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Environmental Responsibility of the Banking Sector in UAE: Practices to Confront Climate Change Risks

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ABSTRACT: With the climate change challenges and risks they impose on the environment, corporate organizations' interest in environmental and sustainable development issues is no longer a strategic choice but rather an imperative. In this context, UAE paid great attention to environmental sustainability issues and reflected it in the "UAE Vision 2030." Moreover, the national banking sector in the UAE was keen to adopt environmental responsibility practices to support the state's efforts by reducing the negative risks of climate change. This qualitative study aimed to shed light on the concept of environmental responsibility, in line with appropriate theoretical approaches, such as Stakeholder Theory and the Environmental Responsibility Model, by applying a case study of Emirates NBD. The results showed that Emirates NBD's interest in applying the concept of sustainable environmental management as a strategic priority and integrating various stakeholders into environmental responsibility initiatives to rationalize energy consumption and reduce carbon emissions resulting from bank operations to face climate change challenges. In this regard, several initiatives have been implemented, in addition to the bank's partnerships with other local and international institutions. This study suggests that governments should encourage the banking sector to finance major environmental projects as part of their environmental responsibility practices.

KEYWORDS: Corporate Environmental Responsibility, Corporate Sustainability, Green Banks, Climate change

1. Introduction

In light of climatic changes and the challenges they pose to the environment, the interest of governments and corporations in environmental and sustainable development issues is no longer a strategic choice but rather an imperative. Environmental issues related to climate change have become a priority on the global agenda. Protecting the environment from pollution risks and preserving natural resources for future generations have become top priorities for all countries to maintain sustainability. Therefore, governments and national institutions tend to increase their environmental responsibility practices to face the repercussions of current dangers and limit the potential future impacts of environmental pollution and climate change (Allen & Craig 2016; Alam & Islam 2021; Chi et al. 2022).

Environmental issues and climate change are among the main challenges faced by the international community, as their serious effects are wide-ranging and threaten human life, land and sea creatures, and global food security. These challenges require strengthening the global response through rapid governmental action, relevant international institutions, and business communities. In line with this global trend, the UAE has taken a series of measures to mitigate the effects of climate change and achieve sustainable environmental development, as it is classified among the countries most exposed to the potential risks and impacts of climate change in the world as follows: high temperatures, scarcity of precipitation, widespread drought, and rising sea levels. Thus, protecting the environment and preserving its resources has become one of the main issues adopted in the UAE Vision (2030) and its strategic goals. Accordingly, it has supported the transformation of the national economy into

a green, low-carbon economy based primarily on modern technologies, knowledge, and innovation. In addition, many measures have been taken to build a sustainable environment for future generations, such as issuing strict environmental protection legislation and laws, developing energy use technologies in the industry, using clean fuels, reducing consumption, adopting green building standards, and relying on sustainable transportation (UAE E-Government Portal 2023).

The banking sector in the United Arab Emirates is at the forefront of organizations interested in applying integrated strategies for environmental responsibility practices in line with the UAE vision and strategy and the global trend concerned with environmental issues. The main purpose of this study is to identify the environmental responsibility practices and initiatives of national banks in the United Arab Emirates to reduce the current and expected risks of climate change issues through a case study of the Emirates NBD Bank.

2. Literature Review

2.1 Climate Change

Climate change refers to long-term shifts in temperature and weather patterns. Global climate change is not a future problem but rather an immediate one. Changes in Earth's climate driven by increasing human emissions and greenhouse gases that cause global warming have negative effects on the environment, such as severe drought, water scarcity, forest fires, rising sea levels, melting of polar ice, catastrophic storms, and biodiversity decline (Allen & Craig 2016; Alam & Islam 2021).

The challenges of climate change have caused corporations, non-governmental organizations (NGOs), communities, and citizens to change their perspectives on corporate social responsibility (CSR) from voluntary welfare to necessity (Allen and Craig 2016). These challenges are expected to change the way citizens live their lives around the world, as many countries and organizations already face it, and planning to overcome the expected risks they will face, such as the limited clean water and expensive and unreliable energy (Cerciello, Busato, and Taddeo 2022).

2.2 Corporate Environmental Responsibility to Confront the Climate Change Risks

According to Testa and D' Amato (2017) and Ogiemwonyi et al. (2020), Corporate Environmental Responsibility (CER) is one of the three dimensions of integrated social responsibility as follows:

- *Economic Dimension*: This is related to corporate governance, preventing bribery and corruption, ethical investment, and protecting the rights of different stakeholders.

- *Social Dimension*: It focuses on achieving the well-being of society, developing employees' abilities and skills, and providing them with job security to increase their productivity and satisfaction.

- *Environmental Dimension*: This concerns the organizations' responsible and sustainable practices to reduce the negative environmental impacts of their operational processes by eliminating emissions and waste, rationalizing energy consumption, and managing available resources to save the rights of future generations, considering the use of international standards to effectively improve their environmental performance.

The environmental dimension of Corporate Social Responsibility (CSR) lies in organizations adopting the "Green Organization" strategy, whereby organizations adopt environment protection and sustainability as a comprehensive and consistent strategy (Rashid, Khalid, and Rahman 2015). According to Williamson et al. (2006, 317), Corporate Environmental Responsibility (CER) is a "concept related to companies' efforts to integrate environmental concerns into their business operations and their interactions with stakeholders.

It is viewed as the contribution that firms make to sustainable development by balancing and improving environmental impacts without damaging economic performance”.

Recently, the CER concept has been integrated into corporate culture and has evolved as an integral part of performance reviews. This concept has also become more comprehensive, as it includes various stakeholders, especially with the increase in environmental awareness among governments, non-governmental organizations, the business community, and individuals. The natural environment is recognized as a stakeholder. Therefore, environmental responsibility has become integral to corporate social responsibility (Altuner, Çelik, and Güleç 2015; Chi et al. 2022).

Moreover, CER building a “Green Corporate Image” (GCI) and achieving a “Green Competitive Advantage” (GCA) have become major areas of concentration among businesses worldwide (Rahman and Post 2012). The global business community has recognized the strategic benefits of CER activities. Thus, corporations have recently focused on building a green corporate image to improve their competitiveness. They tend to develop high-quality sustainable products and support the efficiency of business operations by investing and managing resources in an eco-friendly manner, prioritizing the standards of preserving the environment (Alam & Islam 2021; Wang & Bian 2022). Therefore, sustainable practices concerning the development of the environment and society have become pivotal in supporting a positive image of organizations with customers. Moreover, environmentally responsible and sustainable practices have a positive impact on the financial performance of institutions following this approach (Cerciello, Busato, and Taddeo 2022).

Because CER is perceived as an essential factor affecting business performance, many firms recognize their environmental efforts as strategic factors. Consequently, more companies consider environmental responsibility expenditures as investments that can affect profits in the long run rather than merely cost. From this perspective, companies are becoming more proactive in addressing environmental issues, seeing them as opportunities rather than obstacles (Testa and D’Amato 2017; Sing and Paul 2020).

2.3 Corporate Environmental Responsibility Dimensions

According to Rahman and Post (2012), CER is a multidimensional concept related to corporate governance, sustainability, and performance. Whereas, Rashid, Khalid, and Rahman (2015) identified the following three conceptual dimensions of CER.

- *Environmental Philanthropy (EP)*: The participation of governmental organizations and local and international civil society institutions in financing projects and initiatives that serve the environment and sustainable development to achieve the welfare of future generations.

- *Environmental Community Involvement (ECI)*: By merging the environmental dimension within the strategic objectives of the corporation, which is reflected in the way it manages its projects, by integrating environmentally sustainable practices in the workplace, taking into account the environmental aspects of operations and production processes, developing a spirit of environmental responsibility among employees and encouraging their responsible practices towards the environment, and implementing plans aimed at mitigating the negative impacts on the environment.

- *Environmental Customer Well-being (ECW)*: Providing the best products and services and developing safe, environmentally friendly, and harmless products for customers. In addition, it encourages customers to adopt responsible practices in shopping and consumption to achieve well-being and interest in society.

2.4 The Environmental Responsibility of the Banking Sector in the UAE:

Environmental pollution and climate change issues are global threats to all countries without exception. Therefore, most countries, international organizations, and the business community tended to adopt the "Net Zero Emissions" strategy launched by the United Nations within the framework of the Paris Agreement in 2015 and confirmed at the Climate Summit in Sharm El-Sheikh (COP27) in 2022 (Net Zero Emissions, the official website of the United Nations, 2022).

This global trend has been accompanied by interest from most Arab Governments and business organizations that have begun to consider the consequences of their immediate and future operational activities in the environment. The United Arab Emirates has kept pace with this global trend and approved in October 2021 the "Net Zero Emissions" strategy within the strategic initiative for Climate Neutrality by 2050, as reflected in the UAE Centenary Sustainability Agenda 2071. Most sectors and organizations operating in the UAE have tended to achieve the goals of this strategy, especially in the banking sector (UAE E-Government Portal 2023).

The banking sector, through its financing activities, is one of the engines of economic development in many countries. It has a central role in achieving the goals of sustainable development. The transition of the banking sector to adopt a sustainability strategy has changed its role and function, especially concerning banking products and services. Banks have become one of the main actors supporting the transition to a sustainable economy at local and global levels, thus becoming environmentally responsible entities (Ryszawska & Zabawa 2018). The banking sector's ability to adopt sustainable environmental practices, such as credit policy and green financing, positively affects the increase in the financial performance indicators of these banks (Weber 2017). These practices have become part of the financial performance strategy for this sector as they contribute to maintaining the balance of the financial market by achieving the interests of customers and society, especially sustainable activities (Mocan et al. 2015).

In line with the increasing awareness of governments and organizations to face environmental risks, the concept of "Green Banking" and "Green Finance" emerged (Price & Sun 2017; Sing & Paul 2020). Green Banking is environmentally friendly financing in which banks place the environmental dimension within their strategic objectives and as part of their vision and values. They consider not only financial gains but also the strategy of preserving the environment and other sustainable development goals. These banks adopt clean energy practices to combat the consequences of climate change by reducing carbon emissions, saving energy, reducing the use of fossil fuels, reducing greenhouse gas emissions, and managing waste. In addition, it provides green products and responsible and sustainable financing initiatives (Testa & D'Amato 2017; Sing & Paul 2020; Chi et al. 2022).

