act concerning the municipal self-government, Article 25b Paragraph 3 of the Act concerning the county self-government and Article 27b Paragraph 3 of the Act concerning voivodship self-government).

The systemic Acts concerning local government provide moreover that councillors may not hold a

stake of more than 10% of shares in commercial law companies with the participation of local government legal persons or entrepreneurs in which such persons participate. Shares in excess of this package should be disposed of by the councillor before the first session of the municipality council and, in case not, they shall not participate in the term of the performance of the mandate and two years after its expiry in exercising their powers – voting rights, dividends, property rights, pre-empty rights. The abovementioned rules consist of the Article 24f Paragraph 5 of the Act concerning the municipal self-government, Article 25b Paragraph 5 of the Act concerning the county self-government, Article 27b Paragraph 5 of the Act concerning voivodship self-government.

As furthermore follows from Article 25b of the Act concerning the municipal self-government, Article 21 Paragraph 8 of the Act concerning the county self-government and Article 23 Paragraph 4 of the Act concerning voivodship self-government, the mandate of the councillor of local self-government unit could not be combined with the mandate of a member of Parliament (deputy and senator), with the performance of the function of voivodship governor and a deputy of voivodship governor and also with a membership of a body of another unit of local self-government. The incompatibility of local government mandates has been in place since year 2002 [2, p. 375].

It should be also mentioned in separately the provisions of Article 25a of the Act concerning the municipal self-government and Article 21 Paragraph 7 of the Act concerning the county self-government, from which it is following that a councillor is not able to take part in the vote in the council or in the committee of the council if it concerns his legal interest [8]. There was not formulated a legal definition of the notion of legal interest, which has been used by the legislator in abovementioned provisions. Most often this interest is defined as a benefit deriving from the provisions of law and protected by these provisions. The legal interest of the councillor consists of two aspects. First of all, financial factors (for example increasing of the amount of per diem earned as a result of choosing to be the chairman of the council), and secondly the factors not directly related to material benefits (for example the possibility of gaining more influence as a result of taking up the function in the governing body) [1, p. 243].

The legal regulations do not specify who and how can turn off the councillor of the vote. The disposition of this limitation is addressed only to the

councillors and only they can refrain from voting when the subject matter of the discussion is directly related to them. Hence, the only measurable consequence of non completion with the provisions concerning the exclusion from voting may be the defect in a resolution passed by a local government body. Such a resolution may be eliminated from the legal transactions as a result of the supervisory decision of voivodship governor, who is able to declare it invalid (judgment of the Supreme Administrative Court of 10 September 2002, signature of the act II SA/Wr 1498/02).

A slightly different solution was adopted in this regard with regard to councillors of a council of the local government voivodships. Since according to Article 24 Paragraph 1 of the Act concerning voivodship self-government, a councillor is not able to enter into civil-law relations in property matters with the voivodships or with voivodships organizational units, except for the legal relations resulting from the use of publicly available services under general conditions and the lease of premises for own residential purposes or for own economic activity and rent, as well as other legal forms of the use of property, if rent, lease or use are based on terms and conditions generally established for that type of legal action. Whereas in the light of Article 24 Paragraph 2 of the Act concerning voivodship self-government, the councillor could not take part in voting in the cases referred to above if this is his or her legal interest. Thus, that provision prohibits a councillor from taking part in voting on issues related to his or her civil-law relations in the area of property with the voivodship or with voivodship legal persons, if his or her legal interest is concerned.

Pro-ethic prerequisites have also caused a restriction, from year 2000, in the amount of per diems due the councillors to prevent this function of income source exceeding the norms of social consensus estimated by the legislator [2, p. 375]. The amount of per diem due a councillor could not exceed within a month the one and a half of the base amount specified in the Budget Act for persons holding a managerial state positions. A per diem is furthermore not available to a councillor who performs a function of a member of a board of the county or a board of voivodships under the employment relationship. There are also the limits in the amount of per diems for the time of travel due the councillors.

3. Anti-corruption legal provisions concerning members of executive bodies of local government units

The members of executive bodies of local government units – so in the municipality the administrative officers of the commune, mayors of the towns or presidents of the cities, in the county the members of the board of the county and in voivodships the members of the board of voivodship – and also – wider – the deputies of the administrative officers of the commune, deputies of mayors of the towns and deputies of presidents of the cities, secretaries and treasures of local government units, heads of the organizational units of the local government units and managers and members of governing bodies of local self-government legal persons, persons who issue administrative decisions under the authority of the chairman of the board (in the municipality – an administrative officer of the commune, mayor of the town or president of the city), as well as the members of a board of the metropolitan union, a treasure of the metropolitan union and a secretary of the metropolitan union, and moreover the employees of regional accounting chambers occupying the positions of president, member of the college, department head and supervisory inspector, and the employees of Local Government Board of Appeal occupying the positions of a chairmanship, their deputy and the full-time member of the Board are subject to the provisions of the Act of 21 August 1997 concerning limitation of pursuit a business activity by persons performing the public functions (Journal of Laws of 2006 No 216, item 1284, with amendments). This Act provides for serious sanctions for breach of the prohibitions resulting from its provisions [2, p. 371]. Depending on the function of the person to which a prohibition is concerned the above mentioned sanctions embrace expiry of the mandate, dismissal, termination of employment.

Restrictions resulting from the Act of 1997 consist in particular of prohibition of employment or performing other duties in commercial law companies, which could raise a suspicion of lack of impartiality or self-interest, prohibition of membership of boards of directors or supervisory boards or cooperative inspection committees (excluding supervisory boards of housing cooperatives), prohibition of membership in boards of foundations conducting business activity, prohibition of holding more than 10% of share capital in commercial companies and, above all, prohibition of conducting business activity on their own or with other persons, as well as management of business activity or membership of boards of directors, supervisory boards or committees of commercial law companies.

Moreover, persons who are holding functions in executive bodies of local government units are not able, within one year after ceasing to occupy their positions or perform their functions, to be employed or engaged in other activities of the entrepreneur, if they had taken part in the issue of decisions in individual cases concerning such entrepreneur. This does not refer only to administrative decisions regarding the determination of local taxes and charges, except for decisions on reliefs and exemptions in such taxes or charges.

On the other hand on the basis of the Act concerning the municipal self-government, the Act concerning the county self-government and the Act concerning voivodship self-government persons who are holding functions in executive bodies of local government units during its functions holding or during the employment and for a period of 3 years following termination of their function or cease of employment, could not accept any benefit of a financial nature, free of charge or against payment but less than their actual value, from the entity or subsidiary thereof, when during taking part in the issue of resolution in individual cases concerning such entity or subsidiary they had a direct impact on the content of such a resolution.

It is also worth to point out that under Article 27, Article 26 Paragraph 3 and Article 31 Paragraph 3 of abovementioned Acts, a membership of board of the executive body, and in the municipality holding a function of the administrative officer of the commune, mayor of the town or president of the city, could not be combined with the membership of the body of another self-government unit (and with respect to the executive body of municipality with the function of the administrative officer of the commune, mayor of the town or president of the city or its deputy in another municipality) and also with employment in government administration, as well as with the mandate of a member of Parliament (deputy and senator).

4. Common anti-corruption legal provisions concerning members of both legislative bodies and executive bodies of local government units

Both the councillors and persons holding executive functions - the administrative officer of the commune, its deputy, a member of the board of the county or of the voivodships – and also secretary and treasurer of local government unit, head of the organizational unit of the local government unit and manager and member of governing body of local self-government legal person and person who issues administrative decisions are obliged to file a

statement on their financial position (so-called a financial standing declaration). A financial standing declaration concerning their separate estate and the estate embraced of conjugal community with a spouse. A financial standing declaration contains information concerning cash resources, real estates, shares in commercial companies and concerning the acquisition from the State Treasury, another state legal person, local government units and its unions, communal legal person or from metropolitan union a property which had been disposed by way of tender procedure, and also information concerning pursuit of business activity and holding the functions in commercial companies, information concerning income earned on the basis of employment or another gainful activities, with the amounts received from each title, information concerning movable property with a value exceeding 10 000 of Polish zlotys, information concerning pecuniary obligations with a value exceeding 10 000 of Polish zlotys, including loans and borrowings and conditions under which they have been granted.

A councillor and a member of executive body should file the first financial standing declaration within 30 days from the date of taking an oath on. To the first financial standing declaration a councillor should include an information concerning the manner and the time of ceasing business activity with the use of communal property of the local government unit in which he has obtained the mandate and an administrative officer of the commune or a member of a board of the county or a member of the board of voivodship – an information concerning ceasing business activity, in case such activity had been pursued before the date of the election. The subsequent financial standing declaration should be filed every year until 30 April, as of 31 December of the previous year, and 2 months before the end of term of office.

In the event of a failure to submit financial standing declaration, it is carried out a procedure of calling for submitting it with an additional 14 day deadline for submitting it. A failure to submit financial standing declaration despite the expiration of the additional deadline by the councillor or by the administrative officer of the commune causes an expiration of his or her mandate. In the case of members of the county and voivodship board, failure to submit a financial standing declaration causes loss of their remuneration for the period from the date on which the statement should be filed, by the date of submission of the statement. In addition, if a member of the board does not submit a financial standing declaration within the time limit, the legislative authority is obliged to dismiss him or her by reso-

lution, not later than 30 days from the date on which the deadline for submitting the declaration expires.

The analysis of the data included in the financial standing declaration is also made by the head of the tax office competent for the place of residence of the person making the declaration. From March 2017 in case of suspicion that the person submitting the financial standing declaration has reported it untrue or concealed the truth, the entity carrying out the analysis of the declaration is obliged to apply to the Central Anti-corruption Office for the inspection of the declaration of that person. To the procedure concerning the inspection of financial standing declaration there are accordingly applied the legal provisions of the Act 2006 concerning the Central Anti-corruption Office.

5. Anti-corruption legal provisions concerning local government employees

Anti-corruption legal provisions concerning local government employees [5] have been included in the Act of 21 November 2008 concerning local government employees (Journal of Laws 2016 item 902).

According to Article 30 Paragraph 1 and Paragraph 2 of that Act, a local government employee employed in the office position, including a managerial office position, may not engage in activities that are inconsistent with or related to the activities he or she performs in the course of his or her official duties, resulting in a legitimate suspicion of lack of impartiality or self-interest and also activities that are inconsistent with the obligations under the Act.

In the event of a violation by a local government employee of any of the abovementioned prohibitions it shall be immediately terminated his or her employment without notice using the procedure of Article 52 Paragraph 2 and Paragraph 3 of the Labour Code (the Act of 26 June 1974, Journal of Laws 2016 item 1666, with amendments) or he or she shall be dismissed of his or her position.

According to the opinion of Polish Supreme Court a pursuit of the local government employee a business activity embracing activities which are closely related to his or her employment obligations is the reason of termination of the employment contract from the very beginning. The reason for termination is the possibility of causing by activities performed a suspicion of lack of impartiality or self-interest. Therefore, the employer does not

have to prove that the employee has carried out his or her duties with lack of impartiality or with self-interest, and in particular that he or she received any benefits in connection with their performance (judgment of the Supreme Court of 18 June 1998, signature of act I PKN 188/98).

In the light of Article 31 of the Act of 2008 a local government employee employed in the office position, including a managerial office position, and also at the position of the consultant or assistant, is obliged to file a statement of business conduct. In case of a pursuit of business activity an employee is obliged to determine the nature of activity. Such an employee has also an obligation to file separate statement in case of the amendment of the nature of business activity conducted. A failure to file a statement is a reason of disciplinary liability – thus in case of failure to file a statement concerning business conducted in the deadline there is imposed compulsorily on the local government employee a penalty of rebuke or of reprimand, according to respect provisions of the Labour Code. Falsification or concealment of the truth in the statement of business activity results in criminal liability under the Polish Penal Code (the Act of 6 June 1997, Journal of Laws 2016 item 1137, with amendments).

At the request of a person authorized to perform the activities in the field of labour law the local government employee employed in the office position, including a managerial office position, and also at the position of the consultant or assistant, is obliged to file a statement on their financial position.

Moreover, on the basis of Article 26 of the Act of 2008 spouses and persons in relation of consanguinity up to the second degree and in relation of affinity of first degree and in relation of adoption or guardianship could not be employed in units employing self-government employees if the relationship of direct subordination between them is established.

It should be also indicated an obligation of conscientious, efficient and impartial performance of duties by persons having the status of self-government employees, arising from Article 24 Paragraph 2 Point 2 of the Act of 2008.

Conclusions

The legal provisions which are in force in Polish legal system aimed at shaping ethical attitudes and combating corrupt behavior among the members of local government authorities as authorities of local

public administration relate to many factors, including various aspects of performing public functions. They refer to prohibition to perform certain work, to hold certain functions, to take certain activities, to pursue certain business activities, to hold certain property values and also to obligation of disclose the values and assets of the possessed property.

It is also possible to divide these provisions from the point of view of the subjective criterion, on anti-corruption legal provisions concerning members of legislative bodies of local government units, anti-corruption legal provisions concerning members of executive bodies of local government units, common anti-corruption legal provisions concerning both members of legislative bodies and executive bodies of local government units and anti-corruption legal provisions concerning local government employees.

To a certain extent these categories will coincide with each other for the same category of persons - for example, the administrative officer of the commune, the mayor of the town or the president of the city, and a member of the board of a county or voivodships simultaneously holds the status of self-government employee. Such persons will therefore be subject to restrictions resulting from both categories of regulations.

Taking the above into account, it could be raise a concern and doubt whether there is a real possibility of detecting and sanctioning all behaviors ordered in analyzed legal provisions and, above all, forbidden to local administration members and local government employees on the basis of the legislation under consideration and, therefore, doubts about the effectiveness of these legal provisions and real enforcement capacity.

It seems that more effective in the area under consideration could be self-regulatory mechanisms, including the mechanisms of local and regional democracy. Therefore, it should be demand the need to exert an influence on the development of such mechanisms and, at the same time, to disseminate and strengthen such mechanism among the representatives of the bodies of local government units.

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Mediation in juvenile cases

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Abstract: *Mediation in juvenile justice is possible for any of the facts which were subject to mediation in general, although the most common crimes committed by juveniles are stealing, destroying and hitting. In our study we will show the offenses which are prone to mediation according to Roman law and its particularities. Thus, according to the Romanian Penal Code there are offenses triggered by the complaint by the injured person for whom mediation agreement totally removed criminal liability (in these cases, mediation can take place or when during the trial, including the appeal) and offenses for which the reconciliation of the parties remove the criminal liability, so the mediation agreement totally removed criminal liability (criminal mediation in such cases can take place till the reading of the referral document of the court, in the prosecution phase, in the pre-trial chamber, in the first instance court until the judge reads the court notification. The legal framework of mediation is the same, and the parties' agreement recorded in the mediation agreement may lead to the removal of criminal liability of criminal investigation, of the criminal record of the juvenile accused if mediation takes place and materializes into a mutually beneficial agreement of the parties.*

Introduction

Preventing and fighting against juvenile delinquency have always been a top priority in the criminal law policy of the modern states. The particular nature of the criminal phenomenon among youth triggers special issues related to prevention and combat since its causality interacts with a myriad of factors, namely the minor's lack of experience in social life skills ultimately leading to a full non-understanding of the civil consequences of his perilous behavior for the social values, as well as of the sanctions that might apply to him, deficiencies in the educational process taking place within family, at school, the negative impact that some adults may have upon the minors while luring them onto the criminal path, etc. [1].

Infancy is the context in which the minor delinquent finds himself, who does not have the age of criminal responsibility at the moment of committing an offence.

The psychological and physical ability of a person to comprehend the social consequence of his actions or inactions, willingly targeted, is absent at the moment of birth, but it will mature during the person's growth. While considering the specifics of the biopsychological development of the person, it is absolutely required in the criminal law to establish an age limit under which the criminal responsibility should be ruled out for a minor. In other words, the minor will be presumed to lack the criminal responsibility until a certain age, since he does not hold the representation of the social significance of his actions or inactions [2].

Pursuant to the stipulations in art 113, par (1) in the Penal Code of Romania, the minor under the age of 14 has been established not having the criminal responsibility; the par (2) states that the minor aged between 14 and 16 will only be held criminally responsible if proven he had carried out the deed in full mental capacity and the minor older than 16 will be considered of having the age of criminal responsibility in all cases. To prove the discerning nature in committing the offence falls under the jurisdiction of prosecution, yet there is the relative presumption of lack of discernment in favor to the juvenile.

The maximum age of eligibility as a juvenile is 18, irrespective of having acquired the full capacity of exercise via marriage, since the penal law considers a minor person someone who is under 18.

The infancy status cancels the criminal aspects of the offence and, consequently, the criminal responsibility, which makes it impossible to talk about mediation. Herein, the civil responsibility is not excluded for the people who are the caretakers of the juvenile, should their fault is acknowledged.

The sanctioning of the juveniles committing offences need to correspond to their psychological and physical specifics, so as to provide their education and reform. These specifics of the minors require appropriate social defense measures aiming to recover their defective education, i.e. the educational measures. They are meant to ensure their education and reform via academic and professional training, by instilling in their conscience a respect towards the social values. Unlike punishment that applies to adults, where the coercion places first, the educational measures have a prevailing didactic nature that does not allow for any criminal consequence to

subsist, since they do not constitute a criminal record for the person on the radar. The provisions in the art. 133 in the Penal Code of Romania therefore stipulate that the educational measures do not entail any interdictions, termination of rights or incapacity.

The educational measures decided by the law, which apply to juveniles committing offences, are of two types:

1. Protection measures (do not deprive the individual of his freedom), such as the civic training time, the surveillance, the weekend commitment and the daily assistance;

2. Penalties (freedom deprivation), namely the admission into an educational center and the admission into a detention center.

Nonetheless, there is a second chance that the Romanian legislator gives under definite circumstances to the minors who have committed certain offences, which is MEDIATION.

In 2006, there was passed the Act 192 that regards the mediation and the organization of the mediator profession – a general regulation of mediation that includes, among others, stipulations concerning the procedure of mediation itself and special dispositions regarding mediation in the penal cases.

According to the art. 1 in the above Act, mediation is a means to find an amicable settlement of the conflicts via a third party specializing in the mediator profession, under conditions of nonpartisanship, impartiality, confidentiality and benefitting from the free consent of the parties.

1. The offences in the Penal Code of Romania where mediation can be enforced

As seen in the art. 64¹, the dispositions in Act 192/2006 can be implemented in the criminal cases, in both penal and civil aspects. For the criminal aspect of the process, the mediation-related stipulations only apply to the cases for offences for which, according to the law, the *withdrawal of the prior complaint* or the *reconciliation of the parties* exclude the criminal responsibility.

The modern criminal doctrine has adopted the view that the *prior complaint* is a complex juridical category, of a hybrid nature, in the criminal law, representing a criterion for criminally holding responsible the felon who committed certain offences, with consequences in the criminal procedure law [3].

The withdrawal of the prior complaint represents the expression of willingness of the party aggrieved due

to an offence who, after filing the complaint required to initiate the criminal proceedings, comes back and drops out the prior complaint, as provided by the law – art. 158 in the Penal Code of Romania.

The Act 286/2009 regarding the New Penal Code regulates the *reconciliation* as a ground for the cancellation of the criminal responsibility – art 159.

The reconciliation occurs among the main litigants as they are described in the art. 33 in the Criminal Procedure Code of Romania, namely the offender and the aggrieved party. In other words, reconciliation cannot take place between the indicted and other people who have not been injured due to the offence.

The reconciliation can occur both during the prosecution with the effect of filing away the criminal case regarding the parties and the offence between them and also before the trial judge until the reading of the act of apprehension, as stipulated by the art. 374, par. (1) in the Criminal Procedure Code of Romania.

The reconciliation occurring in the interval in which the case is in the preliminary hearing stage does not operate in terms of criminal proceedings, since this stage of the criminal case after completing the criminal investigation is non-public and the preliminary hearing judge cannot take into account the reconciliation, since the object of this procedure is mentioned in the art. 342 in the Criminal Procedure Code of Romania, namely the verification of the legalism of the court apprehension, the verification of the legality in the evidence presentation and having the criminal prosecution bodies conduct the pertinent actions.

Once the criminal case has passed the preliminary hearing stage, the trial judge will take into account the reconciliation and decide that there is no case to answer by implementing the art. 16, letter g) in the Criminal Procedure Code of Romania, referring to the art. 159 in the Penal Code of Romania.

The resolution no. 27 on 18 September 2006 [4] issued by the High Court of Cassation and Justice of Romania for the appeal settlement has established that the release of the criminal case for the offences where the reconciliation of the parties prescribed the punishment can be decided by the court only when the judge acknowledges an immediate agreement between the offender and the aggrieved party to have a total reconciliation, unconditionally and definitively, expressed in the proceedings by both parties, in person or via their proxies or by authentic documentary evidence.

Pursuant to the art. 15, par. (1) in the Penal Code, the offence is the act stipulated by the criminal law as done wilfully, not justified and attributable to the person who carried it out. In spite of the fact that most offences committed by juveniles are theft, damaging and assault, the mediation for the juvenile cases is possible for any of the acts for which mediation is possible in general. The following lines will include a short presentation of the offences that the mediation can be applied to.

The offences for which the Penal Code of Romania stipulates that become active upon the *prior complaint* of the aggrieved party, and the mediation rules out the criminal responsibility, are to be found below:

- Art. 193 – Common assault;
- Art. 196 – Intentional bodily injury;
- Art. 206 – Threatening;
- Art. 208 – Harassment;
- Art. 218, par. (1) and (2) – Alleged rape;
- Art. 219, alin. (1) – Simple sexual assault;
- Art. 223 – Sexual harassment;
- Art. 224 – Home invasion;
- Art. 225 – Professional office trespassing;
- Art. 226 – Invasion of privacy;
- Art. 227 – Disclosure of confidential information;
- Art. 228 – Theft, art. 229 – Aggravated theft and art. 230 – Theft for the purpose of personal use or art. 232 the attempt of these offences carried out by a juvenile to the prejudice of the legal tutor or by the hosted person or the person being lived in with, to the prejudice of the aggrieved party, according to the art. 231, par. 1;
- Art. 238 – Abuse of trust;
- Art. 239 – Breach of trust by defrauding creditors;
- Art. 240 – Simple bankruptcy;
- Art. 241 – Fraudulent bankruptcy;
- Art. 242 – Fraudulent management;
- Art. 253, par. (1) and (2) – Simple and first-grade aggravated damage;
- Art. 256 – Disturbance of possession;
- Art. 284 – Unfair assistance and representation;
- Art. 287, par. (1), let. d), e), f), g) Requirement in litigations about work, pensions and use of a building;
- Art. 302 par. (1) – Mail tampering;
- Art. 378 – Family abandonment;
- Art. 379 – Non-compliance with minor custody measures;
- Art. 381 – Obstruction of religious freedom.

In such cases, mediation can occur any time during the criminal trial, inclusively the appeal stage.

The offences for which the *reconciliation of the parties* cancel the criminal responsibility are as follows:

- Art. 199 – Domestic violence;
- Art. 228 – Theft;
- Art. 229, par 1 and par 2 let. b), c) – Aggravated theft;
- Art. 230 – Theft for the purpose of personal use;
- Art. 243 – Misappropriation of lost property or undesignedly found with the offender;
- Art. 244 – Fraud;
- Art. 245 – Insurance fraud.

In these cases, the criminal mediation can occur only until the reading of the act of apprehension in the Court, namely during the criminal investigation, in the preliminary hearing stage, in the first instance, before the full completion of the legal procedure when the judge reads the act of apprehension in the Court.

For the other offences, the criminal mediation is possible on the civil aspect of the case. A Mediation Agreement in such cases is a mitigating circumstance or an unpunishment or sentence reduction case, according to the indictment text for that respective offence [5].

Pursuant to the art. 32 in the Criminal Procedure Code of Romania, the parties are the litigants who carry out or against whom a legal action is carried out – i.e. *the indicttee, the plaintiff, the responsible party in the civil lawsuit*.

The *indicttee* is the natural or legal person against whom there was initiated a legal action – art. 82 in the Criminal Procedure Code of Romania.

The *plaintiff* is the aggrieved party (the natural or legal person) who carries out the civil lawsuit within the criminal case. Plaintiffs are also the successors of the aggrieved party, should the civil lawsuit is carried out within the criminal case – art. 84 in the Criminal Procedure Code of Romania

The *responsible party in the civil lawsuit* is the person who, according to the civil law, has the legal or conventional obligation to remedy – partially or totally, solely or jointly - the damage derived from the offence and who is subpoenaed, is a part of the criminal case – art. 86 in the Criminal Procedure Code of Romania.

The *litigants* are main characters, meaning the *suspect* and the *aggrieved party* and other litigants, i.e. the *witness, expert, interpreter, bailiff, the bodies*

of findings, any other people or official bodies stipulated by law, with certain rights, duties and tasks in the criminal proceedings – art. 34 in the Criminal Procedure Code of Romania.

The *suspect* is the person about whom the existence evidence leads to the reasonable suspicion that he has carried out an offence mentioned in the criminal law – art. 77 in the Criminal Procedure Code of Romania. He is not part in the criminal case nor a subject of the lawsuit, but instead he is a main litigant, holder of rights, duties and tasks, clearly expressed in the law.

The *agrieved party* is the person who is the victim of a physical, material or moral damage due to the criminal act – art. 79 in the Criminal Procedure Code of Romania. He is not part in the criminal case nor a subject of the lawsuit, but instead he is a main litigant, holder of rights, duties and tasks, clearly expressed in the law.

As a consequence, it is only the parties and the main litigants who can be involved in the mediation procedure, and not other litigants, such as the witnesses, experts, interpreters, the bailiff, the bodies of findings. It means that there should not be any confusion made between the *parties* in the mediation or the mediation agreement with the *parties* in the criminal case. When referring to the mediation procedure, we will use the terminology of victim – offender or *parties*, but not with the meaning assigned to the criminal case.

In our case, the parties in the mediation process are the offending juvenile – suspect on the one hand or the defendant and the victim – the aggrieved party, on the other hand.

Since the stipulations of the Act no.192/2006 regarding mediation and the organization of the profession of mediator state that the parties can be represented by other people, during the mediation process, who can carry out acts of disposition within the legal limits, we understand that the parties can also turn to official representation for the mediation procedure. The legal dispositions refer to the possibility of carrying out acts of disposition within the legal limits, which means that a special procedure is required to be designed. The special dispositions in regards to the criminal mediation do not limit this right of representation, a reason for which we believe that the official representation is also allowed in the criminal mediation [6].

The *representatives* are those people authorized to take part in fulfilling the lawsuit activities on behalf and in the interest of a party or of a main litigant in

the trial. They do not hold the status of a party in the trial, as they are simple litigants, carrying out lawsuit activities during the criminal case in the name and interest of other people.

Art. 64¹ par. (3) expressly states that the parties and the litigants cannot be constrained to agree on the mediation procedure.

2. The mediation procedure

The mediation of the offences committed by the juveniles is known as having a high-degree risk, while considering the special requirements included in the law for the cases with minor felons. In other words, the guarantees in the criminal law must be provided for this category of delinquents.

In case the mediation procedure takes place after the criminal investigation is launched as an introduction of the prior complaint, the criminal investigation is suspended, on the grounds of having the parties present the mediation agreement.

The suspension takes until the mediation procedure ends by any of the legal means, but not longer than three months after its launch date. The criminal investigation is resumed ex officio, immediately after the receipt of the minutes that will ascertain that the agreement has not taken place; if this conclusion is not notified about, the criminal investigation resumes after the expiration of the three-month term.

Art. 68 par. (1) stipulates that, for the criminal cases, the mediation should be carried out in such a way that the rights of each party or litigant in the lawsuit and, if case may be, to use an interpreter must be complied with. The minutes that will close the mediation procedure needs to prove whether the people involved in this process benefitted from the assistance of an attorney and of interpreting services or, if case may be, they waived this right in a clearly expressed manner.

The par. (2) states that the guarantees in the law for the development of the criminal case need to be appropriately provided for the juveniles during the mediation procedure.

The participation of minors in the mediation is only allowed in the presence of their parents and/or the attorney, and the obligations assumed during the mediation agreement have also be taken by their parents who are responsible of fulfilling them, along with the minor.

While understanding to provide protection to the people lacking a suitable life experience, in order to avoid any legal errors pertaining to them, the legislator has stipulated the mandatory legal assistance for the minor whenever he holds the status of a suspect or defendant in the criminal case [7].

The mediator is bound to carefully assess and examine the conflict object prior taking on the case, in order to establish whether that conflict is suitable for a mediation action. The mediation object is to solve an existent conflict or to discharge a dispute (when the conflict has reached the court) between parties (natural and/or legal persons), via an amiable procedure, in a certain area. In our case, it is a conflict in the criminal area. When the mediator ascertains that the conflict object is not fit for mediation, he should decline this action. The mediator will hence talk to each party, while searching for the causes and the evolution of the conflict and also for the significant issues around which the conflict has been built. After having all the parties met with the mediator and presented their viewpoints upon the current conflict, the latter will conduct a thorough analysis of the conflict that is about to enter the mediation process. Similarly, he should establish whether this conflict can be solved via mediation, while consulting with the parties.

The mediator will inform the parties about what mediation is, its principles and role, the obligations of the parties, the advantages in a mediation, the legal effects of this procedure, the possibility of acquiring a judge decision, with a judicial remedy, that will validate the mediation agreement or the possibility to having this authenticated by a notary public, hence with an enforceable title. The information of the parties will be strictly done in regards to the conflict between them, in joint or separate sessions. This procedure takes place before the mediation itself and it is free of charge.

After the beforehand notice stage, the parties can decide whether they accept or not the mediation and even the right to waive the mediation procedure in case they agreed on and signed a mediation agreement. The parties also are entitled to forgo the mediation procedure during its development, with no need for justification.

The mediation for the criminal conflicts can only be conducted by an authorized mediator, based on Act no. 192/2006 regarding mediation and the organization of the profession of mediator, with its later amendments. The mediation can be solely carried out within a professional procedure, such as:

- Request for mediation by the mediation preparation contract;
- Sending an invitation to the mediation;
- Discussion about the mediation with everyone involved in the conflict;
- Signing the mediation agreement;
- Drafting a minutes to conclude the mediation;
- If an accord has been reached, a mediation agreement will be concluded.

The mediation process usually takes place at the mediator office. If needed, mediation can be relocated to other places agreed by the mediator and the parties in the conflict.

Pursuant to the art. 44 in the Act no. 192/2006, it is not allowed to have the mediation sessions before concluding the mediation agreement. This agreement will be concluded between the mediator, on the one hand, and the parties in the conflict, on the other hand.

The mediation procedure includes a joint meeting, of all the parties, in the presence of the mediator, generically called a *joint session*, which can be followed by separate meetings of the parties with the mediator, alternatively, called *private sessions*, after which they can be inset with each other until the dispute has been solved [8]. The mediation can be approached by different perspectives that involve from the start private sessions that can continue until the mediation is concluded, ended or not with a final joint session, or a single joint session from the beginning to the end [9]. It is recommended for such sessions (joint or private) take place in one time sitting, of 60-120 minutes. The meetings will also follow a mutually convened schedule.

The party showing the availability to solve the conflict by mediation will be the one to initiate the discussions where the parties can express their intents and expectations from this procedure.

3. The development of mediation

According to the art. 50 in Act no. 192/2006, mediation is based on the cooperation of the parties and the use, on the mediator's part, of specific methods and techniques relying on communication and negotiation. These means are designed to exclusively serve to the lawful interests and objectives aimed by the conflictual parties. The mediator is not in the position to impose a solution regarding the conflict subject to mediation.

During the mediation process, the mediator only has the diligence obligation, in the sense that he has to act and take all the necessary steps to maintain and

clarify the communication, the dialogue between the parties so that they reach an agreement.

At the same time, the mediator is compelled to ensure the confidentiality of the information received during the mediation process, to return all the written documents that were presented by the parties and dispose of all the notes taken during the mediation sessions when they reach a conclusion. As a consequence, the confidentiality of the mediation procedure involves keeping secret all the information and documents that the mediator, the parties and their assistants took note during the sessions, unless the parties decide otherwise.

Mediation can only occur while the rights of everyone involved are complied with. The right to legal assistance or to interpreting services is guaranteed by law. As in the art. 53 in Act no. 192/2006, the conflictual parties are entitled to be assisted by an attorney or other people, under mutually agreed conditions. During mediation, the parties can be represented by other people, who can draft acts of disposition, as stipulated by law.

When the legal assistance is mandatory but it has not been talked about and the mediation took place in the absence of the party's attorney, this will trigger the nullity of mediation and, implicitly, of all the mediation documents drawn up by the mediator. The parties can expressly waive such rights and ask for the continuation of mediation with being provided legal assistance or interpreting services.

Pursuant to the art. 54 in Act no. 192/2006, the mediator is bound to notify the parties about the case when a situation occurs during mediation that will affect its purpose, neutrality or impartiality of the mediator and the parties will decide whether they continue or terminate the mediation agreement.

The mediator has the right to close the mediation procedure, acting as in the provisions of the art. 56 that can be accordingly applied. In this situation, the mediator is compelled to partially reimburse for the fee, under the conditions agreed in the mediation contract.

The mediator is allowed to request from a viewpoint of a specialist in the criminal area, should the conflict being mediated raises difficult or controversial issues of a legal nature or from any other specialized field of expertise, through the consent of the parties. Should the mediator appeal to a specialist from outside his office – e.g. a psychologist, a social worker, etc., he will only highlight the contentious issues, without disclosing the identity of the parties.

In a summary of the above, the mediation procedure in case of conflicts regarding the criminal area involves the assignment of the mediator via a request, the transmission of the mediation invitation to the other party by the mediator, the instruction beforehand on the mediation advantages and the procedure done to the parties or to the parties present at that meeting, the issuance of the minutes or of the information report about the mediation benefits, the signing of the mediation contract by the conflictual parties, negotiations between parties in the presence of the mediator where the parties can be assisted by attorneys or other proxies, the signing of the mediation agreement that endorses the accord of the parties and the authentication of the mediation agreement by a notary public.

4. The conclusion of mediation

The mediation procedure can be concluded by reaching an agreement – by making a total or partial reconciliation, by having the mediator ascertain that the mediation has failed or that the parties have expressed their wish to terminate the mediation agreement.

According to the par. (1) in the art. 56 in Act no. 192/2006, the mediation procedure closes, as follows:

- a) by reaching to an agreement between the parties upon settling the conflict;
- b) by having the mediator ascertain that the mediation process has failed;
- c) by filing the mediation agreement by one of the parties.

Par. (2) of the same article stipulates that any party can address to the competent legal or mediation authority in case the parties reached a partial agreement, as well as in the cases mentioned in par. (1) letters b) and c).

When the conflictual parties have reached an agreement, a written accord can be drafted in their names, which can be authenticated by a notary public and includes all the clauses convened by the parties – this record will have the value of a document under private signature. This agreement is usually drawn up by the mediator, except for the cases when the parties and the mediator consent otherwise. Insofar as the agreement includes a debt that is uncontested, liquid and enforceable, this will constitute an enforceable title. Similarly, the agreement concluded between the parties following the mediation procedure is an additional act to the contract initially made between the parties, unless the parties wish to draft an additional act with the terms included in the

mediation agreement. The agreement will be signed by the parties and the mediator.

The mediator facilitates the understanding between the parties and not their reconciliation. The understanding can take multiple forms, in the sense that it can be conditioned, can have diverse stipulations in its content, can include any type of agreement between the parties if aligned with the legal and moral standards. In other words, the mediation agreement is a private contract between the conflictual parties, a contract that is subjected to the rules in the civil contracts area.

Once an agreement has been reached, the chances to be complied with by the parties are surely higher than it would have been imposed to them, just for the reason that the parties are not compelled to reach to a solution in any moment and no decision is inflicted on them by any authority.

In line with the art. 59 in Act no. 192/2006, the parties can request from the notary public to have their agreement authenticated. Similarly, the parties can present themselves before a court in order to ask for a decision that will validate their accord. The competence belongs to either the district court in whose jurisdiction the domicile or residence of either party is located, as case may be, or the court that has competence over the location where the mediation agreement has been concluded. The decision that the court consents to the agreement of the parties is given in the Counsel chamber and constitutes an enforceable title as stipulated by law.

During any stage of the mediation procedure, either of the conflictual parties is entitled to terminate the mediation contract while notifying the other party and the mediator, in writing. The mediator will acknowledge the unilateral termination of the mediation contract in at most 48 hours since receiving the notification and will draft a minutes of closing the mediation procedure.

Should one of the conflictual parties fail to show up for the mediation, without terminating the mediation contract as shown above, the mediator is compelled to take all the necessary steps to determine the real intention of the respective party and, as case may be, continue or close the mediation procedure.

Irrespective of the manner of concluding the mediation, the mediator has to draw up the minutes of closing the mediation, where he will describe the manner of concluding the corresponding mediation. Art. 57 in Act no. 192/2006 stipulates that the me-

diator will write a minutes that will be signed by the parties, in person or by proxy, and the mediator, in any of the cases under the art. 56, par. (1). The parties will be given an original copy of the minutes.

The solution by mediation of a conflict that is an ongoing litigation triggers the right to ask for the reimbursement of the stamp duties.

Conclusions

Mediation, in general, and in the criminal case in particular, is a manner of solving the conflicts not yet assimilated by the Romanian culture. Mediation has its indubitable advantages for the involved parties, such as a flexible procedure, informal (no hearings, no witnesses, etc), the decision belongs to the parties, has a beneficial effect upon the relations between them, involves confidentiality and, last but not least, is faster and implies less costs than a trial. A mass-media scandal is also avoided, along with negative advertising or the disclosure of private or confidential information, especially that the juveniles can be emotionally affected, etc.

Since the legal framework of the criminal mediation is the same and the consent of the parties included in the mediation agreement can trigger the removal of the criminal responsibility, of the criminal investigation or, as case may be, of the hearing of the criminal case, the juvenile will no longer have a criminal record should the mediation takes place and concludes with a mutually convenient agreement between the parties.

Just contacting a mediator in the criminal area is not enough. It is important that the aggrieved party accept the mediation, convene with the juvenile and his legal proxies and, last but not least, sign this accord in the document issued from the mediation procedure. The selection of a seasoned mediator in the criminal area can increase the success rate of the indicted minor.

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Constitutional Court: decisions given in the control of constitutionality BASED on the PRINCIPLE of EQUALITY and the end of the dogma of the negative legislator

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***Abstract:** Much has changed since the initial idea of the design of a Constitutional Court to reality today of the highest court of Constitutional Justice. One of the biggest changes in those courts was just about your political action. At the heart of the matter, it is imperative to study a brief history of constitutional courts, giving priority to the analysis of the Portuguese Constitutional Court. In the sequel, analyze the performance of the said Court, regarding the constitutional control model adopted. And finally, will highlight the need for protective decisions of fundamental rights, led to the Portuguese Constitutional Court put an end to the myth of negative legislator.*

Introduction

The issues related to "power" dating from antiquity. In your book the policy [1], Aristotle was writing about the need for the Division of powers in the Government. Going through John Locke[2], who defended political freedom and the existence of four powers, and later by Montesquieu[3], which confirmed the need for separation of powers to guarantee civil liberties.

According to the view taken and Brazilian federal judge Joseph da Cunha Jr., while defending the separation of powers, the doctrine would be striving for power restraint, because if it is, I'd be putting in check the freedoms [4].

The theory advocated by French philosopher Montesquieu, namely: the principle of Division of powers into legislative, Executive and judicial branches[5], was consecrated with the French Revolution of 1789[6], being imperative to mention that article 16 of the Universal Declaration of rights of man and of the citizen: "Toute Société dans laquelle la garantie des droits n'est pas rebellion assurée, ni la séparation des pouvoirs déterminée, n'a point of constitution "[7] .

The ideas defended by the time primavam for the independence of each power, and more than that; Although implicitly, "was a real combination of powers"[8] to ensure just a limitation of a power by another, what modern doctrine calls this check and balances[9] .

And it was precisely the ideals of the French Revolution, liberators who cared what would be today the definition of a Constitution: "it's fundamental rights and separation of powers"[10]. The abso-

lutism began to give way to liberalism, deviating the power Center. Indeed, Parliament has gained the respect of other powers, leading to a passive performance judge, who had the role of interpreter of the law, and Yes, mere applicator. In this sense, and according to Montesquieu, it can be said that the judiciary had "zero power"[11].

However, after a few centuries, the Liberal State from that time, through the welfare state [12], and coming up to the democratic State of law of the current century, you have to agree that many changes have occurred, especially at the heart of fundamental rights. As a result, urged the need for courts to protect the Constitution of the countries under a democratic State of law, be they "fundamental rights and separation of powers"[13]. In Portugal, the need for Constitutional Justice gave rise to the Constitutional Court, delimiting in the Portuguese Constitutional Court, the central element of the study of this work.

In this way, basing himself in bibliographic research, laws, doctrine, jurisprudence and scientific articles, we used a deductive methodology, to examine whether the Portuguese Constitutional Court, in your expertise and atypical of their legislative functions, such as guarantees of fundamental rights protected by the Constitution, acts as positive or negative legislator.

The next chapter brings a brief history about the origins of constitutional courts. In Chapter 3, will be studied the constitutional supervision model adopted by the Portuguese Constitutional Court, finally, will be reviewed some decisions in the control of constitutionality, that make it possible to understand the issue of end of negative legislator dogma concerning constitutional courts.

1. Constitutional Court: A brief History

The world wars marked the history of constitutionalism. The necessity of containment to liberalism raised the so-called Social State [14], from which emerged a concern in the protection of economic and social rights. With that, the constitutions have been given ruling character [15]. And the atrocities committed in World War II, brought the need of protection of fundamental rights, so that they were incorporated into the internal values of States, namely, Stow gifts in the text of the Constitution literally.

Rose then neo-constitucionalismo in Europe[16], and with it, the birth of the Constitutional State of law[17][18], the Constitution to be the center of the normative legal system, "so that the conditions of validity of the laws and other legal standards depend not only from your way of production, as well as the compatibility of your commands with constitutional principles and rules"[19]. In other words, it's not enough that only the existence of the law conforms to the legislative process, given only a formal condition; It was necessary for the law, and there means your content itself (matter), was in line with the constitutional order.

Essential teachings of Luís Roberto Barroso about neo-constitucionalismo:

"[...] new constitutional law, within the meaning here developed, identifies a broad range of changes in the State and constitutional law, in which can be marked, (i) as a historic landmark, the formation of the constitutional State of law, which if your consolidation along the final decades of the 20th century; (ii) philosophical framework, post positivism, with the centrality of fundamental rights and the rapprochement between law and ethics; and (iii) theoretical framework, the set of changes that include the normative force of the Constitution, the expansion of constitutional jurisdiction and the development of a new dogma of constitutional interpretation. This set of phenomena resulted in an extensive and in-depth process of constitutionalisation of the right. "[20]

The participation of the judiciary becomes critical, because we would need to monitor State performance, front of the supremacy of the Constitution. Such luck, that the design of a judge with "null", gives way to the so called "negative legislator"[21]. In this sense, Portuguese jurist Canotilho teaches that:

"If you can't argue that the principle of judicial review recognizes only the courts the power to conclude the invalidity of a noma cool against the Constitution and desaplicá her in the case, and that the concentrated control and abstract is fundamentally (Laxman) a negative >> legislation << [...] standards-compliant not eliminating the Constitution [...]" [22]

It should be noted, that the idea of the existence of a "supervision of constitutionality"[23] front of the supremacy of the Constitution, whose principles also influenced the European law, reference is made to the year 1803, in the United States of America, when the trial of the case "emblematic case Marbury vs. Madison"[24] .

The respect of the normative force and top of the Constitution of the United States of 1787, transcrevamos article 6, clause 2nd:

"This Constitution, and the Laws of the United States which shall be made in Pursuance of copies thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding "[25]

The same article establishes the so-called "supremacy clause"[26], which served the decision in the trial of the case Marbury v. Madison, "in the control of constitutionality diffuse"[27] .

In the heart of the matter of the constitutional supervision, Kelsen's teachings were of extreme importance to the origin of the European constitutional courts. He advocated the supremacy of the Constitution and that there should be an independent body to carry out the control of the laws and acts of the public authorities, thus avoiding the formation of the "Government of judges"[28]. That is, would the ordinary jurisdiction and the constitutional jurisdiction and the Constitutional Court monitor compliance with constitutional supremacy [29].

In 1920, influenced by Hans Kelsen, the Austrian Constitutional Court [30]. More intensely, post-World War, arise (and re-emerging) the constitutional courts of several countries in Europe: in 1948, in Italy; in 1949, in Germany; in 1958, in France; in 1961, in Turkey; in 1978, in Spain; in 1980, in Belgium; in 1982, in Portugal, in 1986, Poland, in 1991, Russia, and in the following years other countries of Eastern Europe.

It should be recalled that after the Second World War, the constitutional courts have returned to appear in European Constitutions. This is because, although already exist in some countries, the role of the Constitutional Court was virtually expressionless [31].

2. The Portuguese Constitutional Court and the Supervision of Constitutionality

Established first a historical contextualization of the origin of the Constitutional Courts, and then, without the purpose of exhaust the subject, the study of the Portuguese Constitutional Court.

Influenced by the Brazilian Constitution of 1891, Portugal adopted the constitutionality control since 1911, proposed policy Letter in your article 63:

"the judiciary, since, in the made subject to trial, any of the parties contesting the validity of the law or of diplomas from the Executive branch or of corporations with public authority, that have been invoked, will appreciate your compliance with the Constitution and the principles it embodied" [32]

Following constitutions of 1933[33] and 1971, there was the presence of diffuse control, being on the letter of the Policy the early 70, marked by the provided abstract control concentrate-jurisdiction of the National Assembly[34].

Before the 1976 policy Letter, some laws were edited to regulate issues related to supervision of constitutionality in order to create a body that would bring together the competences of constitutional control. The law No. 3/74, available:

"Article 13

[...]

1. The Council of State:

[...]

3 Watch for compliance with the constitutional and ordinary law and appreciate the acts of Government or administration, and can declare with General binding force, but always subject to the situations created by cases judged, the unconstitutionality of any standards;

[...]" [35]

We must bring the article 1 of the law 3/74:

"[...]

2. And tender will be similarly revoked the Constitution of 1933 in everything that is contradicted by available to the constitutional law 1/74, of April 25, the constitutional law 2/74, of May 14, of this law or of future constitutional law;

[...]" [36].

The interpretation of the article above, it appears that there would be a repeal paragraph 2 of article 123 of the Constitution of 1933, and that way then,

the courts would have the opportunity to argue unconscionability.

Already in the following year, law No. 5/75, instituted the Council of revolution[37], giving it constitutional control skills[38], the extinction of the Council of State[39], and transfer of their powers to the newly created body.

But it was the Constitutional Committee, created by the Constitution of 1976[40], who influenced the emergence of the Constitutional Court of Portugal. The Commission was created in order to assist the Council of Republic; was by assigning the constitutional supervision, and functioned as appellate body in the case of unconstitutional dispositions contained in other courts appreciated. Thus, there was a duplicitous nature in relation to the Commission.

The composition was made by a representative of the Council of the Republic, who could fit the role of chairing, and eight judges, eight judges, togados and the others chosen from citizens for judicator's activities, all for a term of four years, except for the year of termination of the Commission.

In the year 1982, the Biggest Portuguese Law underwent revision. From then on, the Portuguese Constitutional Court [41], coming to work only in the following year. Highlight the constitutional revisions of 1989 and 1997.

The Constitution of the Portuguese Republic positive in your title VI [42], regarding the Constitutional Court. As defined by the Charter, the Policy brought Constitutional Court "is the Court which specifically in matters of justice administrative legal and constitutional nature." [43]. Thirteen judges elected for a non-renewable term of nine years[44], comprise the Constitutional Court, among which ten elected by the Republic[45]. It is the responsibility of these judges appoints three more judges to the Court [46]. At least six of the thirteen judges should be judges of other courts. [47].

It was up to the members of the Portuguese Court take over the tasks that were of the old Council of the Republic, responsible for the control of constitutionality of laws and normative acts of the Government [48]. In addition to the Constitutional Court, there is the possibility of carrying out constitutional surveillance courts [49], in a diffuse form of supervision. About the control of constitutionality, it should be noted, that the Portuguese model is considered a "mixed model".

In this sense, the teachings of Canutillo about the function of the Constitutional Court: "[...] you can't shirk the task of guardian of the Constitution [...]" [50]. Indeed, the Constitutional oversight functions. Portugal presents a constitutionality control both diffuse [51], as focused. On concrete supervision, once raised by the parties, Parquet or ex officio by the judge, the Court can recognize the unconstitutionality of a law, which in this case, is being applied to a concrete case, the effect of these decisions only inter parts. We must point out that there is a possibility of the effect is erga omnes, as advocated in article 281º, paragraph 3 of the law, says:

"The Constitutional Court enjoys and further States, with General binding force, the unconstitutionality or illegality of any standard, provided it has been for him judged unconstitutional or illegal in three specific cases." [52] (Emphasis added).

In the abstract model, whose jurisdiction is the Constitutional Court, there is the "prior and subsequent surveillance". In the first case, the preventive control is a standard object that is not yet in force [53]. In the case of successive control [54], it is the Constitutional Court removing the legal standards that diverge from the Constitution of the country, thus ensuring the supremacy of the Constitution of the Portuguese Republic. In decisions relating to the supervision, the effects erga omnes. The roll of legitimized claiming the unconstitutionality in concentrated control is positive in the article 281º, paragraph 2 of the Constitution.

In addition to the supervisory possibilities already mentioned, still called unconstitutionality by omission. According to article 283º of the Lex Fundamentalismis, the Constitutional Court can verify non-compliance with the Constitution by omission of the legislative measures needed to make feasible the constitutional rules [55], that once caught the omission unconstitutional, the Court must inform the legislature [56].

The unconstitutionality of the standard, declared in diffuse control or concrete, can be total or partial. In this type of surveillance, can be called unconstitutional. So, that leaves the "legal world" part, which is contrary to constitutional provisions or principles. It is precisely this possibility of withdrawing a part of law, which raises controversies regarding the role of the Constitutional Court. When declaring the constitutionality of not part of a standard, the Portuguese Court ends making an interpretation more magnified, in order to contemplate the set of norms and principles protected by the law than before were not created by the legislature law politicized.

Permeates about these actions the core of questions about legislative activities of the Constitutional Court, discussed in this paper.

4. The Additive European Constitutional Courts Rulings: End of the Myth of the Legislator

As has been seen, the role of the constitutional courts is to guarantee the supremacy of the Constitution; in this way, ensure fundamental rights protected by Lex Fundamentalismis, control laws and normative acts of the mission referred to public Courts.

It turns out that legislators Act on creation of law thinking about the future, that is, there is no way to draw up laws to all situations that may happen in the future, given that the social transformations that happen ever more quickly. And the law has to adapt to these situations, because many times, there are the so-called laws, omissions that occur when the legislature did not create a law for a given situation, or even, the law exists, but not all; and so, part of these laws can be considered unconstitutional because, your omission ends up going against in many cases to the principle of equality.

The big problem of these omissions are just at the threshold between the Acting Controller of constitutionality attributed to constitutional courts and the principal function of the legislative branch which is the drafting of laws. Until that point, while trying to remedy legislative omissions, the as judges of these Cuts would not be usurping the function of the Legislature, a democratic Government elected by the people, that legitimized? Have legal support? If the constitutional courts oversee the "makers of laws", who oversees those decisions in constitutional control by default? There would be time enough for those who have violated law your birth of the Constitution, to wait for the creation of a law by the competent organ? On all these questions, lawyers come tirelessly debating the role of the Constitutional Courts.

One of the thoughts that are worth mentioning at the heart of that struggle is the Spanish Francisco Javier Díaz Revorio:

"these difficulties are caused because los European electorate showing systems of control of constitutionality responded a un model en were mode was ' thinking ' to control las omisiones del legislator, ya dicho el presupone del object model control es la ley, y no la ausencia (the partial) of ley". [57]

Sharing-if the understanding of the noble lawyer, and on the performance of constitutional courts "represented", in contrast to Government legislative action "pró-futuro", we believe that society cannot have hurt their rights the light of constitutional order. Being inclusive of the said duty Cuts as the guarantor of the Constitution, protect fundamental rights.

Direct the focus of this work just in sentences alluding to omissions relating[58]; those with partial omissions, in virtue of the same generate much controversy in relation to the performance limits of the constitutional courts and the possibility of putting in "check" the principle of separation of powers, since the sentences handed down by the Constitutional Courts in these cases end up if you don't bury at least let mitigated the conception of "negative legislator" of these Courts , defended by Kelsen.

The sentences which we mean do not have unanimity about your doctrinal concept, and yet, change of nomenclature in some countries[59], and can be addictive, interpretative, manipulative, constructive, among others, therefore, will adopt the concepts brought by Canotilho. In order to remedy the omissions partial or relative we have constitutional calls sentences additive. For the noble lawyer, a sentence is said to be additive when "extends the scope of a legal precept by declaring unconstitutional the provision in so far as it does not provide for << >>, comprises a <<exceção>> or imposes a <<condição>> to certain situations which of veria predict"[60] .

In this sense, we must the understanding of Italian Joaquim Brage Camazano:

"Si los tribunales constitucionales ever were negative legislators, sea as sea, hoy es obvio ya no lo son; y ustamente el Rico ' arsenal ' sentencer that disponen to oversee her constitucionalidad de la Ley, más allá del planteamiento too simple ' constitucionalidad/inconstitucionalidad ', is a bad element, y of importance, that the putting of relieve viene hasta qué punto es así ". Y es que, as Fernandez Mowed highlights, ' los tribunales constitucionales la praxis in ha hecho en avanzar Bell this dirección ' de la poverty reduction de la idea de los mismos as legislators, ' making sure [that] la quiebra del kelseniano del model negative legislator. " [61] .

For the supporters of the kelsiana doctrine, constitutional control organs should act only as

legislators, in order to remove the legal system those so-called laws unconstitutional; that are in compliance with the constitutional order. One must understand that when Joram idealized the existence of a supreme body and independent of the judicial organs, to protect the law and devised these assignment of overseeing the laws and normative acts of the legislature, declaring your unconstitutional or not, the system of democracy in the West was in the process of transformation. The contemporary Constitution brings with them an extensive agenda of values and fundamental rights, so that the society calls for a constitutional justice[62] .

So there is no more room for a mere "fisherman" of laws unconstitutional; the role of a Constitutional Court goes far beyond that. Is in line with the idea that the Constitutionalism of the 21st century, you have to have a court that is capable of interpreting the laws so that "form their own more effectively the implementation of fundamental rights"[63]. The principles, considered normative constitutions politicized species, are not just a "should be" as the rules-rules; are true "commandments of optimization"[64] .

About the role of the Constitutional Court today, bring out the understanding of Alexander von Brünneck:

"in Europe, the constitutional jurisdiction is an institution destined to remain and to extend [...] the effort to limit the power of the judges is about the entire scope of the theory of interpretation that in theory the Constitution or democracy "; "The control of constitutionality cannot be limited to their original functions. To the extent that the Government broadens functions, the control of the constitutional courts will extend the new fields—following the example of the United States. The extent to which the Constitutional Jurisdiction to intervene in legislation will be increasing. The possibilities of access for citizens to the constitutional jurisdictions if increase, partly through constitutional reforms, in part through extensive interpretation or understanding practices, as in the case of Italy. In the face of growing politicization of society, these jurisdictions will more actively in the framework of the Constitution, democracy and the rule of law, individual rights ". [65]

For a better understanding and illustration of how is becoming common in European constitutional courts ' positive ' conduct in relation to legislative action, it is imperative that we bring some judged in the control of constitutionality, in weighing decisions through sentences additive. To do so, follow

the comments of Leo Brust about a ruling from the Constitutional Court of Italy:

"La sentence illustrates 438/2005 bien esa differentiates, pues una compleja construcción, asociando presents typical elements of a constitutional ilegitimidad reductora (nella part in cui prevede che) otros que le reconducen de hecho una additive (senza osservare). En su la Corte device declares her constitutional ilegitimidad del art. 4 de la Ley no. 424 of 8 June 1966, en la parte en que la posibilidad y embargo provides execution of los rendimientos from del trabajo de los los servers public entities different del Estado, to compensate emergency al erario, sin observe los growth established en al art. 545 del Enjuiciamiento Civil Code; Therefore, al contrario de la decisión, la additive reducing indicates that un es made unconstitutional en cuanto in lays down ..., the on going ..., omits, in included are ..., the excluye ... something that should include to be according to the Constitution ". [66]

Support André keys and Thiago Pereira "prolata normative oriented decision Judiciary able to achieve what was already in the constitutional text" warning to both that:

"so it is possible the delivery of judgments additive, two requirements must be observed: the existence of legislative omission unconstitutional (rime obbligate, in the expression coined by Crisafulli, must be the result of a constitutionally mandatory solution – and not from a discretionary judgment) 45 and the identification of a regulatory solution constitutionally mandated. So, in these cases, only the patent violation of the constitutional duty to legislate requires the exercise of regulatory function subsidiary by Constitutional Court, always in accordance with normative solution extracted from the Constitution ". [67]

The Italian Constitutional Court has the prerogative of the possibility of prolata additive sentences, being inclusive, one of the first to do it[68], in order to precisely prevent suppress a standard constitutional already on behalf of a partial omission on the part of the legislator, as teaches Roberto Romboli:

"Her constitutional jurisprudence, siempre la finalidad with to avoid her stiff alternative between declaración of groundlessness of inconstitucionalidad, there are elaborate, además, las called manipulative that you've killed by la Corte shall modify the integrate las sometidas dispositions su un procedure so that're salgan del constitutional normative range con un final decision-maker y un

contenido different al native. En el ambito de las decisiones debe una consideración subsequent añadirse manipulative, la diferenciacion between additive and decisiones sustitutivas. With las primeras if hace references to that type of decision con la que la Court declares unconstitutional a certain disposition by omitting something (-en la parte en la que no provides-). [69]

A judged important that can check the time lapse in which has been going on the performance of the Italian Constitutional Court as "positive legislator", is number 190/70. Second Crisafulli[70], the Italian Court, in view to ensure "parity of arms", decided to declare the unconstitutionality of a device of criminal procedural law that allowed only the presence of the public prosecutor's Office when the interrogation of the accused, in order to ensure the presence of the lawyer, as follows in the judgment: "La Corte Costituzionale illegittimità costituzionale dichiara l ' Dell ' art. 304 bis, primo comma, del codice di procedura penale, limitatamente alla part in cui esclude il diritto del difensore Dell imputato di assistere all interrogation; Dichiara la legittimità non fondata question di costituzionale Dell ' art. 303, primo comma, del codice di procedura penale, nella part in cui ammette che il pubblico ministero may all interrogation of assistere imputato, sollevata dalla ordinanza del giudice istruttore del tribunale di Roma, indicata in of, in riferimento all ' art. 24, secondo comma, della Costituzione"[71] (emphasis added).

Still in comparative law, this time in Spain, brings an interesting case where you can note the role of the Constitutional Court in a legislative positive performance, as opposed to the "negative legislator" of Kelsen. Was the question of unconstitutionality number 301/1982, in which a Lord, demanding death benefits as a result of the death of your wife, who had until then lifetime absolute invalidity benefit. The spouse "pole" had the benefit denied by virtue of one of the articles of the law of that country's Security. Let's hear the sentence 101/1983 in the trial of the cause:

"Ha decided.

Declare unconstitutional y, therefore, null el paragraph second del art. 160 de la Ley General de la Seguridad Social y el ítem del primero de dicho paragraph article that says ' la viuda». Publíquese this Sentence in the ' Boletín Oficial del Estado '.

Given en Madrid, veintidós de noviembre de mil novecientos ochenta y three "[72]. (emphasis added).

In this situation the Court, based on the principle of equality, resolves to declare the unconstitutionality of part of an article of the law of Social Security. The fact of declaring unconstitutional a partial omission causes the article in question pass be read more broadly, and so that the benefit may be granted not only to widows, but also to widowers. However, in spite of the legislature when the law have made the prediction to include widowers, the Constitutional Court, interpreting the law in question in the light of the Constitution, ended by include the widows, when it declared void part of the article that brings positive "la viuda". So much so, that transcrevamos below part of the reasoning used in the sentence:

"[...] Lack of la fundamentación necessary that it justifies, la desigualdad del régimen jurídico de los sections 1 y 2 del art. 160 de la Ley General de la Seguridad Social if presented as contrary to significantly los dictados de la Constitución. By ello, to re-establish it if hace equality need to declare unconstitutional el apartado second del art. 160, y el item del apartado 1 donde dice en femenino «la viuda», pues solo of this mode if you get that los viudos de las trabajadoras affiliates a la seguridad social tengan el derecho a la pensión en las mismas condiciones that los del holders sex femenino. All ello, naturally, mean ha sin perjuicio de la potestad de los órganos del Estado legal production to articulate different system, siempre un I en el mismo if dictados y respeten los principios de la Constitución y en particular el equality principle ". [73]

In 1987, we can mention the judged, by 116 Spanish Constitutional Court deemed unconstitutional partial in relation to articles 1 and 4, both the law 37/1984:

" Ha decided. Estimate this matter of her partially inconstitucionalidad y, en consecuencia:

1.º Declare that el art. 1 de la Ley 37/1984, de 22 de octubre, s partially unconstitutional y therefore null en cuanto excluye del ámbito de aplicación del title I de la misma a los profesionales military that ingresaron en las Fuerzas Armadas de la República después del 18 de julio de 1936.

2.º Declare that el art. 4 de la Ley 37/1984, de 22 de octubre, s partially unconstitutional y therefore null en cuanto en el ámbito de aplicación included are del Título II de la misma a los profesionales en el mentioned military previous number.

3.º Desestimar her point en all you others.

Publíquese this Sentence in the ' Boletín Oficial del Estado '.

Given en Madrid, siete de julio a thousand nove-cientos ochenta y siete "[74]. (emphasis added)

In the case, it is noticeable that the Declaration of unconstitutionality was founded on the principle of equality, ends by assigning the right to be retired to the military that entered the military after 18 July 1936. To this end, imperative check part of the grounds for the sentence:

"Las conclusiones prior obligan need el nuestro range fallo. This es bad both necessary precisión cuanto que la vulneración del en equality principle that incurre el art. 1 de la Ley cuestionada, al delete del ámbito of su aplicación a los profesionales military title I that ingresaron en el Ejército de la República con posterioridad al 18 de julio de 1936, no es el de una mención result expresa la cited close en some item the paragraph of that made, una Bell remisión al contenido regulatory preceptos previous legal. Ello controls her partial invalidación del cuestionado legal text for continuity aquella part del mismo cause de la discriminación, siendo la not posible on Declaration of la totalidad del inconstitucionalidad concerning art. 1, puesto that since la perspectiva de la legal equality that los profesionales de la Republic military tienen derecho, no rebuke fits hacer al reconocimiento de los beneficios de la full amnesty for that la Ley lleva a cabo con relación a los profesionales previous Republican military al comienzo de la civil war reciben el mismo así el dismissed the deal los civilian staff. By lo mismo, neither fits la anulación del total art. 4 de la Ley cuestionada, cuya validity in puede be discussed en aquellas personas that affects it that provisional nature in profesional con, ingresado hubiesen después del 18 de julio de 1936 en las Fuerzas Armadas de la República, habiendo obtenido empleo the grado, military al least Suboficiales del end of war before. [75].

In the 116/1987 prolatado by the Spanish court trial in the control of constitutionality, noted the concern to justify the behavior legislative, given the reasoning that follows when it decides to keep part of the article to the extent that this is not compliance with the Constitution, i.e. prevents a normative gap at the time that you create a standard.

"La compleja diversidad de los preceptos situations response de la Ley cuestionada contemplates y la peculiaridad de la técnica empleada for legislative acotar el ámbito de aplicación de su title I obligan, en consecuencia, en el fallo de that this Sentence specifically cuáles son nuestra declare los los this

discriminatory aspects which preceptos deben be debugged for inconstitucionales, manteniendo al tiempo la validity of aquella otra part of su contenido that regulatory , for the damage el principle of equality, if fully adjusts la Constitución "[76]

4.1 The Portuguese Constitutional Court and your acting legislative.

Increasingly there is a positive legislative action on the part of the European constitutional courts. Not unlike this line, the Portuguese Constitutional Court also comes with sentences in which the role of the Court as "positive legislator".

To this end, urges highlight a trial occurred in the abstract control of constitutionality, as demonstrated by the 143/85 of the Portuguese Constitutional Court judgment:

"Decision.

In these terms, and with the grounds, the Court of international trade Which decides to declare unconstitutional, with binding force ge ral, the standard set out in subparagraph (i)) of article 69 of the Statute Or dem lawyers, approved by Decree-Law nº 84/84, of 16 March, in so far as it considers incompatible with the exercise of the teaching function, or if s. cacia of non-law disciplines. Constitutional Court, 30 July 1985 ". [77] (emphasis added).

It was rule willing article 69 of the staff regulations of the Bar Association, available on the prohibition of the exercise of advocacy with any public agent employee activities, subject to only one exception concerning teachers of subjects of law.

As Griffin in the sentence above, is seconded to the Portuguese Constitutional Court delivered the sentence call intermediate or addictive, I declare unconstitutional in just one part of article 69 of the law of the Statute of the Bar Association. Thus, founded on the principle of equality, emphasized a decision in that marks an act of "positive" legislator opposed to the ancient legislative nature that was assigned to the Constitutional Court, defended by Hans Kelsen, they acted as "negative" legislators. Although the Court is active for only two years, it is imperative to mention that judges who voted for the partial unconstitutionality were performing an interpretive activity under the auspices of the Federal Constitution, striving for implementation of the principle of equality to assert greater efficiency to a fundamental right, in this case, the professional practice. Soon, "forever" by the very nature of the

sentences handed down in the seat of unconstitutionality by omission.

Another decision that follows the same kind of understanding on the part of the Constitutional Court of Portugal, is the judgment 545/99:

"The yess, decides:

the) Judge unconstitutional, violating the principle of equality, the rule contained in paragraph 1 of article 24 of law No. 4/85of 9 April, while construed that there is, for the purpose of counting the length of service required by this directive, the exercise of the functions of Deputy Secretary of the Government of Macau;

b) Grant dismissed appeal and should the contested decision be subject to redrafting, in accordance with the judgment of unconstitutionality.

Lisbon, 13 October 1999 ". [78] (emphasis added).

In the interpretation of the Court, would give at least discriminatory treatment does not consider for the purposes of service time, which was provided when in the exercise of the function of Deputy Secretary of the Government of Macau. It is observed that there is a motivation to legislate; There is a motivation to judge according to the Portuguese Constitution and the principles it laid down, taking into account the same as "commandment of optimization". Wouldn't exactly grant a right which the law does not provide for; would not fail to grant a right, that the light of Lex Fundamentalís should already exist.