The banking sector in the UAE represents a fundamental pillar in implementing the country's vision and national strategies to preserve the environment and reduce the risks of climate change. In this context, national banks were keen to implement environmental sustainability practices, integrate them into their vision and strategic objectives, and transform them into operational procedures and activities, in addition to establishing effective partnerships with the local community and relevant international institutions. This partnership is based on the principle of mutual benefit for all parties. It considers an opportunity and competitive advantage for these institutions to enhance their reputation and the value of their brands in the market. Accordingly, responsible investment for national banks in the UAE became a priority, as they were keen to expand sustainable financing practices; provide green products; increase green financing; invest in renewable energy projects and technologies; build sustainable infrastructure; and adopt initiatives, procedures, and activities aimed at supporting the UAE governmental efforts to achieve sustainable environmental development.

3. Research Methodology

This descriptive study conducted qualitative research using a case study approach. This type of research was first used by anthropologists and sociologists in the early 20th century; however, it did not include statistical analysis (Brink 1993). This research helps to understand the social world (Polkinghorne 2005), as it comprises many methods, including a case study (Cibangu 2012). Based on Mack et al. (2005) qualitative research consists of investigations that seek answers to a question, systematically using a predefined set of procedures to answer the question through the collection of evidence to provide complex textual descriptions of how people experience a given research issue, in addition to information about the human side of an issue. It also effectively identifies intangible factors, whose role in the research issue may not be readily apparent.

In this research, the case study approach was applied to the Emirates NBD, which is the first national bank in the UAE. It received the ISO 14001 certificate for the environmental management system in 2015 and obtained the approval of the Corporate Social Responsibility (CSR) Label from the Dubai Chamber in 2021. Moreover, it has received many international awards and recognition as the best bank in the UAE and as one of the leading banks in the Middle East, North Africa, and Turkey (MENAT) region.

Data collection was based on primary and secondary analyses. The primary data were collected through the Emirates NBD corporate website to monitor and analyze the environmental practices and initiatives that aim to face climate change risks by analyzing sustainability annual reports during the period 2015–2021. Additionally, secondary data were collected from scientific journals and international official reports to answer the following main research question: *“What are the environmental responsibility practices and initiatives of the Emirates NBD bank in supporting the UAE's vision towards reducing the risks of climate change?”*.

4. Results and Discussions

The analysis of the case study of the Emirates NBD shows that the Bank's social responsibility framework is based on the UAE's Vision, United Nations Sustainable Development Goals, the Emirates Framework for Sustainable Finance (2021-2030), and the bank's vision, mission, and values. Accordingly, banks (CSR) practices rely on four dimensions: volunteering, developing programs, partnerships and cooperation, communication, and community participation. Hence, the bank was keen to focus on corporate social responsibility practices and allocate an independent classification to it on its official website, in addition to the e-publishing of annual sustainability reports during the analysis period 2015-2021. According to the Bank's report on Environment, Society, and Governance (2021), its strategy is based on sustainability and responsibility as a strategic approach to maintaining a positive image and reputation, as it focuses on environmental responsibility and the adoption and support of both local and international efforts to protect the environment, especially the responsibility towards climate change risks and sustainability challenges. In this context, the results emphasize a bank's continuous commitment to reducing the negative impacts of its direct and indirect operations on the environment by adopting many concepts and practices that have a positive impact on the environment, such as a Green Economy, Sustainable Financing, Green Investment, Green Products and services, and the Rationalization of Energy Consumption, Recycling. Accordingly, the bank committed to reducing harmful emissions and the impact of its negative operations on the environment, guided by the UAE Net Zero 2050 Strategy announced in October 2021, to achieve net zero emissions by the year 2050.

The Emirates NBD bank was keen to support this strategy through its environmental compliance record, the bank's sustainability reports (2020, 2021) emphasized that no fines or penalties on the bank due to non-compliance with environmental laws, as it adopted environmentally friendly policies and practices which combine with local and international goals, principles, and standers. Additionally, the bank signs and applies the UN Principles for Responsible Investment to support the ten principles of the United Nations Global Compact and implements initiatives that achieve the United Nations' goals for sustainable development in various fields, including the environmental field. Moreover, the bank participated in the World Green Economy Summit in 2019 and signed the Dubai Declaration on Sustainable Financing of the United Nations Environment Program, which aimed to transform into a low-carbon green economy, thereby supporting the UAE's Centennial Sustainability Agenda 2071.

In this regard, the analysis also concludes that Emirates NBD's adoption of Sustainable Green Products helps rationalize the consumption of resources and energy, in addition to monitoring the carbon footprint to reduce emissions from its operations. Annual consumption rates were measured to monitor the extent of the bank's contribution to environmental protection as a result of its initiatives, particularly those related to reducing the consumption of water, electricity, energy, paper, and plastics. This trend has a mutually beneficial perspective on both the protection of the environment and the bank's resources and budget protection, in addition to the bank's quality recognition and receiving international awards. In this context, the bank launched many initiatives, such as the carbon calculator initiative in 2017, developed by the bank's event management team in the marketing department, which aims to calculate the carbon emissions associated with each event in the bank to reduce its negative impact on the environment. During the period 2020-2021, carbon emissions were reduced by 1,550 metric tons. Another initiative related to the rationalization of fuel consumption was launched by the bank in 2017, to rationalize the consumption of energy emitted from fuel in all owned or rented vehicles. Another initiative related to the rationalization of fuel consumption was launched by the bank in 2017, to rationalize the consumption of energy emitted from fuel in all owned or rented vehicles. Moreover, Emirates NBD relies on technology to implement sustainable environmental practices and is keen to launch innovations and digital solutions for its customers, such as contactless payments, paperless digital accounts, and electronic customer services. In this regard, the Bio Debit Card launched in 2021 was also an example of the Banks' Green Products, and the percentage of reliance on it reached 42%, because it is the first eco-card in the UAE made of 85% recycled PVC, which was extracted from production waste without the styrene and chlorine, so it is eco-friendly and does not produce any harmful emissions when recycled.

The results demonstrated the Emirates NBD's strategy for engaging different stakeholders in the sustainable development journey by motivating them to adopt environmentally responsible behavior and integrating them into social responsibility initiatives and practices to achieve the principle of "Responsible Green Citizenship." For instance, in 2015 the bank launched the "Exchanger" Volunteer Program, which aims to empower employees to return to the community. This pioneering corporate program has been recognized by national and international platforms as one of the most successful projects. According to the bank's sustainability report for 2021, it has achieved 4,777 volunteer hours and won many awards, including the "IMPACT 2030" award for innovation. Moreover, the bank applied a responsible procurement strategy and chose the supplier network according to the sustainability criterion, in addition to suppliers' engagement in the "Carbon Calculator" initiative to monitor energy consumption and waste by measuring the carbon footprint to reduce its negative impact. In 2018 the bank procurement department obtained an ISO 14001 certificate for environmental management standards.

The analysis also showed that Emirates NBD's perspective on achieving environmental responsibility was achieved through partnerships and cooperation with local and international institutions; hence, diverse initiatives were implemented. For instance, the recycling of the electronic and paper waste in cooperation with Enviroservice and Trashco companies. Another example is the issuance of public transport cards in partnership with the Roads and Public Transport Authority (2020) to reduce carbon emissions. The bank also participated in the "Vehicle-Free Day" initiative in cooperation with Dubai Municipality, and employees participated in the challenge of reducing carbon dioxide emissions by reducing dependence on cars. The Bank is also a strategic partner of (MasterCard) Priceless Planet Initiative, which aims to unify the efforts of financial and commercial institutions worldwide to address the risks of climate change and ensure a sustainable future. In 2018, the bank used the Internet of Things, machine learning, and artificial intelligence to save energy in collaboration with EP&T Global, saving an estimated 250 thousand dirhams and reducing energy consumption by 7%. In 2020, the bank obtained the "LEED" gold certificate as the first bank in the Middle East and North Africa region to obtain this certificate in Leadership in Energy and Environmental Design from the "U.S. The Green Building Council" (USGBC), which is a globally recognized certificate for achieving sustainability. The bank was keen to promote green initiatives, that aim to engage customers in sustainable development efforts, such as "Go Green" and "Green Auto Loan" initiatives, which promote the dependency on electric cars that support clean energy and reduce carbon emissions. In this context, electric charging stations were provided to stimulate the transition to environmentally friendly vehicles, which witnessed significant growth, increasing to 72% compared to the percentage in 2020.

Finally, we can conclude that the results of this study are consistent with those of many studies, such as Alam and Islam (2021), which indicate that institutions that adopt practices based on governance, sustainability, and a balance between the economic and environmental dimensions can promote a green positive image that achieves a competitive advantage in the business community. Cerciello, Busato, and Taddeo (2022) also indicated that sustainable practices that concern the development of the environment and society could promote a positive impression of the corporate image with customers, in addition to its positive effect supporting the financial performance of institutions that adopt this trend. To achieve this, Ogiemwonyi et al. (2020) indicated the importance of a radical change in philosophy toward a green corporate culture that focuses on preserving the environment as a key value in its Strategic Plan. Additionally, Wang and Bian (2022) emphasized that responsible environmental practices and initiatives adopted by institutions are positively reflected in improving their operational activities and economic performance. Sing and Paul (2020) concluded that most customers are aware of the concept of green banking services to reduce carbon emissions. Ogiemwonyi et al. (2020) also indicated the institutional need to adopt green innovation as part of their corporate social responsibility, which aims to reduce environmental waste, prevent pollution, and implement effective environmental management to ensure environmental well-being. In this regard, many studies have shown the positive impact of environmental responsibility efforts and corporate environmental practices on customer loyalty, including Rashid, Khalid, and Abdul Rahman (2015), whose results showed that customers were more willing to deal with institutions that show greater commitment to protecting the environment and are also willing to buy Green Products even at slightly higher prices. Nwanne (2016) indicated that the social responsibility activities and practices of banks that adopt sustainability improve their relationships with customers and stakeholders.

5. Conclusions

Given the climate change challenges and risks they impose on the environment, governments worldwide have focused on facing these challenges. Accordingly, the UAE paid great attention to

environmental sustainability issues and reflected it in its vision and strategic plan, guided by corporate organizations, especially the national banking sector. The analysis of the case study of the Emirates NBD showed its commitment to adopt environmental responsibility practices to reduce harmful emissions and the negative impacts of its direct and indirect operations on the environment, guided by the UAE Net Zero 2050 Strategy. In this regard, the Emirates NBD has adopted many concepts and practices that positively impact environmental protection, such as a Green Economy, Sustainable Financing, Green Investment, Green Products and services, Rationalization of Energy Consumption, and Recycling. Moreover, the bank was keen on engaging different stakeholders in the sustainability journey by motivating them to adopt environmentally responsible behavior and integrating them into the social responsibility initiatives and practices to achieve the principle of Responsible Green Citizenship. In addition, the bank's perspective focuses on achieving partnerships and cooperation with local and international institutions through diverse initiatives.

This study suggests that governmental planning should set environmental priorities in the state strategic plan and reflect them in a detailed action plan that supports environmental sustainability initiatives with the partnership of national and international institutions, especially the banking sector, as the government should encourage this sector to finance major ecological projects as part of its environmental responsibility practices. It is also recommended to have a global summit for sustainable environmental responsibility practices and launch an award for the best practices worldwide to address climate change risk.

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Ewriting Prospectives: Hybridity as a Tool for Human Thought

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ABSTRACT: E-writing is a field of inquiry generating theories, practices, and applications that continuously redefine our perspective on writing. Traditionally considered as final objects, texts can now be seen as sources for re-information and matrixes for interrelation and reconstruction. E-writing tools challenge deep-rooted cultural habits forming the foundation of our language and thought processes. E-writing reconceives individual authorship into a multi-dividual, socio-machinic, planetwide process. Writing, and by extension, thinking, science, design, expression, artmaking, architecture, economics, and philosophy will be understood as a dialogical process between human actors and intelligent computer applications allied to giant data banks. Collaborative web-based writing and machine-generated authorship will be investigated as human-developmental tools. Nevertheless, present instituted legal theories and systems act as insurmountable obstacles, restraining collaborative and interactional authorship models and practices and advances in human creativity, authorship, and invention. Thus, current intellectual property values and legal theories will readapt to new forms of authorship involving human-machine planetary integration. Each new writing, invention, design, or proposition is now reconceived through its web presence as a potential element in extensive textual constructions. Information, considered as re-information, as data-in-flux, will be increasingly analyzed within parameters such as availability, interconnectivity, formatability, translatability, and disseminability. Texts will have to be fully interconnectable and legally free to interact so that new statements and propositions can be automatically constructed. Then, the full potential of presently available or yet-to-be-created communication technologies will be achieved.

KEYWORDS: E-writing; Web-based Writing, Computer-generated Writing, Human-machine Interactions, E-authors' Rights, Intellectual Property, Re-information, Intelligent Systems

1. E-writing as a developing field of inquiry

E-writing (electronic writing) is a developing field of inquiry generating theories, practices, and computer applications that evolve and continuously redefine our perspective on writing. Computers have definitively transformed writing. When first created, they were seen as purely mathematical tools, with no relation to language, only to calculations. This perception has dramatically changed over the years, but the broad culture may still need to finish the re-perception process. Computer-based writing has yet to attain its full potential because computers are still felt to oppose certain human qualities and abilities. Some of us still believe computers to be intrinsically anti-human. At the same time, writing is seen chiefly as essentially human, as an activity in which human beings connect to their inner selves. Traditionally, writing has been perceived as a humanizing activity that should never be corrupted, for instance, by human-machine interactions.

Nevertheless, technological change is constantly disrupting well-established perceptions of what it is to be human, what a machine should be or do, the acceptable frontiers between humans and their tools, and how human-machine interfaces should be structured, designed, and implemented.

In the 21st century, the conjunction of natural language processing and artificial intelligence research has led e-writing to leap to higher strata of linguistic performance. E-writing, a human-machine dispositive, has now assured a place as a tool for thinking and

invention in contemporary times. Writing applications can mimic human expression and eventually surpass human writing abilities. They can collect information from myriad digital sources and access an artificially-conflated memory unavailable to human beings, writing only with their minds.

We can imagine, however, that the further development of e-writing may devise an intelligent method to institute a difference that would create a more autonomous non-human form of computer-generated writing.

2. Telecomputational and interactional language-related tools

The computer as a writing tool has become associated with telecommunications since the inception of the Web in the mid-90s. Thus, since e-writing cannot any longer be isolated from networking, telecomputing will provide the medium for e-writing technologies.

E-writing has thus become a multi-individual activity, even if individual authors still do not acknowledge the fact. Writing today is undoubtedly an activity in which the individual and the social are strongly intertwined. Thus, a writing system integrating the human mind, the keyboard, the screen, the software, and the Web implies that the resulting information resonates within more extensive networks.

Presently, individual authors are or could be permanently in contact with social networks, a diversity of writing applications, and almost infinite resources distributed throughout the Internet. Nevertheless, an e-writing design must endeavor to provide for the writer's simultaneous or alternate interaction with text-processing applications, large data structures, autonomous machine-writing, and distant or local co-writers.

The improved functionality of those applications, and the human-machine dialogue, will foster a culture of hybrid textuality. Humans will learn new abilities and tools for reading, writing, analyzing, thinking, inventing, and interacting with machines that can synthesize long, well-structured texts. Authors would be redefined as e-authors, writers as e-writers, and writing as e-writing.

3. Human-machine hybrids as an expansion of the human mind

As we approach the concept of e-writing and understand the potential for techno-induced writing tools, we will inevitably face the prospect of changing human identities due to the ongoing process of hybrid human-machine co-evolution.

This process will have consequences well beyond writing and thinking. It will affect identity formation since we may not see ourselves any longer just as traditional individual authors but evermore as system designers, producers of complex generative processes, and co-authors interacting with automated writing machines. As an authorial entity, the human mind is acquiring a different nature. The mind becomes translocal as writing fills cyberspace, as networks interconnect. As human-machine co-writing develops into widespread practice, our minds become cyborganic authorial entities. Innovative technologies are taking over human functions. We are being surpassed as creators of texts, programmers of codes, inventors of tools, and eventually as decoders of information and even perceivers of meaning.

According to Bruce Mazlish, this perception is due to "... a major discontinuity or dichotomy ... between humans and machines ..." caused by "... the human need to be special, to feel superior in regard to the machine." He envisions, however, a possibility for re-integration: "... we are now coming to realize that humans and the machines they create are continuous and that the same conceptual schemes that help explain the workings of the brain also explain the workings of a 'thinking machine.' Ultimately, this distrust rests on the refusal by humans to understand and accept their nature - as beings continuous with the tools and machines they construct. Once the discontinuity is overcome, we will be in a better position to

decide more *consciously* how we wish to deal with our machines and our mechanical civilization" (Mazlish 1993).

Following the argument, we conceive the process of human-machine hybridization as an expansion of the human mind. The explanation provided by James Pulizzi reinforces this possibility: "Computers have been programmed to decrypt enciphered messages, convert text to speech, parse, and act upon human speech, generate fonts, and even design patentable electronic circuits. There remains, however, much computers cannot do and may never be able to do without a body. Despite such limitations, the computer is an excellent extension of some deficient areas of human cognition, such as sorting large lists, mathematical calculations, memory and retrieval, and error correction. If one combines those skills with human superiority in pattern recognition, adaptability, natural language processing, and the ability to distinguish irrelevant from relevant information, the computer and the human have a potentially powerful symbiotic relationship" (Pulizzi 2009).

4. The text as a matrix and the Web as a tool for concept formation

The text can be printed, digital, translocal, virtually absent from the screen, or potentially present as a writing system output; texts are available to be read, duplicated, circulated, and disseminated, but also abstracted, altered, calculated, mathematized, or rewritten, revised, preconceived, and then entirely produced by machine agents. The text, especially in its printed format, has been considered an enclosed object, the conclusion of a strenuous thinking process fixed in many copies. Still, it can now be seen as an evolving entity, a potential source for re-information, an elementary matrix for further reprocessing.

The new dimensions of texts indicate multiple unheard possibilities for human-machine fusion, e-writing, and e-imagining. The reconception of the text as a mindtool, an object embodying potential, valuable information, and an indispensable social instrument will lead us to perceive and conceive a new horizon for human thought processes. At the basis of this evolutionary process lies the re-perception of information as a matrix. Texts will be seen as more valuable as they interconnect, trigger generative processes, perform as codes for e-tools, and become active agents for hybrid constructed informational clusters.

In an idealized e-world, texts would always be available to be analyzed, transformed, translated, utilized, transduced, reformatted, or aggregated. Such re-conceptualization will prompt us to design tools and processes to re-inform texts, images, art, culture, society, and science in unimaginable ways. Seeing information as a matrix of potential interrelations - not as an isolated, proprietary entity encircled and immobilized by restricting property treaties, regulations, and obligations - will promote collective human evolution.

The acceptance, understanding, and support for the concept of the text-as-matrix will propel our tools, writing practices, and cultures to a differentiated mind frame. We must readapt, de-script, and re-script our institutions, certitudes, and habits so that individual knowledge becomes collective and available to individuals and societies, not only to private companies.

In this envisioned writing environment, intelligent agents would not only interact with textual propositions returning complete statements, but also perform and provide for many textual operations designed to empower individuals and collectivities.

Texts could be automatically interlinked, aggregated, and mutually enriched so that new multi-authored content is generated and communities formed along interests, styles, abilities, or customs. A political movement could be instituted to demand that the planetary collective digital memory becomes a more democratic tool. Sites would facilitate encounters, interactions, and collaborations. They could, for instance, tell users about other users' identities, locations, and interests. The technology could then be a tool for community formation and intellectual collaboration.