We bring to the fore another Portuguese Constitutional Court decision, the ruling 254/2000:

" In view of the above, the Constitutional Court decides:

the) Declare unconstitutional with General binding force, by violating the provisions of subparagraph (a)) of paragraph 1 of article 59 of the Constitution, as a corollary of the principle of equality enshrined in your article 13, the provisions of paragraph 1 of article 3 of Decree-Law nº 204/91, of 7 June, and of paragraph 1 of article 3 of Decree-Law nº 61/92 , April 15, to the extent that, by limiting the scope to your officials promoted after October 1, 1989 allow receiving higher pay for employees with less seniority in category;

b) limit the production of effects of unconstitutionality in order not to lead to the settlement of differences corresponding to the remuneration ' repositioning ', now due to employees in respect of

the period prior to the publication of this judgment in the Official Gazette and subject to the situations still pending appeal.

Lisbon, 26 April 2000. " [79] (emphasis added)

In the same vein the Court already had tried earlier similar cases as 180/99 judgment, cited as parameter to the constant judgment 254/2000 sentence:

"[...]"

This differentiation of remuneration does not have any relationship with the nature and the characteristics of the work done by the employees in question nor with their skills and professional qualifications. The inequality of remuneration not based on any objective criterion, and therefore consider arbitrary and discriminatory.

It is concluded that the criterion laid down by article 3, paragraph 1, of Decree-Law No. 61/92, to restrict the benefit of career development for employees promoted after October 1, 1989 in a retributive element system of injustice and inequality, contrary to the principle of equality enshrined in article 59, paragraph 1, alienates the), of the Constitution of the Portuguese Republic.

[...]". (emphasis added).

Without going into the merits of the matter of the judgment ruling effects modulation 254/2000, we feature only the aspect inherent in the matter of positive legislative of the Portuguese Constitutional Court, once again, in order to prioritize interpretation so put people (recipients of rights) in conditions of equality, there is a greater "abstraction" in relation to the load values of the principles.

Urges mention Jorge Miranda thinking about the addictive prolatadas sentences in cases of partial unconstitutional:

" The Supervisory Board does not behave here as a legislator, because he does not act on its own initiative, not political criteria; acts in proceedings by third parties and linked to the criteria for interpretation and legal construction, inherent constitutional hermeneutics. [...] and addictive decisions (or amending) assume feasible and the effectiveness of these rules depends on the process in which they are issued. [80]

In this sense, argues, therefore, that this is not a "choice" and a "duty" on the part of the Constitutional Court, decisions made by the judge not only as "declaratory unconstitutional dispositions contained". Although there is a whole intriguing question about the possible usurpation of the role of

the Legislature, it can be said that making the judgment of "weighting"[81] between the principle of the separation of powers, which a priori don't judge violated, and the principle of equality, in weighing the question of the rights and values involved, reach a solution less harmful and more fair that press for the maintenance of the principle of equality, in order to ensure the full exercise of all their rights.

If it wasn't that way, I would declare the unconstitutionality of a relatively standard total constitutional in parts, answered the wishes of many, just to justify a dogmatic theory, say today, and exceeded the society in your time and your values.

Conclusions

Throughout this analysis we treat since the birth of constitutional courts, posing as your function and focusing on acting the same as "Lawgiver".

It is a fact that when the Constitutional Courts were idealized by Kelsen, to create a "stand-alone" organ, it was able to act as "fiscal law" to ensure the supremacy of the Constitution, at the time, there is a passage of the principle of legality for the constitutional principle, which gave Greater law a condition to occupy the apex of the normative legal system , didn't think the Austrian jurist external scenarios which those organs would have to live under the transformations and social achievements at the heart of fundamental rights.

The recognition of the internal values of a country and its principles in the Constitution meant that the courts had to act not only as a "negative legislator" in order to enforce the law and check the unconstitutionality, declaring it unconstitutional and pull it out of the legal system; urged the need to have your extended activities, so that in exercising the control of constitutionality of laws and normative acts of the Government, the courts have to interpret the so-called unconstitutional dispositions contained in the light of the Constitution and also of her principles.

In this way, the "negative legislator" was giving way to the "positive" legislator therefore often in some decisions, especially in partial Constitutional courts unconstitutional dispositions contained end by "allow birth" a standard that was not literally positive by the legislator. In such a way, that legislative has been characteristically positive.

Many criticisms have been woven at the heart of this performance as "positive legislature" by the

constitutional courts. Those who are against, argue that there's a usurpation of the legislative function inherent in the legislative power, democratically constituted.

However, there is no need to talk about breaking the principle of separation of powers, since that Division assumes a cooperation between the powers, in a real system of "checks and balances"[82]. So, to act as "positive legislator" Constitutional courts are fulfilling your role within the harmony between the legislative, Executive and judicial powers. It is your mission to promote a supervision of constitutionality so that their own achievements positives in the constitutions are guaranteed.

Now the Legislature creates laws that are positivadas and the Constitutional Court maintains that infra-constitutional norms and constitutional system in harmony, there is no "invasion" in the "legislative" reserve. Yes, found a duty to ensure the Constitutional supremacy and act in such a way as to grant fundamental rights effective, still using for both the constitutional principles.

What can you infer from all the above is that a dogma; myth that Constitutional Courts Act as "negative legislator". Here even if you agree that they were born with that feature, because when the emergence of an organ, are attributed to him functional values, that are not "static" over time. Therefore, in order to maintain democracy itself in order to avoid arbitrariness on the part of the legislature and to enforce the constitutional order, the courts began to act as "positive legislators".

Finally, it should be noted that we believe does not exist in the heart of the matter "positive legislator" or "negative legislator" a consensus; regardless of the nature of legislative, the Constitutional Court must row to be then that the Constitution's "separation of powers and fundamental rights", and, therefore, that your actions must be in order to guarantee the Highest Law, the maintenance of this design, and, if necessary, an interpreter (or "creator") when fundamental rights are at stake, observing the limits of the activity of the legislature, and at the same time, ensuring the Democratic Constitutional State of law.

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SILVA, José Afonso- Positive constitutional law course. 39th. Ed. São Paulo: Malheiros, 2016. ISBN 978-85-39-20318-5.

Supremacy clause. [Online]; [Consult. 24 April 2017]. Available at https://en.wikipedia.org/wiki/Supremacy_Clause PORTUGUESE CONSTITUTIONAL COURT. Brief history of the Constitutional Court. [On line]. [Consult. 37 April 2017]. <http://www.tribunalconstitucional.pt/tc/tribunal-historia.html>

[1] About the Division of powers: " Across Government, there are three essential powers, each of which the wise legislator must accommodate the more convenient way. When these three parts are well accommodated, not necessarily the Government goes well, and is one of the differences between these parts from your. " Referring to the

powers we now call Executive, legislative and judicial branches. Mesquita, Antônio Pedro – ARISTOTLE: The Policy. The masterpiece collection of each author. Martin Claret, 2006.288p. ISBN13:9798572324563 p. 75.

[2] Locke divided the powers in "legislative", "executive", "Federal" and "prerrogative". CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1522p. ISBN 978-972-40-2016-5, p. 580.

[3] To Montesquieu, there should be a division of the Government into three branches, so that one of the powers was responsible for law-making, other power responsible for the execution of the laws, and a power check compliance with laws. It would be the Division into Executive, legislative and judiciary, proposed in the book the spirit of laws. CUNHA Jr., Adam of Course of constitutional law. 10. ed. Rev. ampl. and current, Salvador: Jus PODIVM, 2016, 1230p. ISBN 978-85-442-0684-3, p. 882.

[4] "Without the restraint of power, the unlimited exercise of power surpasses for wicked and arbitrary practices, putting at risk the freedoms". CUNHA Jr., Adam of Course of constitutional law. 10. ed. Rev. ampl. and current., Salvador: Jus PODIVM, 2016, 1230p. SBN 978-85-442-0684-3, p. 882.

[5] according to j. j. Canotilho doctrine, the idea of the Division of powers into Executive, legislative and judiciary, absolutely apart, without any intervention of a power on the other, would be a dogma. CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1522p Editions. ISBN 978-972-40-2016-5. p. 114.

[6] CUNHA junior., Adam of Course of constitutional law. 10. ed. Rev. ampl. and current., Salvador: JusPODIVM, 2016, 1230p. ISBN 978-85-442-0684-3, p. 882.

[7] Ibid, p. 882. NANCY, Jorge Reis- in defense of the Constitutional Court: reply to critics, Coimbra: Almedina, 2014, ISBN 978-972-40-5825-2, p. 22.

[8] CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1522p Editions. ISBN 978-972-40-2016-5, p. 114.

[9] Adam da Cunha Junior Doctrine that there is a "harmony" and "independence" among the political powers, but that there is no hierarchical relationship between them, with only "mutual control" mechanism that establishes a system of "checks and balances" to ensure freedom and prevented arbitrariness. CUNHA Jr., Adam of Course of constitutional law. 10. ed. Rev. ampl. and current., Salvador: Jus PODIVM, 2016, 1230p. ISBN 978-85-442-0684-3, p. 882.

[10] NANCY, Jorge Reis- in defense of the Constitutional Court: reply to critics, Coimbra: Almedina, 2014 Editions, ISBN 978-972-40-5825-2, p. 22.

[11] the judge was considered a mere law enforcer. And in the words of Montesquieu: "[...] the judges of the nation are just mouth to pronounce the words of the law; inanimate beings that you can't moderate nor the strength, nor the accuracy " apud Barroso. According to the author, the magistrate was a "hostage of the separation of powers", there is no room for there was "creativity". BARROSO. Luís Roberto- contemporary constitutional law course: fundamental concepts and the construction of the new model. 5. ed. São Paulo: Saraiva, 2015. 576 p. ISBN 978-85-02-22804-7. p. 264.

[12] "the democracy of the State's social democracy party, state that doesn't confuse with parliamentary democracy and representative of the liberal State. In it are the party most vivid expression of power. It is characterized as collectivist, social democracy, where the understanding of human values have to do with reference to groups and not individuals. " Paulo BONAVIDES- Political Science. 10 ed. Rev., São Paulo: Malheiros, 2010, ISBN 85-7420-023-9, pp. 360-361.

[13] NANCY, Jorge Reis- in defense of the Constitutional Court: reply to the critics. Coimbra: Almedina, 2014 Editions, ISBN 978-972-40-5825-2, p. 24.

[14] the need for State intervention in society even to ensure that the freedoms already conquered could be carried out. Paulo BONAVIDES- political science. 10 ed. Rev., São Paulo: Malheiros, 2010, ISBN 85-7420-023-9, pp. 360-361.

[15] "the idea of <<programa>> associated to the character of Constitution. The Constitution would carry the action of the State and would require the components to carry out the programmatic goals it established ". CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18

reimp. Coimbra: Almedina, 2016, 1522p Editions. ISBN 978-972-40-2016-5, p. 114.

[16] according to Joseph da Cunha Jr., the post-WWII period culminated in need of a constitutional right which had as fundamental basis the dignity of the human person, then the origin theory of neo-constitucionalismo, which marks the change from "Legislative State of law to the Constitutional State of law". CUNHA Jr., Adam of Course of constitutional law. 10. ed. Rev. ampl. and current., Salvador: JusPODIVM, 2016, 1230p. ISBN 978-85-442-0684-3, p. 35.

[17] the "principle of constitutionality" becomes the central element of the legal system, in place of the "principle of legality". It would be precisely the constitutionalism of the current times. CUNHA Jr., Adam of Course of constitutional law. 10. ed. Rev. ampl. and current., Salvador: JusPODIVM, 2016, 1230p. ISBN 978-85-442-0684-3, p. 35.

[18] according to Luís Roberto Barroso, "The constitutional State of law, the Constitution goes on to be rule of law." The Higher Law, endowed with the legal supremacy, becomes the central element of limiting laws and normative acts, and imperative in character dictates of State duties. "[...] as such, understood the primacy of a constitutional court or Supreme Court in final and binding interpretation of the constitutional requirements ". BARROSO. Luís Roberto- contemporary constitutional law course: fundamental concepts and the construction of the new model. 5. ed. São Paulo: Saraiva, 2015. 576 p. ISBN 978-85-02-22804-7. p. 436.

[19] "The only legislative acts are in conformity with the Constitution when it doesn't violate the formal system, constitutionally established, production of such acts, and when do not contradict, positive or negative, the material parameters fashioned in the rules or constitutional principles". CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1522p Editions. ISBN 978-972-40-2016-5, p. 890. There is to consider the Constitution as the center of the legal system, with "normative force, binding and compulsory legal effectiveness". It is recalled that after the second world war the constitutions have come to bring the rights of individuals and positivized also, to bring a load of value, such that there is a "supremacy" of the Constitution. CUNHA Jr., Adam of Course of constitutional law. 10. ed. Rev. ampl. and current., Salvador: JusPODIVM, 2016, 1230p. ISBN 978-85-442-0684-3, p. 35.

[20] BARROSOS, Luis Roberto- Neo-constitucionalismo and constitutionalisation of the right: the triumph of constitutional law in Brazil late. p. 15. [On line]. [Consult. 15 March 2017]. Available at http://www.luisrobertobarroso.com.br/wpcontent/themes/LRB/pdf/neo-constitucionalismo_e_constitucionalizacao_do_direito_pt.pdf

[21] according to Kelsen, and your theory that the Constitutional Court would be negative, "law-makers from the theoretical point of view, the difference between a Constitutional Court with jurisdiction to annul laws and a court civil, criminal and administrative law standard is that, although both applicators and producers of the right, the second produces only individual standards, while the first, to apply the Constitution to a factual support of legislative production, thus obtaining an annulment of the law unconstitutional, does not produce, but eliminates a general standard, instructing so the actus contrarius corresponding to the legal production, i.e. acting as negative legislator ". Apud MARQUES, Antônio Silveira- Constitutional Jurisdiction and sovereignty of the people. [On line]. [Consult. 25 April 2017]. Available at <http://www.dominiopublico.gov.br/download/teste/arqs/cp113012.pdf>

[22] CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1522p Editions. ISBN 978-972-40-2016-5, p. 891.

[23] NANCY, Jorge Reis- in defense of the Constitutional Court: reply to critics, Coimbra: Almedina, 2014, ISBN 978-972-40-5825-2, p. 30.

[24] Quoted in the work of the Portuguese Canotilho was the view, mention the words of Judge Marshall (a translation of Rui Barbosa): "it is without doubt the ability and duty of the judiciary to interpret the law. Those that apply to special cases must, necessarily, explain it, interpret it. If two laws contradict, the courts must decide on the scope of your application. So, if a law is in conflict with the Constitution, and if both are applicable to the particular case, so that the Court has to decide according to the law desatendendo to the Constitution, or in accordance with the Constitution by rejecting the law, he will have, inevitably, to choose one of the two opposing principles that governing the matter. This is the essence of judicial duty. If, therefore, the courts shall observe the Constitution, and if this is higher than any law the legislature is the Constitution and ordinary law not that's the case that both regular concern ". This was a matter of concrete control of constitutionality, characteristic

of constitutional supervision model. CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1522p Editions. ISBN 978-972-40-2016-5, p. 901.

[25] North American Constitution <https://www.gpo.gov/fdsys/pkg/GPO-CONAN-1992/pdf/GPO-CO-NAN-1992-6.pdf> THE CONSTITUTION OF THE UNITED STATES OF AMERICA article VI

[26] "In *Marbury v. Madison*, 5 U.S. 137 (1803), the Supreme Court held that Congress cannot pass laws that are contrary to the Constitution, and it is the role of the Judicial system to interpret what the Constitution permits. Citing the Supremacy Clause, the Court found Section 13 of the Judiciary Act of 1789 to be unconstitutional to the extent it purported to enlarge the original jurisdiction of the Supreme Court beyond that permitted by the Constitution." Supremacy clause. [Online]; [Consult. 24 April 2017]. Available at https://en.wikipedia.org/wiki/Supremacy_Clause

[27] in the diffuse control, the supervisory task of the law in accordance with the Constitution is not focused on specific organ; any judge or court may do so. This model is called the concrete control of constitutionality. CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1522p Editions. ISBN 978-972-40-2016-5, pp. 898-900.

[28] "the American system, in your reason for being, the will to establish the supremacy of the Judiciary (the so-called" reign of the judges ") on the remaining powers, particularly on legislative power, which constitutes an act of confidence in Judges. On the contrary, Verfassungsgerichtsbarkeit kelseniana represents an act of distrust in relation to judges, designed to safeguard the principle of legal certainty and establish the supremacy of the Parliament, put in grave danger by battle initiated by large sectors of the legal world in favor of jurisdictional control (diffuse) of the laws, which comprised leave in the hands of a legal caste, in large measure of aristocratic origin and authoritarian vocation, an instrument of extraordinary relevance in the life of a rule of law ". HAWK, Paula Margarida Tavares- Specific Surveillance System in Portugal. Master's thesis, 2013, p. 10.

Unlike the American model, based on the "Judial Review", there wouldn't be a diffuse control of constitutionality so that constitutional jurisdiction would not be divided and performed by ordinary judge. The idea prevailed of a concentrated control,

exercised by the Constitutional Court. It would be a model where there would be a "constitutional role". It would be an oversight of the law in theory, IE not applied to a concrete case. CUNHA Jr., Adam of Course of constitutional law. 10. ed. Rev. ampl. and current., Salvador: JusPODIVM, 2016, 1230p. ISBN 978-85-442-0684-3, p. 248.

[29] About the creation of constitutional courts, de Enterría understanding: " El es una structure invented Constitutional Court de arriba abajo por el American constitutionalism y rewritten, in the second decade of this century (XX), uno de los más big European electorate showing Jurists, Hans KELSEN. Su punto de partida es, as if you understand, that the Constitution is a rule of law, and anyone, Bell first of all, lex superior, aquella that sienta los Supreme values of un development y esa es supremacy since able to demand accounts, erigirse en el parámetro de todas las demás validity legal rulesSystem ". Apud GARCIA, Rodrigo Castro-the Constitutional Court: its elements on the separation of powers. In: Democracy and law review, v. 11, n. 2, jul/dez., 2010. pp. 214-215. [On line]. [Consult. 25 April 2017]. Available at <http://www.periodicos.ulbra.br/index.php/direito/article/view/2586/1812>

[30] On the Austrian model of constitutionality, talks Enterría: " Después de la World War II surgió el called ' continental europeo ' system control of constitucionalidad authority acts, called also ' ' by Austrian haberse inspired en el model de la Constitución de Austria in 1920. Los tribunales constitucionales cut if extendieron de manera considerable in countries of Western Europe in the second postwar period ". Apud GARCIA, Rodrigo Castro-the Constitutional Court: its elements on the separation of powers. In: Democracy and law review, v. 11, n. 2, jul/dez., 2010. p. 217. [On line]. [Consult. 23 April 2017].

Available at <http://www.periodicos.ulbra.br/index.php/direito/article/view/2586/1812>

[31] Free translation. According to the conceptions of Dworkin, no one could ensure effectiveness of fundamental rights simply by the existence of a body representing the democratic citizen, there was an application of the principles in the interpretation and application of laws, in order to reach a decision on the part of the judiciary. Apud ROSARIO, Pedro's Thunder-Court Constiucional- what Negative positive Legislator Un?, in Revista de Derecho UNED, n. 16, 2015, pp. 719-720.

[32] the Federal Constitution Portuguesa de 1911. [On line]. [Consult. 26 April 2017]. Available at <http://www.laicidade.org/wp-content/uploads/2006/10/constituicao-1911.pdf>

[33] Rule 123: "we made subject to trial courts cannot apply laws, decrees or any other diplomas which contravene the provisions of this Constitution or offend the principles it enshrined. § 1-the constitutionality of the rule of law, with regard to the competence of the entity that issues from or to the form of development, can only be appreciated by the National Assembly and for your initiative or the Government, determining the same House the effects of unconstitutionality, no offense, but the situations created by cases judged. § 2-the exception contained in paragraph covers only the diplomas issued of sovereignty ". The control performed by the National Assembly that the courts had not "active voice" in eliciting unconstitutionality of law. PORTUGUESE CONSTITUTIONAL COURT. Brief history of the Consti-tutional Court. [On line]. [Consult. 17 April 2017]. <http://www.tribunalconstitucional.pt/tc/tribunal-historia.html>

[34] CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimpr. Coimbra: Almedina, 2016, 1530p Editions. ISBN 978-972-40-2016-5, pp. 914-915

[35] 3/74 Law. The Government Gazette. Series i. number 112. P. 619.14 May 1974. [On line]. [Consult. 24 April 2017]. Available at <https://dre.pt/application/file/623309>

[36] 3/74 Law. The Government Gazette. Series i. number 112. P. 619.14 May 1974. [On line]. [Consult. 24 April 2017]. Available at <https://dre.pt/application/file/623309>

[37] "Article 2. 1. the Council of the revolution, is hereby established, under the chairmanship of the President of the Republic and composed of: a) President of the Republic; b) Chief and Deputy Chief of the General staff of the armed forces; c) chiefs of staffs of the three branches of the armed forces; d) Deputy Commander of COPCON; and) Coordinating Committee of Movimento das Forças Armadas, consists of three elements of the army, two Navy and two Air Force; f) Eight elements to designate by the Movimento das Forças Armadas, four from the army, two Navy and two Air Force. 2. The Council of the revolution are all members of the National Salvation Junta, extinct by article 1 of this decree-law. 3. The Prime Minister, if there will also be a member of the military Council of the

revolution ". 5/75 Law. The Government Gazette. Serie i. number 62. pp. 394-394 (2). 14 March 1975 ... [On line]. [Consult. 27 April 2017]. Available at <https://dre.pt/application/file/317428>

[38] "Article 6. 1. The Council of the revolution are conferred the powers already belonged to the bodies referred to in article 1 and the legislative powers still currently assigned to the Council of Chiefs of staffs. 2. The constituent powers, until now owned by the State Council and transferred to the Council of the revolution, will remain until the promulgation of the new Constitution to be drawn up by the constituent Assembly ". 5/75 Law. The Government Gazette. Serie i. number 62. pp. 394-394 (2). 14 March 1975. . [On line]. [Consult. 24 April 2017]. Available at <https://dre.pt/application/file/317428>

[39] "Article 1. Are extinct the National Salvation Junta and the Council of State ". 5/75 Law. The Government Gazette. Serie i. number 62. pp. 394-394 (2). 14 March 1975. . [On line]. [Consult. 22 April 2017]. Available at <https://dre.pt/application/file/317428>

[40] according to Canotilho, there was a "mixed system of judicial oversight and supervisory concentrated abstract diffuse". CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1530p Editions. ISBN 978-972-40-2016-5, p. 915.

[41] the prominent counselor j.j. Canotilho, brings as Portuguese Constitutional Court's competences: CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1530p Editions. ISBN 978-972-40-2016-5, p. 680.

[42] the Constitution of the Portuguese Republic. Lisbon: Leya, 2016. p. 93. ISBN: 978-972-47-5072-9

[43] Article 221-Ibidem.

[44] Ibid-Ibid.

[45] Idem – Ibid.

[46] Idem – Ibid.

[47] Idem – ibid.,

[48] Article 223, 1 "it is incumbent upon the Constitutional Court enjoy the unconstitutionality

and illegality, under articles 227 et seq.". Constitution of the Portuguese Republic. Lisbon: Leya, 2016. p. 94. ISBN: 978-972-47-5072-9]

[49] Article 204 "(Judgement of Unconstitutionality). We made subject to trial cannot apply standards courts which contravene the provisions of the Constitution or the principles enshrined therein. ". Constitution of the Portuguese Republic. Lisbon: Leya, 2016. p. 88. ISBN: 978-972-47-5072-9

[50] CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1530p Editions. ISBN 978-972-40-2016-5, p. 681.

[51] according to Canotilho, "the originality of the Portuguese system: (1) is not the pure model of judicial review because, as if will stress then there is among us a system focused; (2) is not a mere incident system unconstitutional, because the courts have direct access to the Constitution, with full competence to decide, and not only to appreciate and admit the incident, referring, as happens in some systems – Italian – German, the decision for the TC. CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1530p Editions. ISBN 978-972-40-2016-5, p. 917.

[52] Article 281º, paragraph 3. Constitution of the Portuguese Republic. Lisbon: Leya, 2016. p. 113. ISBN: 978-972-47-5072-9

[53] the dossiers for preventive control are in articles 278º and 279º positivized of the Constitution of the Portuguese Republic.

[54] the process on the next control is positivado in articles 280 and 281º of the Constitution of the Republic of Portugal. According to Canotilho, this type of monitoring is also known as "direct route" or "via" action. CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1530p Editions. ISBN 978-972-40-2016-5, p. 917

[55] Article 283º, paragraph 1. Constitution of the Portuguese Republic. Lisbon: Leya, 2016. p. 114. ISBN: 978-972-47-5072-9

[56] Article 283º, paragraph 2. -Ibid.

[57] REVORIO DÍAZ. Francisco Javier-El Control de Constitucionalidad de las Legilstaivas Omisiones Relating in el Derecho Compared. Journal of constitutional law, Madrid. Year 2001. 61. p. 84

[Online]. [Consult. 18 March 2017]. Available at <http://www.cepc.gob.es/publicaciones/revistas/revistaselectronicas?IDR=6&IDN=363&IDA=25550>

[58] "omissions derived from legislative acts constructors of constitutional rules favouring certain groups or situations, forgetting other groups and other situations that meet the same assumptions of fact". CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1530p Editions. ISBN 978-972-40-2016-5, pp. 1035-1036.

[59] Pedro Rosario, the Thunder-Court Constitutional- what Negative positive Legislator Un?, in Revista de Derecho UNED, n. 16, 2015, p. 735.

[60] CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1530p Editions. ISBN 978-972-40-2016-5, p. 1019.

[61] Apud MENDES. Gilmar Ferreira-the writ of injunction and the need of your legislative regulation. In Legal Magazine the Presidency Brasilia v. 13 n° 100 Jul/Sep 2011 p. 165 the 192. p. 183. [On line] {Consult. 26 April 2017}. Available at <https://revistajuridica.presidencia.gov.br/index.php/saj/article/viewFile/134/126>

[62] For Canotilho, constitutional justice refers to activities carried out by the organs of the judiciary in the control of the principles and norms of the Larger Bill. It would be "subject to the control of the courts and legislative acts of political organs [...] and evaluate the material and formal compliance your second parameter top of the Constitution ". CANOTILHO, j. j. Garcia- constitutional law and Theory of the Constitution, 7 Ed., 18 reimp. Coimbra: Almedina, 2016, 1530p. ISBN 978-972-40-2016-5, p. 892.

[63] ALEXY. Robert- Theory of fundamental rights. Translation: Virgilio Afonso da Silva. 2 Ed. São Paulo: Malheiros, 2015. ISBN 978-85-392-0073-3.

[64] "the turning point in the distinction between rules and principles is that principles are rules ordering something to be realized to the greatest extent possible within the existing factual and legal possibilities. Principles are, therefore, commands of optimization, which are characterized by can be satisfied to varying degrees and that the measure due to your satisfaction doesn't depend on factual possibilities only, but also of legal possibilities. The scope of the legal possibilities is determined by the

principles and rules colliding. " ALEXY. Robert- Theory of fundamental rights. Translation: Virgilio Afonso da Silva. 2 Ed. São Paulo: Malheiros, 2015. ISBN 978-85-392-0073-3 p. 90.

[65] STUDY GROUP. The jurisdiction and Constitutional democracy. The will of the legislature to the judicial activism: the dilemmas of constitutional jurisdiction. In Legislative Information magazine Brasilia. 40 n. 160 out./dez. 2003 p 227. [On line] [Consult. 25 Março 2017] Available at <http://www2.senado.leg.br/bdsf/bitstream/handle/id/224178/000689144.pdf?sequence=1>

[66] keys. André Luiz Mackin; PEREIRA. Thiago Rodrigues-addictive Sentences in Italian law and your viability in brazilian constitutional jurisdiction. Centre for constitutional jurisdiction. Brasilia: IDP, Year 7, no. 2./dez.. 2014. ISSN 1982-4564. p. 177. [On line]. [Consult 24 March 2017]. Available at <https://www.portaldeperiodicos.idp.edu.br/observatorio/article/viewFile/994/677>

[67] keys. André Luiz Mackin; PEREIRA. Thiago Rodrigues-addictive Sentences in Italian law and your viability in brazilian constitutional jurisdiction. Centre for constitutional jurisdiction. Brasilia: IDP, Year 7, no. 2./dez.. 2014. ISSN 1982-4564. p. 178.. [On line]. [Consult 24 March 2017]. Available at <https://www.portaldeperiodicos.idp.edu.br/observatorio/article/viewFile/994/677>

[68] The addictive sentences have your exegesis from the practical experience and, only then, was developed theories about your use. In spite of the initial recognition of unconstitutional omission have occurred on the occasion of the decision No 76, of 197069, the Italian Constitutional Court, the first time that the Office of the sentence had been additive decision No 190, the same year 70. LIMA. Erick Noleta Kirk Palma- between constitutionalism and democracy: alternatives to filling gaps unconstitutional in Brazil. [On line]. [Consult, 26 April 2017]. Available at http://repositorio.unb.br/bitstream/10482/15810/1/2014_ErikNoletaKirkPalmaLima.pdf

[69] keys. André Luiz Mackin; PEREIRA. Thiago Rodrigues-addictive Sentences in Italian law and your viability in brazilian constitutional jurisdiction. Centre for constitutional jurisdiction. Brasilia: IDP, Year 7, no. 2./dez.. 2014. ISSN 1982-4564. p. 176. . [On line]. [Consult 24 March 2017]. Available at <https://www.portaldeperiodicos.idp.edu.br/observatorio/article/viewFile/994/677>

[70] Apud cross. Álvaro Ricardo de Souza Cruz-democratic constitutional Jurisdiction. Belo Horizonte: Del Rey, 2004. P. 184. ISBN 85-7308-705-6. 492p.

[71] CORTE COSTITUZIONALE of ITALIA. Sentenza 190/1970, 10 of December of 1970. [On line]. [Consult. 26 April 2017] Available at <http://www.giurcost.org/decisioni/1970/0190s-70.html>

[72] CONSTITUTIONAL COURT of SPAIN. Setencia 103/1983, 22 de noviembre. BOE 298, 14. of December of 1983. [On line]. [Consult. 26 April 2017]. Available at http://hj.tribunalconstitucional.es/es/Resolucion/Show/231#complete_resolucion

[73] CONSTITUTIONAL COURT of SPAIN. Setencia 103/1983, 22 de noviembre. BOE 298, 14. of December of 1983. {Online}. [Consult. 26 April 2017]. Available at http://hj.tribunalconstitucional.es/es/Resolucion/Show/231#complete_resolucion

[74] CONSTITUTIONAL COURT of SPAIN. Setencia 116/1987, 07 de julio. BOE. 298, de 29 de julio de 1987. {Online}. [Consult. 26 April 2017]. Available at http://hj.tribunalconstitucional.es/es/Resolucion/Show/848#complete_resolucion&fundamentos

[75] CONSTITUTIONAL COURT of SPAIN. Setencia 116/1987, 07 de julio. BOE. 298, de 29 de julio de 1987. {Online}. [Consult. 26 April 2017]. Available at http://hj.tribunalconstitucional.es/es/Resolucion/Show/848#complete_resolucion&completa

[76] CONSTITUTIONAL COURT of SPAIN. Setencia 116/1987, 07 de julio. BOE. 298, de 29 de julio de 1987. [On line]. [Consult. 26 April 2017]. Available at http://hj.tribunalconstitucional.es/es/Resolucion/Show/848#complete_resolucion&completa

[77] PORTUGUESE CONSTITUTIONAL COURT. Judgment 143/85. [On line]. [Consult. 23 April 2017]. Available at <http://www.tribunalconstitucional.pt/tc/acordaos/19850143.html>

[78] PORTUGUESE CONSTITUTIONAL COURT. Judgment 545/99. [On line]. [Consult. 25 April 2017]. Available at <http://www.tribunalconstitucional.pt/tc/acordaos/19990545.html>

[79] PORTUGUESE CONSTITUTIONAL COURT. Judgment 254/2000. [On line]. [Consult. 22 April 2017]. Available at <http://www.tribunalconstitucional.pt/tc/acordaos/20000254.html>

[80] MIRANDA, Jorge- Manual of constitutional law. Coimbra: Coimbra Editora, 2001. t. VI. p. 82.

[81] ALEXY. Robert- Theory of fundamental rights. Translation: Virgilio Afonso da Silva. 2 Ed. São Paulo: Malheiros, 2015. ISBN 978-85-392-0073-3.