Although the necessary technology is already available, it has yet to be widely used. Technological design should be more democratic, shifting worldwide power structures to a more multilateral orientation and empowering people through their interconnections. However, the unstated objective of power hierarchies is undoubtedly to ensure that horizontal communication does not become one of the Web's main features, as hundreds of planetwide communities would wish.

5. E-written authorship as a planetwide socio-machinic process

E-writing reformulates individual authorship into a multi-dividual, socio-machinic, planetwide process. Once e-writing becomes widespread and acknowledged in theory and practice, collective web-based writing, machine-assisted and machine-generated authorship will be increasingly investigated as human-developmental tools.

Writing will no longer be a solitary endeavor. Traditional writing methods, in which an individual's mind conceives sequences of words and phrases, will be blatantly obsolete. Our culture will understand writing and, by extension, thinking, science, design, expression, artmaking, architecture, economics, and philosophy as emerging from dialogical processes between human actors and increasingly intelligent computer applications allied to enormous data banks.

New writing practices involving group integration, specialized role-playing, machine agency, and different levels of creative involvement will instantiate emerging theories of authorship. Thus, the reality and potential of human interaction with machine-mediated practices and collective memories should be considered whenever authorship philosophies are conceived and designed. In a foreseeable scenario, writing would proceed through netbred language interactions so that every word sequence or newly conceived phrase would immediately reverberate through databases, causing responses and forming aggregates, actualizing an infinitude of texts which were virtually present but still in a potential state, as if hidden inside digital mechanisms.

Newly released writing software introduces features that make writing an easy and automatic task. In the process, writing can become an automated, depersonalized activity implying textual standardization and normalization. However, if e-communities are formed and empowered, they could use improved yet-to-be-invented writing tools to their own needs. Language systems with semi-automated writing capabilities can also favor a socially-oriented purpose, enabling re-information, connectivity, aggregation, co-invention, and e-communion.

Now that some e-writing technologies are becoming widespread, we will be gradually better positioned to discern newer venues for individual and collective expression and evolution.

6. Netbred writing processes challenging Intellectual Property theories and statutes

As we let our imagination delve into these future forms of e-thinking, we conclude that instituted theories, enforced by legal systems, act as insurmountable obstacles to the advancement of creativity, authorship, and invention. The problem is that legal traditions and legislation, ingrained in almost unchangeable statutes, restrain emerging collaborative authorship models and practices.

However, if the vision of writing as a socio-machinic planetwide process prevails, current intellectual property values and legal theories will need to be readapted. They should not remain obstacles to writing, authoring, and thinking.

The use of e-writing for societal evolution will result in the confrontation of juridical obstacles in their ideology, assumption of large-scale control, and imposed authority. They would be proven obsolete tenets of an old mentality and have to be definitively rethought and

eventually erased. They will be critically contended and obliged to readapt so that newer forms of authorship involving inter-human and human-machine integration could emerge.

7. Information as an interconnectable entity

As planetary net integration evolves, e-writing processes will use digital data repositories so much that invention will typically be thought of as, and realized through, reinvention or co-invention. E-writing will then naturally challenge the present theoretical basis of intellectual property and authors' rights since it must use proprietary material thoroughly and on a large scale. We are currently on the brink of a new conception of information that will demand a reconsideration of the underlying philosophies of creative acts, technologies, and related rights. Each new writing, invention, design, or proposition is now being sensed, perceived, and reconceived through its web presence as a potential element in a more extensive textual construction.

Information should then be considered as re-information, as data-in-flux. New parameters, such as availability, interconnectivity, formatability, translatability, and disseminability, will be increasingly utilized to evaluate, assess and disseminate informational entities. Consequently, hardware, software, communication protocols, and file formats will be redesigned to augment, improve and facilitate interconnectivity, aggregation, knowledge formation, and co-evolution.

Texts as informational entities will have to be fully interconnectable and legally free to interact so that new statements and propositions can be conceived or automatically constructed. Then, the full potential of presently available or yet-to-be-created communication technologies could be achieved.

Conclusion

A new form of inequality could gain force in the coming years unless we can design and promote an equitable informational system, providing extensive access to information, knowledge, hardware, and software.

Large companies building intelligent computer systems able to access massive databanks and synthesize human-like textual statements will gain an undue advantage over the information-poor of the planet. Those companies will argue for exclusive rights to software and databanks, enabling them exclusive rights to an emerging knowledge construction system. They will form a monopoly, owning and controlling not only collective informational systems but also the intelligent machines that can capture this knowledge and recreate it into new formulations and formats. Those private companies and their intelligent machines will be in a far more favorable vantage point regarding the technoless populations who need more time, investment, and capital to use those emerging intelligent systems.

The technoless, the majority of the world's population, are forced to be in poverty, kept without education, knowledge, or foreseeable evolution. They will need the recourses and the cognition to enable them to take advantage of knowledge machines.

Those digital, artificial, intelligent systems can create textual statements far more rapidly than human beings and will certainly substitute human agents in the immediate future. Those systems access the collective informational memory, accumulated over centuries by hundreds of cultures and civilizations across the globe, to perform as knowledge synthors, e-authors, and e-scientists. Notwithstanding, this giant repository must be considered as the common property of humanity, protected to be totally or partially appropriated by private companies.

Therefore, to avoid a new form of slavery based on information scarcity, in knowledge disparity, it becomes necessary to proclaim that all knowledge belongs to humanity as a

universal entity and not to those who can collect, classify, order, and artificially synthesize it. More than ever, we need to demand complete access to information, still controlled by strict intellectual property legislations, but also to computational systems forming software, applications, and their derivatives.

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Behavioral Insights fostering ‘Pay for Sustainability’ Remuneration Schemes

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ABSTRACT: In the aftermath of the 2008/09 World Financial Recession as well as after the COVID-19 external economic shock fallout, the stakeholder interest in integrating social considerations in corporate and finance market endeavors has risen steadily. The looming climate change crisis has exacerbated the call for sustainability in economics, finance and professional governance and leadership. In the USA and Europe, Green New Deals are governmental projects to imbue sustainability practices in corporate and financial sector activities. In the area of capital market supervision in the USA, the Securities and Exchange Commission (SEC) has proposed mandatory disclosures regarding climate change risks in the wake of attention to Environmental, Social and Governance (ESG). In Europe, the European Sustainable Finance Taxonomy classifies industry’s CO₂ emission levels in order to use transparency to curb environmentally-harmful activities for the sake of sustainability. Financial Social Responsibility continues to grow in qualitative and quantitative terms, foremost in Socially Responsible Investment (SRI). The corporate sector has responded to all these sustainability trends with the concept of ‘Pay for Sustainability’ as an executive compensation form that either lowers variable pay if sustainability is not implemented or provides executive bonuses for pro-active sustainability integration into corporate activities. This paper addresses contributions of behavioral economics for improving the acceptance and efficiency of ‘Pay for Sustainability’ remuneration schemes in three features: (1) Socio-psychological aspects of remuneration that heighten social status and social belonging imbuing meaning and purpose to work; (2) Temporal bundling strategies that help decision makers envision now and the future at the same time, which helps aligning short-term with long-term goals of corporations; (3) Prospect Theory’s insights that losses emotionally loom larger than gains, which provides valuable communication nudges for outlining the intangible emotional value of sustainability care. Overall, this article discusses the current state of ‘Pay for Sustainability’ remuneration and highlights positive affirmation and communication nudges to work with social status-enhancing behavioral communication features that boost the positive acceptance of and reaction to ‘Pay for Sustainability.’

KEYWORDS: Corporate Social Responsibility, Behavioral Economics, Behavioral Insights, Board decision making, Economics, Environmental financialization, European Green Deal, Executive compensation, Finance, Green New Deal, Human Resources Management, Leadership, Management, Organizational Behavior, Pay for Sustainability, Sustainable finance

Introduction

The 2008/09 World Financial Recession and the COVID-19 economic fallout but also the growing impact of climate change heralded attention for sustainability in the corporate world (Würstle & Hostettler 2020). In Western world economies, stakeholder pressure and legislative Environmental, Social and Governance (ESG) disclosure requirements drove a rising trend of Corporate Social Responsibility and Socially Responsible Investment. In response to governance, governmental and stakeholder demands to address sustainability in corporate and finance performance, ‘Pay for Sustainability’ remuneration schemes have evolved in most recent years (Hostettler, Lambin & Würstle 2018). ‘Pay for Sustainability’ remunerates the integration of ESG factors in corporate goals and endeavors into executive compensation (Hostettler et al. 2018). ‘Pay for Sustainability’ correlates to a large extent with the considerations given to sustainability performance of the corporate leadership (Hostettler et al. 2018).

International stakeholder pressure to address ESG topics in the corporate and finance sectors drives demand for corporate leadership to implement ESG awareness in daily

operations. Integrating ESG attention and performance into executive compensation therefore serves as powerful catalyst to align the corporate goals with a corporation's stakeholder environment implying long-term success for corporations and sustainability for humanity. While a growing number of corporations implement ESG performance criteria as a compensation factor, a structured discourse with best practice models on how to promote and support 'Pay for Sustainability' is yet missing.

This article addresses behavioral insights that may aid the acceptance, implementation and compliance with ESG criteria pegged to compensation plans in 'Pay for Sustainability' schemes. Besides being a monetary bonus for ESG conscientiousness in practice, which may be limited to a certain threshold amount to increase with salary rises, 'Pay for Sustainability' addresses socio-psychological motives beyond pure financial gain. Apart from economic profitability calculus, leaders are found to be influenced by socio-psychological motives in acquiring financial compensation bonuses (Hostettler et al. 2018; Puaschunder 2010, 2017). Social status in comparison to colleagues but also 'warm glow' sentiments raising meaningfulness of one's work play a crucial role in the executives' utility derived from financial compensation (Hostettler et al. 2018). Addressing socio-psychological motives in the promotion and implementation of 'Pay for Sustainability' may therefore aid in imbuing intangible assets into compensation plans.

In addition, bundling two time perspectives in the communication of ESG goals for remuneration schemes may help to nudge executives into more rational choices. Time focus bundling in evaluating short-term and long-term goals together has been proven as a powerful tool to nudge policy makers into sustainable choices (Puaschunder & Schwarz 2012). Pegging the current corporate plan to future-oriented visions in 'Pay for Sustainability' advocacy may therefore implicitly elicit rationality and intergenerationally-conscientiousness of the corporate executive board.

This article also introduces a behavioral economics motivating factor for 'Pay for Sustainability' schemes in addressing loss aversion in sustainability communication pegged to corporate action plans. Since the 1970s, behavioral economics has revolutionized standard neoclassical concepts. In laboratory experiments, Daniel Kahneman and Amos Tversky (1979) captured that human beings emotionally care more about losses than gains. The same amount of money either gained or lost was experienced more painfully when being lost than the joy felt when being gained. As losses loom larger than gains, the concept of 'Pay for Sustainability' could now in particular address concrete examples of potential irreversible losses to the environment and lock-ins that narrow the range of future opportunities as well as draw attention to climate risks in tipping points in order to load 'Pay for Sustainability' emotionally and move leadership via loss aversion to aspire the 'Pay for Sustainability' bonus. Leadership could be enhanced to 'feel' losses in order to emotionally fortify bonus payouts with non-monetary gratification of the larger community and lasting appreciation for work including future generations. Especially in leadership executive compensation, non-monetary additions to positive reinforcement and feedback communication imply a powerful multiplying force of change for the better.

Overall, this article discusses the current state of 'Pay for Sustainability' remuneration in order to highlight behavioral insights for positive affirmation and communication nudging strategies to improve executive compensation and work motivation schemes that can positively impact society.

The rise of Corporate and Financial Social Responsibility

Responsibility is part of human nature and complements corporate activities and financial considerations (Puaschunder 2010). The economic, legal, social and philanthropic responsibilities within the corporate sector are addressed in Corporate Social Responsibility (CSR), which

comprises the economic, legal, ethical and philanthropic responsibilities of corporations toward society. Financial social responsibility is based on considerations of CSR in investment behavior. CSR is the basis for Socially Responsible Investment (SRI) in screenings, shareholder advocacy, community investing and social venture capital funding. SRI is enacted in rational profit maximization considerations of positive-screened market ventures that feature the selection of corporations with sound social and environmental records and socially responsible corporate governance. Positive shareholder activism implies advocating for socially responsible corporate conduct in shareholder meetings. Negative shareholder activism exerts activist influence and ranges from political lobbying, consumer boycotts and confrontations geared by negative publicity to pressure corporations into socially responsible corporate conduct. Active endowments emerged from academics establishing procedures for integrating social responsibility in university endowments. Community investing involves investor set-asides and earmarks of investment funds for community development, but also features access to traditional financial products and services ranging from credits, equity and banking products to low-income and at-risk communities. Social venture capital funding finances socially responsible start-ups and social entrepreneurs to foster the positive social impact of capital markets. As a special case of SRI, political divestiture refers to the investment withdrawal from socially irresponsible market regimes with the greater goal of accomplishing socio-psychological changes.

Through the last decades, financial social conscientiousness grew qualitatively and quantitatively. Globalization, political changes and societal trends after the 2008/2009 World Financial Recession, but also the current state of the post-COVID-19 pandemic world economy, have leveraged a societal demand for ingraining responsibility into markets. As of today, SRI has been adopted by a growing proportion of investors around the world. The incorporation of social, environmental and global governance factors into investment options has increasingly become an element of fiduciary duty, particularly for investors with long-term horizons that oversee international portfolios.

A new resilient finance order in the aftermath of the COVID-19 pandemic portrays corporate conduct and monetary means to alleviate inequality and pursue sustainable development in Corporate Social Justice and environmental ethicality financing. As of today, corporate and financial endeavors to integrate the triple bottom line of Environmental, Social and Governance (ESG) concern into business are driven by a broad range of stakeholders from the public and private sectors. In the international arena, the United Nations (UN) plays a pivotal role in institutionally promoting ESG corporate and financial integration in the pursuit of the Sustainable Development Goals.

In the early beginnings of ESG awareness in the corporate sector, the United Nations Global Compact and the UN Environment Programme (UNEP) Finance Initiative launched the Principles for Responsible Investment (PRI) in April 2006 at the New York Stock Exchange (NYSE) to ingrain social responsibility in investment decision making of asset owners and financial managers. In February 2008 the UN Conference on Trade and Development (UNCTAD) incepted the 'Responsible Investment in Emerging Markets' initiative at the Geneva PRI office. The United Nations Environment Programme Finance Initiative (UNEP FI), the Equator Principles, The Green Bond Principles and corporate reporting standards led initiatives such as Global Reporting Initiative (GRI) and Integrating Reporting (IR). The UN PRI office launched the first industry guideline report on '*Integrating ESG Issues into Executive Pay: An Investor Initiative in Partnership with UNEP Finance Initiative and UN Global Compact*' in 2012 (United Nations Principles for Responsible Investment Office 2012). In the wake of the 2015 inception of the UN Sustainable Development Goals (UN SDGs), the UN targeted at finding finance to embrace environmental, social and governance issues in the light of fiduciary duty. The United States Stock Exchange Commission seeks to further support the PRI and to consider innovative ways how to imbue a greening of the economy in financial

markets. Sustainable development impact reporting highlights sustainable development criteria, such as environment and social standards.

Global governance institutions play a crucial part in implementing ESG goals in the corporate world. Comprised of all nations of the world, global governance entities have the capacity to instigate the idea of a 'Global Green New Deal,' which could globalize ideas to address environmental risks in corporate and financial endeavors.

Most recent governmental support of sustainability financing include the Green New Deals in the United States and Europe. Governance support backs the integration of ESG in corporate endeavor ever since. Inspired by the economic success story of the New Deal reform of the United States to recover from the Great Depression of the 1920s, the so-called Green New Deal (GND) is a large-scale governmental attempt in the US to secure a sustainable economic solution in harmony with the earth's resources (Braga, Fischermann & Semmler 2020). The GND targets at strengthening the United States economy and fostering inclusive growth. One core GND strategy is to share the economic growth benefits more equally within society. The GND advocates for using a transition to renewable energy and sustainable growth in order to stimulate economic growth (116th Congress of the United States, House Resolution 109, Introduced Feb 7, 2019). In times of rising inequality, the GND has also become a vehicle to determine the COVID-19 economic bailout and recover aid targets. The GND thereby combines Roosevelt's economic approach with modern ideas of economic stimulus incentivizing industries for a transition to renewable energy and resource efficiency as well as healthcare equality and social justice pledges (Puaschunder 2020b, 2021).

In the European Union, the European Green Deal marries the idea of finance with sustainability. In response to the crisis of responsibility in markets and the widening inequality gaps, the European Bank Recovery and Resolution Directive (BRRD) coordinates resilient finance endeavors in Europe (LaBrosse, Olivares-Caminal & Singh 2014). Already the 2008/09 World Financial Recession revealed the substantial reform need for member-state bank deposit guarantee schemes and measures to resolve banks in financial distress within the European Union compound (LaBrosse, Olivares-Caminal & Singh 2014). In the wake of the COVID-19 pandemic, the European banking sector experienced substantial government intervention and support that led to the recapitalization of several systemically important European banks (LaBrosse, Olivares-Caminal & Singh 2014). Besides capital aid, the rescue and recovery funds also targeted at the reform of bank capital standards that should help ensure resilience in the financial world. Rescue and recovery aid recipients also had to agree to various austerity measures, such as the increase of national value added tax, social spending cuts, increase of retirement age and the reduction of the workforce in the public sector (Lengfeld & Kley 2021). The European Sustainable Finance taxonomy quantifies the carbon emission impact of various industries in order to make economic impacts on environmental conditions more transparent and accountable. The Next Generation EU and the European Green Deal are current notable developments at the forefront of green finance. The European Finance Taxonomy offers a system to classify which parts of the economy can be considered as sustainable investments.

The urgent need for corporate and financial responsibility towards environmental protection becomes most blatant in climate change alleviation strategies. A group of central banks and supervisors launched the Networking for Greening the Financial System (NGFS) in 2017 to contribute to the analysis and management of climate and environment-related risks in the financial sector and mobilize mainstream finance to support a transition to a sustainable economy. In response to a growing awareness of the economic impacts of global warming and cognizant of the regulatory and supervisory gap in green finance, a growing number of central banks and regulators around the world are addressing climate change and environmental risks faced by the banking and financial sector.

Central banks and financial regulators now also play a pivotal role in mainstreaming green finance and making sure climate-related risks are properly measured, verified and reported. Green banking is becoming popular in the pursuit of reducing greenhouse gas emissions reduction pledges to increase the resilience of society to negative climate change impacts while considering sustainable development goals in inclusive growth and equal opportunities. Notable is the Prudential Regulation Authority (PRA) within the Bank of England that addresses the widespread economic impact of climate change on society.

The corporate sector now also involves attention to ESG in disclosure mandates. In the US, the Securities and Exchange Commission (SEC) has issued a disclosure mandate concerning the impact of publicly-listed corporations on climate change in CO₂ emission (SEC Press Release, May 25, 2022). Transparency on ESG targets at standardized information for investors about the corporate and industry impact on the environment (SEC Press Release, May 25, 2022).

In Europe, the regulation to implement sustainability often features a ‘comply-or-explain’ model, in which corporations are incentivized to implement ESG goals – but if not successful (e.g., in terms of diversity representations) can explain their reasons for not complying in order to avoid direct governmental consequences. Though not seen as uncontroversial, the regulatory mandates to draw attention to ESG performance in the corporate world have steered interest in integrating sustainability considerations as performance measurement within firms. In order to overcome problems of “greenwashing” and low credibility of corporate sector activities geared towards sustainability and to incentivize the leadership for ESG performance in corporations, ‘Pay for Sustainability’ schemes were introduced in executive payment models (Würstle & Leder 2022).