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Europe - the Standard Setter for Data Protection

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Abstract: *Today's world seeks for the best possible protection of persona data. Digital age, technological changes, rapid exchange of information bring about new challenges for many legal systems. Awareness of importance of personal data protection was born in European organizations; first in the Council of Europe, then, it has been continued in the European Union. The organizations issued package of regulations, which created the highest standards for personal data protection. European Court of Human Rights and Court of Justice of the EU played significant role giving important rulings in that field. Through these activities the European organizations aim to create system which will be clear and uniform. They also want to ensure precise rules for international data transfers not only between their member countries but also outside their borders. The organizations use international agreements and other type of cooperation to expand data protection rules and try to make the European standards binding universally.*

1. Fundamental principles

The essential and fundamental regulations for both organizations; the Council of Europe and the European Union present different approach for right to protection of personal data. The European Convention on Human Rights, adopted by the Council of Europe in 1950, provides in article 8 protection of private and family life, home and correspondence [1]. Right to protection of personal data forms part of the private life in the meaning of the Convention. Protection of personal data arose thorough the jurisdiction of European Court of Human Rights. The issue was present in cases concerning collection of personal data for example in the case *Uzun vs. Germany*, 2010 [2], where the Court confronting GPS surveillance violating the right to protect personal data of the applicant with national security, public safety and the rights of the victims, and of preventing crime. Many others cases concerning interception of communications, phone tapping and secret surveillance should be mentioned here. Excellent example is "classical case" *Klass and Others vs Germany*, 1978 [3] where the European Court of Human Rights examine public authorities rights to monitor correspondence and telephone communication of the applicant without obligation to inform them subsequently of the taken measures. Again, the Court said that the interests of national security and the prevention of disorder or crime justified the state interference. Many applications before the European Court of Human Rights was lodged because of monitoring of employees' computer use [4]. A large group of cases concerning storage and use of personal data like the cases of *Perry vs the United Kingdom*, 2003 [5] or *S. and Marper v. the United Kingdom*, 2008 [6], both considered in the context of criminal justice. Another important problem in the case – law of the Court is disclosure of personal data, that are often connected with the

applicant's health condition or medical re-cords [7]. In cases of *Gaskin v. the United Kingdom* (1989) [8] and *Odièvre v. France*, 2003 [9] the Court gave judgments concerning access to personal data. The both cases refer to information necessary to know and to understand the applicants' childhood and early development. However, in the second mentioned case the Court held that there had been no violation of Article 8 of the Convention as the applicant had been given access to non-identifying information about her mother. The applicant had got to know about some of her roots, while ensuring the protection of third-party interests. It should be also mentioned about case refers to destruction of personal data, namely *Rotaru vs Romania*, 2000 [10]. The European Court of Human Rights said *inter alia* that there was no domestic regulation defined the kind of information that could be recorded, the categories of people against whom surveillance measures could be taken, the circumstances in which such measures could be taken or the procedure to be followed. There were also no defined limits on the age of information held or the length of time for which it could be kept. The above – mentioned judgements set the Court's case law with regard to personal data. They also clearly indicate that the protection of personal data falls within the scope of safeguards provided by Article 8 of the European Human Rights Convention.

Another regulation was applied in the European Union - the right to the protection of personal data was given the status of a separate, fundamental right on the basis of article 8 of the Charter of Fundamental Rights [11]. Besides this regulations, the Charter in its article 7 provides provisions for protection of private and family life, home and communications [12]. In the article 8 of the Charter the right to data protection was not only mentioned explicitly, but it also established important rules regarding this protection and gave an independent authority power to control the

implementation of these principles. The important judgment of the Court of Justice of the European Union was given in joined cases Volker and Markus Schecke GbR and Hartmut Eifert v. Land Hessen, 2010 [13].

2. European Standard for Data Protection

European international organizations like the Council of Europe and the European Union have still worked on creation of one standard for European countries. The Council of Europe has 47 member states and European Union still has 28 member states. Could we talk then about one European standard if we have two organizations producing legal norms for personal data protection and different number of member states? The analysis should be started from presenting important documents in that area. As regards Council of Europe, the Convention for the protection of individuals with regard to the automatic processing of personal data, which was opened for signature in 1981, must be mentioned [14]. The governmental experts, who drew up the document, intended to strengthen the legal protection of personal data considering the increasing use made of computers for administrative purposes. They wanted to face danger connected with "intelligent" data processing devices and new telecommunication means for data transmission. Convention 108 is still in force and it applies to the private and public sector while they process personal data. The purpose of the Convention 108 is to ensure that every individual has the right to privacy. This is also the first time when in an international legal act such critical terms as "personal data", "automated data file", "automatic processing" and "controller of the file" have been defined. It provides protection against the abuse resulting from the collection and processing of personal data. It also regulates the cross-border flow of personal data. The Convention also lays down the rules to be applied in the automatic processing of personal data; they should be obtained legally, collected for specific and justified purposes in an appropriate, substantive and non-objective manner.

In addition, they should be stored in a form that identifies the data subject for a period not longer than required for the purpose for which the data was collected. Article 6 of the Convention distinguishes specific categories of data – "sensitive data" that reveal racial, political, religious or other beliefs, as well as personal information about person's state of health or sexuality. The Convention provided rights, which include, *inter alia*, the right to set the purpose for which personal data were collected, the right to rectify or delete personal data if they were processed in violation of domestic law. The Convention also

provides in art. 12 the free flow of personal data between States Parties to the Convention, but it imposes some restrictions on those states where legal regulation does not provide equivalent protection. It is worth noting that the Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data was signed and ratified by all member states of the European Union. Moreover, in 1999, amendments to the Convention were introduced. They gave the possibility to accede to the Convention the European Union itself. In 2001, an Additional Protocol to Convention 108 was adopted, introducing provisions on trans-border data flows.

Treaty law of the European Union states that every person has the right to the protection of personal data concerning him [15]. The first act of secondary legislation of the European Union with regard to personal data was Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [16]. The aim of this directive was the harmonization of national legislation. It contains particular provisions comparable, as far as the level of detail is concerned to the applicable national rules on the protection of personal data. The principles adopted in the Directive ensure a high standard of protection of personal data, setting rules for their collection, storage and disclosure. The Directive establishes also the conditions for the compliance of the processing of personal data with the requirements of law. The Directive defines key concepts in the field of personal data protection like for example: "personal data", "processing of personal data", "personal data filing system", "controller" or "processor". Its provisions shall apply to the processing of personal data wholly or partly by automatic means or otherwise to the processing which form part of a filing system or are intended to form part of a filing system. The Directive establishes criteria for making data processing legitimate. It contains rule that prohibits the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life [17].

The data subject has right to information about collection of data from him. The Directive states also rules concerning the data subject's right of access to data and right to object on compelling legitimate grounds relating to his particular situation to the processing of data relating to him. Following the provisions of the Directive personal data should be protected against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission

of data over a network, and against all other unlawful forms of processing [18]. European law provides also rules concerning judicial remedies, liability and sanctions to ensure that data subject receive appropriate compensation while his right to protect personal data is invaded. There are also provisions related to transfer of personal data to third countries. Member States of the European Union shall provide that public authorities are responsible for monitoring the application within its territory of the Directive provisions. In addition to these provisions, regulations governing personal data are also included in regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [19] and directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector [20]. In the context of police and judicial cooperation in criminal matters with regard to the protection of personal data, Council Framework Decision 2008/977/JHA of 27 November 2008 is in force [21].

Despite the complexity of this extensive system of personal data protection, it has turned out that its essential element - Directive 95/46/EC does not fit the reality of today's times. The European Union undertaken preparation of the new package of reform in that area. It was especially recognized that the current European law on data protection is dated from 1995, what means pre - Internet times. The new regulation is aimed to assure certainty in all Member States of the European Union despite many different rules in particular countries. Directive 95/46/EC obliged states to introduce in their legal order relevant provisions on the protection of personal data - it creates 28 different legal systems. After the reform introduced on the basis of EU regulation there will be one law that will be apply to all member states of the EU. They have to comply with one regulation for the whole of the EU territory. There are also national data protection authorities, but they have the same authority in every Member States of the European Union. This is important when it comes to the ability to make complaints, carry out investigations and enforce data protection law effectively. The purpose of the new reform was also to introduce clear rules regarding international data transfer. The personal data processed by the international companies must be secure not only in the EU territory but also outside its borders. The new reform package is aimed to improve the current system of binding corporate rules. The new regulations also introduce *expressis verbis* the right to forget. This instrument can be used when

individual asks search engines to remove links with personal information about him/her. The work undertaken in the European Union on the new reform of data protection law has resulted in the release of regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data [22] and directive (EU) 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties [23]. The new law will apply from May 25, 2018.

3. "Export" of the European Standard

It seems that the creators of data protection law in the Council of Europe and the European Union would like to broaden the application of the abovementioned regulations outside of Europe. This assumption may be justified by the existence of many provisions in European data protection law that may apply in non-European legal orders. Example is solution adopted in the Council of Europe, which allow also non-member states of this organization to sign the Convention 108. Currently, under the aforementioned provisions, the following States are parties to the Convention: Burkina Faso, Cabo Verde, Mauritius, Morocco, Senegal, Tunisia and Uruguay [24]. As regards the transfer of personal data to third countries, under the Council of Europe law, member countries determine the conditions that should be met to enable the transfer. The recipient state is obliged to guarantee an adequate level of protection of personal data.

European Union regulates in detail the transfer of personal data to third countries. Under the EU law the adequacy of data protection law in third country is evaluated on European level. Such competence was attributed to the European Commission. Part of the state's legal order can also be assessed by the European Commission. Private commercial legislation in Canada has been examined and received confirmation of an adequacy of personal data protection [25]. There are also agreements between European Union and third countries concerning a single type of data transfer. As an example, it can be indicate the transmission of passenger name records by airlines flying to overseas destination [26]. "Export" of the European standard concerning data protection could be done by a kind of "code of conduct". There is a long history of this kind of cooperation between European Union and the United States of America. First project - the Safe Harbour Privacy Principles was introduced in 2000, on the basis of the European Commission decision [27]. United States companies enrolled

voluntarily in the membership list, which was published by the United States Commerce Department. They were obliged to obey the provisions of the Safe Harbour Privacy Principles. The European Court of Justice invalidated the Commission decision on the Safe Harbour Privacy Principles in 2015 [28]. It stated that, the US public authorities had access on a generalized basis to the content of electronic communications violating the right to privacy of the EU citizens. The next program EU-U.S. Privacy Shield, replacing the Safe Harbour, was introduced in 2016. The next step is taken in 2017, when The EU-US Umbrella Agreement entered into force. The agreement assumes that American domestic law should be changed to allow the European Union citizens seek compensation for violation of their right to protect personal data before the US courts. It is believed that the Privacy Shield and the Umbrella Agreement offer improvements compared to the earlier project but there are many problems still do not resolved. Hence, it can be expected that EU - US cooperation in this area will continue.

4. Summary

On 14 September 2016 Jean – Claude Juncker in his State of the Union address said: "Being European means the right to have your personal data protected by strong, European laws. [...] Because in Europe, privacy matters. This is a question of human dignity" [29]. Development of European data protection law was started in the Council of Europe, however today the task is took over by the European Union. This organization, as one of its main goals for the year 2017, indicates the reinforcement of personal data protection inside the European Union and outside its borders [30]. Globalized world today means also global exchange of personal data. Europe, acting through its international organizations, is aware of the significance of this problem [31]. It seems that European Union is ready to promote its standards and encourage other countries' development and convergence of legal systems concerning that matter.

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Explaining the Power of Political Elites in Decision – Making: A Behavioral Approach

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Abstract: *This study tries to investigate and explain selective decision making in the Public Procurement System (hereinafter PPS) in Albania. The power of political elite and their behavioral approach in decision making as a mechanism to mobilize bias, will be the principal question of investigation. The paper argues that in countries where the policy process faces the lack of well-established and fully reformed democratic institutions as well as concentration of economic (and political) power in certain groups of the society, behavioral approach tends to prevail the institutions rules and structures. In such countries, interests of certain groups are excluded, left out of consideration, covered or rejected since more powerful economic elites selectively engage their interests with the one of decision making elites.*

Introduction

This paper aims at an empirical treatment of the power of political elite in decision making, in a particular public policy field, Public Procurement. By putting the question of power in behavioral terms, it tries to demonstrate that in countries undergoing reforms, behavioral phenomenon exists at different levels of decision-making. Thus, this study is an attempt to analyze the extent to which a behavioral approach can account for the exercise of power by political elites when they make decisions.

Although this study considers the pluralist approach (as they name it ‘the first face of power’) as the bases of analysis, it tends to go beyond the idea of power distribution in formal decision-making by including what in the language of Schattschneider is called ‘a realist’s view’ of policy making. In this ‘realist’s view’ the subjects of analysis (political elites) are real people who participate in dynamic process of competition and many times in zero sum game shares.

In light of these aspects, a working assumption underlying the research would be that in the Public Procurement System of reforming countries, the behavioral phenomenon is exercised when political elites make selective decision making in favor of and influenced by economic elites. This is a two folded process: not only do political elites favor economic groups with whom they have selectively engaged interests, but by doing so they are also *selectively excluding* the demands of other economic groups, though influence, manipulation tactics, and the bargain of power. This is what this research refers to as the *second face of power*. When Schattschneider explain power distribution and elite control, he claims that ‘whoever decides what the game is about,

decides who can get into the game’[16]. Thereby he shows how the behavioral approach of the dominant power structure can shape institutional norms and practices of policy making through bargain of power.

The phenomenon on which this study is focused concerns decision making with all its complexity. First, decision making in the formal political arena (the first face of power), in order to identify the power as well as the behavioral approach of elites. Identification of evidences on overt and covered conflicts: politically slanted and skewed interpretation of laws and regulations, dualism, manipulation, biased decisions and covert interests, provide the basis for further analyzes of the behavioral approach and the existence of a second face of power. In fact, the second face of power comes into play in a *non-formal arena of decision making*, and before the formal decision making takes place. At a more detailed level, the paper argues that before the formal decision making takes place, economic groups influence political elite, for the latter to fashion and prioritize their interests by mobilizing bias and suppressing other groups so as to respond to such influence. Although the second face of power can be identified only indirectly, elitist theoreticians think that ‘this form of power can inform the first form of power’ [3].

For the purposes of this research, decisions taken under such conditions and before the formal decision making takes place are called non-formal decision making. Scholars like Bruce Headey and Denis Muller (2010) think that when such power is exercised, then we face ‘the exclusionary agenda-setting’, which favors some economic groups by excluding some others. If we agree with this, it is important that ‘the possibility of under-representation of less organized groups must be borne in mind when interpreting the results’ [11]

Another important aspect is that non-formal decision-making takes place to satisfy the demands of self-maximizers political elite. In a context where interests of economic groups and political elites are selectively engaged, 'a prevailing 'language of politics' will obligate certain issues to be translated *before* they can even enter the debate and which often act in such a manner as to freeze out other alternative perspectives completely'[10]

This research has three objectives:

- Briefly addresses the literature on theories of power and elite, institutional theory and policy making with a particular focus on the way elites exercise their power when making decisions. A focus will be put on the interest of elites and their behavior to act according to the fulfilment of such interest.
- Provide an overview of power distribution among political elites (pluralist and elitist) as explained by Dahl and Polsby's considerations on the first face of power in combination with the later scholarship of Schattschneider, Bachrach and Baratz (et.al) implying a second face of power. This includes also the discussion of the theory implications for our understanding of the execution of power and non /decision making.
- Provide an empirical investigation of the power elite and the behaviorist approach of decision making, in an important field of public policy such as Public Procurement, where both political and economic elites have mobilized bias to a self-interest approach. Investigating the formal decision-making, the study will try to identify systematic cases of elites' bargain of power, while discussing the influence and exclusionary agenda in PPS in Albania.

Using both the pluralists and elitist approach on the first and the second face of power, we will firstly explore the formal arena of decision making – the first phase of power, - and by analyzing what is measurable, we can tackle information on informal processes and procedures, which would thereof imply the existence of the mobilization of bias and non-decision making through elites' bargain of power.

1. Literature Review – Theories and Approaches

While the literature review shows that the concept of decision making is subject of a variety of disciplines and approaches, this study tries to selectively adopt theories and explanations which generate and contextualize the most appropriate framework to answer the research question. In public policy 'analyses of decision-making there are accounts which claim to explain or describe how a decision, or series of decisions, *came to be made*' [12] offering as such an

explanation on the set of actors that participate in the process and all mechanisms used for formal decision making. 'Another part of decision analyses aims to provide arguments as to *how it should or ought to be made*' [12] as an attempt to recognize and if possible avoid tactics which lead to non-formal decision making behavioral approach.

For almost more than half a century now the agent's behavior has been placed in the center of the social science debate. However, the way agents' behavior is linked with institutions and particularly the *how* and *why* of agent's decision making, is still an issue of discussion between different approaches involved in this debate. The question of what prevails decision making is being explained by both *behavioralists* and *institutionalists*, where the former emphasize agents' behavior and the latter institutional norms.

The behaviorist approach of dominant power-structure is extensively discussed by theorists of power and elites, predominately by theories of pluralism, elitism and Marxists. However, as Crain (et al) stipulates, 'the great majority of community power studies concentrate on behavior and overlook or ignore institutions, structures and rules' [4]. In this vein Crain raises an argument in favor of the institutional approach when he claims that:

'institutions of reformed cities have a strong influence on current political behavior and events — on who participates, what issues are raised, the outcomes of political conflict, and who benefits from these outcomes [...] it may be seen as bias which has been effectively mobilized in the creation of rules of political conduct, and in the formation of the institutions of government'.

Shedding light on *reformed cities government*, Newton explains how institutionalized bias leave less space for behavioral approach in decision making. However he does not provide an explanation on how this theoretical approach can be valid in explaining the *reforming cities government*, where the bias are not yet effectively mobilized due to a variety of factors such as communist legacy and a long lasting transition. Said so, one finds it difficult to explain the institutionalization of bias for reforming countries in the way Newton uses for the reformed cities government when he claims that 'the business and professional elites who currently run reformed cities benefit from the success of their predecessors who led the reform movement, and they may do so without any overt action of their own' [11]. Contrary to this, in cities where the policy process faces the lack of well-established and fully reformed democratic institutions, with predecessor communist political culture and a predominant communist legacy,

as well as concentration of economic (and political) power in certain groups of the society, behavioral approach tend to dominate the institutions rules and structures.

The puzzle this study tries to address, concerns the fact that both Behavioralist and Institutionalist theories are discussed and developed mainly for reformed countries with structured institutions. When Newton states that 'bias is institutionalized within the whole system of reformed city government', he does not only invites us in the classic agency/structure debate, as mentioned above, but he also exposes a gap of the theory on bias in reforming countries. Considering this paper presents a case that is not sufficiently studied in the literature of bureaucracies and decision making and it brings a new empirical case to the test the current literature.

Executing power in both the structure/agency debate as well as the state and society relation, a more moderated and broader institutional context of public policy and decision making is provided by institutionalist theorists who place the relationship of the state and the society in the center of arguments, leaving behind the 'state-centered' approaches. Hall as one of the main theorists of political institutionalism, explores the 'formal rules, compliance procedures, and operating practices that structure the relationship between individuals and various units of the polity and economy' [6]. He encompasses in his analysis the importance of the role of institutions when he stipulates that 'they affect the degree of power that actors have over decision-making and its outcomes' [6]. In line with economic institutionalism approach, - his analyses of policy-making takes into account the other side of the medal, 'the way the configuration of interests and ideas within an institutional context shapes and determines the conduct of policy making' [12]. The strength of Hall's approach is that it provides a framework for the analyses of decision making in historical and comparative form [12]. As a corollary approach of political institution theory, it is stated that 'institutions exist and have an impact on how decisions are made as they provide the context within which the judgements are made, but they do not eliminate the 'free will of policy makers' [6].

In this context Newton would add that 'if the behavior of groups and individuals constitutes the words of political power, then institutions, constitutional rules, and structures form the grammar which decides how the words are to be used and by whom' [11]. The 'free will of policy maker' is more comprehensively discussed by behaviorist theories of

power distribution who 'are concerned only with the words and not the grammar of power' [11].

Both pluralist and elitist are behavioral approaches to power in decision making, but while pluralist ignore the possibility that power may be executed by influencing inaction and consider only the formal decision making, elitists like Bachrach and Baratz talk about exclusionary agenda-setting and what they often have in mind is the ability of economic (capitalist) groups to exclude proposals based on the economic interests and concerns of the poor. The first face of power explained by Robert Dahl is concerned with power as decision making in the formal political arena. The second face of power which the authors feel is unrecognized by political scientists, is the 'restrictive face of power' [...] which involves the 'dynamics of non-decision making' [3]. They claim that this form of power informs the first one. However as a precondition for this face of power to take part is the existence of 'an *overt and covered conflict* over the proposed policy, otherwise there may be no disagreement with the status quo and no reason for the second face of power to be exercised'. As Bachrach and Baratz argue 'economic elites can exercise both kind of power and a failure to recognize this fact misrepresents the scope of elite control in political life' [14]. Said this, interests of certain groups are excluded, left out of consideration, covered or rejected due to the fact that more powerful economic elites selectively engage their interests with the interests of decision making elites. In other words this means that through the bargain of power political elites are able to negotiate and associate their interest with dominant economic group in the society.

Thus, there are suppressed groups whose demands have been overt, hidden or manipulated. In response to the pluralist model, Bachrach and Baratz argued that 'what the pluralist had failed to appreciate was the extent to which this power can actually exclude issues and problems from the policy agenda' [12]. Non-decision making involves the visible and invisible power including the non-formal decision making which tend to influence rules and procedures by making skewed interpretations. Considering that 'decision making is biased in favor of the powerful, and functions to the disadvantage to the less power and less well resource' [12], it provides terms of reference for political scientists to study politics and public policy as 'influence and the influential' [8]. The influential are those who get the most of what there is to get [...] those who get the most are elite the rest are mass [8].

There are some power theories which elucidate that power is determined by societal structures such as class, social recognition, political parties, professionals, etc., however, in the public policy literature, the idea of 'influential' is mostly related to business elites and their interest to maximize benefits. The 'influential' of policy making in the words of neopluralist model, which moderated the pluralist views of power diffusion, are the interests of business and the market. Even sceptics like Dahl and Lindblom who previously ignored the possibility that power may be executed by influencing inaction, changed their minds in late '70 on the question of *who governs*. 'Decision making, they concluded, is not neutral affair: the demands of business interest predominate over the demands of other groups' [12]. While economic groups put pressure on political elites to make decisions in their favor, the questions which arises is: Why do political elites respond to such demands, do they govern in the name of public interest or do they share a benefit when bias are mobilized? An analyses of economic-political elites' relation is offered by Polsby, when he claims that 'we should not assume that those who benefit also rule' [11], however besides this stands also the a priori assumption that *those who rule also benefit*, as long as they are exercising restrictive power and have mobilized bias in decision making.

The public choice approach put the emphasis on this to argue that elite decision making is based on self-interest [12]. Theorists of power of bureaucracy consider the self-interest to be the primary focus of elite decision making than the public interest, while the so-called public-choice school is focusing on motivations of administrative agencies and government departments to act this way. Gordon Tullock's work is generally regarded as amongst the earliest contributions to public-choice approach, [...] his critical observation was based on the self-serving nature of bureaucracy [...] and it may be said that he has laid the basis for a debate on the danger of the power of bureaucracy and the polarization of the economic and public policy [12]. Two of his important conclusions are: 'bureaucrats are just interested in maximizing their own self-interest rather than the public interest' and 'the political process of liberal democracy is failing to control the growth of political and bureaucratic power' [12]. Other scholars like Crenson imply that 'public policy does not serve a community interest but the private interest of individuals within the community [...], political process operates to distribute specific rather than collective interest'. Anthony Downs starts his research with the assumption that decision-making in bureaucracies is informed by the pursuit of self-interest. He goes on to argue that different type of officials can be

motivated by different sets of general motivations, where the first motivation is Power money income [12]. Thus, in a context where economic and political elites have selectively engaged interests, the mobilization of bias is more likely to happen in decision making.

2. Methodology

This paper tries to analyze the extent to which the behaviorist approach counts for political elites when they exercise their power and make decisions. This paper employs a qualitative methodological approach while in depth interviews are the main method used for this research. Taking in consideration the methodological challenges tackled in this study, the research is based upon two assumptions:

Assumption 1

Through formal and non-formal decision making, elites control the interests' flow/input of groups, prioritizing the demands of more powerful groups while limiting the scope of interests' penetration of other opposing groups.

Assumption II

Since the bias is mobilized, the economic elites and decision makers in state agencies have mutually and selectively engaged their interest in the process.

Based on these assumptions the following hypothesis is formulated:

In public procurement system in reforming countries, when assumption I and II are met, elites must be more likely to maximize their benefit in circumstances of higher as opposed to lower behavioral approach of bargain of power

2.1 A Case Study Approach

This paper presents a case study approach, focused in Public Procurement System. To support my hypothesis, an in-depth examination of institutions related to decision making process in public procurement system (focusing on the work of Public Procurement Commission) is taken in consideration. The researcher will try to investigate the non-decision-making instrument used by elites, which favor some companies and bans some others to take contracts from the government, through a selective decision-making.

2.2 *Why Albania as a study case*

Notwithstanding legal and organizational reforms that have taken place in the Public Procurement system in Albania in the last decade, Albania still remains one of the most corrupted countries in Europe, especially in the field of public procurement. Based on the empirical data, one can conclude that Albania presents a particular study case which needs more academic attention in order for one to try and explain the situation. Few of the empirical data which support this arguments are presented as follows:

- World Bank & IFC, 2007: Albania is the country where the highest percentage of companies in the region are expected to give gifts to get a government contract;
- 2013 Enterprise Survey Data: Firms expected to give gifts to secure government contract 34.3 (Eastern Europe and Central Asia = 26.2; High income countries 10.6; All Countries 27.0);
- 2014 Transparency International Corruption Perception Index: Albania (and Kosovo) is ranked 110th out of 174 countries around the world that were assessed in the report a scale from 0 (perceived to be highly corrupt) to 100 (perceived to be very clean);
- World Economic Forum, 2014-2015: The Global Competitiveness Report 2009-2010 also reports widespread favoritism by government officials when making contract decisions, with a 3.1 score on a 1 (always show favoritism) to 7 (never show favoritism) scale;

Using a qualitative methodology of in depth interviews, this empirical inquiry investigates the phenomenon of behaviorism in decision making, guided by Schattschneider's stipulation on decision making 'there is a bias which operates in favor of some and against others' (Parson 1995, p.135).

2.3 *Why Public Procurement as a field of analysis?*

Considering that exclusionary agenda-setting is most likely to occur in the economic policy area, the study investigates one of the most important economic public sector in the country such as Public Procurement.

Moreover, the empirical data on the management of public finance in Albania as well as the reports delivered by media and the party in opposition, present a problematic situation in terms of effectiveness in managing public contracts. The researches has chosen to study the management of public funds considering that it has a direct impact in:

- the economic welfare of the country: State Audit reports show that a high percentage of state funds are administered by the Public Procurement System and this field causes the highest economic loss for state finances;
- measuring the level of democracy: politically slanted and skewed interpretation of laws and regulation in PPS have been subject to critics in many international reports which refer to the democratization and transparency (see World Bank and International Transparency reports);
- the impact of selective decision making in the concentration of economic power in the society; The Public Procurement Commission (hereinafter Commission or PPC) is the body that will be analyzed in this paper and its decisions are the unit of analysis. It the highest body in the field of public procurement. Its decisions are administratively final and PPC acts as a quasi-judicial appeals body which according to the law promotes competitions and non-discriminatory treatment for economic operators. In Albania PPC is appointed and dismissed directly by the Prime Minister office. It is a collegial body whose decisions are valid when taken with the majority of votes and the presence of the head of Commission or the vice head of Commission.

The following Figure explains the Procurement environment in Albania, limited to the scope of this study.

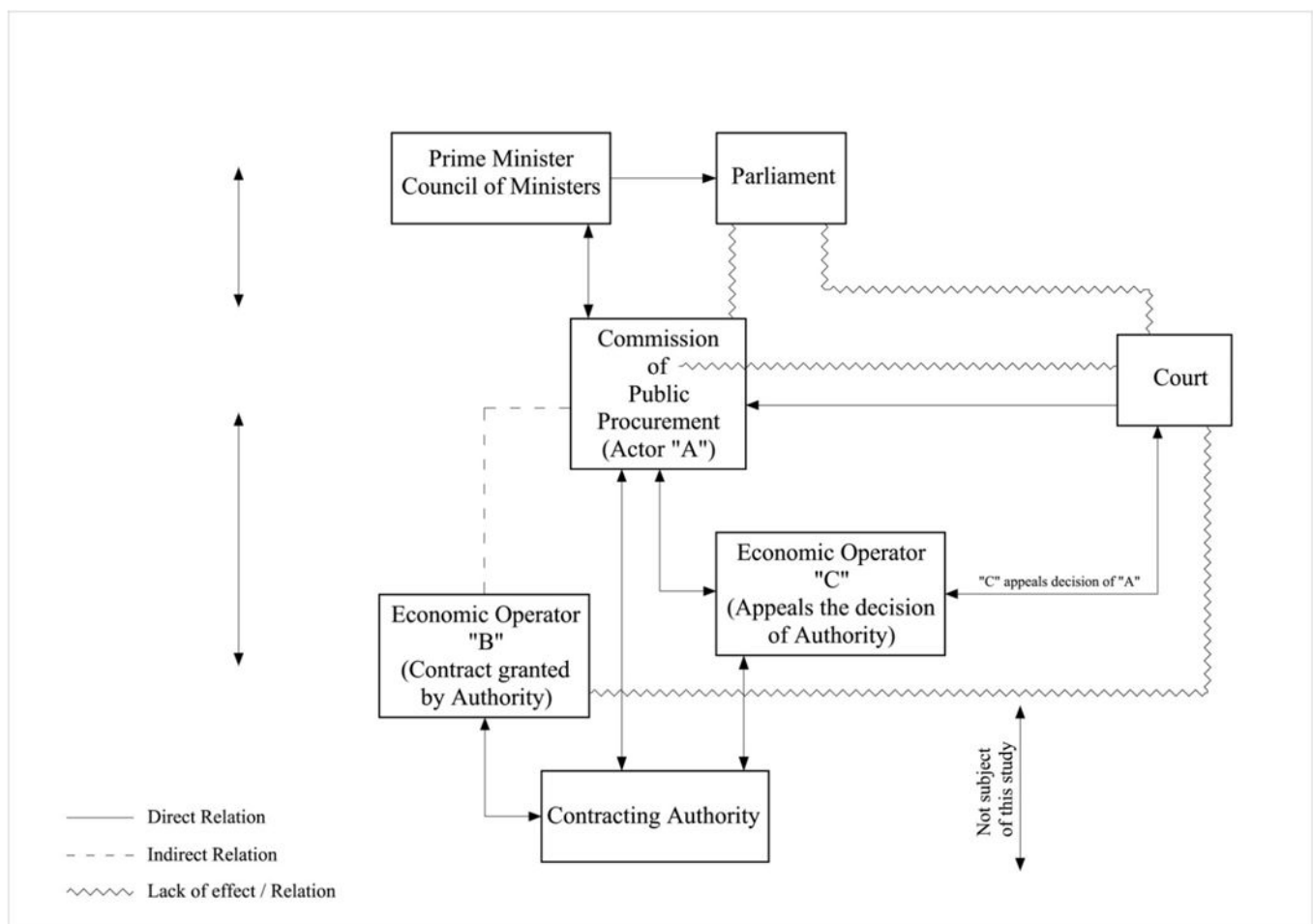


Figure I: PPRS in Albania

2.4 Limitation of the study

Drawing from the mainstream theories of elite and power, there are a number of limitations for this study.

First, Elite Power theorists have not specified operational variables by which to measure elite power [14]. Moreover, 'research on elite power [...] has been controversial because of the normative assumptions upon which much of it is based' [14]. These methodological constraints are related to the fact that this study investigates concepts such as behavior, inaction, non-decision making, self-serving interest, etc. which by content are neither possible to be measured directly nor to be operationalized. In this line Newton states that 'the methodological debate about whether non-decision are amenable to empirical study is sometimes rather academic when so many decisions are beyond the grasp of the social scientist' [11].

Due to such methodological limitations, the second phase of power or the so-called 'invisible power' is

tackled indirectly. The direct analyses will include the investigation of power as decision making in the

formal political arena where cases of behavioral approach of power elites including informality, selective decision making, politically slanted and skewed interpretation of legal framework, manipulation and influence are tackled. Findings deriving from the investigation of formal decision making imply for the existence of behavioral approach of a second face of power, confirming of overt and covered conflict, thus the non-decision making and mobilization of bias.

3. Public Procurement System in Albania: Behavioral approach in setting Constraints and using Opportunities

For this analysis, the decision making in PPC is been scrutinized based on the national and international reports on PPS, State Audit reports, Civil Society observations, etc. An important role is granted to media reports, considering that in 'public procurement overlooks the role of 'watchdog' is often associated with the media'. Having analysed reports provided by such sources, one can identify several severe cases which show biased procedures of decision making as well as

cases of violation and skewed interpretation of laws. Below there are presented some of the irregularities which show not only how decision making can be problematic in terms of validity and outcomes but also the presence of biased decision making and favouritism. For the purposes of this research, limited examples will be provided to support the argument.

Biased Procedures of decision making

In decision no. 366/2014 the head and vicehead of PPC were not present in the council meeting, and according to the PPS law this decision should have been invalid due to the absence of both the head and vice head of PPC.

Lack of transparency in decisions taken by the Prime Minister about the criteria fulfilled by candidates appointed members of PPC. It is important to mention that there has been instability in terms of appointing and dismissing PPC staff. PPC staff has changed frequently (5 times in 5 years) while according to the law they have a 5-years mandate and may be appointed for two subsequent mandates.

According to the law, PPC shall issue its decision within 20 days. On an analysis conducted by ResPublika for a 6 months period (April-October 2014), this deadline has been respected only for 62% of decisions taken by PPC while for other 38% of decisions PPC has failed to do so.

Violation of Law

Public Procurement Law, Article 64 stipulates that PPC is able to undertake remedial legal provisions for specific cases of criminal offence. In its report ResPublica has found out that in a six months period (April 2014-October 2014) there were identified 202 cases of violations of law from third parties. In its decisions PPC has classified only 43 cases to have violated the law. Moreover, according to the law, in its decisions PPC must not only mention the violation of law done by third parties (mainly contacting authorities) but it also should state the request for penalties imposed to responsible persons. In this vein, PPC has requested for penalties to be imposed to responsible persons for only 18 out of 43 cases mentioned above.

Skewed interpretation of law

If one compares decision no. 485/2014 and decision no. 416/2014 it is obvious that due to skewed interpretation of law, similar cases have been producing different output in decision making. In decision no.

485/2014 PPC has shown tolerance for the economic operator who has not fulfilled several criteria such as the average number of employers, the capital good, and most importantly a technical document which was not translated in Albanian, as requested. While in decision no. 485/2014 PPC has decided that the lack of translation of a similar technical document was a sufficient reason for PPC not to take into consideration the appeal of the economic operator. This approach does not only exclude economic operators from their right to compete fairly, but it usually bears a considerable financial damage for the state budget. In the case we mentioned this damage is calculated to be 58.684.585 ALL for the state budget (with VAT) (approx. 425,637 Euro)

4. What explains the behavioral approach?

This session provide an overview of constraints and opportunities used by PPC decision makers as a tool to explain the selective decision making in the field of Public Procurement in Albania.

Constraints imposed to the PPC

Constraints imposed to PPC explain the first level of analyses, the relation of PPC with other state bodies/ institutions, in legal and organizational terms. In examining the problem of bureaucratic compliance and the necessity to impose constraints, the existing set of rules are considered as unit of analyses to depict the concept of shirking.

Legal constraints which derives from:

- the rigidity of law, meaning that the law is more specific and not much flexible to interpretation;
- the approximation of national legal framework with the European Directives and its impact;
- penalties imposed by the law for staff of the Commission by the Prime Minister; including the way members of the staff are dismissed when the government is replaced and within the governance of the same political party (Decisions of Prime minister – time and content);
- In cases when the contract is granted by the Commission to Operator B and Operator C appeals the decision of Commission to the Court, in cases when the court decides on the annulment of (against) the Commission's decision, the *legal effect* of Court decision:

a- The court does not judge the individual decision of member of the staff of Commission but only the decision of the Commission as a collegial body;

b- After the court decides that C is right and the decision of the Commission is nullified, the court does not decide on the annulment of the contract already signed with B, a contract which is legitimated for C. Operator B continues to execute the contract. What is the benefit of C in this case and is it worth? What is the financial damage caused to the state?

c- The contract executed by B is valid to be presented in the next round of bids (even though another economic operator has won this contract by the court decision);

Organizational Constrains which derive of following settings:

- The Head of PPC is selected by the Prime Minister. In countries like Croatia they are also approved by the Parliament. This leaves room for political affiliation of staff members with the party in power;

- The staff of the Commission is dismissed by the office of Prime Minister solely;

- The Commission reports solely to Prime Minister. The law does not clearly specify particular circumstances which might request specific reports delivered by PPC;

Opportunities for self-maximizer actors

Opportunities are related with the second level of analyses as shown in the Figure 1, the relation of the Commission with interest groups who are interested in securing public contracts. Examining the bureaucratic behavior vis-à-vis business groups and vice versa, there should be considered opportunities which allow for a self-maximizing decision making of political elites.

Based on the empirical data shown above, the PPC manifests a biased approach in deciding on specific interests for business groups, as can be seen in (i) the extent to which opportunities and interests are available in the organizational environment of public procurement system; (ii) government can become an interest group which influences the decision of the Commission. Government may influence decision of PPC to respond and favor interests of business groups which have financially supported the government to come into power.

Conclusion

One of the primary interests of this research was the reforming countries, which represent a vague focus for the up to date literature. The institutional theory which highlights the paramount role of structures, history and practices of institutions, provide an explanation for reformed countries, while for reforming countries with a communist legacy and a non-consolidated democracy, behavioralists prevail to explain the outcome of decision making. Thus this study provides an overview of the behavioral approach in decision making in a reforming country. The relation of democracy development and the behavioral approach in decision making can be seen to have created a vicious cycle: from one side democratic and reformed countries have institutionalized bias and do not imply for a behavioral approach (institutional realm) rather than an institutional approach, and on the other hand behavioral approach might influence democracy considering that 'the practice of democracy may be well flawed, as it becomes dominated by the rival claims of organized interests which themselves present the more privileged sector of the community' [10]. Trying to address this contradiction by scrutinizing the decision making in PPS in Albania, the study concluded that in reforming countries behavioral approach of political elite exists when they exercise power through decision making.

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Cyber Warfare & the Changing Face of Conflict

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Abstract: *The unique topography of cyberspace is markedly different from the conventional battlefields of the past, and has led to heretofore unforeseen avenues of aggression and threat. This paper asserts that cyber warfare must be accepted as a reality of the 21st century, and several key examples of destructive cyber-attacks are described. Moreover, this paper examines the difficulty of regulating cyber warfare, and asserts that the present corpus of international law is too ambiguous and ill-equipped to handle the mercurial nature of cyber warfare. Developments to fill the lacuna are also not keeping pace with technological advancements, and so states should not rely on international law alone for protection. With both state and non-state actors taking advantage of this new strategic space, states must meet new threats head-on, especially given the increasing dependence on computerised systems today. This paper recommends several measures that states can adopt to better safeguard against cyber-attacks.*

Introduction

In recent decades, technology has advanced at an exponentially quicker pace than it has in the past. From the advent of the internet to the proliferation of computers, technology is often exploited as a force multiplier for the military, to increase industrial production efficiency, and to raise standards of living. These benefits are not just restricted to states and corporations, but are also enjoyed by individuals; smartphones in our pockets today have more computing power than the Apollo-era machines that sent humanity to the moon.[1] This deluge of technology has changed our way of life. At the individual, societal, or even state level, we are constantly plugged in and often networked with the greater ecosystem of devices and connections globally.

However, increases in computing power have also contributed to the changing face of conflict. Cyber warfare has emerged as a new means by which to prosecute combat, thus turning cyberspace into a potential battlefield. The global growth of technological capability has birthed new and unprecedented avenues of harm which numerous potential aggressors, including both states and non-state actors, can leverage upon to achieve their objectives. States often invest heavily in technological infrastructure, and key systems such as stock exchanges,[2] air traffic control,[3] and military defence platforms,[4] are all reliant upon advanced technology to function. This reliance makes many states vulnerable to cyber-attacks, which can swiftly cripple critical national infrastructure. These attacks can be problematic to defend against, and even more difficult to trace back to the aggressor. Given the widespread proliferation of computing power, nation-states are not the only entities capable of perpetrating cyber-attacks, as was traditionally the

case with conventional warfare. Increasingly, insurgent groups and self-styled “vigilante” organisations are able to carry out cyber-attacks as well.

States face a new spectrum of threats in this modern age, and must respond decisively to deter potential aggressors and to protect their own infrastructure. This paper will analyse the rise of cyber warfare against the backdrop of changing myriad new threats that utilise the digital vector. It will delve into the meaning of “cyber warfare”, and the various different forms of cyber-attacks this can encompass, as well as their myriad effects. This paper will also analyse current attempts or agreements to regulate or control cyber threats, such as through international law, in order to determine whether such methods can provide states with adequate relief. In view of the changing face of conflict, this paper will also highlight various policy recommendations which may be adopted by states to better prepare for the new paradigm of cyber warfare. Finally, this paper will conclude by forecasting the growth and proliferation of cyber warfare due to the increasing reliance on technology worldwide.

1. The Rise of Cyber Warfare

In this era of rapid globalisation and technological growth, the face of warfare is changing. Armed conflict between states, which has been the traditional form of warfare, is on the decline.[5] While this may seem like a positive development at first blush, this is not the entire picture. It is increasingly the case that a state finds itself neither at total peace nor total war, but in some vague and tenuous state of conflict in between. Historically, constraints imposed by geography and climate have confined major wars to a relatively small portion of the earth’s surface.[6] In contrast, attacks like the 2016

cargo truck incident in Nice, France, or the September 11 attack against the United States (“US”), demonstrate that today’s battlefields can be anywhere, including the hearts of Western (traditionally “secure”) cities.[7] The weapons of today are no longer just guns and bombs, but civilian aircraft or even just cargo trucks. Improved information and communications technology give civilians ready access to training and schematics, which allow them to build improvised explosive devices (“IEDs”) and carry out attacks as “lone wolves”. As such, it is becoming increasingly difficult to identify and contain aggressors, who may also be non-state actors.

The emergence of cyber warfare is part of this greater evolution of conflict. At least two trends illustrate this connection. First, as mentioned above, modern warfare has begun to spill over from traditionally-demarcated battlefields into ostensibly peaceful cities and streets. When seen in this context, cyberspace is just another casualty in the increasing breadth of modern conflict. Conflict in cyberspace is symptomatic of the increasingly diverse nature of conflict worldwide, as sectarian violence, skirmishes over sovereignty, and insurgency and terrorism gradually usurp the place of all-out war. Fundamentally, cyber-attacks are simply another vector of harm, not dissimilar from IEDs or even civilian vehicles which are increasingly used to perpetrate destruction. As conflict shifts away from expensive, politically-unpopular conventional warfare (which often involve massive armies, declarations of war, significant casualties, economic slowdown, and the attendant danger of nuclear escalation), cyber-attacks represent an alternative expression of offensive intent with arguably lower attendant costs. In this regard, cyberspace is now as relevant a domain for the military activities of many states, as the naturally occurring domains of land, sea, air, and space.[8]

The second trend contributing to the rise of cyber warfare is the increasing participation of non-state actors in modern conflict. Warfare has traditionally been the domain of states. Historically, only states could amass the capital and resources necessary to wage war, and only states were in the political position to declare war. However, the recent proliferation of expertise and technology, facilitated by the Internet, has given non-state actors such as individuals or insurgencies the means to engage in conflict with each other, and with much larger entities such as states. The emergence of cyber warfare is in line with the new paradigm of conflict known as “Fourth Generation Warfare”, which is characterised by the blurring of lines between war and

politics, combatants and civilians.[9] As expertise and technology proliferate, non-state actors are increasingly able to “compete” on the battlefield by leveraging on tactics such as cyber-attacks. Theoretically, cyber-attacks permit the economical waging of asymmetric warfare against larger foes – an aggressor may only need computer expertise to carry out cyber-attacks, while a defending state’s significant military advantage may not be able to prevent such attacks.

Modern states must therefore be prepared to defend themselves across a broad spectrum of potential threats. To that end, several states have made public their intentions to develop cyber warfare capabilities,[10] and have established internal military units to pursue that goal.[11] These public overtures have increased the prominence of cyber warfare in the international community, and have likely inadvertently fuelled further development of cyber warfare expertise and technology as both states and non-state actors race to gain the initiative in cyberspace.

2. What is Cyber Warfare?

Despite its use in numerous press releases and government fact sheets, “cyber warfare” is an increasingly murky term without agreed meaning.[12] As a nascent form of warfare, new capabilities are being researched and discovered all the time, and thus this amorphous form of conflict defies clear definition. To date, it has been described as “actions by a nation-state to penetrate another nation's computers or networks for the purposes of causing damage or disruption”. [13] Alternatively, cyber-attack has also been defined as “deliberate actions to alter, disrupt, deceive, degrade, or destroy computer systems or networks or the information and/or programs resident in or transiting these systems or networks”. [14] Notably, the former description defines cyber-attacks as taking place between nation-states, while the latter does not specify such a restriction. This distinction highlights the controversial growing role of non-state actors in modern conflict, which has only gained acknowledgement relatively recently.

In practice, while there may be no unified definition, there are several tactics which are widely recognised as forms of cyber warfare. The most common of these is likely the denial-of-service attack (“DoS”). An attacker “floods” a target computer or network with junk information and requests, thus overloading the host server and preventing legitimate users from accessing information or services that rely on the affected systems.[15] A more com-

plex version of this tactic, the distributed denial-of-service attack (“DDoS”), can accomplish the same goal quicker by utilising multiple, potentially thousands of computers that have already been compromised by the aggressor previously. The aggressor then uses the systems under his control to direct a barrage of information and requests at the target, drastically increasing the severity of the information overload.[16] DoS and DDoS can be used to effectively shut down key infrastructure such as air traffic control or military communications network, which legitimate users frequently query to avoid aircraft collision and to prevent friendly fire. Denying access could thus be extremely disruptive.

Alternatively, cyber-attacks can cripple in subtler ways. A prominent example of this is the Stuxnet worm that was deployed to sabotage Iran’s nuclear programme. Dubbed “one of the greatest technical blockbusters in malware history”, [17] the Stuxnet worm exclusively targeted a Siemens software controller known as Step 7.[18] This software was known to control Iran’s nuclear centrifuges, which were enriching uranium for weaponisation. By increasing the pressure in the centrifuges while reporting normal parameters to the control room, Stuxnet not only impeded the enrichment process, but physically ruined an estimated one-fifth of Iran’s nuclear centrifuges.[19] The worm was programmed to be promiscuous, and spread to over 50,000 computers worldwide.[20]ⁱ But it was also programmed to remain dormant, only activating upon detecting Siemens’ Step 7 software.[21] Finally, Stuxnet was also programmed with a “kill date” – on June 24 2012, all instances of the worm deleted themselves from their systems.[22] Due to these ingenious features, Stuxnet was detected only after the damage had been caused, and until today, has not been conclusively attributed to any one perpetrator (although several rumours have pointed to a joint US-Israeli effort).[23]

The brilliance of Stuxnet’s programming highlights key features of cyber-attacks. First, cyber-attacks are often difficult to detect. Insidious malware, if carefully programmed, can sit inside target systems for years while avoiding detection. Unlike conventional military attacks, a cyber-attack may not announce itself to its target, and even the damage it wreaks may not become evident until long after the fact. Second, cyber-attacks are difficult to trace back to their perpetrators. Despite the discovery and reverse-engineering of Stuxnet’s code, its authors were never conclusively identified. Even the simplest of cyber-attacks, such as the DDoS attacks described above, can be difficult to trace due to

their use of proxy computer systems and methods of concealing an attack’s point of origin. Finally, cyber-attacks are flexible, and can be programmed to fulfil different objectives. The Stuxnet worm was a scalpel, not a mallet, which targeted Iran’s nuclear centrifuges specifically. Similarly, carefully-programmed cyber-attacks could affect key systems with the intention of causing specific outcomes. For instance, apart from disruption and destruction, an aggressor may design a cyber-attack to collect intelligence, spread misinformation, or complement a conventional military attack.

It is worth noting that the attacks described above can be carried out not only by states, but also by non-state actors. Similarly, cyber-attacks can be perpetrated not just against state systems, but also non-state systems, like in corporate espionage situations. Such is the nature of cyberspace in that it does not discriminate between states and non-states in cyber warfare. Any entity with a presence in cyberspace can be attacked, and any entity with sufficient capability can act as perpetrator. In this manner, the “terrain” of cyberspace is also a contributory feature to the rise of non-state actors in modern warfare.

3. Regulation & Control of Cyber Warfare

Given the nascent state of cyber warfare, the international community has yet to decisively regulate or control it. At present, no multinational treaty exists to govern cyber warfare specifically. Given that the formation of international law is often a highly politicised process involving back-and-forth negotiation and compromise between sovereign states, it is unlikely that any binding laws will arise to govern cyber warfare specifically in the near future. Cyber warfare thus occupies a lacuna in international law – a grey area lacking clarity and jurisprudence. Although some countries such as China believe that present laws can be transposed into cyberspace, such a simplistic solution is unlikely to succeed, given that many traditional concepts and rules, as well as the current framework of international law, cannot be easily applied to cyberspace.[24]

At present, states would generally only have recourse to the United Nations (“UN”) Charter in the event of a cyber-attack, which provides inadequate protection. There is no bright-line consensus as to the meaning of “use of force” or “armed attack” in Articles 2(4) and 51 of the UN Charter respectively. A state’s right of self-defence arises only in response to “armed attacks” pursuant to Article 51, but not in response to a “use of force”

as described in Article 2(4).[25] An “armed attack” is therefore often considered to be more egregious than a “use of force”, hence giving rise to the right of self-defence. The International Court of Justice uses the “scales and effects” criteria to determine if a use of force is grave enough to constitute an armed attack.[26] Applying these criteria, it is unclear whether cyber-attacks would be considered a use of force, or an armed attack. Even a cyber-attack as notorious as Stuxnet is likely to be construed as small in scale, given its specific targeting of Iran’s centrifuges, and thus may not be deemed an “armed attack”. Moreover, cyber-attacks to date have rarely resulted in loss of life, and so even if widespread, are unlikely to be considered severe in effect. At present, it is unclear whether economic harm, such as the loss of expensive centrifuges, or the hypothetical sabotage of stock exchange software, would be severe enough to satisfy the “effects” criterion for an “armed attack” in the eyes of the International Court of Justice.

Given the diverse range of potential cyber-attacks, as discussed above, it is likely that each attack would be judged on a case-by-case basis. Without a clearly-defined threshold, states have no certainty as to whether they can legally mount an armed response in self-defence against a persistent cyber-threat. Moving decisively with military force to end a cyber-attack could put a state at odds with international law, and if a state waits to obtain permission from the UN before acting, the damage may already be done. Further, if certain cyber-attacks are considered “armed attacks”, and states are permitted to mount conventional military responses, this would encourage the escalation of conflict and increased bloodshed in what might otherwise have been a bloodless skirmish in cyberspace.

Given the present issues with international law, several states are attempting to bypass the Gordian knot entirely by entering into bilateral agreements with each other, thus circumventing the quagmire of multilateral negotiations and politicking.[27] These states, such as the US and China, possess technologically-reliant infrastructure, economies and military forces, and thus stand more to lose in the event of a cyber-attack. Because much is at stake for these countries, they are motivated to enter “frank and open exchange[s] about cyber issues”. [28] This is evocative of the Strategic Arms Limitation Talks between the US and the Soviet Union in the 1960s and 1970s, which served a similar function of creating appropriate norms of conduct for a relatively new, destructive instrument with no prior precedent in law.

Finally, even if international law were to take a quantum leap forward overnight, states would still face the difficult task of tracing cyber-attacks back to their perpetrators in order to take them to task. This difficulty may partially explain why the international community, to date, has not put much stock in developing the law on cyber warfare. The nature of cyber warfare as it presently stands simply does not allow for easy regulation or control. Attributability, the cornerstone of any legal framework, is an elusive concept in cyberspace. Further, none of the above-discussed measures aid in regulating or controlling cyber-attacks as perpetrated by non-state actors. International law is a system fundamentally designed around states, and is generally ill-equipped to regulate or control non-state actors outside of very specific treaties. Thus, the best protection against cyber-attacks may perhaps be found in a state’s own efforts, rather than in relying upon any global framework to carry the day.

4. Policy Recommendations

States need to recognise that the maintenance of a big and powerful army is no longer a guarantee of security, for such a force is not always well-poised to deal with the broad spectrum of threats facing countries today. Rather, changes need to be made to a state’s deployment of both hard and soft power in order to continue keeping the peace effectively.

First, states should proactively develop their own defensive capabilities to address the threat of cyber-attacks. This includes the development of defensive software and measures, or the implementation of redundancies and analog backup systems. As it stands, some states such as China are suffering 80,000 attacks per month that originate extra-territorially,[29] and other states are taking arguably drastic measures to avoid being victims of the same. For instance, Singapore’s government recently decided that all civil service computers would be disconnected from the Internet.[30] Although an unpopular decision, this measure is akin to “air gap” protection – physically partitioning computers with sensitive data separately from computers with Internet access. Such a measure shows that the state is pre-emptively looking to its own defence, rather than waiting to react to the first cyber-attack – this increases the state’s readiness level, and sends the correct message to potential aggressors.

Second, and complementary to the first, a state may wish to develop its own cyber warfare capabilities. Certainly, the aim should not be to trigger an arms race. However, as the world becomes increasingly dependent on networked technology, the ability to

wage cyber warfare will become another tool in a holistic armamentarium. Conventional military armaments, their effective ranges, and their destructive capabilities, are all generally quantifiable. In contrast, “cyber power” is difficult to quantify, and many suggested indicators only provide “tentative” estimates of cyber warfare capabilities.[31] This ambiguity can be used to a state’s advantage. For instance, Israel’s policy of deliberate ambiguity regarding its nuclear weapons (or supposed lack thereof) makes it an unpalatable target for potential aggressors, who are unable to “size up” Israel accurately. Similarly, the ambiguities of a state’s cyber warfare capabilities lend themselves well to deterrence. The development of cyber warfare capability would thus enhance not only the lethality, but the deterrent effect of any military force.

Third, to further increase deterrence, states can take a public stance on cyber warfare. A state may choose to make known that any cyber-attack directed towards it will be considered an act of war, and will be responded to with appropriate force, both in cyberspace and through conventional warfare. Regardless of the legality of an armed response, the objective is to deter potential aggressors, in the hopes that no such armed response will ever become necessary. This leverages partially upon a state’s own cyber warfare capabilities, the development of which was recommended above. Such capabilities, coupled with a credible conventional military force, will enable states to instil fear into potential aggressors that any hostile act in cyberspace will be dealt with swiftly and decisively. Such defensive posturing has long been a feature of conventional warfare, and will likely play a role in cyber warfare as well.

Finally, states can seek alliances and bilateral or multilateral agreements amongst themselves regarding appropriate norms of conduct in cyber warfare. By entering into treaties obliging states not to carry out cyber-attacks against each other, states can gain some measure of mutual certainty and protection not afforded by international law at present. Alliances are especially important for smaller states, which may not individually be able to convince world powers to commit to restraint in deploying cyber warfare assets. By acting collectively to establish norms of conduct, small states may have greater clout on the world stage in pressing for these norms to be adopted. Further, states can also collaborate by mutually testing each other’s systems for vulnerabilities, and by jointly bearing the cost of developing defensive software and capabilities. It is not unusual for tech companies to invite hackers to “test” their software for weaknesses,

in order to discover and patch such vulnerabilities before they are actually exploited. By doing the same at a state level, states can hopefully discover and address cyber security concerns pre-emptively before malicious actors strike.

The diversity of potential cyber-attacks means that no single policy recommendation can adequately address all concerns pertaining to cyber warfare. For instance, bilateral treaties between states would do little to deter non-state actors from carrying out cyber-attacks. To build a credible defence against potential cyber-attacks, a state would likely have to take a holistic approach by adopting various smaller policies, each targeted at specific cyber threats that the state anticipates. Ultimately, it is the unique circumstances faced by the particular state that will decide exactly which policies to implement.

Conclusion

There is no doubt that technology has brought many benefits, and so it is likely that the pace of technological innovation will only increase as time goes on. Given the increasing automation of key infrastructure, and the use of computers to manage critical systems, states will only become more reliant upon technology despite its attendant risks. This trend means that cyber warfare is here to stay. With increased technological reliance, cyber warfare will only become more commonplace both among states and non-state actors. Moreover, it is likely that cyber-attacks will have greater impact in the future, as technological capabilities progress. Although cyber-attacks to date have not directly brought about loss of life, this could change as aggressors become more sophisticated, and key systems involving human life are increasingly entrusted to computers (e.g. self-driving cars).

Moving forward, it is crucial that states appreciate the unique features inherent to cyberspace and cyber warfare, and how these cohere with the nature of modern conflict. Modern conflict is rapid, fluid, and complex, factors which have facilitated the rise of cyber warfare as a new frontier, one which the international community, at present, is ill-equipped to regulate or control. Only by understanding the unique “terrain” of cyberspace will a state be able to successfully defend against cyber-attacks, and also cultivate its own cyber warfare capabilities. A prudent state must also be constantly vigilant, and be prepared to commit a significant amount of resources and effort in order to keep up with the cyber power “arms race”. So long as a state is reliant upon computers, the possibility of a cyber-attack can never be completely ruled out. However,

with careful planning, many of these attacks may be deterred, and the damage caused by undeterred aggressors may be mitigated to a large extent.

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Developing and Doing Validity and Reliability of the Motivational Factors Scale of Recreational Motorcycle Usage

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Abstract: *The purpose of this study is to develop “The Motivational Factors Scale of Recreational Motorcycle Usage - RMKO” and define the validity and reliability for Turkish population. The study was descriptive and sampling group was consisted of 948 volunteer participants all around Turkey. Exploratory factor analysis (EFA) and varimax rotation was performed for RMKO and the RMKO was grouped into eight factors. These factors are “Socialization”, “To be away and Relaxing”, “Experiencing the Power of Motorcycle and Nature”, “Physical Activity and Healthy”, “Renovate/Developed”, “Self-Competition /Achievement”, “Exemplifying”, “Recognition”. Whether the data was suitable to this analysis, Kaiser Mayer Olkin and Bartlett Spheritiy test results were taken into consideration and then, EFA was performed. Cronbach’s Alpha internal consistency test was applied to the identified sub-factors and overall scale. Pearson Correlations Test was conducted to define the statistical correlation between sub-classes and items. Results have been assessed according to significant level 0.01 and 0.05. As a result, it can be concluded that “The Motivational Factor Scale of Recreational Motorcycle Usage - RMKO” has reliability and validity in the estimation of the reasons of recreational usage of motorcycle for the Turkish population.*

Introduction

Riding motorcycle is increasingly popular all around world. There are four types of motorcycle usage. These are; a) professional, b) commercial, c) commute or transportation in/out of urban and d) leisure [1]. Usage of motorcycle for commute or transportation reason can be reason of economic and/or parking problem, but leisure usage is a way of life [2].

Motorcycle is a killing machine or fun/ amusement /recreation depending on how to use it. Increasing in the leisure and commute or transportation usage of motorcycle crashes increase. For reducing this, there are many trainings programs, local and governmental measures to underline this problem and protect the riders in many countries [3, 4].

It is clear that professional usage and commercial usage are different. If someone is riding commercial motorcycle, it is commercial usage. Professional usage is for racing and competition. But, commercial usage of motorcycle (like takeaway, taxi, and post service) is business, means of production and for getting profit or generate economic benefit.

Many cities are getting crowded and have heavy traffics. In the center of them, there is not sufficient parking area and/or expensive parking for private

cars. So, individuals give up using private car in urban and do not want to use public transportation for keep away from crowded cabins, travel time and cost. Because of these problems, some people prefer to use motorcycle for commuting or transportation for being free and not depended.

Recreational motorcycle usage is riding for hobbies and/or recreational commuting to reach/go/see somewhere alone or with a group. If riding is not life style, it excludes commuting to work/home or obligation, but if life style, it can be accepted recreational. Recreational riding is a part of motorcycle owner’s recreational life. Many of the users describe the two wheels as “two wings”. It is more than a car. It is friend, wind, wings, speed, freedom and this is the life style for them. Riding is more than commuting for this kind user. It is leisure, image, actualization, realization, expression, gratification, escaping, meeting, reaching, belong to a social class/group and many other emotional and psychological outcomes.

Recreational motorcycle usage can be accepted as serious leisure activity. Stebbins defines activities which describe the person’s way of life as serious leisure activity [5, 6]. Serious leisure activity is an activity that participants can create nonprofessional career and/or social career with using and upgrading

their knowledge and skills on hobbyist, amateur or volunteer activities. All kind of serious leisure activities has personal and social rewards [7].

Personal rewards contain personal enrichment, self-actualization, self-expression, self-image, self-gratification, re-creation and financial return and Social rewards brings participants social attraction, group accomplishment and contribution to the maintenance and development of the group. Recreational motorcycle usage is hobbyist and it brings all personal and social rewards. Seibert, Kraimer, and Liden conclude that social career has positive affect on professional career or social career can be transferred to professional career or vice versa [8]. It can be said that serious leisure activities bring, create and/or effect professional and social success.

Krige; identify motorcyclists in to five groups which have different identity, personality, social character, motivational factor for ridings, leisure and life expectations and ethos [9]. These groups are as follows;

- The “Outlaws”: They are part of usually well-organized ‘bikie group’ and they ride for lifestyle, have “patch gang” personality, drink alcohol and other pleasure-inducing substances, are angry boys.
- The “Boy Wonders”: They are often young, inexperienced, belong to a group but not to a club, love challenge, drive fast, push their limits, and open for crashes.
- The “Dirts”: They ride off road motorcycle, usually belong to a club/group, drive together, and have love of ridings.
- The “Commuters”: They ride commute/transportation for economy, easy parking etc., have conservative bikes, usually do not belong to a group.
- The “Weekend Warriors”: They usually ride with a group, are club enthusiasts/members, older, with higher income, well educated, and looking for hobby.

The big and main problem is that why motorcycle usage is increasing and what the main motivators are. Researcher use motivational theories to explain this question. One of the main theories used for this purpose is Steg’s Motivation for Vehicle Use Theory based on The Dittmar’s Material Possessions Theory [10]. This theory has three categories are as follows [11]; a) Instrumental motivation or convenience of car use; speed, flexibility, travel time and cost, availability, loading capacity. Using private car has higher instrumental value than public transportation [12, 13]. b) Affective motivation explains emotion like excitement, pleasure, feelings evoked by using car [14]. c) Symbolic motivation which explain a

person’s identity, expression of self-image, social status, psychosocial value of car [15].

In addition to this, Ryan and Deci’s Self-determination Theory (SDT) which includes intrinsic and extrinsic motivations can be used why people want to ride motorcycle [16]. Intrinsic motivation explains the insider feelings motivate people to act or to do something fulfilling their personal goals without external rewards. Saving travel time and having higher flexibility are extrinsic motivations for using private car. And also, commute and transportation is a basic need. To satisfying this need there are only two way. One is having private car/ motorcycle other is using public or rental transportation possibility. Having any materials give two satisfactions. One is material satisfaction (having private car/ motorcycle) and upper level needs like belonging to a group, status and self-realization which can be explained Maslow Need Theory [17], second is show off benefits [10]. Furthermore; Achievement Goal Theory [18], Activity Theory [19] can be used for explaining motorcycle usage. Achievement Goal Theory has two sub dimensions as goal oriented and ego oriented achievements. While sportive usage of motorcycle usage need ego oriented personality for challenge and competition with others, recreational and commute usages are goal oriented. Activity Theory explains both sportive and recreational usage of motorcycle for getting physical and mental health and wellness.

From the point of view of SDT, instrumental motivation for motorcycle usage is extrinsic motivations, but, affective motivation carries both extrinsic (example: for showing off their prestige) and intrinsic (example: for interesting and exciting) affective motivations according to emotions evoked by using motorcycle [20]. Symbolic motivations for motorcycle usage are extrinsic affective motivations [21].

In the literature, there are many studies about professional usage, helmet usage, accidents, about risk taking etc. But, there are limited researches about recreational motorcycle usage and the motivators [22]. First of the popular studies is Witt and Bishop’s Five Common Themes which include basically centered explaining motivation for leisure behavior [23]. These are; catharsis for explaining purging of emotion, emotional tension and anxiety, compensation explain compensatory mechanism for goals whose direct achievement blocked, surplus energy explain inadequacy to define the conditions referring to a need for activity or impulse would take place, relaxation is used both recreation and restoration theories explain intensive involvement in or

preoccupation for restoring himself and task generalization is used for comparison of leisure and work for tendency of individuals to choose recreational activities same or similar activities which support their work. Second is generalized and systematization by Schulz, Gresch, and Kerwien [24] and Schulz 's motivation and emotion of leisure motivators of motorcycle user in to 11 scales are as follows; Safety, Control, Dynamic joys, Competence, Thrill, Rivalry, Escapism, Hedonism, Flow, Identification, and Social aspects [25, 26]. And the third, Jackson and Eklund offer to explain individuals' leisure motivators with physical leisurely experiences [27].

These studies are not sufficient to explain the motivational factors of recreational motorcycle usage. For this reason this study was done to fill in this gap.

1. Method

The purpose of the research is to develop "The Motivational Factors Scale of Recreational Motor-cycle Usage - **RMKO**" and find out the validity and reliability for Turkish population

The research was descriptive and sampling group was consisted of 948 volunteer participants all around Turkey. Determination of the exact number of recreational motorcycle user is not easy and real numbers of them are not known.

For data collection, an electronic questionnaire form has been sent to participants organized in a Facebook group and to Recreational Motorcycle User Associations, Clubs and Motorcycle institutions as email. 948 feedbacks were received between 01st December 2016 and 31th May 2017. Electronic questionnaire form include demographic variables and 45 motivational items derived from [17, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38] with five-point Likert scale ranged between 1: strongly disagree to 5: strongly agree was used.

Before Explanatory Factor Analysis (EFA) on 45 items, six of items were excluded due to low initial communalities (<0.40). For the validity of EFA with 39 items, Kaiser–Meyer–Oklin (KMO) and Bartlett's Test of Sphericity has been run, and Pearson Correlation Test has been used for identify correlations between items and components and the results have been used in 0.01 and 0.05 significant level.