‘Pay for Sustainability’ compensation schemes

The concept of ‘Pay for Sustainability’ addresses rising stakeholder and corporate concern for the integration of ESG measures as performance standard of corporations and the finance sector. ESG criteria integration into corporate management and business practices can materialize in many different forms: For instance, such as customer relations, human rights and social value development, community engagement, diversity management and employee satisfaction in health and safety protocols but also environmental sustainability indicators, for instance in environmental responsibility, and environmental criteria such as the reduction of greenhouse gas emissions but also green product development (Hostettler et al. 2018). The goals targeted with ESG implementation strategies have to be aligned with the corporate culture and mission of the industry as well as the overall stakeholder landscape (Hostettler et al. 2018). The measurement of fulfillment usually draws from Corporate Social Responsibility (CSR) and Socially Responsible Investment (SRI) practices but also Sustainability indices (Puaschunder 2010; forthcoming).

Internally, corporations that implement ‘Pay for Sustainability’ face a trade-off between raising accountability and awareness of ESG topics inside the organization due to stakeholder pressure outside the organization versus substantial administrative costs and implementation complexity (Cunningham 2022; Hostettler et al. 2018; Würstle & Vargas 2023). Principles of responsibility implemented in the corporate world demand for links of sustainability at all employee levels. Trickling down effects are highest when sustainability is directly elicited on the corporate leadership level. Leadership compensation mechanisms offer bonus payments to be pegged to ESG causes.

Concrete ‘Pay for Sustainability’ executive compensation models typically address the senior leadership team, which accounts for 2-3 percent of the employee level. The leading management enjoys the highest flexibility in major aspirational goal setting that influences the corporate culture and serves as primary implementation guidance anchor. Executives have thereby the largest influence on overall strategy and attention given to ESG, which trickles

down in the operational corporate structure (Hostettler et al. 2018). ‘Pay for Sustainability’ executive compensation schemes therefore are an efficient and powerful strategy to implement ESG on the corporate level. Driving a corporate culture with ESG awareness through executive compensation has thus become a most vibrant mechanism for sustainable development and catalyst for positive societal change (Friede, Busch & Bassen 2015; Hostettler et al. 2018; Orlitzky, Schmidt & Rynes 2003).

Hostettler et al. (2018) classify two non-exclusive ESG criteria implementation strategies for executive compensation: For one, a downward adjustment of variable pay can occur if boundary conditions of a successful reduction of carbon emissions or customer satisfaction is not fulfilled (Hostettler et al. 2018). For another, a reward approach would increase compensation with bonuses if ESG performance is pro-actively enhanced as value creation (Hostettler et al. 2018). Both strategies can be combined and results be derived from a scorecard addition and subtraction approach.

In 2021 it was estimated that out of 500 international companies, 71% use some form of ESG measure for setting short-term goals, which was a rise from 66% in 2020 (Würstle & Leder 2022). In total 52% of Switzerland’s top banks and insurers have by now a link of ESG initiative to variable pay (May & Würstle 2023). Corporate size appears to be a moderating factor – with the larger corporations being more prone to implement ‘Pay for Sustainability’ schemes (Hostettler et al. 2018).

Despite the rising prominence of ‘Pay for Sustainability’ and significant momentum noticed in the industry, practical advice on how to link ESG goals with corporate leadership and management is still lacking clear industry directives and best practice models (Hostettler et al. 2018). So far, market practices appear to be diverging, with large companies being at the forefront of ESG attention. Industry-specific variation points at the oil and gas industry, utilities and basic raw materials being leaders-in-the-field for ESG implementation via ‘Pay for Sustainability’ practice (Hostettler et al. 2018).

As for the relative novelty of the approach to integrate sustainability into the corporate culture and practice, no clear best practices have been established (Hostettler et al. 2018). In addition, a trend is noticed that companies are increasingly integrating ESG topics only in the short-term incentive plans neglecting long-term sustainability goals (Würstle & Leder 2022). While the concept of ESG points towards long-term sustainability aspirational goals, the actual implementation on corporate level needs to be tied back to clear short-term incentive mechanisms and broken down to be attached to the actual constant payment schedules. It appears that ESG ‘Pay for Sustainability’ is largely focused on short-term plans in 77% of studied cases in Europe and 97% of studied cases the United States (Hostettler et al. 2018). Developing best practices on how to break down long-term aspirational goals to reachable yearly targets has become essential – especially in light of too long-term aspirational goals’ nature to crowd out motivation to start working on them (Leibovitch & Stremitzer 2022).

Behavioral Economics

Since the end of the 1970s, a wide range of psychological, economic, and sociological laboratory and field experiments proved human beings deviating from rational choices (Puaschunder 2022). Standard neoclassical profit maximization axioms were outlined to fail to explain how humans actually behave (Puaschunder 2022). Human beings were rather found to use heuristics in day-to-day decision-making (Puaschunder 2022). These mental shortcuts enable us to cope with information overload in a complex world (Puaschunder 2022).

In the subsequent decades, human decision-making failures were studied in Europe and North America with the goal to present a wide range of nudges and winks to curb harmful consequences of humane decision-making fallibility. Behavioral economists established themselves as decision making leaders in their use of behavioral insights derived from how

human beings actually decide in order to create powerful nudge and wink to improve human decision making and choices.

This article presents three behavioral strategies to enhance ‘Pay for Sustainability’ remuneration schemes: (1) Counter the neoclassical assumption of pure monetary rationality dominance in management theory, socio-psychological motives were found to play a crucial role in the satisfaction derived from work and remuneration. (2) Bundling two time perspectives together in decision making in curated choice architectures was found to elicit rationality and improve sustainable choices. (3) One of the starkest behavioral effects is loss aversion in human’s relatively heightened emotional discomfort with losses in comparison to the rather blasé experience towards gains.

The following part will apply these three concepts of socio-psychological motives in workplace satisfaction and remuneration gratification; bundled joint decision making to elicit rationality as well as loss aversion in the domain of ‘Pay for Sustainability’ executive compensation schemes. Overall, behavioral insights about decision making preferences and behavioral choice architectures are thereby portrayed to create powerful incentivizing nudges in economic markets as well as clear directives for insightful communication strategies to enhance sustainability performance in the corporate world.

Socio-psychological motives of remuneration schemes

Already in the Corporate and Financial Social Responsibility literature, socio-psychological motives for socially conscientious market operations and investments were mentioned (Puaschunder 2017). Socially Responsible Investment (SRI) integrates corporate social responsibility in investment choices. In the aftermath of the 2008/09 World Financial Crisis, SRI grew. Socially conscientious asset allocation styles add to expected yield and volatility of securities social, environmental and institutional considerations. In screenings, shareholder advocacy, community investing, social venture capital funding and political divestiture, socially conscientious investors hone their interest to align financial profit maximization strategies with social concerns (Puaschunder 2017). Apart from economic profitability calculus and strategic leadership advantages, socio-psychological motives that underlie SRI are warm glow elements, such as altruism and social status enhancement prospects in transparent pro-social choices that may steer investors’ social conscientiousness (Puaschunder 2017). Self-enhancement and social expression of future-oriented SRI options that may implicitly communicate innovation and entrepreneurial zest are drivers of ESG as well.

Socio-psychological motives of finance are also found in the behavioral finance literature that addresses that importance of social networks for financial decision making and choices. Social networks and social comparisons do play a role when it comes to remuneration. The social circles as captured in church communities, university choices and investors’ children’s schools were shown to be social networks that financial executives are prone to derive inspiration for financial management from (Hong, Kubik & Stein 2004; Hong & Xu 2019; Puaschunder 2022). In payment schemes, relative differences to colleagues’ performance are valued more importantly than the absolute payment (Hostettler, Würstle & Tilvesv 2023).

When it comes to concrete remuneration schemes and executive compensation, organizational psychology finds a monotonous function of increase in happiness by salary increase around 75,000 USD or 70,000 Euro. Beyond that threshold, corporate executives appear not to respond to additional remuneration with more happiness (Argyle 1999; Diener & Biswas-Diener 2002; Diener, Sandvik, Seidlitz & Diener 1993; Gardner & Oswald 2007; Kahneman & Deaton 2010; Stevenson & Wolfers 2008, 2013). Follow-up studies specified happiness to stagnate at 95,000 USD for overall life evaluation and 60,000 USD to 75,000 USD for emotional well-being (Jebb, Tay, Diener & Oishi 2018). If remuneration beyond 75,000 USD is detached from increases of happiness, then additional value in executive compensation may need to be pegged to socio-psychological variables that can create happiness, such as in

the case of SRI. Altruism, warm glow and sustainability may become valuable emotional capital to load bonuses with that grant social capital and reputational benefits beyond pure absolute monetary value. ESG communication can bestow credibility and reputational capital to the wider stakeholder community (May & Würstle 2023).

Clear communication strategies and transparency before colleagues and stakeholders may be more important motivational drivers than the actual monetary gain. Shame from losing in variable payments for non-compliance or customer dissatisfaction may be additional pro-social drivers as social status losses have been associated with pro-social behavior in the environmental domain (Puaschunder 2017). In compensation direct comparisons to previous performance and the performance of other members of the corporation but also the social networks of individuals have been found to be of highest relevance for happiness (Hostettler 2018; Hostettler, Würstle & Tilvesv 2023; Kirchler 2011). If the direct comparison is key, then transparency of the paid out ESG 'Pay for Sustainability' bonuses but also losses of variable pay options due to non-compliance and consumer complaints promise to be a compelling driver for sustainability.

Aligning short-term with long-term goals through bundling strategies

In the measurement of 'Pay for Sustainability' remuneration schemes, the integration of sustainability in long-term incentive plans was recently found to be still less common, ranging around only 16% of studied corporations (Würstle & Leder 2022). Breaking down key ESG aspirational goals into concrete yearly targets for different sections of the corporation is challenging yet important as this enhances the credibility, meaningfulness and determination in the ESG endeavor (Leibovitch & Stremitzer 2022; May & Würstle 2023).