2. Findings

As it seems in Table-1, the factorability of the correlation matrix of the 39 items for **RMKO**'s Kaiser–Meyer–Oklin (KMO) value was 0.931. The KMO value was over the recommended value of 0.6 [39], and has a statistically significant value for Bartlett's Test of Sphericity (Chi-square=21980.778, P=0.000) value is $p < 0.05$. Varimax rotation was run on 39 items for **RMKO** given in Table-1 and **obtained eight factors** which has bigger than one Eigen values and total Cronbach's alpha value of **RMKO is 0.940 and each factor's** Cronbach's alpha values are between 0.725 and 0.919. This shows reliability of **RMKO has statistically high score**. The total explained variance of these eight factors is %66.212. This value shows that the scale is reliable enough. **Motivational factors are named as follows;**

F1- Socialization factor describe the physical and emotional relation/closeness created between the participants and it includes "Accompany with friends from my social life", "Accompany with familiar people in around me", "Make new social contact/ friendship/meet new people", "Accompany with friends from my school/work", "Accompany with similar people", "Belonging to a motorcycle user group", "Accompany with my partner (man/women)" and "Accompany with my family member". It has 0.876 Cronbach's Alpha coefficient and 4.394 eigenvalues.

F2- To be away and Relaxing factor defines to be away and/or escaping reasons from crowd, daily routine and getting physical and/or mental rehabilitation and relaxing and it includes "Escape from crowd and stress", "Motorcycle give me calmness and silence", "Escape from daily routine", "Have a rest for a while", "Using motor makes me renew and refresh", "For getting mental and physical rehabilitation and enhance" and "Motorcycle give me independence". It has 0.890 Cronbach's Alpha coefficient and 4.373 eigenvalues.

F3- Experiencing the Power of Motorcycle factor explain driving to nature or somewhere, getting physical and mental power and energy of using motorcycle and being in nature or outdoor and it includes "Motorcycle give me mental and physical power and energy", "Experience power and movement", "Discover nature with power and movement", "For being in and/or reaching to nature or somewhere" and "Get excited from attraction of motorcycle". It has 0.846 Cronbach's Alpha coefficient and 3.673 eigenvalues.

F4- Physical Activity and Healthy factor define the effect of using motorcycle on physical activity and

physical health, and it includes “For improving physical healthy”, “For exercising and training”, “For doing physical activity” and “Using motorcycle protect from many chronic disease”. It has 0.867 Cronbach's Alpha coefficient and 3.063 eigenvalues.

F5- Renovate/Developed factor describes the renovating and/or developing skills and it includes “Using motorcycle is good for skill-building in outdoor”, “Using motorcycle gives me experience the equipment's power”, “To struggle for risk”, “To Cope with difficulties and aggravated circumstances” and “For developing and get new skills”. It has 0.829 Cronbach's Alpha coefficient and 2.874 eigenvalues.

F6: Self-Competition /Achievement factor describes self-competition and realization and it includes “For self-competition”, “For self-realization”, “To develop fighting spirit” and “Have a passion for achievement”. It has 0.841 Cronbach's Alpha coefficient and 2.605 eigenvalues.

F7: Exemplifying factor describes the importance of being a model for family members and others and it includes “Exemplifying for around me”, “Exemplifying for individuals in society” and “Exemplifying for family members”. It has 0.919 Cronbach's Alpha coefficient and 2.585 eigenvalues.

F8: Recognition factor describe the importance of recognition and social status as external motivational factors and it includes “Want recognition and draw attention” and “To get social power”. It makes me happy to say other I'm a Motorcycle User”. It has 0.725 Cronbach's Alpha coefficient and 2.256 eigenvalues.

Correlations between items and components were given in Table-2. As seen in Table; the correlation matrix confirms the items were grouped in correct factors and the relevant sub-dimensions with the highest correlation values after EFA.

[Insert Table-1]

[Insert Table-2]

[Insert Table-3]

3. Discussion

This paper introduces “The Motivational Factors Scale of Recreational Motorcycle Usage” defines the validity and reliability of **RMKO** for Turkish population.

Tests result show that **RMKO** is an adequate validity to explain motivational factors to recreational motorcycle usage for Turkish population. Cronbach's

Alpha value is 0.940 and it proves internal consistency of the identified sub-factors of scale. It certifies that sample size is satisfactorily big enough [40]. The variance explained by these subscales was %66.212 for MFSCS. KMO was found 0.9310 which is perfect when over 0.9 and this value are suitable for EFA [41].

The **RMKO**' sub-dimensions can be verified by motivational theories. The Need Theory explains the eight factors of **RMKO**. “To be away and Relaxing” and “Physical Activity and Healthy” sub-dimensions can be thought in physical needs, “Socialization”, “Self-Competition /Achievement”, “Experiencing the Power of Motorcycle” and “Renovate/Developed” sub-dimensions fall into Belonging Need and Self-actualisation Need, “Recognition” sub-dimension is related with Social Status Need and “Exemplifying” sub-dimension is related with Self-actualisation Need [17, 20, 21].

In addition to these, “Socialization”, “To be away and Relaxing”, “Experiencing the Power of Motorcycle”, “Physical Activity and Healthy”, “Renovate/Developed” and “Self-Competition /Achievement” sub-dimensions are related internal motivational factor, “Experiencing the Power of Motorcycle”, “Exemplifying” and “Recognition” are related external motivational and all these can be explained by using Self Determination Theory [33].

At the same time, motivational factors of **RMKO** can be explained by the Achievement Goal Theory (Pintrich, 2000). “Socialization”, “To be away and Relaxing”, “Experiencing the Power of Motorcycle”, “Physical Activity and Healthy”, “Experiencing the Power of Motorcycle”, “Renovate/Developed” and “Self-Competition /Achievement” sub-dimensions are related goal oriented achievements, “Exemplifying” and “Recognition” is related ego oriented achievements. Recreational motorcycle usage requires active participation and being active as physically and mentally, and can be explained by the Activity Theory [19].

The **RMKO**' sub-dimensions overlaps with the Driver's Master list of items from Recreation Experience Preference scales and domain [35]. At the same time, the results of studies done by Ardahan [28], Ardahan and Mert [29, 42], Buchanan [30], Christmas et al. [31], Deci [32], Deci and Ryan [33, 34], Ibrahim and Cordes [17], Jackson and Eklund [27], Kaplan Kalkan and Ardahan [36], Kyle et al. [37], Manfredo et al. [38], Steg et al. [13], Schulz et al. [24], Shchulz [25, 26], and Witt and Bishop [23] confirm the validity of **RMKO**.

Conclusion

Finally, results reveal that The Motivational Factors Scale of Recreational Motorcycle Usage - **RMKO** were reliable and valid in the estimation of the motivational factors for the Turkish population.

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Table-1: Factor Analysis of the Motivational Factors of Using Motorcycle

Kaiser-Meyer-Olkin Measure of Sampling Adequacy:0.931 Bartlett's Test of Sphericity Approx. Chi-Square:21980.778 df:741 Sig.0.000										
Components and Factor Loadings										
ms	F1	F2	F3	F4	F5	F6	F7	F8	Com.	M ± SD
F11	0.731								0.672	3.29±1.36
F12	0.722								0.637	2.48±1.35
F13	0.718								0.710	3.27±1.31
F14	0.671								0.537	2.38±1.30
F15	0.669								0.666	3.64±1.27
F16	0.631								0.631	2.86±1.39
F17	0.627								0.526	2.61±1.40
F18	0.594								0.616	2.17±1.28
F21		0.835							0.774	4.44±0.87
F22		0.772							0.720	4.24±1.02
F23		0.767							0.692	4.39±0.89
F24		0.707							0.657	4.08±1.11
F25		0.589							0.603	4.40±0.87
F26		0.568							0.620	4.12±1.05
F27		0.517							0.557	4.72±0.66
F31			0.808						0.722	4.22±0.98
F32			0.787						0.746	4.24±0.95
F33			0.731						0.692	4.23±0.94
F34			0.623						0.571	4.23±0.94
F35			0.572						0.510	4.28±0.96
F41				0.863					0.838	3.13±1.34
F42				0.780					0.740	2.97±1.32
F43				0.739					0.709	3.38±1.26
F44				0.686					0.613	3.02±1.36
F51					0.745				0.662	3.59±1.19
F52					0.710				0.625	3.34±1.23
F53					0.685				0.675	3.86±1.13
F54					0.660				0.636	3.88±1.10
F55					0.467				0.536	4.15±1.00
F61						0.695			0.692	3.28±1.38
F62						0.659			0.616	3.51±1.31
F63						0.638			0.690	3.72±1.21
F64						0.634			0.695	3.01±1.37
F71							0.828		0.882	2.99±1.41
F72							0.813		0.835	3.09±1.40
F73							0.774		0.778	2.61±1.34
F81								0.721	0.610	2.45±1.30
F82								0.676	0.571	2.51±1.43
F83								0.593	0.561	2.25±1.25
Cronbach's Alpha	0.876	0.890	0.846	0.867	0.829	0.841	0.919	0.725	For all scale Cronbach's Alpha 0.940	
Rotated Eigenvalues	4.394	4.373	3.673	3.063	2.874	2.605	2.585	2.256		
Rotated variance (%)	11.267	11.213	9.417	7.853	7.369	6.679	6.628	5.785		
Rot. Cum. Variance (%)	11.267	22.480	31.898	39.751	47.120	53.799	60.427	66.212		

Table-2: Pearson Correlations between items and components

Items	F1	F2	F3	F4	F5	F6	F7	F8
F11	0.780**	0.293**	0.240**	0.317**	0.278**	0.365**	0.383**	0.392**
F12	0.743**	0.133**	0.127**	0.352**	0.204**	0.327**	0.416**	0.354**
F13	0.789**	0.295**	0.279**	0.338**	0.311**	0.410**	0.380**	0.471**
F14	0.722**	0.135**	0.126**	0.325**	0.216**	0.341**	0.385**	0.393**
F15	0.724**	0.333**	0.300**	0.279**	0.309**	0.341**	0.343**	0.336**
F16	0.758**	0.226**	0.205**	0.341**	0.306**	0.403**	0.414**	0.499**
F17	0.696**	0.172**	0.180**	0.281**	0.259**	0.345**	0.407**	0.365**
F18	0.637**	0.081*	0.090**	0.304**	0.179**	0.303**	0.420**	0.300**
F21	0.212**	0.855**	0.470**	0.284**	0.393**	0.381**	0.237**	0.062
F22	0.214**	0.825**	0.461**	0.332**	0.423**	0.375**	0.270**	0.040
F23	0.220**	0.814**	0.461**	0.292**	0.379**	0.417**	0.206**	0.062
F24	0.241**	0.801**	0.417**	0.384**	0.390**	0.415**	0.317**	0.067*
F25	0.245**	0.758**	0.550**	0.368**	0.452**	0.400**	0.180**	0.083*
F26	0.267**	0.757**	0.482**	0.408**	0.448**	0.561**	0.267**	0.141**
F27	0.131**	0.649**	0.566**	0.167**	0.414**	0.264**	0.112**	0.009
F31	0.184**	0.459**	0.825**	0.268**	0.453**	0.339**	0.179**	0.134**
F32	0.199**	0.503**	0.851**	0.270**	0.549**	0.376**	0.181**	0.136**
F33	0.232**	0.520**	0.837**	0.325**	0.522**	0.358**	0.231**	0.105**
F34	0.209**	0.488**	0.734**	0.266**	0.443**	0.285**	0.202**	0.024
F35	0.217**	0.440**	0.688**	0.220**	0.470**	0.316**	0.157**	0.221**
F41	0.361**	0.333**	0.276**	0.905**	0.384**	0.425**	0.369**	0.203**
F42	0.364**	0.309**	0.263**	0.857**	0.415**	0.474**	0.382**	0.263**
F43	0.390**	0.397**	0.324**	0.835**	0.427**	0.498**	0.356**	0.212**
F44	0.354**	0.380**	0.296**	0.787**	0.382**	0.406**	0.389**	0.244**
F51	0.267**	0.362**	0.449**	0.338**	0.785**	0.335**	0.226**	0.144**
F52	0.321**	0.289**	0.397**	0.370**	0.758**	0.378**	0.286**	0.259**
F53	0.240**	0.461**	0.512**	0.350**	0.810**	0.468**	0.276**	0.204**
F54	0.260**	0.425**	0.542**	0.375**	0.791**	0.421**	0.256**	0.165**
F55	0.271**	0.527**	0.506**	0.406**	0.712**	0.494**	0.247**	0.178**
F61	0.368**	0.445**	0.329**	0.406**	0.433**	0.837**	0.405**	0.349**
F62	0.386**	0.426**	0.350**	0.386**	0.363**	0.784**	0.354**	0.291**
F63	0.378**	0.491**	0.431**	0.472**	0.556**	0.829**	0.357**	0.252**
F64	0.464**	0.369**	0.301**	0.490**	0.431**	0.843**	0.433**	0.467**
F71	0.515**	0.300**	0.231**	0.420**	0.320**	0.442**	0.962**	0.378**
F72	0.492**	0.278**	0.221**	0.387**	0.311**	0.422**	0.935**	0.370**
F73	0.492**	0.260**	0.219**	0.426**	0.300**	0.450**	0.886**	0.344**
F81	0.384**	0.068*	0.130**	0.199**	0.226**	0.319**	0.293**	0.800**
F82	0.426**	0.092**	0.129**	0.208**	0.187**	0.320**	0.343**	0.820**
F83	0.478**	0.052	0.122**	0.254**	0.185**	0.367**	0.307**	0.790**

** p<0.01, * p<0.05

Table-3: Factors Name and Item List

F1-Socialization	Accompany with friends from my social life Accompany with familiar people in around me Make new social contact/friendship/meet new people Accompany with friends from my school/work Accompany with similar people Belonging to a motorcycle user group Accompany with my partner (man/women) Accompany with my family member
F2-To be Away and Relaxing	Escape from crowd and stress Motorcycle give me calmness and silence Escape from daily routine Have a rest for a while Using motor makes me renew and refresh For getting mental and physical rehabilitation and enhance Motorcycle give me independence
F3-Experiencing The Power of Motorcycle	Motorcycle give me mental and physical power and energy Experience power and movement Discover nature with power and movement For being in and/or reaching to nature or somewhere Get excited from attraction of motorcycle
F4-Physical Activity and Healthy	For improving physical healthy For exercising and training For doing physical activity Using motorcycle protect from many chronic disease
F5-Renovate/Developed	Using motorcycle is good for skill-building in outdoor Using motorcycle gives me experience the equipment's power To struggle for risk To Cope with difficulties and aggravated circumstances For developing and get new skills
F6-Self-Competition /Achievement	For self-competition For self-realization To develope fighting spirit Have a passion for achievement
F7-Exemplifying	Exemplifying for around me Exemplifying for individuals in society Exemplifying for family members
F8-Recognition	Want recognition and draw attention It makes me happy to say other I'm a Motorcycle User To get social power

Fish Price Variations in Oman and Their Impacts on Market Development Policies: A Comprehensive Analysis of Spatial Price Fluctuations

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Abstract: Understanding the practical problems of fish products prices is required to have full command of the fundamental forces of particular price movements and of the methods to curtail unnecessary and non-justified price changes. The main purpose of the study is to generate information required for efficient and relevant price and market development policies. The study will convey the benefits of efficient prices and competitive markets. Preliminary results of the study confirmed results clearly showed that fish markets in Oman are not spatially integrated. Flows of fish from regions of excess supply to markets of excess demand have not been conducive to optimal market linkages. There are many reasons behind this lack of integration. These include lack of market information network, multiplicity of landing points, low business profile of many traders, market infrastructure, and terms of trade between fisherman and traders. Findings will have potential policy consequences that have bearings on future fish markets developments.

Introduction

Fresh fish marketing in Oman is composed of many channels. Each channel includes various stages and agents namely fisherman, retailers, truckers, and processors. At each stage, there is a market where buyers and sellers interact to determine the prices and the quantities of fresh fish traded.

All on-shore markets in Oman have common organizational and structural characteristics. These markets differ in size and some markets are more intense than other markets due to high demand and their location in highly populated areas.

Understanding the complex nature of problems related to the fish products in Oman is very important in context of market development, impact on producers and consumers and in assessing the trade policies. This requires in-depth understanding of underlying fundamental factors and forces of particular price movements and the related policy instruments/directions to address the price moment variations which directly affecting the consumers and the producers and of course the national export revenues, employment in the sector and trade balance of the country.

Market integration is an essential topic in many existing discussions concerning market liberalization. It is seen as a requirement for effective market improvement in developing countries: "Without spatial

integration of markets, price signals will not be transmitted from urban food deficit to rural food surplus areas, prices will be more volatile, agricultural producers will fail to specialize according to long term comparative advantage and gains from trade will not be realized" [1].

Market integration refers to the "co-movement of prices and/or flows between them". More generally, it also refers to the "smooth transmission of price signals and information across spatially separated markets" [2]. It is a notion that explains the relationship between two markets that are spatially or temporarily separated. Market integration research attempts to investigate the scope of a market by examining the development of prices over time for potential competing products [3].

A cursory observation in landing and consumer markets suggests price distortions that may be due to lack of spatial market integration. Temporal price changes are natural results of seasonal changes of supply and demand determinants. Most frequent changes in fish prices have been explained with changes in landings and consumers behavior. A slight price decrease for most fish species have been observed in consumer markets in Muscat, and other big cities such as Nizwa and Sohar. Despite of these renowned justifications about these price variations in recent times, the price variation issue has been raised a number of times at public level discourse and a number of problematic questions about policies are also being raised to what extent these variations have been affected to producers and to the consumers. However, more importantly relevant policy

level questions are also being raised as how to countervail losses to consumers and to fisherman as well.

Fish prices in Oman have raised crucial questions since 2009 when average prices started their unexpected increase to reach non-bearable levels and when most popular fish species are no longer abundant in most local markets.

Speculation to justify this “shocking trend” came from the consumers and the policy makers to include excessive exports, decreased landings, market power, lack of control of markets. After two years consumers are getting used to the prevailing price trends and complains have tended to decrease.

However, the issue is not yet fully explained with scientific data and arguments. Consumption and marketing decisions and public policy are not fully based on real market information. Apparent losses to individuals and to economy of Oman as a whole are considerably high. Therefore, this study is designed to address the issue. This study is still undergoing where data collection phase is completed.

1. Methodology

Two mutual methods of analysis of the relationships between prices which are market integration and analysis of marketing margins. Studies [4] on market integration tried to examine the degree of a market by investigating the development of prices over time for possibly competing products.

Most of the studies use time series econometric analysis procedures that test for the co-movement of prices. The development of these techniques, which include cointegration and error correction models, has become the typical instrument for analyzing spatial market relationships.

The principle of market integration is centered on the ‘law of one price’ (LOP), which is the hallmark of the model or the theory of perfect competition. A key estimate of the theory of perfect competition is that the price of all transactions will tend to consistency allow for differences in transportation costs between different spatial markets [5]. Accordingly Okoh et al. (2005) [5], defined market integration as “a phenomenon of synchronous movement of prices of a commodity or a group of commodities overtime in spatially differentiated markets. They were of the view that market integration helped in understanding the movement of equilibrium paths of demand and supply for a particular produce or group of commodities”.

The Law of one Price (LOP) is an elemental factor in theories of international trade and exchange rate determination [6], and is the most limiting requirement for market integration [3]. The law of One Price (LOP) is an equilibrium condition that assures the nonexistence of arbitrage in addition to its need for price efficiency. It means that prices in different markets are linked by transfer costs. It guarantee that each commodity will have a single price throughout regions through arbitrage [7].

Studies propose that cointegrated prices could be attained through integrated locations and/or conditions of the Law of One Price (LOP) [8].

Testing for the LOP is a familiar approach to test for market integration. It is carried out by testing whether the parameter on price equals 1 after regressing one price on the other and a constant term. However, a static representation of the law of One Price (LOP) cannot be correct when prices are nonstationary [3].

Law of One Price (LOP) models are still a preferred tool to test for market integration [3], where Goodwin et al. (1990) [6] stated three main reasons for using prices of primary commodities in LOP tests:

1. A good’s price may reflect the presence and quality of certain utility bearing attributes.
2. Aggregated data experience the problem associated with indexes and aggregation measurement errors.
3. When using highly aggregated price data, exchange rates will be endogenous to the system used for testing.

Goodwin et al. (1990) [6] developed a model that was established by Richardson (1978), which is used in testing for LOP and presented as follows:

$$P_{it} = \alpha_0 P_{it}^{*\alpha_1} \pi_{12t}^{\alpha_2} T_{it}^{\alpha_3} R_{it}^{\alpha_4} \quad (3)$$

Where,

P_{it} is the region one price of commodity i in time t ,

P_{it}^* is the region two price of commodity i in time t ,

π_{12t} is the rate of exchange for currency of market two in terms of currency of market one,

T_{it} is the transfer and transaction cost of trade in commodity i between region 1 and region 2,

R_{it} is the residual reason for price differences between regions one and two, and

$\alpha_0, \alpha_1, \alpha_2, \alpha_3, \alpha_4$ are parameters.

Strict adherence to the law of one price requires that the domestic price of a good, adjusted to exchange rates, transfer costs, and any differences in quality, to

be equal to foreign price of the good. Furthermore, if a disparity between prices is detected by commodity arbitragers, they will buy the good in the lower-priced market and sell it in the higher-priced market until prices are equalized. Thus, for a basic homogeneous commodity, adherence to LOP requires that

$$\alpha_0 = \alpha_1 = \alpha_2 = \alpha_3 = 1, \text{ and } \alpha_4 = 0 \quad (4)$$

Thus, equation (3) becomes a statement of the Law of One Price.

Conclusion

Changes in fresh fish markets' infrastructure and facilities have not been significant since their establishment in the early 70's, whereas some of the fresh fish markets still lack appropriate shades as a basic necessity for selling fish, as well as facilities for ice production and use. This situation is one form of the many obstacles and problems facing the pricing system and infrastructure of fresh fish markets. All of these represent a great challenge to the government of Oman to improve the efficiency of these markets. To date, no studies have been conducted in this area. For this reason, the present investigation is proposed in order to generate information needed for future policy development. It analyzes price integration between fresh fish markets in Oman and make inferences on how to improve their working and interdependence.

Price information in general is very valuable in determining the short term and long-term nature of fishing activities, investment and marketing. It is very useful for planning time and place of marketing, macro planning of landings consumption and public policies to stabilize prices and to improve fisherman returns and consumers purchasing power. A comprehensive survey conducted by investigator indicates average prices of most fish products in local and Gulf Cooperation Council countries (GCC) export markets consistently increased to reach their peak in late 2011 and early 2012. Part of this increase is associated with overall global inflationary trend that affects Oman and the region and partly explained by likely increase in export volume of the various fish products. However, changes in average fish prices after all have been observed at all levels of market organizations such as fisherman to consumers.

This justifies investigating the price channel/transmission mechanisms, demand and supply factor analysis and the role of export of fish at various levels of markets along with measuring the level of integration among the markets and impact on consumers and producers of the various fish products. A number of issues such as increased fishing,

marketing, and consumer education and export earnings and the issues of consumer surplus and producers' surplus are integral part of related development and policies.

The industrial structure of the fresh fish markets is a major concern to policy makers. Moreover, deficient marketing facilitating functions have had serious impacts on the distribution of fish products from landing sites to buyers and consequently on the pricing system. Oligopolistic and even monopolistic power has been observed in many remote landing areas resulting in low prices to fishermen. In other areas, where a large number of buyers are available, the pricing system has resulted in more competitive prices to fishermen. In general, it is widely accepted that fresh fish markets in Oman are not highly integrated. Price differences may convey a reasonable justification for this deficient market integration.

The review of the fisheries marketing system revealed that conditions of workable competition are met in some fishermen markets. However, at remote landings points, fishermen were found to be in a weak position because of the limited number of buyers available. The absence of an official information network hindered the pricing system to work efficiently which is particularly to the disadvantage of the fishermen.

The Law of One Price (LOP) analysis is used to test whether prices in pairs of markets are integrated through transfer costs or not. Investigating market integration could recommend the producer where, when, and how much to sell, which in turn will have a course on their production strategies and thus allocating resources. Integrated markets are those where prices are formed interdependently (Yogisha, 2006). Fulton et al., (2008) [9]; noted that, the examination of the extent of how markets were integrated was a significant way of understanding whether enough market information was available to the market participants.

The results of this research will have realistic policy repercussions. Though proposing a lack of market integration and deficient market arbitrage, the findings may direct that the current marketing system for fish in Oman is not backing a fair returns from operations in the supply chain to all participants. Thus, findings may suggest further research in the area of market development in order to recognize types of arbitrage and optimal fish marketing system. Moreover, organized markets with suitable facilities and management are considered as a possible choice for fish market development.

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The Relationship Between Economic Growth and Credit Volume: An Empirical Analysis on Turkey

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Abstract: Financial institutions, which operate in the financial system and whose basic function is being a financial intermediation by undertaking the role of a bridge between savings and investments, are very important in terms of economic growth. This study aims to investigate the relationship between economic growth and credit volume. In the study, firstly the relationship of economic growth with credit volume will be explained theoretically and then literature review will be presented. In the last part of the study, an empirical application will be introduced based on the theoretical section and the studies which are reviewed in the literature. In the study, quarterly data was used between 2002:01-2017:1. The relationship between the series has been tested with Granger causality and cointegration models. According to empirical tests, there is unidirectional causality from economic growth to credit volume in short and long run.

Introduction

The term economic growth represents a long-term increase in the amount of goods/services produced in a country. In developing countries like Turkey, the expansion and deepening of financial markets increase the level of welfare in the country. Financial institutions, which operate in the financial system and whose basic function is being a financial inter-mediation by undertaking the role of a bridge between savings and investments, are very important in terms of economic growth. Banks are extremely important among financial institutions in comparison to other economic actors. Within the scope of the main activities of banking sector, the relationship of the collection of funds from the market and the supply of funds to the market with the economic activity has been the subject of many theoretical and empirical studies. The interaction between the credit volume and economic growth is important in terms of the impact of the growth on financial markets. The relationship between the credit volume and economic growth is usually investigated under the name of financial development and economic growth. In studies investigating the relationship between these variables, no common result could be achieved regarding the direction of the relationship. Generally, no answers could be found to the question of "Does the credit volume affect economic growth or does the economic growth affect credit volume?" For this reason, the relationship between two variables has been investigated in our study.

This study aims to investigate the relationship between economic growth and credit volume. In the study, firstly the relationship of economic growth with credit volume will be explained theoretically and then literature review will be presented. In the last part of the study, empirical application will be introduced based on the theoretical section and the studies that are reviewed in the literature.

1. Literatur Review

In this part of the study, the empirical results of studies on the relationship between credit volume and economic growth will be addressed. In studies examining the relationship between two variables, it is usually seen that the direction of the relationship is positive and the credit volume is towards the economic growth. In the literature, however, there are studies determining the existence of a causal relationship which is from economic growth towards credit volume as well as the studies showing bidirectional causal relationships between two variables. This stems from the fact that the economic and financial developments in the analyzed countries are different. King and Levine (1993), Levine and Zervos (1998), Caldeon and Liu (2004), Back and Levine (2004), Aslan and Küçükaksoy (2006), Pehlivan et al. (2017) can be shown among the studies suggesting that credit volume affects economic growth positively. [8], [9], [3], [11], [6], [7]. Among the studies explaining the existence of a two-way relationship are that of Mercan and Peker (2013), Shan and Jianhong (2006), Luintel and Khan (1999) [5], [13], [14].

The studies of Wagabaca (2004), Turgut and Ertay (2016), Ceylan and Durkaya (2010) which found a relationship between credit volume and economic growth are also studies which are parallel with this study [4], [2], [10]. In the literature study that we carried out, the studies addressing the Turkish economy are explained.

Ümit (2016) investigated the relationship between credit volume and economic growth is analyzed for 1989-2014 periods for Turkey and by multiple structural breaks unit root test, Toda -Yamamoto causality test and dynamic ordinary least-squares method[1]. There is a bidirectional causality relation-ship between economic growth and credit volume causality test. The results of the study suggest that economic growth affects credit volume positively in the least-squares method. Mercan and Peker (2013) investigated the effect of credit volume on economic growth which was searched for Turkish economy by using the monthly data of the period from 1992 to 2010 [5].

According to the Granger causality and vector error correction model results, there is a bidirectional causality between economic growth and credit volume. Aslan and Küçükaksoy (2006) investigated the effect of credit volume on economic growth which was searched for Turkish economy by using the monthly data of the period from 1970 to 2004 [6]. According to the Granger causality and vector error correction model results, there is a bidirectional causality between economic growth and credit volume. Pehlivan et al. (2017) determined the relationship between credit volume, deposits and GDP by using three-monthly data for the period of 2002:1-2015:4 [7]. According to Granger causality and vector error correction model results, there is a bidirectional causality between economic growth and credit volume, while there is no causal relationship between deposits and GDP. Turgut and Ertay (2016) investigated this relationship by using the time series for Turkey including quarterly data of the period of 2003-2013 [2]. According to empirical test results, there is an unidirectional causality from economic growth to credit volume. Ceylan and Durkaya (2010) investigated this relation with quarterly data for the period of 1998-2008 by utilizing the time series for Turkey [10]. According to Granger causality and vector error correction model results, there is an unidirectional causality from economic growth to credit volume.

Tuna and Bektaş (2013) investigated the relationship between domestic credit volume and Gross

Domestic Product by using the time series for Turkey including quarterly data of the period of 1998-2012 [15]. According to the empirical test results, there is no causality relationship between the series.

2. Data Set and Methodology

In the study, quarterly data between 2002: 01-2017: 1 were used by utilizing the data systems of TSI (Turkish Statistical Institute) and BRSA (Banking Regulation and Supervision Agency), and the direction and effect of the relationship were investigated. In order to investigate the stationarity of the series used in the study, the ADF (Augmented DickeyFuller), PP (Phillips-Perron) unit root tests were applied. The relationship between the series has been tested with the Granger causality and cointegration models.

Two variables are used in this study:

- G symbolizes economic growth
- CV symbolizes credit volume

All series were purged from seasonal effect and a logarithmic form is used for CV.

Table 1. Unit Root Tests

Variable s	ADF Test		
	I(0)		I(1)
	Constant	Constant/Trend	Constant
G	-2.9199 (1)	-2.9174 (1)	-4.827 (3) *
CV	-2.708 (1)	-3.565 (2)	-4.443 (3) *
Phillips - Perron Test			
G	-3.807 (3)	-3.029 (3)	-6.863 (3) *
C	-3.723 (2)*	-1.836 (2)	-5.03 (3) *
ADF test lag lengths (max 3) is specified automatically by considering SBC Information Criteria. PP test bandwidth is specified automatically by considering Newey-West bandwidth criteria. *denotes significance level at 1%.			

In order to determine the stationarity of variables, the ADF and PP tests were applied and the results of both tests are presented in Table 1. According to the ADF test results, two variables were found non-stationary, while G was found non-stationary according to the PP test result. The series were found stationary after obtaining the variable differences.

Table 2. Johansen Cointegration Test

H	Eigen value	Trace static	Trace 0.05 Critical Value	Max-Eigen Statistic	Max-Eigen 0.05 Critical Value
H0:r=0	0.494193	42.0426	20.26184	36.12484	15.8921
H0:r≤1	0.105648	5.9177	9.164546	5.91645	9.164546
r represents the number of cointegration vectors					

The Johansen cointegration test was used to investigate the cointegration relationship among the series which became stationary after obtaining the first difference.

The values of Trace and Eigenvalue at the significance level of 5% confirm that economic growth and credit volume series are co-integrated.

Table 3. Granger Causality Test Based on Error Correction Model

Dependent Variable	Short-term Causality		Long-term Causality
	Independent Variable		
	D(G)	D(CV)	Error Correction Term ECT(-1)
D(G)		7.23594 [0.123]	0.167977 (-1.27200)
D(CV)	11.144 [0.025]**		0.006 (5.849)*
t values are given in parentheses (), probability values are given in brackets []. *, **, ***, denotes causality at the level of 1%, 5%, 10%, respectively .			

Among the series, after the determination of the cointegration, the results of Granger causality analysis based on the error correction model are presented in Table 3. In the short-term, there is a causality from the economic growth to credit volume at the 5% significance level and the presence of significant error correction coefficients show that there is a unidirectional causality from economic growth to credit volume in the long run.

Conclusion

Economic growth is an important factor in the development of countries. It is especially important for developing countries like Turkey.

In the study, quarterly data between 2002: 01-2017: 1 were used by utilizing the data systems of TSI (Turkish Statistical Institute) and BRSA (Banking Regulation and Supervision Agency), and the direction and effect of the relationship were investigated. In order to investigate the stationarity of the series used in the study, the ADF (Augmented Dickey-Fuller), PP (Phillips-Perron) unit root tests were applied. The relationship between the series has been tested with the Granger causality and cointegration models.

According to empirical tests, the economic growth and credit volume series are cointegrated.

There is a unidirectional causality from economic growth to credit volume in the short and long-run. The financial system, which serves as a bridge between depositors and investors, is a key element in the operation of economy.

The results, in parallel with the examined literature studies, showed that the economic growth has accelerated the credit volume, that is to say in a broader sense, the financial development in the Turkish economy.

The growth of the real sector in an economy results in a development of the financial sector. In conclusion, the developments in the real sector of an economy create positive outcomes such as the development and deepening of financial markets since these developments increase investments and growth in the economy.

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Successful Enterprises in Russia: Do Organizational Innovations Matter?

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Abstract: Organisational innovations is a relatively new phenomenon in the field of research on enterprise innovative activities. This is especially true for Russia where modern management practices and organisational methods extend back short period of usage since 1990s. However, as statistics shows, Russian companies do not hurry on introducing organisational innovations. The aim of this research is to conduct methodology to help answering a question if organisational innovations are a necessary condition for business success of Russian enterprises. The area of specific interest is the typology of organisational innovations to be applied in Russian context. Another issue concerns the goals that companies seek to achieve with the use of organisational innovations. Finally, an author's methodology of identifying a company's success is described.

Introduction

Organisational innovations as a separate type of innovations got the official recognition in 2005, when the third edition of Oslo Manual was issued. In this research we keep to the definition of an organisational innovation (OI) stated in this document: 'Organisational innovation is the implementation of a new organizational method in the firm's business practices, workplace organisation or external relations' [1].

Although technological innovations have been studied for a relatively long period, research on managerial and organisational innovation is still in its early stage, and new research should address this issue in diverse industrial and national contexts [2]. As to Russian enterprises, the concept of organisational innovations is new to the overwhelming majority of them.

The aim of this study is to find an answer to the question: do Russian firms really need organisational innovations to be successful? If yes, why they are not eager to implement them, and the percentage of Russian companies introducing organisational innovations decreases from year to year (figure 1)?

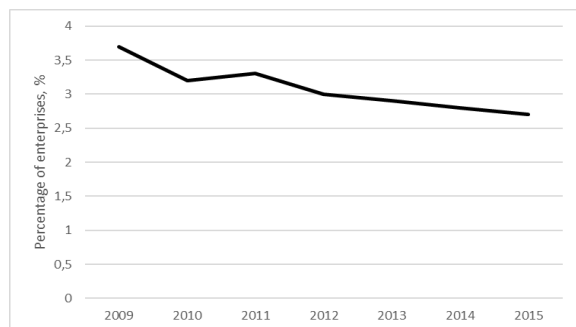


Figure 1. Percentage of Russian enterprises introducing organisational innovations [3]

1. Methodology

We need to clarify the following methodological issues. Firstly, what organisational methods and management practices can be considered as organisational innovations in Russian context. Secondly, what specific goals Russian companies wish to attain when implementing organisational innovations. Thirdly, which companies can be regarded as successful in Russian economic conditions.

1.1. Types of organisational innovations

The main methodological question is which specific organisational methods can be considered as OI when studying these practices in Russian context. Should we use the same approach as well developed countries or develop our own methodology? If the latter is true, which specifics should be incorporated into the research?

To answer these questions, first of all, we decided to pay our attention to the practices of gathering statistical data on OI in Russia and in well developed countries. It's worth noting that the main statistical tool for gaining information about innovations is the Rosstat form called 'form №4-Innovation' that is filled by large and medium-sized Russian companies (more than 100 employees and more than 800 million roubles in sales) operating in the predefined list of industries [4]. The form contains a section devoted to organisational innovations. Respondents are encouraged to answer the questions if their company made any changes in the areas such as the development and realization of new corporate strategy; implementation of modern managerial practices based on IT; implementation of new organisational structures; new worktime schedules; new systems of quality control and

certification of goods and services; modern logistics systems (like just-in-time delivery); the creation of specialized units involved in R&D and practical implementation of scientific and technical achievements (technological and engineering centers, spinoffs); corporate knowledge management systems; personnel development measures (corporate or personal learning, the creation of specialized units for learning and upgrade training); new forms of strategic alliances and partnerships with customers, suppliers, other producers; outsourcing; new schemes of personnel motivations; other organisational innovations.

If compared with Oslo Manual, it can be seen that Russian statistical form is mainly based on the three fundamental categories of OI: new organizational method in the firm's business practices, workplace organisation or external relations. However, the close scrutiny reveals that 'form №4-Innovation' contains the methods which are not considered as innovations by Oslo Manual. For example, new corporate strategy is considered as the first example of OI in the Russian form as opposed to Oslo Manual's statement that 'the formulation of managerial strategies in itself is not an innovation' [1]. Another example includes mergers and acquisitions that are not considered as innovations in Oslo Manual. The Russian form does not contain any limits in this sense. The possible reason is that the formulation of strategy as well as mergers and acquisition are relatively new practices for modern Russian enterprises which have only recently gone through the transition from Soviet planned economy to today's state of economy.

Another useful comparison can be made between 'form №4-Innovation' and The Community Innovation Survey questionnaire [5]. Both forms are developed to gather statistical data – the former in Russia and the latter in EU countries. The CIS-2012 questionnaire also contains a section devoted to organisational innovations asking a question whether an enterprise introduced:

- new business practices for organising procedures (i.e. supply chain management, business re-engineering, knowledge management, lean production, quality management, etc.);
- new methods of organising work responsibilities and decision making (i.e. first use of a new system of employee responsibilities, team work, decentralisation, integration or de-integration of departments, education/training systems, etc.);
- new methods of organising external relations with other firms or public institutions (i.e. first use of alliances, partnerships, outsourcing or sub-contracting, etc.) [5].

As can be seen from the questions, the lists of OI in a CIS questionnaire contains fewer number of methods allowing respondents more space for interpretation of their innovative activities. One of the reasons why Russian 'form №4' contains a wider spectrum of organisational methods and management practices is that many of OI have already been implemented in the majority of European companies long time ago. Yet, Russian enterprises lacked access to advanced managerial and organisational approaches due to the absence of appropriate knowledge. Therefore, a large number of OI are really new to them and are being implemented for the first time.

The official questionnaires distributed by national statistic agencies are not the only sources of concrete organisational methods that can be used for the analysis of innovative activities of a firm. As to Russia, a few analogous surveys were conducted recently. One of them is the survey conducted by Levada's Analytic Center in cooperation with the Higher School of Economics in 2012 (hereinafter HSE form). The questionnaire used in this survey differs in some respect from those described above. The section devoted to organisational innovations in production companies contains five separate tables named 'Organisation of Production', 'Organisation of Work Process', 'Standards and Auditing', 'Human Resource Management' and 'Innovation Management' [6]. Each of these tables includes from 3 to 6 organisational methods and management practices totaling 26, and companies are encouraged to answer if they use these kinds of innovations or are planning to use them or do not use them at all.

As can be seen from the table headings, all of these areas of organisational innovations are internally oriented. They take notice of the endogenous effectiveness of an enterprise, and in this regard, they differ from CIS questionnaire and Oslo Manual recommendations which contain the subsection devoted to the firm's external relations. To be fair, it has to be noted that HSE form contains the subsection devoted to external relations with customers, suppliers, competitors, scientific organisations, etc. However, this part of the survey does not relate to organisational innovations solely but to the overall innovative activities of a company.

Another substantive difference is that HSE form incorporates a much wider spectrum of specific methods that can be regarded as OI. For example, there are such tools and methods as product-based production lines, KANBAN system, optimization of setup time, total equipment maintenance, 5S system, quality circles, etc. This difference can be explained by late integration of Russian economy into the

world economic space and relative novelty of most management practices for Russian enterprises.

All of the classifications above were developed and presented in the period 2005-2012, i.e. more than 5 years ago from the moment of writing this article. Therefore, they cannot be considered as the most recent achievements in the field of modern management practices and organisational methods. To overcome this obstacle, we decided to turn our attention to the results of annual research of the respectful consulting company Bain & Company that collects data on the most popular and pertinent management tools used by managers from all over the world. The results of the most recent Bain & Company's Management Tools & Trends survey were published in 2015 [7]. The list included (in the order of usage frequency): CRM, benchmarking, employee engagement survey, strategic planning, outsourcing, balanced scorecard, mission and vision statement, supply chain management, change management programs, customer segmentation, big data analytics, core competences, total quality management, mergers and acquisitions, business process reengineering, satisfaction and loyalty management, strategic alliances, organizational time management, digital transformation, scenario and contingency planning, complexity reduction, price optimization models, decision rights tools, zero-based budgeting, disruptive innovation labs.

The key difference among Bain & Company management tools list and the methods presented in the forms mentioned above is greater attention to ICT sphere. Big data analytics and digital transformation are the examples of management tools which are totally based on information and communication technologies while CRM, supply chain management, business process reengineering, scenario and contingency planning are usually implemented with the use of ICT as well.

Thus, having analyzed five documents, we see that there are definite advantages and disadvantages in each of the approaches to identifying organisational innovations. However, none of these approaches incorporates the full range of innovations to consider it as a comprehensive list of OI for Russian enterprises. Therefore, we decided to develop our own research tool to enable collecting information from Russian companies. We decided to use the classification of Oslo Manual as ideological basement for grouping of different kinds of OI and to complement this classification with an additional level of grouping. We introduced the following groups or classes:

- 1) inside OI in business practices:
 - a. organisation of production;
 - b. organisation of work process;
 - c. planning, control and decision making;
 - d. standards and auditing;
 - e. innovation management;
- 2) inside OI in workplace organisation:
 - a. human resource management;
 - b. employee development;
- 3) inside OI in external relations:
 - a. relations with customers and suppliers;
 - b. relations with other organisations.

Thus, the new level of grouping enables better understanding by respondents of the nature of OI in question. The scheme on figure 2 gives visual presentation of the developed methodology.

1.2. Goals of organisational innovations

Another important part of our methodology concerns the necessity to introduce the section devoted to the aims of OI. In our view, any kinds of innovation should be considered in the context of the desired goals that an enterprise wishes to attain. CIS-2012 questionnaire asked about four possible goals: increase turnover, increase market share, decrease costs, increase profit margins. The Russian analogue – Rosstat form – offers a wider spectrum of typical goals that companies usually seek:

- to change outdated products;
- to gain new markets;
- to sustain traditional markets;
- to provide conformity with technical rules and standards;
- to decrease: environmental pollution, material costs, payroll costs, time on customer/supplier communications;
- to improve: informational links inside or outside organisation, occupational safety, quality of goods/services;
- to increase: employment, energy saving, flexibility of production, motivation for innovative activities, productive capacity, the range of goods and services.

We see that Rosstat form incorporates more detailed list of possible goals. Again, this fact can be explained by the relative novelty of the organisational innovation concept in Russia. Thus, the questionnaire developed for Russian companies will include the section about the desired goals according to the list presented above.

However, to consider OI in isolation from a company's goals and vice versa is meaningless, in our opinion. Therefore, the next step we should bring

organisational innovations into correlation with company's goals. We must determine how many of organisational innovations that a company really uses correlate to its priority goals. If more than a half of potential methods is used, then a company can be regarded as 'an active user'; if opposite is true – 'an inert user'.

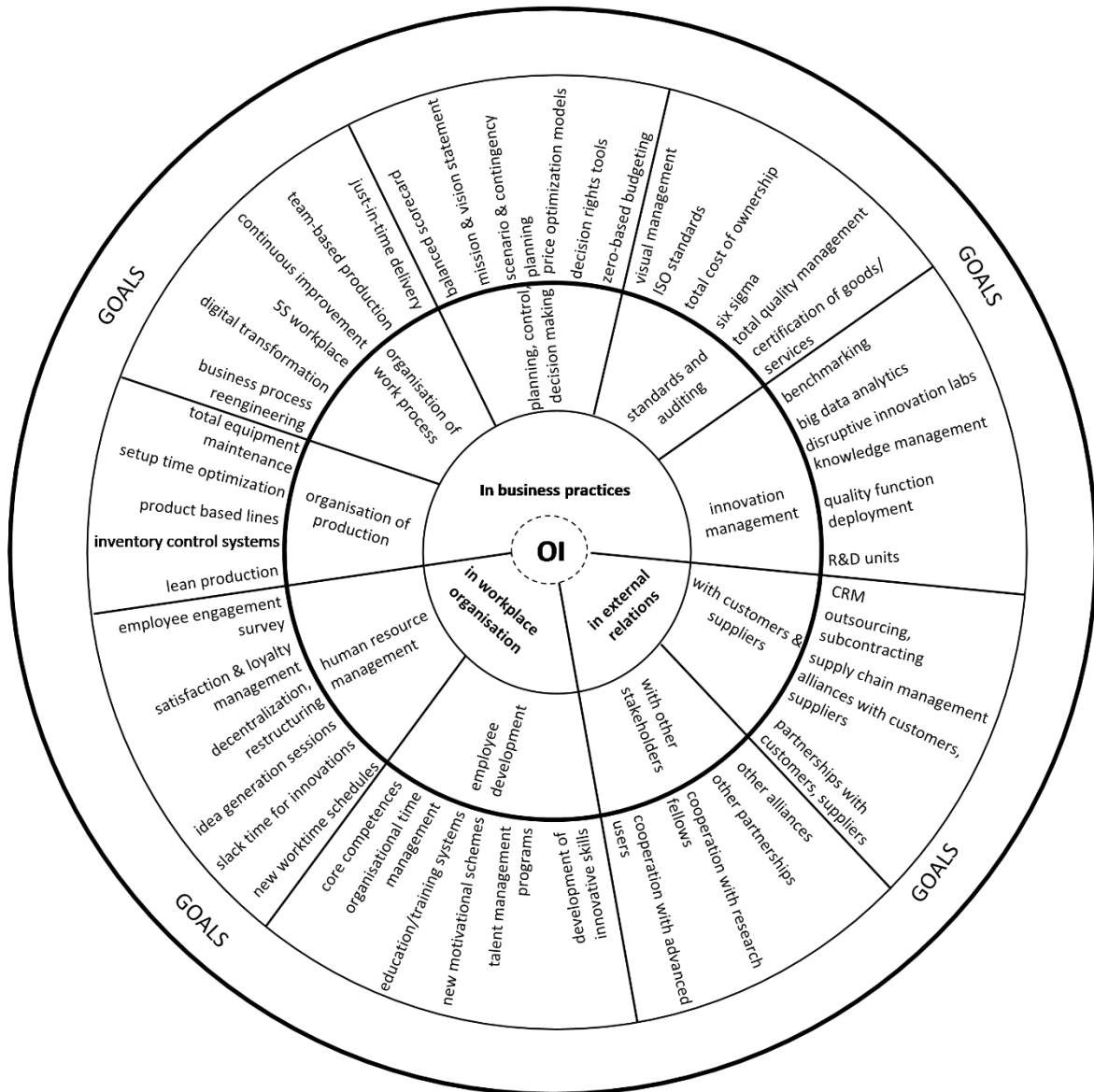


Figure 2. Classification of organisational innovations

1.3. Criteria for organisational success

Researches consider different factors as the measure of organisational success. We suppose that success should be defined in the context of a company's life cycle. We already stated in our previous works that the convenient way to dis-tribute companies is to use 4-phase life cycle model with the stages of formation, growth, maturity and decline [8]. The criteria of success will differ in accordance with the stage that the company belongs to. Thus, we suggest that a

company of formation stage may be regarded as successful if it survives and moves to the next stage. For growth stage companies, the criterion of success is a high rate of growth in terms of their sales. For mature companies, the criterion is their competitiveness. And, finally, the declining companies can be considered as successful if they turnaround and return to the previous stages.

In order to incorporate these criteria in our research, we need quantitative measures of the stated criteria. Thus, the survival can be measured by the number of employees and the level of capital employed that signal about a company's readiness to move to the next stage. For example, Steinmetz showed that a company moves to the growth stage when it achieves the number of 25-30 employees and \$500,000-750,000 in invested capital [9].

A figure for high rate of growth can be borrowed from Birch's work on 'gazelle' companies [10]. He defined a high level of revenue growth as 20% annually during at least 4-year period starting from a revenue base at least \$1 million. Such companies are called 'gazelles', and Birch showed their important role in the development of national economies, namely, in the job generation process. So, we can use the same criteria to distinguish the companies which find themselves at a growth lifecycle stage.

The level of competitiveness of mature companies can be measured by their unit labour costs (ULC) as compared to the average ULC figure in an industry. ULC show how much output a company receives relative to wages, or labour cost per unit of output [11]. A company with lower UCL than an average figure can be considered as more competitive and, consequently, more successful.

As to the last stage, decline, none of the companies at this lifecycle phase can be considered as successful in our opinion. The only way to become successful is to return to one of the previous stages. Then criteria appropriate for the stage should be applied. The criteria can be summarized in the following table (table 1).

Table 1. Measures of success

Company's lifecycle stage	Criteria of success	Measure of success
Formation	Survival	≥ 25 employees, $\geq \$500,000$ in invested capital
Growth	High growth pace	\uparrow revenues $\geq 20\%$ annually for ≥ 4 years, starting from $\geq \$1$ million
Maturity	Competitiveness	company's UCL \leq average industry's UCL

Now we can move to the questions that need to be clarified in the course of our empirical research.

2. Empirical results

The aim of the empirical part of our research can be specified through the three tasks:

- 1) to find out if the company in question can be regarded as successful;
- 2) to identify which kinds of OI the company uses and how they correlate to the company's goals;
- 3) to determine if the company realizes the full potential of OI to achieve its goals;
- 4) to make an overall conclusion about the company's position in 'successful-unsuccessful' continuum as well as in 'active user-inert user' continuum.

The organisation that took part in our research is a Siberian Avia Repair Plant (the name was changed for confidentiality reasons). It carries out maintenance, overhaul and upgrades on all modifications of the commercial and military helicopters Mi-8/17 and Mi-26T, as well as on the multirole military Mi-24 and Mi-35M. The plant performs maintenance and repair works on rotorcraft accessories between overhauls, and also supplies spare parts to users.

In 2016-2017 a survey was conducted at SARP engaging managers and specialists. They were asked to complete a questionnaire comprising 3 sections. The first section was devoted to the determination of a lifecycle stage of the enterprise. The respondents needed to answer if their company is at formation, growth, maturity or decline stage. To be able to determine the lifecycle stage the respondents were provided with the description of each stage containing 4-5 sentences based on Adizes' and Greiner's lifecycle theories [12, 13].

The second section was devoted to the questions about various kinds of organisational innovations. The respondents were asked which of the listed management practices and organisational methods:

- 1) are neither introduced nor being implemented;
- 2) are planned to be introduced before 2018;
- 3) are at the early stage of implementation or in experimental use;
- 4) are being used but their potential is not recognized in full;
- 5) are widely used and integrated in main activities.

The list contained 50 methods and practices grouped in 9 classes as described in 'Methodology' part above (figure 2).

The third section was devoted to the goals that a company wishes to attain with the help of organisational innovations. The list of goals included 17

positions in accordance with Rosstat 'form №4-Innovation' described above. The respondents were asked to mark top-5 goals that are of main priority for SARP at the moment.

The questionnaires were distributed among 122 managers from all levels of hierarchy. After receiving 78 filled questionnaires (64% respond rate) we got the following results. The lifecycle stage was determined as 'growth' stage by the majority of respondents (82%). In spite of the fact that SARP was founded in 1941, managers think of their enterprise as a growing one. This can be explained by the recent incorporation of SARP into the federal holding company 'Helicopters of Russia'. As one of the managers mentioned: 'The company's gone through the second birth'. This change gave boost to SARP's sales: they increased considerably since 2012, when the company became a part of the holding (figure 3).

As to the main part of the questionnaire, comprising questions about the specific types of OI, the respondents gave the following answers. The most commonly used organisational innovations at SARP are:

- 1) supply chain management;
- 2) organisational time-management;
- 3) total quality management;
- 4) core competences;
- 5) other alliances;
- 6) mission and vision statement;
- 7) scenario and contingency planning;
- 8) price optimization models.

It is worth mentioning that we considered OI as 'used at SARP' if the respondents ticked the columns from 3 to 5 (early implementation or being used partly or being used fully). OI were regarded as 'the most commonly used' if they were located upper than the third quartile of the answers frequency distribution.

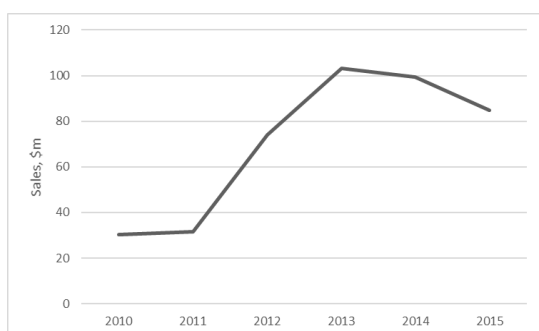


Figure 3. Sales revenue dynamics at SARP (in million dollars)

Among the priority goals that an enterprise wishes to achieve engaging OI, the respondents mentioned:

- to improve informational links inside or outside organisation;
- to gain new markets;

- to decrease time on customer/supplier communications;
- to increase flexibility of production;
- to provide conformity with technical rules and standards.

After receiving the results, we analyzed them in terms of the relations between specific kinds of OI that SARP uses and their priority goals. We found that a company could have used more kinds of OI in order to attain its goals. For example, to decrease time on customer communications SARP's managers could introduce CRM system. This could help them to understand their customer groups better and respond quickly to shifting customer desires. CRM technology can be used to collect and manage large amounts of customer data and then carry out strategies based on that information [7].

Another recommendation refers to the use of outsourcing. The analysis of the company's organisational design reveals that SARP has a cumbersome and sluggish structure. At least three units can be cut down, and their functions can be outsourced from specialized suppliers. This will make the structure more adaptive and will help to achieve another company's goal – increase flexibility of production.

Finally, digital transformation may help SARP to integrate digital technologies into an organization's strategy and operations. The crucial direction of digital transformation is the virtualization of work space, and it can be especially helpful in the area of SARP's export operations. The employees from export department are often absent on negotiations with their foreign partners, and the possibility to have access to their workplaces could accelerate the process of closing a bargain.

Thus, we can make up a conclusion that SARP does not use all opportunities in organisational innovation sphere and should be regarded as an 'inert user'.

Now, according to our methodology, we need to determine if SARP can be regarded as a successful company. We already stated that most of respondents named SARP 'a growing company'. In fact, SARP has doubled its sales in roubles in three years since 2012. However, to be called 'successful' SARP has to show revenue growth at least 20% annually during period starting from a revenue base at least \$1 million. The dynamics of SARP's sales revenue is shown in figure 3.

Although SARP's sales revenue is above the required minimum of \$1 million, the overall tendency is negative. There were no periods of successive 20%

growth in sales, therefore SARP does not satisfy the criteria of a successful growing company.

The overall conclusion is that the analyzed company SARP, on the one hand, does not use the full potential of organisational innovations being an 'inert user', and on the other hand, cannot be regarded as successful. This can be demonstrated on the following matrix (figure 4).

	successful	unsuccessful
active user		
inert user		SARP

**Figure 4. The matrix of relation
'OI user type – success'**

3. Discussion

To the moment, we had an opportunity to test our methodology on one enterprise only. The empirical testing showed that methodology is applicable to the Russian enterprises both in terms of gathering information about organisational innovations and measuring companies' success. It is obvious that more enterprises need to be studied. The results can be presented on 'OI user type – success' matrix. Then the conclusions can be drawn about the distribution of enterprises. The hypothesis is that the densest population will be observed in the first and the fourth quadrants (active user – successful and inert user – unsuccessful).

However, there are several reasons why this methodology can be difficult to apply to a larger sample of enterprises. Firstly, many Russian enterprises prefer to keep their financial information secret. Only those companies that are obliged to publish their financial statements like corporations, banks, insurance companies, give access to their figures more or less easily. It will be difficult to obtain information about companies' sales, invested capital, labour costs in order to determine their success.

Secondly, success of companies can be attributed to exogenous factors: high industry market growth, rich market niches, low competition, favorable legislation,

etc. Other endogenous factors such as effective leadership or technological patents can contribute to success as well. Thus, more robust statistical analysis is needed requiring lots of additional data.

There is another set of arguments why our methodology can be expanded:

- the list of OI should be reconsidered periodically because new organisational methods appear constantly and, on the contrary, some of OI become outdated;
- it can be interesting to compare pairs of companies from the same industry in terms of their relative levels of success and the intensity of OI use;
- other factors can be taken into account such as companies' size, ownership, industry sector;
- the process of determination 'which OI correlate to which goals' is rather subjective and requires more substantiation as well as the minimum level of 'active usage'.

To conclude, the developed methodology enables researches to build relationship between the success of an enterprise and its realization of the potential of organisational innovations. Moreover, it can be used to make recommendations about which specific OI can be applied by an enterprise to achieve its goals more effectively.

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Turkey and European Union's Alternative Project for The Diversification of Energy Resources: Trans- Anatolian Natural Gas Pipeline

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Abstract: *The energy need has been started to expand in parallel technological developments. The growing energy need has caused global competition and oil /gas resources have been started to seen as a strategic tool. The aim of the TANAP Project is to bring natural gas produced from Azerbaijan's Shah Deniz-2 gas field, and other areas of the Caspian Sea, primarily to Turkey, but also on to Europe. TANAP project, which has been developed in order to meet the needs of Europe and Turkey's natural gas, will further strengthen the Turkey's energy bridge role.*

Introduction

Upon successfully implementing its petrol strategy, Azerbaijan has begun to identify the strategic objectives concerning gas export policy. Currently, Azerbaijan the only country of the region to export gas to international markets (Turkey, Russia Georgia). Therefore, it is considered as "the supplier and participant" of the Southern Gas Corridor by EU. In accordance with this strategy, in the long run Azerbaijan aims to become an important and strategic natural gas exporter for EU. They aim to get a place at every link of the value chain from Shah Sea Field (oil well's name) to European end users.[1]

With the realization of this Project, Turkey and Azerbaijan will have an important role in the target of source diversification of the EU and energy supply security of Europe. With some reasons like diversification of suppliers and security of energy's supply, EU looks more favorably to import natural gas excluding Russia. The first step of the Trans-Anatolian Natural Gas Pipeline (TANAP) project is important to reduce Turkey's energy costs and increase diversification of its energy. [2]

TANAP project will establish an organic link between Azerbaijan and Europe through Turkey. Without the presence of Azerbaijan and Turkey it is not possible to imagine a healthy energy corridor in the region. Caspian region plays a key role for the ongoing access of energy and with the aim of diversifying energy supply routes to Europe. TANAP project which will supply about 6 billion cubic meters to Turkey and the rest to Europe was designed to supply massive gas reserves of Caspian Sea which is extracted from Azerbaijan part to Europe through Turkey. [3]

TANAP Project can be seen as a part of NABUCCO agreement which that envisages the transportation of Caspian energy resources to Europe. In this context TANAP can be considered as an extra opportunity for NABUCCO. TANAP is important to determine reshaping of natural gas policies and determining positions of the parties. TANAP should not be only limited to the delivery of Azeri natural gas to Western markets. [4]

Turkey obtains more than 50% of his imported gas from Russia. The present case will impair the ability of Turkey to have independent policies in the region. We can predict that with the realization of the project TANAP, Turkey's dependence on Russian gas will partially decrease. If Turkey wants to become a regional power, it has to reduce its energy need and dependence which is the most important agenda and problem of our age to a minimum level. I

In the future, this project can be seen as an important and first step to the transportation of Turkmenistan gas to Turkey. Therefore, TANAP Project can be seen as an initiative to secure its interests in Caspian energy basin. We can assume that Turkey would become influential in the region upon being an energy center with the other part of this project which is the transportation of Azeri gas to Europe.[5]

2. Trans Anatolian Natural Gas Pipeline Project (TANAP)

On 26 December 2011 the preliminary of TANAP project has been realized by the association of Azerbaijani state oil company (SOCAR), the first phase of this project will be completed in 2018 with the investment of 7 billion dollars.

Figure 1: Tanap project

Source: <http://www.tanap.com>

SOCAR, BOTAS and TPAO rank first as partners in the consortium organized for TANAP. Within the TANAP project 20 percent of the shares belong to Turkey and the rest of those shares belong to SOCAR. Trans-Anatolian Natural Gas Pipeline is meant to transmit gas coming from Azerbaijan by passing through Georgia in order to be sold in Turkey. 6 billion cubic meters of the 16 billion of Shah Sea's Consortium will be sold to Turkey while the other rest of this quantity will be delivered to Europe on the border of Bulgaria or Greece. The entry point to Turkey will be Türkgözü entrance on the border of Turkey and the exit point inside Turkey will be the region of Eskişehir and Trakya while the border of Greece and Bulgaria are the entrance to Europe.[6]

State Oil Company of Azerbaijan (SOCAR) take part to the project with 80 percent of shares while BOTAS and TPAO join the project with respective parts of 15% and 5%. SOCAR which holds the major shares has the right to sell some of these shares. In this context, SOCAR is expected to sell these shares to the global giants like BP, Statoil and Total. The beginning of the construction and completion of TANAP that are planned to be in 2014 and 2018 will cost 7 billion dollars. TANAP which is divided into two ways after Turkey, thanks to NABUCCO's line, will reach central and Eastern Europe through Bulgaria-Romania -Hungary-Austria's line and across Greece - Albania- Adriatic Sea will reach Italia through trans-Adriatic's line. [7]

It's predicted that Trans Anatolian pipeline will be constructed with low cost because TANAP is smaller than NABUCCA and uses the infrastructures of the existent pipeline. Europeans that want not only to be connected to Azeri gas but also to benefit from Turkmen gas, if any problem is encountered in the Nabucco project and some delays may occur Trans-Anatolian would be more understated and therefore it would have the characteristic of being more applicable.

The first of the four phases envisaged for TANAP project will take place in 2018 with the first gas flow. 16 billion cubic meters of annual capacity in 2020 are expected to reach up, 23 in 2023, 31 billion cubic meters level in 2026.

Turkey's National Transmission Line, bears the distinction of being an alternative line, by feeding the western entrance, strengthening his security of supply and by assuring the transmission of Turkmen gas to Turkey and Europe in the future. TANAP that has some importance for huge strategic of the Two countries brings great gains like supporting the security of supply of Turkey and EU by offering them suitable price and define natural gas capacity.[6]

2.1 Strategic Importance of Trans-Anatolian Natural Gas Pipeline

The realization of this project will contribute to improvement of the relation between those countries. The importance of Turkey position as a transit point between regions will improve. Turkey which is located in a critical political geography will have strong neighboring relations based on solid foundations. It will also prevent misperception of sincerity of steps of Turkey which always contributed to regional peace and prosperity. [8]

TANAP Project comes to the fore in competition through different reasons such as availability of the gas, investment finance by Azerbaijan from ready resources, appropriate conditions for meeting national gas needs of Turkey These developments are consistent with not only "Energy Corridor" but also the "Energy Hub" is consistent with a strategy. Turkey, Russia and Azerbaijan has developed with cooperation, and energy requirements in appropriate circumstances to meet both energy corridor creates and both refineries and other energy investments clears the way energy into base will keep coming up opportunities. [9]

2.2 Trans-Anatolian Natural Gas Pipeline Political Importance

When the case is meeting the ever growing demand of natural gas diversification of resources for Europe, Caspian Basin, and Middle East resources is the most suitable natural gas resource convenient for Europe in terms of transportation and costs. The most suitable route to transport the resources of Turkmenistan, Iran and Iraq to the West is the land and marine areas of Turkey which is politically, economically and securely convenient. [10]

Political importance of TANAP is that Turkey will have a positive image for the markets as it will be a trustable country for the target markets in terms of energy supply and it will get advantage and privilege when the transit project occurs. Therefore it will contribute to trust to Turkey in the international arena. [8]

When evaluated within the framework of important pipe line projects which have been completed or under construction to contribute to energy supply to Europe, TANAP increase the importance of the role of Turkey as an important transit country in the Euro-Asia axis. Thus Turkey takes the initiative to envisage transporting hydrocarbon resources of vast Caspian Basin to the markets of the West and realizing east – West Energy Corridor which is presented as the Silk Road of 21st century. Pipeline projects which connect Caucasus and Central Asia to Europe will be helpful in terms of integration with the West. Secure and commercially profitable pipelines will contribute to bring stability and prosperity to the region. [11]

2.3 Operational Importance of Trans-Anatolian Natural Gas Pipeline

Operationalization advantage of TANAP is that it will contribute to transporting considerable amount of gas which will be consumed in Turkish market to end user without using national transmission network and ease the burden of national transmission network. Besides, much more gas will be provided to the consumers with less effort. Therefore concerning management efficiency would have an opportunity to increase and also unit transport cost would decrease due to the transportation of significant amount of gas to the local consumer of amount of gas in this sense TANAP could contribute to the local economy. This project will attract Domestic and foreign capital into the country that can draw investment for the country, it could also give an idea to the lending institutions to invest in Turkey. Important amount of investments will be done inside the country which would allow to make transfer to local capital. [8]

Thanks to natural gas will be provided for Bulgaria through the Greek-Bulgarian port or Kula / Sidikastro port. the advantages in terms of access to the market is that The route of the project which include Greece, Albania and Italy is the most strategic option for Europe and therefore it is important in that Caspian gas reaches the largest segment of European market in through the shortest, the most economical and the most direct way.

By connecting the key infrastructure ports of the region such as the Ionian-Adriatic Pipeline and the

Western Balkans region, TANAP project makes it possible to deliver gas to Southeast Europe, Switzerland and Austria. Besides, as the project reaches Italy, it will offer various opportunities such as delivering gas to further to the west; to France, Germany and even to UK.

Also TANAP project is important in that it will facilitate the feasibility and the cost of investment of Nabucco, Turkey-Greece-Italy Natural Gas Pipeline Project (ITGI) and the Trans Adriatic Project (TAP)

2.4 Geopolitical Importance of Trans-Anatolian Natural Gas Pipeline

TANAP also provides geopolitical results for the parties after agreement was signed between Turkey and Azerbaijan, Russia and Iran began to show their interest to the project. Along with the annual extra 6 billion cubic meters of gas via TANAP, Turkey aims to break the dependency to the gas of Russia and Iran in the future. Turkey is worried about the increasing need for gas. Therefore,

Energy policy of Turkey is towards providing long-term energy supply. [1]

TANAP is of vital importance in terms of conveying Azerbaijani gas to European market independent of Russia. Azerbaijan has repeatedly brought up its desire to convey its natural resources to the West through reliable ways. For this reason TANAP offers new opportunities to Baku for diversification of its energy policies. From the perspective of Turkey, however, the project cannot meet the natural gas needs of the country. But when we consider the geopolitical magnitude of the project, TANAP can be seen as a manifestation of rising regional activity of Turkey in recent years.