A behavioral insight that was used to elicit sustainability conscientiousness and align short-term goals with long-term endeavors is the bundling strategy of two time perspectives (Puaschunder & Schwarz 2012). In international surveys, Puaschunder & Schwarz (2012) presented respondents with public policy choices and asked to allocate tax units to different policies based on importance. The mere display of the same policies varied. Presenting two time shots of now and the future at once in a bundled way elicited more rational and intergenerationally-harmonious choices. When subjects saw a long-term endeavor pegged to a short-term goal, their choices became more sustainable (Puaschunder & Schwarz 2012). When individuals judge alternative choices, presenting the viewpoints of two generations concurrently balanced intergenerational contributions (Puaschunder & Schwarz 2012). The joint decision-making advantage has been proven in the Western world, in an international sample as well as in mainland China in paper-and-pen survey studies as well as online surveys (Puaschunder & Schwarz 2012). Finding this sustainability nudge in an international context leverages bundling and the joint decision-making advantage into an easily-implementable and powerful way to promote 'Pay for Sustainability' via strategic and easily-implementable time prospect display.

The power of the bundling display could be used in the communication of 'Pay for Sustainability' strategies. Joint decision making is a powerful means to overcome short-termism and hyperbolic discounting biases in corporate decision making and executive leadership that trickles down in the corporation. When corporate leadership and executives are introduced to the concept of 'Pay for Sustainability,' but also when they are trained and evaluated on the outcome of their work, two time perspectives could be put together in order to elicit a connection between the short-term goals and the long-term horizon of the corporation. Valuating two time perspectives in their remuneration scheme can implicitly make leaders more sustainable in their thinking and actions. By the mere display of two different times of their work outcomes together, sustainable choices that benefit future generations can be elicited. Presenting the viewpoints of two generations with outcomes now or later concurrently therefore is an easily-implementable, cost-efficient nudge to work towards sustainability and align short-

term corporate goals with long-term sustainability pledges in harmony with the environment. The corporate board is also advised to consider a multi-faceted decision schema and age-differentiated consortia that may help implement intergenerational equity.

Loss aversion

Prospect Theory accounts for one of the hallmarks of Behavioral Sciences. Already in the 1970s, behavioral economists Daniel Kahneman and Amos Tversky (1979) found that human beings emotionally care more about monetary losses than gains. The same amount of money either gained or lost was experienced more emotionally when being lost than when being gained (Kahneman & Tversky 1979). As losses loom larger than gains, the concept of 'Pay for Sustainability' could stress potential losses to the environment and climate stability from CO₂ emissions in order to move executives and 'feel' the gains from 'Pay for Sustainability' more valuably than remuneration without any particular emotional attachment to the act of getting paid for work. Introducing and communicating 'Pay for Sustainability' schemes in corporations could also be directly related to the substantial risk imbued in the societal losses implied by environmental degradation, irreversible tipping points and terminal lock-ins (Puaschunder 2020a). Raising awareness of the long-term losses of climate change can elicit powerful loss aversion sentiments that can change decisions and drive motivation for sustainability.

Potentially also relating unsustainable behavior or ignorance to sustainability to social status losses, may in addition drive support for 'Pay for Sustainability.' A 2012 behavioral economics field experiment at Harvard University observed that environmentally-conscientious actions can be nudged by social forces (Puaschunder 2017). Puaschunder (2017) evaluated recycling habits in Harvard dormitories and energy conscientiousness in Harvard libraries. Field experiments thereby showed that when social status emblems are pegged to sustainability conscientiousness (in the form of recycling and light saving instructions), the removal of social status pegged to sustainability compliance drives pro-social environmentalism (Puaschunder 2017). The removal of social status in light of non-compliance with sustainability endeavors can therefore become a powerful nudge to drive pro-social choices. Especially in variable remuneration schemes that are transparent to other members of an organization, the transparent pay-cut threat if sustainability goals are not met or consumers are not satisfied by the environmental performance of the corporation can potentially steer leaders' action towards sustainability. All these easily-implementable cost-effective nudges provide an additional communication tool that may use social dynamics to change corporate practices in a cost-effective way.

Overall, in the direct communication of losses lies the key to genuine embracement of sustainability driven by stark feelings. In the mindfulness to also draw attention to losses in the aspiration of financial gains of bonuses, pegging loss aversion to 'Pay for Sustainability' remuneration can improve leaders' action towards pro-social, long-term endeavors.

Discussion

Overall, sustainability market pursuit creates lasting societal value for this generation and the following. The contemporary leadership incentivization of sustainability endeavors through attentive payment schemes promises to trickle down into the corporate culture and all employee levels (Würstle & Vargas 2023). Future research could add sustainability incentivization on all levels of the corporate hierarchy to substantiate further sustainability potentials on all accounts.

The concrete implementation should become subject to scrutiny in order to identify best practices, management directives as well as communication and evaluation guidelines. As one of the critiques of contemporary sustainability implementation in the market is added complexity, a lean management approach and case-study-based best practices should become areas of future research (Würstle & Leder 2022). Industry-specificities and stakeholder

perspectives could also be investigated in order to find the right tools for making sustainability work in the corporate and finance world. A harmonization and standardization of ESG approaches over different industries as well as between countries could be derived from comparative analysis of sustainability practices in the corporate world. All these approaches should be pursued in a qualitative and quantitative studies of the status quo of sustainability in the corporate and financial sectors with a whole-rounded diversified stakeholder perspectives view.

Future research avenues for the concept of ‘Pay for Sustainability’ leadership may tap into the wealth of knowledge created by behavioral economists how to decide when to make quick decisions or when to ruminate about choices more sophisticatedly (Kahneman 2011; Puaschunder 2022). Directly aligning leadership skills with sustainability vision could become a vibrant field of leadership and management trainings that set out clear goals and decision-making strategies how to plan under heightened uncertainty.

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Family Business in Times of Crisis: A Call for Interdisciplinarity for Future Research

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ABSTRACT: Family business is a dynamic field that is now attracting growing interest among researchers, theorists, investors, policymakers, practitioners, and many others. Recent research has shown that family businesses perform very well. Whether measured by their results, shareholder value creation or their ability to create jobs. Family businesses outperform their non-family counterparts. The turbulence caused by global hyper-competition has also brought home the fact that speed, sustainability, flexibility, product and service quality, branding, customer relationships, employee focus, patient capital, and the integration of smart new technologies are real sources of competitive advantage. These advantages are often pursued through idiosyncratic business strategies deployed by family-owned and family-controlled businesses. While family businesses face significant challenges, they also often possess unique advantages born of a unique and dynamic interaction between the family and the business.

KEYWORDS: family business, innovation, culture, governance

1. Introduction

Family businesses are extremely important to the well-being of the world's free economies. Between 80 and 95 percent of businesses in the United States and Latin America and more than 80 percent of businesses in Europe and Asia are still owned and controlled by families. These same businesses, large and small, young and old, account for more than 50 percent of the gross domestic product of the world's most advanced economies and employ a majority of the population.

Quality research in the established periodical literature is sure to generate more knowledge about the unique challenges and benefits of family businesses in the face of new challenges in the digital transition, with the prospect of useful implications for practice. The fact that family business is becoming the focus of research in management, economics, law, behavioral sciences, engineering, and other disciplines also bodes well for the possibility of positively influencing the currently dismal survival statistics.

Most family businesses (about 67%) do not survive beyond the founding generation under the control of the same owning family, and only about 12% make it to the third generation. Therefore, in this paper, we will try to identify a number of characteristics of family businesses for future research.

2. What about the family business?

Because of the diversity of business profiles, the definition has proven to be more difficult to pin down. In a comprehensive study of family businesses, Chrisman, Chua, and Sharma found 21 different definitions of family business in their review of 250 research articles (Chrisman 1996).

Family businesses come in many forms: sole proprietorships, partnerships, limited liability companies, S corporations, C corporations, holding companies, and even publicly traded, albeit family-controlled, companies. As a result, estimates of the number of family businesses operating in the U.S. economy range from 17 million to 22 million. Globally, estimates of all businesses considered family-owned range from 80% to 98%.

In a large-scale study of the role of family contractual relationships in the Spanish newspaper industry, a firm was considered a family firm if the last name of the CEO and/or

editor-in-chief was the same as that of the owners (Gomez-Mejía 2001). Another empirical study considers family firms to be theoretically distinct from other closely held firms due to the influence of altruism on agency relationships (shareholder-management relationships). The authors of this study went on to say that family firms are distinguished both by the active involvement of the family in the management of the firm and by the intention of family members to retain ownership of the firm. They ultimately defined a family business as one in which two or more family members own 15% or more of the stock, family members are employed in the business, and the family intends to retain control of the business in the future (Schulze 2001). Another article attributes the uniqueness of a family business to the very different influence the family has on ownership, governance, and management participation through strategic direction, direct family involvement in day-to-day operations, and/or maintaining voting control (Astrachan 2002)

Taking into account this comprehensive body of research and analysis, this third edition of Family Business considers family businesses to be the set of firms in which a next-generation entrepreneur or CEO and one or more family members exert significant influence on the firm. They influence it through their participation in management or the board of directors, their control of ownership, the strategic preferences of shareholders, and the culture and values that family shareholders transmit to the company.

Participation refers to the nature of family members' involvement in the business as members of the management team, the board of directors, as shareholders, or as supporting members of the family foundation. Ownership control refers to the rights and responsibilities that family members derive from significant ownership of voting shares and governance of the agency relationship. Strategic preferences refer to the risk preferences and strategic direction that family members set for the company through their participation in executive management, the board, the board of directors, shareholder meetings, or even family councils. Culture is the set of values, defined by behaviors, that are embedded in a company through the leadership of family members, past and present. The family unit and the nature of the relationship between the family and the business also define this culture.