The most important feature TANAP is that it represents the collective will of Turkey and Azerbaijan and the people of those two countries. So when we consider that the project is consisted of Turkish and Azeri capital, we can define the project as a symbol which shows the point where the relations of the two countries have come. On the other hand the project in question is open for the participation of third countries. In particular, the inclusion of Turkmenistan to the process may result in TANAP having increased regional nature. In other words, only in this way TANAP can gain geopolitical depth. Turkmenistan has expressed its willingness to deliver its natural resources, especially natural gas supplies to the European market. [4]

The cooperation of Azerbaijan and Turkey in the energy economy will play an active role in determining the energy strategy of the world and the region. According to the predictions for the future of world energy resources, the consumption rate of oil and natural gas resources are known to continue for about 20-25 years in the medium term. In this case, the demand for oil and gas will increase. In this context, except for the countries having these resources, the importance of the most economically suitable countries in terms of transporting increases. The Cooperation of Turkey-Azerbaijan is important in that one is the producer of the resources and the other is a geographically and geopolitically important country of Europe and Asia. [12]

However Turkmenistan's participation in this process is dependent on its bilateral relations with Russia. Thus, the development of the relations between Russia - Turkmenistan affect the regional position of TANAP. Since 2009, China has perceptibly participated in the natural gas geopolitics of the region. Natural gas from Turkmenistan reaches to China via Kazakhstan. If we consider that not only Russia but also China compete over Turkmen gas, we can recognize the complexity of the process better. Another problem in conveying Turkmen gas to Europe is associated with the legal status of the Caspian Sea.

With China and Iran, Russia carries out an assertive energy policy in Eurasian geopolitics. However, U.S. maintains its energy policy for the region in line with the policy of China. The European Union is substantially dependent on Russia in energy issues. The European Union is seeking an alternative to Russian gas.

TANAP is a natural sequel of South Caucasus Pipeline. Implementation of a project which combines the Caucasus with Anatolia and which can deliver the gas of Turkmenistan and Kazakhstan to Western markets has a capacity to change the geopolitical balance.

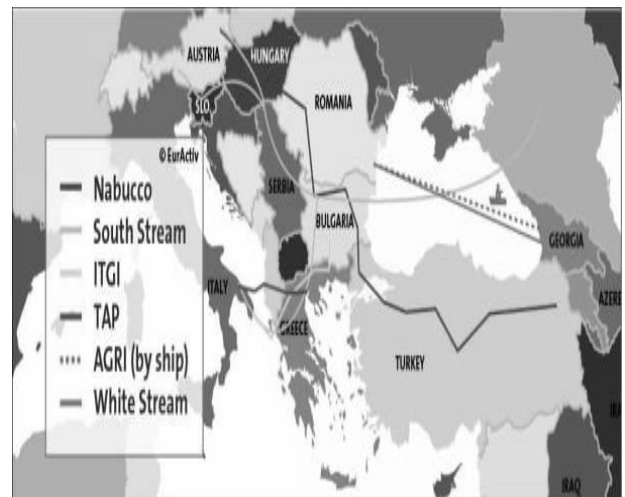
Energy plays a key role in order to penetrate political developments in Eurasian geopolitics. If Turkey can assess the geopolitical depth well, it can achieve its strategic objectives for the region. Thus, TANAP project can be considered an important step in this context. [4]

2.5 Trans-Anatolian Natural Gas Pipeline and Turkey-Azerbaijan Relations

TANAP is a project which is at the center of Turkey-Azerbaijan Relations aims to create mutual dependency between two countries and deepen the relations. By doing this it tries to ease the energy based

hegemony of Russia which has been created in a geographical / political sense. In this context, we can say that EU which is dependent on Russian gas leans to TANAP. However, as TANAP may create a view that is to the detriment of Russia in the hegemony / multipolarity struggle axis which is going on between Euro-Atlantic world and Russia China international system axis and focusing on energy factors, Russia may initiate some activities in order to prevent the realization of the project.

Figure 2: Southern Gas Corridor Pipeline Projects



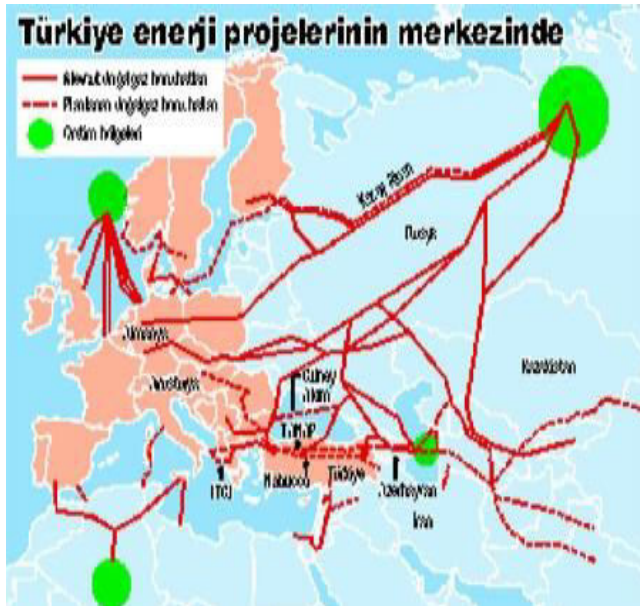
Source: Caspian Strategy Institute

The deterrence activities may be energy based and political repression to Azerbaijan, Turkey and even Georgia and project based deterrence initiatives directed to EU countries which are expected to take part in the project and which are totally dependent on Russian gas on the point of economic development. Indeed, Russia has a project called South Stream which aims to convey gas from Caspian region to EU and which can enable Russia to control energy transfer route. Russia is taking important steps in order to realize this project. Russia is aware that growing economic and political power is dependent on its hegemony that is created by energy resources it owns. The country which tries to build a multipolar international system is trying to take on the role of a systemic playmaker by using the energy factor. [7]

SOCAR, BOTAS and TPAO ranks first as partners for TANAP consortium. The share of Turkey will be 20% with the companies of BOTAS and TPAO. 80% of the project will be owned by SOCAR. (www.ekonomi.milliyet.com.tr) TANAP expects to transfer and sell the gas starting from Azerbaijan, passing Georgia and reaching Turkey. Shah Deniz-2 consortium of 16 billion cubic meters of gas, will be sold to Turkey 6 billion cubic meters, 10 billion cubic

meters to Europe with Bulgaria also TANAP and / or will be delivered on the border with Greece. Of the 16 billion cubic meters of Shah Deniz Consortium gas, 6 billion cubic meters will be sold to Turkey, 10 billion cubic meters will be transferred to Europe on the border of Bulgaria and/or Greece through TANAP. [13]

Figure 3: Energy Projects in Turkey



Source: www.ekonomi.milliyet.com.tr

In order to have the increase of gas production, Azerbaijan needs to increase its production significantly and Turkmen gas is required to be connected to TANAP through the Trans-Caspian Pipeline. In the following period, Iraqi gas can be expected to be included in the TANAP. However, Caspian Sea share-based combat and competition between Azerbaijan and Turkmenistan the instability in Iraq has led to the emergence of some question marks for the future of the project.

Baku - Tbilisi - Ceyhan Crude Oil Pipeline and the Baku-Tbilisi- Erzurum natural gas pipeline and realization of TANAP is an indication of organic axis alliance between Turkey and Azerbaijan, which has trade and energy based modern form and solid base. The relations of Turkey with Azerbaijan is of high priority as energy investment of Azerbaijan in Turkey until 2018 is calculated as 17 billion dollars and PETKİM was bought by SOCAR and EU has accelerated energy diversity moves that would by-pass Russia. However, trade volume between two countries being about \$ 3.5 billion Azerbaijan having visa regime to Turkey, have proven us that the alliance relationship is still not "one nation, two states" level and there are serious problems need to be overcome. [7]

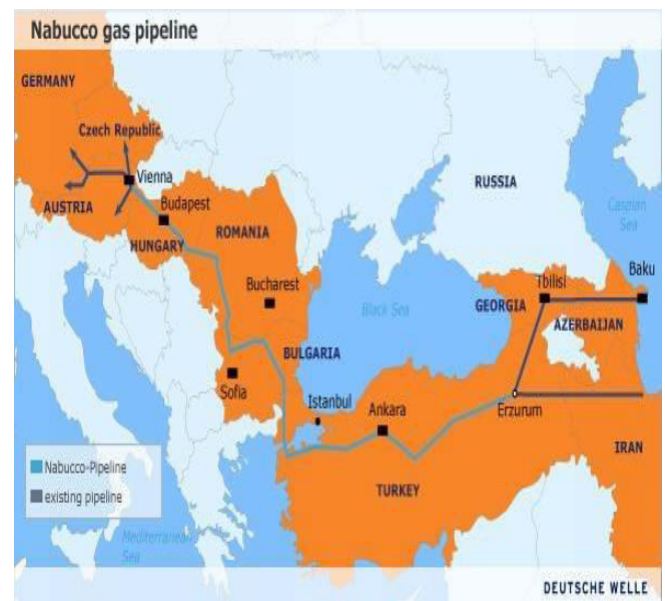
2.6. Access Roads to the European Market

TANAP pipeline keeps alive the concept of southern corridor which have been designed to transport gas alternative to Russian gas to Europe. New pipeline will contribute to supply security of both Turkey and the EU. TANAP project which will provide rapprochement between Azerbaijan-Turkey and with trade details and enable Azeri gas to Turkey and Europe markets, was designed by the British and developed by the Azeri and signed by Turkey.

British Petroleum (BP) has become the first company among Shah Deniz Manufacturers to declare its intention to join the Nabucco Consortium. The consortium has offered the State Oil Company of Azerbaijan to enter Nabucco West Project. Logically, in the same direction, the Nabucco Project Company has proposed to start negotiations in Baku on connecting TANAP o with Nabucco West.

BP previously proposed a concept which envisages benefiting from Turkey state pipeline. The logic underlying South-East Europe Pipeline (SEEP) is to save on construction costs. SEEP is able to use current national pipelines, sections of pipelines and interconnections from Turkey's east, to "Central Europe" all along the route. So, instead of building a new pipeline, some half a dozen countries would develop existing links by the addition of new sections. [14]

Figure 4: Nabucco Gas Pipeline



Source: <http://www.dw.de>

Compared to Nabucco's 31 billion cubic meter capacity, TANAP with 56 billion cubic meters volume is more promising with Turkey and Azerbaijan's

initiative but the biggest obstacle against this project is Russia as a major player in energy and giant energy companies such as BP. Because BP which is the most important player in Azerbaijan energy regions planned TANAP with a low capacity but when State Oil Company of Azerbaijan (SOCAR) took the initiative, it expanded the capacity in a way that could disturb others. [15]

Shah Deniz II project, will open southern gas corridor and the first time in history, natural gas will be transferred from the Caspian Sea to Europe. Since the beginning of the project, BP has demanded getting more shares from the Trans-Anatolian Natural Gas Pipeline. State Oil Company of Azerbaijan (SOCAR) offered 12 per cent of TANAP to BP and leaned towards this proposal. Then, BP possessed 12 % of the shares and, in addition, BP got 12% of Statoil and 5% of Total. It increased its shares in Trans-Anatolian Pipeline in the (TANAP) to 29% BOTAS and TPAO has a 20 % of the shares in TANAP. [16]

Conclusion and Suggestions

It is observed that the share of natural gas has increased in the total energy consumption throughout the world. The result causes a bigger role for countries having natural gas resources such as Russia in the world energy economy. Russia's, wish to own Eurasia's rich natural gas resources especially in recent years intensive contact with countries having rich natural gas reserves such as, Kazakhstan, Turkmenistan and Uzbekistan, a shows its determination on this topic. [17]

EU Energy Policy is of special importance in that it has not only a regional but also a global impact and is closely related to future of humanity and the world. EU energy policy aims to have a balance between competitiveness, security of energy supplies and environmental protection, as well as protection of the share of coal in total energy consumption, also aims to increase the share of natural gas, to provide maximum security conditions for nuclear power plants and to increase the share of renewable energy sources.

With the crisis in Ukraine, in the European Union the debate on how to reduce dependence on Russia has flared. EU which is concerned about energy dependence on Russia is also worried about the threats and cost of current energy dependency in the light Ukraine crisis. EU which had met 45% of its natural gas imports from Russia by 2007 changes from one member state to another. Judging from a wider perspective, Russia is the biggest supplier by meeting two third of total energy consumption of EU and it

supplies 22 % of total energy by importing natural gas, coal, petrol to EU.

Although petrol and natural gas hold a very important place in the European Union's energy policy, a large portion of the energy needs of the EU is met by oil. This rate is estimated not to decline significantly in the future and petrol is estimated to maintain its position as the primary energy source. However, natural gas ranks the second. What makes this situation makes more important for the EU is that for both resources EU is dependent on outside of the unity. The EU's most important energy providers are England, Denmark, Norway, the Middle East countries, Russia and North Africa countries. According to data as of 2006 the EU's total oil domestic consumption is 727 million tons but the EU's imports is 588 million tons and, it meets 80 % of its domestic consumption. [18]

Furthermore, oil ranks first among the primary energy sources with the share of 44% Natural gas consumption ranks second with a rate of 26%. The share of natural gas in primary energy consumption of Europe is increasing. In 2010 the share of natural gas was at 24% and it is expected to rise to 30.1% in 2030. [19]

EU imports not only from Russia but also significantly from Norway, Algeria and Qatar. According to data dated 2012 from Eurostat, EU statistical agency, natural gas imports the EU comes about 29 percent from Norway 14 percent from Algeria, 9 percent from Qatar, 3 percent from Nigeria and 2 percent from Libya.

Finland along with Baltic countries, Sweden, Czech Republic and Bulgaria import nearly all gas from Russia, and Moscow dependency ratio for Poland and Greece is 70 percent for Austria and in Hungary, 60 percent for Germany, and 40 percent for Italy 20 percent and for France it declines to 18 percent.

The decision of Germany which is the moving spirit of the EU economy, to close down its nuclear power plants gradually until 2022 makes Russian gas more important in electricity production. Intensive energy trade of Germany which aims to fill the nuclear energy gap with renewable sources aims to fill the gap left by Germany's energy intensive trade, with Russia, and being excluded from North Stream pipeline which passes under the Baltic Sea disturbs Poland

Turkey's alignment with the EU's energy policy is extremely important in terms of increasing the diversity and quality of energy sources. Turkey has a key role in terms of energy and is an important logistics base. Turkey's strategic location makes Turkey a gateway for transporting oil and gas to Eu-

rope.EU is the biggest energy importer of the world and the second energy consumer after US in this current state. Foreign-dependency is currently 50% and is estimated to rise to 68% in 2030.

While Turkey and Azerbaijan, which bring up the idea to transfer Caspian gas to European markets to the agenda, are pushing the button to realize TANAP, it seems that the project is an important preference for Europe in terms of reducing the dependency on Russian gas. Besides meeting the need for diversification of Europe's natural gas resources in the most appropriate way, it is very important for Turkey as it strengthen the role of the country as a transit country. Moreover, the project keeps the strategic rationale behind the idea to establish a southern energy corridor that rounds Russia alive. Besides providing new export opportunities and fixed income for Azerbaijan, it will provide variation in foreign affairs that is desired. Russia is still the number one natural gas supplier of Turkey. Turkey is the second largest market for Gazprom, Russian gas monopoly. But when Turkey takes a solid step to natural gas market, Russia can see the projects alternative to South Stream pipeline project as threats against its hegemony in the European market. [20]

As it is known, the European Union is a region in which highest energy consumption occurs and it does not have adequate means in terms of energy resources. These situations make new initiatives and new approaches in terms of security of energy supply for EU compulsory. Among the policy options for EU are implementation of multiple pipelines policy, thus establishing diversity of sources in energy imports. It is considered that the subject of diversification of energy resources will constitute one of the important contributions of Turkey's membership to EU.

TANAP seems more important after the crisis between Russia and Ukraine. Russia has gas stream with many European countries and Ukraine, Romania, Bulgaria and Turkey. Turkey meets 12.5 per cent of its energy needs from that line. Any interruptions of natural gas flow supplied from Russia would affect Turkey. TANAP is an important resource related to Turkey's natural gas supply security as well as an important source route to the European Union. Especially resource route diversification in the energy policy and strategy of Turkey and Europe is essential. An energy source can be supplied from any country. However, if the desire is to prevent problems related to natural gas supply by bringing similar resources from other countries from different routes, TANAP can be an important alternative.

As a result, European countries and Turkey which are foreign-dependent about gas import mainly from Russia. With the aim of ensuring energy supply security, TANAP, which has benefits such as reaching out of Russian natural gas resources, economically viability, strategically and social benefits should be completed and implemented in order to meet ever-growing natural gas needs of Turkey and Europe in the long run.

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Presenteeism And Human Resources For Health: A Bibliometric And Content Analysis

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Abstract: The purpose of this study is to examine the articles on health personnel regarding the presenteeism and to specify the characteristics of these researches. A systematic search of Web of Science, Scopus, and PubMed was conducted for this. Both the bibliometric and the content analysis were used in the analysis of the data. A total of 136 publication were evaluated in carrying out the analysis about healthcare staff. According to the findings, the number of studies on presenteeism on health workers increased from 1 in 2000 to 34 in 2016. Most of the publication had been done in USA and publication of Aronsson et al. (2000) had the higher citation. It was also observed that most studies were performed among nurses and questionnaire especially item-instruments was used as the data collection tool. Finally, it was seen that the number of research carried out on health personnel was still inadequate.

Introduction

Businesses life has to deal with both managerial and structural changes with the effects of globalization, competition, technological development, and other developments over the last years [1]. These changes affect both organizations and the resources that organizations value. Along with the transmission of organizational values, it is really accepted that the existence, development and renewal of an organization depend on human resources rather than material resources [2].

In these days, there are also some important developments in terms of human resources. However, some of these changes are considered as the negative improvement by both public and private sector employees. Increases in unemployment rates, organizational restructuring, changes in employment patterns and reduced job security can be given the examples of negative changes for employees [3]. All these negative impacts cause the employees to think that they have to go to work even if they are sick. This situation is called "presenteeism" in the literature [4].

Presenteeism has many definitions made by different researchers. The concept of presenteeism was first introduced in the literature by Canfield and Soash in 1955. According to their definition, it is to come to work with fear of losing income or job even if the employee is sick [5]. Cooper, who is another one of the first writers on the subject of presenteeism, defines it as an employee works for long hours in the workplace or seems to work [6]. In briefly, presenteeism can be defined as the reduced performance due to the presence of health problems while employee still at work [7]. It means that

"having gone to work despite feeling that one really should have taken sick leave due to one's state of health" [8].

In the past three decades, presenteeism has become commonplace in the service sector. However, in the researches conducted on presenteeism, it was determined that it is more common in healthcare workers than other service sector employees. Healthcare sector is the area where employees are experiencing difficulties in filling their place with another employee easily and the workload is very high [3]. Also working as a healthcare worker involves such obligations like great dedication and sacrifice to work. Working night shifts, working overtime and coming to work when he or she is sick is the part of being a healthcare staff [9].

The studies on the presenteeism of the health personnel also point out that presenteeism prevalence is very high in this group. A study by Bracewell et al (2010) indicated that 82 % of physicians had worked during an illness in New Zealand [4]. Nuhait et al. (2017) reported that overall prevalence of sickness presenteeism was 74% among the healthcare staff (physicians, nurses, pharmacists and other healthcare workers) in Riyad [10]. Kandemir and Şahin (2017) showed that 86.96% of participants (physicians, nurses, midwives, other health staff and administrative staff) stated they had lost time because of the health problems in the last 2 weeks in Turkey. In this study, it was also found out that, presenteeism was associated with the nurse/midwife professions [11].

Related to healthcare worker presenteeism, there are many numbers of institutional variables, work-

related reasons, individual determinants and health-related factors described as the antecedents of healthcare profession's presenteeism. High job demands, teamwork, attendance control, and job insecurity are the examples of institutional variables of presenteeism [12]. Full-time work, temporary contract, shift work, job autonomy, job demands, and violence are the work-related predictors of presenteeism [13]. Individual determinants of presenteeism are the demographic or socio-economic factors of the employee such as gender, education, age, income, occupation and form of employment [14].

Health-related factors also affect the healthcare workers presenteeism. Despite the acute illness like cold, flu and allergy and chronic conditions such as arthritis, back pain, mental health problems, health employees may have to go to work [15; 16]). A prior study by Martines and Ferreira (2012) revealed that stress, anxiety, lower-back pain and breath infections were the most common psychological and physical health conditions that influenced the presenteeism in nurses [17].

As well as the causes of presenteeism, the consequences of it are very important for an organization because of the fact that lost productivity and the indirect costs to employers arise from it [18; 19]. However, the negative impact of presenteeism is most significant in the healthcare sector. Healthcare workers presenteeism has been associated with the transmission of communicable illnesses such as influenza, pertussis and *Staphylococcus aureus* [20; 21]. So healthcare staff who are already sick can be a risk for patient safety [3]. Working while sick also leads to loss of productivity in organizations, presenteeism cause to both decreased productivity and increased probability of medical errors in the healthcare system [10; 19]. Poor health also have an adverse effect on the quality of healthcare services which is the most important organizational goal of health care institutions [15]. Beside these, it was found out that there is a significant relationship between absenteeism [22], burn out [23], cost burden [24], job satisfaction [25] and presenteeism level of healthcare workers.

Because of the importance of the presentee of the healthcare personnel mentioned above, it is necessary to show what kind of studies were done in this field. The purpose of this study is to examine the articles on health personnel regarding the presenteeism and to specify the characteristics of these researches. It is expected that the results of this research presents important findings for occupational health professionals, hospital managers and

especially other researcher which are planning to conduct a study on presenteeism in health staff.

2. Methods

2.1. Search strategy

The purpose of this study is to examine the articles on health personnel regarding the presenteeism and to specify the characteristics of these researches. For this purpose, the "Web of Science" search engine developed by Thomson Reuters, Scopus, and PubMed databases was used. The research was conducted in May 2017. The following search terms were used for investigating the presenteeism:

Topic= (presenteeism* OR sickness presence*) AND (healthcare worker* OR health care worker* OR healthcare specialist* OR health care specialist* OR healthcare professional* OR health care professional* OR healthcare professions* OR health care professions* OR healthcare staff* OR health care staff* OR hospital staff* OR physician* OR doctor* OR general practitioner* OR nurse* OR midwife* OR dentist* OR pharmacist* OR healthcare managers* OR health care managers*).

2.2. Data Analysis

Descriptive method was used in the research. Two types of data analysis were used in this study. The first one is bibliometric analysis and the other is content analysis. Bibliometrics analysis is basically an area of study based on counting the publications done in the field. It is based on the analysis of certain characteristics of documents or publications to obtain various findings [26]. Among the parameters determined in the studies to determine the bibliometric properties of the articles, the years of the publication, "type of publication", "the number of authors", "the name of the journal" "where the article was published", "the field of the article", and the "number of citations" take in place [27]. Among the bibliometric parameters, citations have an important place. Citation analysis can be defined as an assessment of the performance of authors' scientific work [28].

Bibliometric analysis has been carried out on presenteeism of healthcare staff in relevant years for this study. Key study characteristics were included; dates of publications, where the study was carried out and the top five citations of the articles.

Content analysis is a scientific approach that enables verbal, written and other materials to be examined objectively and systematically ([29]. Content analysis which is frequently used in the field of social and health sciences is aimed to determine the

existence of certain words, terms or concepts in a text with the certain rules. In this analysis method, there are four stages: processing and coding of data obtained from documents, the finding of themes, regulation of codes and themes and finally interpretation of findings [30].

Regarding content analysis in this research; occupation group, study design, data collection tool and measurement tool were examined to assist and guide the researcher who plans to conduct research on health personnel in the future.

2.3. Eligibility criteria

The search was only focused on original articles, meeting abstract or review published in the English language and between the years 1995-2017 for bibliometric analysis. It was used in Microsoft Excel program to evaluate the data provided by Web of Science, Scopus, and PubMed. To conduct the analysis, studies were excluded: if they 1) were not done on healthcare staff 2) not a full-text article or abstract 2) were duplicate 3) were irrelevant.

3. Results

This section included the findings of the statistical analyzes conducted in accordance with the purpose of the research. In the first part, bibliometric statistics related to the articles downloaded from electronic journals databases were presented. These results showed the distributions of the articles by years, the names of the countries where the articles are carried out, and the citations of the top five journals. In the second part, the results obtained from evaluations and analysis of articles and reviews by content analysis were represented.

3.1. Bibliometric Analysis

The Web of Science database contains 1983 studies on presenteeism between 1975 and 2017. A total of 254 of these studies were performed in relation to health personnel and presenteeism. A majority of articles were rejected due to the fact that the articles did not focus on the subject. 83 of them really about the presenteeism of healthcare workers. 53 full-text article or abstract were obtained from Scopus and PubMed. Finally. A total of 136 original article, meeting abstract and review were evaluated in carrying out the analysis regarding the aim of this research. The distributions of the studies according to years were given in Figure 1.

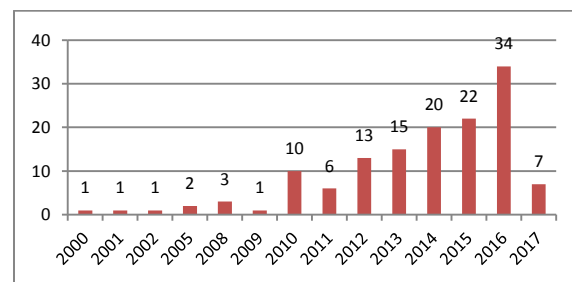


Figure 1. Distributions of the Publications by Years

With regard to presenteeism of human resources for health, while the number of articles was 1 studies in 2000, this number increased to 34 in 2016. The largest number of articles published on this subject is the year of 2016. Average the number of studies on presenteeism on health workers increased from 1 per year between 2000-2009 to 16 per year between 2010 and 2017.

Figure 2 provides the information on the countries that have the higher number of publications on presenteeism in health care personnel. The top five countries that have the most publications on the presenteeism of healthcare personnel are the United States, Netherland, Sweden, England and Australia.

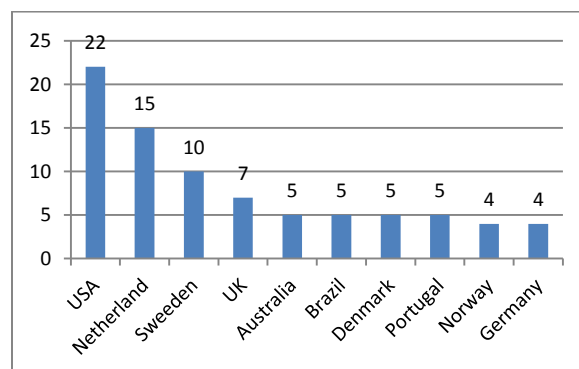


Figure 2. The countries that have the higher number of publications on presenteeism in health care personnel

In Table 1, there are five articles that the most cited articles on presenteeism of health personnel. According to this, the most cited reference to presenteeism is the article named "Sick but yet at work. An empirical study of sickness presenteeism" by Aronsson et al. in 2000. When 136 articles are examined in general, the average number of citations is around 10. However, 42 articles have never been cited and 18 have only one citation.

Table 1. The top five articles with the highest citation

Publication Name	Authours	Citation
Sick but yet at work. An empirical study of sickness presenteeism	Aronsson, et al. (2000)	404
'Choosing' to work when sick: Workplace presenteeism	Dew et al.(2005)	131
Present but sick: a three-wave study on job demands, presenteeism and burnout	Demerouti et al.(2009)	110
Job stress, sickness absence and sickness presenteeism in Nordic elderly care	Elstad, and Vabo (2008)	64
ORIGINAL RESEARCH Nurses' Presenteeism and Its Effects on Self-Reported Quality of Care and Costs	Letvak et al. (2012)	35

3.2. Content Analysis

The following tables are the content analysis results of the publications in the study. Table 2 shows the distributions of the sample group of articles on healthcare personnel regarding the presenteeism. The studies were carried out mostly with the nurses. Other professions that were studied extensively are healthcare personnel (more than one occupational group) and physicians. The least amount of publication was done on health administrators, dentists, pharmacists, and nurses.

Table 2. Distributions of Publications by Occupations

Physician	32
Nurse	51
Midwife	2
Pharmacist	2
Dentist	3
Healthcare workers(not specialized)	41
Manager	1
Other(care worker, allied personnel, therapeutics, students)	4

The study design of the researches on presenteeism for the health personnel is given in Table 3. According to results, the vast majority of studies have been designed as cross-sectional. Although randomized control trials are more reliable, it has been determined that this study design is not used too much in the studies conducted on presenteeism in human resources for health. According to Table 4 where the distributions related to the data collection tools used in the articles were presented, it was seen that the most used data collection tool was the questionnaire used in 96 articles. When the data

were collected through questionnaires, the questionnaires were distributed via the postal route, online access or face-to-face interviews. In the 21 articles, data were gathered through interviews.

Table 3. Study Desing of Publications

Cross-sectional study	84
RCT	13
Qualitative methods	16
Longitudinal, prospective or cohort study	4
Review	19

Table 4. Data Collection Tools of Publications

Questionnaire	96
Interview, focus group	21
Review	19

Table 5. Presenteeism Scales Used in Publications

Item-questions (Aronson et al., Gilbreath and Frew, Böckerman and Laukkanen etc.)	49
Detailed questions (in some qualitative analysis)	11
Stanford Presenteeism Scale	9
Work Productivity and Activity Impairment Questionnaire	6
(WHO) Health and Work Performance Questionnaire	8
Nurses Work Functioning Questionnaire	4
Review	19
Work Limitations Questionnaire	4
Work Ability Index	2
Quantity and Quality (QQ) method	2
Work Performance Questionnaire	4
Visual Analogue Scale	1
Multidimensional Nursing Generations Questionnaire	1
Other (adapted)	1
Not available	21

When the measurements used data collection were examined in the studies (Table 5), it was determined that the most used presenteeism scale was the item questions. Especially single item question was preferred to determine presenteeism case of health-care staff. Stanford Presenteeism Scale and WHO Health and Work Performance Questionnaire are the second and the third most used to data collection on presenteeism, respectively. Visual Analogue Scale and Multidimensional Nursing Generations Questionnaire were the least preferred scales for researchers who studied on human resources for health.

Conclusion

In this study, it was aimed to evaluate the studies on health workers regarding presenteeism. As a result of the analysis, it has been determined that studies on presenteeism over health personnel have increased over the years. This change has gained momentum especially after 2010 and it seems that researchers have made a serious contribution to this issue in the last 8 years. However, these increases in publications are not sufficient because the prevalence of presenteeism in health professionals is higher than in other occupational groups and presence of the healthcare staff's presenteeism is crucial for patient health.

Most studies on healthcare staff presenteeism have been conducted in the United States, Netherlands, and Sweden. The least studied countries are Belgium, China, and Japan. Another result from the country analysis, there is still no survey conducted on healthcare workers and presenteeism in more than half of the world's countries. But, the health practitioners of all over the world are experiencing the presenteeism phenomenon, which seriously affects the productivity and quality of the healthcare services.

In this study, it has been determined that most of the studies on presenteeism are performed on nurses and physicians. Fewer studies were carried out on health managers. Whereas health care managers have played down the role of the chief actor in the planning, implementation, and evaluation of health care services, and have faced frequent presenteeism, fewer studies have been conducted in this profession group is regrettable.

In the studies conducted on presenteeism in health workers, cross-sectional study design and survey method were preferred. Randomize controlled studies were used less than cross-sectional studies. The most important reason why the survey is preferred is that it is possible to reach more people with this method and the data collection period, application period and costs are less than randomized studies. However, results of randomized controlled trials are more reliable. So, researchers who will be studying in the future on presenteeism of healthcare staff, it may be advised to conduct such randomized studies if their conditions are appropriate.

This study has some limitations. Among these constraints, one of them is the screening of studies that can only be accessible in Web of Science, Scopus, and PubMed. Another limitation is that the researcher knows the only English language. For this reason, the studies published in other languages

have not been reached. But despite all these constraints, the results of this study are intended to encourage more research on presenteeism in human resources for health and to assist researchers who are planning to conduct research. For researchers planning to conduct further analysis, it may be advised to conduct a content analysis of the causes and consequences of presenteeism in healthcare personnel.

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China in the eyes of Poles: the construction of identity in press

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Abstract

The paper presented¹ by Anna Rudakowska introduces findings from the analysis of the picture of China and Chinese in the selected Polish newspapers from 1st November 2016 till 30th April 2017. It answers the following questions: a) What is the significance and meaning of China promoted by Polish media? b) What does this perspective on China tell us about the self-image of the Poles? c) What policies towards China can this particular understanding of China enable, limit, justify or support? The methods and techniques for analysis are grounded in media research and discourse analysis supported with the NVivo - the Computer Assisted Qualitative Data Analysis Software. The data for analysis comes from the monitoring of the two daily and three weekly papers.

This study fills the gap in the literature on the perception of this Asian country in Poland and, at the same time, reveals Polish identity versus China as the significant “Other”. It enriches not only the literature on relations between Poland and China and provides practical knowledge for the Polish decision makers but also contributes to the research on the perception of China in international relations as well as to the understanding of the mechanisms behind the news creation and consumption on China in Polish media. This study is conducted within the framework of the two-year project about the understanding of the image of China in Polish society and the relationship between this image and Warsaw’s policies towards Beijing.

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