This paper therefore adopts a comprehensive theoretical definition of the family firm that focuses on the vision, intentions and behaviors of owners with respect to strategy, succession and continuity. Beyond the ownership structure, what differentiates family firms from management-controlled firms are often the intentions, values, and interactions of family owners that influence strategy. The result is a unique blend of the subsystems of family, management, and ownership to form an idiosyncratic family business system. This interplay between family, management and ownership can produce significant adaptability and competitive advantage. It can also be the source of great vulnerability to generational or competitive change. Dominant decisions in a family business, according to this inclusive theoretical definition, are "controlled by members of the same family or a small number of families in a way that is potentially sustainable across generations of the family or families" (Chua 1999).

Thus, we arrive at a working definition of the family business as a unique synthesis of the following elements:

- Ownership control (15% or more) by two or more members of a family or family partnership.
- Strategic influence of family members on the management of the business, whether by being active in management, continuing to shape the culture, serving as advisors or board members, or being active shareholders.
- Concern for family relationships.
- The dream (or the possibility) of continuity between generations.

The following characteristics define the essence of family business distinctiveness:

- The presence of the family
- The intertwining of family, management and ownership, with its zero-sum (win-lose) propensities that, in the absence of business growth, make family businesses particularly vulnerable during succession.
- Unique sources of competitive advantage (such as a long-term investment horizon) derived from the interaction between family, management, and ownership, especially when the family unit is high.
- The owner's dream of keeping the business in the family (the goal being the continuity of the business from generation to generation).

3. The dilemma between intergenerational situations and the sustainability of the family business

Family businesses are unique in that succession planning plays a key and very strategic role in the life of the business. Because competitive success, family harmony and ownership performance are all at stake at the same time in the business, careful orchestration of the multi-year process of succession between generations of owner-managers is a priority. There are hundreds of reasons why organizations fail, but in family-owned and family-controlled businesses, the most common reason is failure to plan for succession. Whether it is incompetent or unprepared successors, unclear succession plans, a tired strategy unable to contain competitors, or family rivalries and power struggles, if a family business is to survive, it must get its succession process right.

One study identified three types of inefficient succession (Miller 2003):

- Conservative: Although the parent has left the business, the parental shadow remains, and the business and its strategies are locked in the past.
- Rebellious: In what is often an overreaction to the previous generation's control of the company, the next generation initiates a clean slate approach to the organization. As a result, traditions, legacies and even the business model or its "secret to success" are destroyed or discarded.
- Hesitation: The next generation is paralyzed by indecision, unable to adapt the company to current competitive conditions, and unable to assert itself and its leadership effectively.

The study concludes with the thought that the patterns have been observed so frequently that many family businesses will likely have to struggle with these syndromes in order to ensure the continuity of the family business between generations of owners.

4. The sustainability of family businesses: the future of interdisciplinary research on these entities

Without the vision and leadership of two generations of family members and the use of selected family, management and governance practices, the future is bleak for family-controlled businesses. The blurring of the lines between family ownership, family management, and family ownership puts family businesses at risk of confusion, slow decision-making, and even business paralysis. The inability to adapt to changes in the competitive marketplace or the inability to manage the relationship between the family and the business ultimately undermines the business. As a result, a family business that lacks multigenerational leadership and vision can hardly position itself to retain the competitive advantages that made it successful in a previous, often more entrepreneurial generation.

It takes an ongoing dialogue between generations of owner-managers about their vision for the business to build a family business so that it lasts. Family businesses that have been built to last recognize the tension between preserving and protecting the core of what made the business successful on the one hand, and promoting growth and adapting to changing competitive dynamics on the other (Porras 1997). Family businesses that are sure that each

generation will responsibly bring a different but complementary vision to the business have a foundation on which to build continuity.

4.1. Sustainability and family and socio-cultural constraints

In leading family businesses, employment in the company is a birthright. The stereotype of nepotism, which still dominates most people's views of family businesses, stems from this not-so-rare sub-optimization of the family business system. It is clear that if employment is based solely on the candidate's last name, merit and other important criteria in selection and succession processes are devalued or totally irrelevant. Understandably, non-family managers with high career aspirations are often reluctant to join family businesses out of concern for their prospects. Unless due diligence assures them that their career ambitions will not be thwarted by a lack of family ties, high-potential nonfamily managers may choose never to join family-owned or family-controlled businesses.

Since a family business exists primarily for the needs of the family, the benefits that are transferred from the business to family members are often substantial. Financial systems can be obtuse by design, and secrecy is often paramount. After all, the lack of transparency fosters the ability of family members to reap rewards beyond what would be considered reasonable under normal human resources, compensation and benefits policies. As a result, the business is often part of a lifestyle. The Rigas family and Adelpia Communications were eventually sued by the Securities and Exchange Commission (SEC) and other federal and state authorities because of a tangle of corporate and family relationships that were deemed to represent significant personal transactions for the benefit of Rigas family members.

While well-run and well-governed family businesses may have good reason to pay all members of the next generation of senior management equal or nearly equal salaries, family businesses tend to equalize compensation regardless of a family member's responsibility, performance and overall merit. Ironically, because their primary concern is the family, the level of commitment of family businesses to business continuity across generations depends on the agendas of individual family members and the levels of conflict associated with running the business.

Family businesses are likely to choose continuity only if members of the current and next generation aspire to it and if the current generation has sufficient resources in retirement to make it possible. In cases where no generation dreams of continuity or sees the value of making the business a legacy for the next generation, the business will most likely be sold at the end of a generation. And even if family members aspire to perpetuate the business, family businesses find it very difficult to ensure continuity, as the selection of successors, strategic renewal, and governance of the relationship between the family and the business all require a strong commitment to sound business management principles.

The lack of balance and clear boundaries between family, ownership and management is not always resolved by giving priority to family. On the contrary, management or ownership of the business can just as easily be prioritized in decision-making and actions, again to the detriment of the overall family business system.

4.2. The professionalization of the family business as a vector of sustainability:

Management-oriented family businesses are likely to actively discourage family members from working in the business and/or to require work experience outside the business as a prerequisite for employment. The performance of employed family members is evaluated in the same way as that of non-family managers, and human resources policies generally apply equally to family and non-family employees. Compensation is based on responsibility and performance, not position in the family hierarchy. And the company's performance scorecard is entirely business-driven; for example, the focus is on profitability, return on assets, market share, revenue growth, and return

on equity. Once in the business, next-generation family members are often considered based on their ability to manage and grow the business - in other words, based on their usefulness and potential contribution to the business.

When family members meet socially, the conversation often turns to business topics. Family events - even weddings and honeymoons - are sometimes arranged, cancelled or delayed for business reasons. There is no automatic commitment to the continuity of the family business in executive-led businesses, because the business is considered a productive asset. As an asset, it can just as easily be integrated into a larger company through a tax-exempt share exchange with a publicly traded company or sold as part of an employee stock ownership plan.

4.3. Sustainability and the question of ownership: what guidelines for future research?

In family businesses where ownership comes first, investment horizons and risk perception are the most important issues. When shareholders come first, priority is given to risk-adjusted economic returns or owner's rents - for example, shareholder value, EBITDA, earnings growth rates, and debt-to-equity and debt-to-asset ratios.

Majority-owned family businesses may have shorter time frames for evaluating financial results. Just as impatient and greedy Wall Street investors, aided by analysts and the media, can push well-run publicly traded companies into short-term thinking, family shareholders who are not active in the business, and who have a poor understanding of the management and time cycles involved in new strategies or investments, can hinder the effective operation of a family-controlled business. These family members can cause the company to lose the founding culture, which valued the role of patient capital, or the long-term investment in the family business.

Patient capital - one of the key sources of competitive advantage for many family businesses - is disappearing at the hands of greedy shareholders. Siblings and cousins caught up in the high expectations of short-term returns through dividends, distributions or shareholder value creation are prone to second-guessing family members who run the business. Family leaders, who better understand the company's limited ability to deliver on the promise of high returns, are more likely to manage in the long-term interests of shareholders. If the family unit suffers from pressure from some family members for high returns and short deadlines, the result can be a loss of will and vision. The continuity of the family business may be abandoned in favor of the immediate recovery, through the sale of the business, of the value created by previous generations.

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Air Force Enlisted Accessions: Determining the Relationship between Applicant Characteristics and United States Air Force Standardized Testing

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ABSTRACT: The United States military is the largest employer of high school graduates, with about 180,000 new applicants joining each year. The United States Department of Defense and its service-specific recruiting services are tasked with recruiting the next generation of military personnel to fill in their ranks. In a competitive job market, understanding the background of a diverse market pool is vital to recruiting the right people for the right job. This study examines the relationship between applicant characteristics and initial qualification testing scores for United States Air Force applicants in South Texas and Eastern Louisiana. Applicant characteristics are defined as race, gender, age, and family income. This study aims to evaluate the Armed Services Vocational Aptitude Battery (ASVAB) test scores for applicants who successfully shipped to Basic Military Training in the fiscal year 2019. Adjusted gross income (AGI) or income levels were gathered from irs.gov, and applicant data was obtained from the Air Force Recruiting Service 341st Recruiting Squadron headquartered in San Antonio, Texas. No personal identifying information is used in this study. Independent variables included in the study are gender, age, race, and socioeconomic status, as well as by family income. The dependent variable is the standardized ASVAB test scores for Southern Texas and Southeastern Louisiana Air Force applicants. This study addresses gaps in the literature by focusing on the impact of applicant characteristics and their effects on the ability to become prospective applicants to serve in the United States Air Force.

KEYWORDS: ASVAB, Air Force, recruitment, applicants, standardized testing, success

Introduction

High school students around the United States face the difficult decision of which path to take after graduation. Enrolling at a university, taking courses at a community college, joining the workforce, or serving in the military are all viable options for today's youth; however, not every young adult has the same level of educational readiness and life experiences to take on their next challenge after high school. Roberts (2019) states that high schools around the country are tasked with providing students with the development that will help them mature and transition into adulthood; however, factors outside of the school environment can also lead to the lack of skills development that leads to a successful path after graduation.

Factors outside the classroom and outside the student's control can play a role in student development and success as a young adult. Not all racial and demographic groups are equally prepared for post-high school life. Some groups are at a disadvantage for even completing high school. Balfanz and Legters (2004) stated that between 1993 and 2002, almost 50% of African American students, nearly 40% of Latino students, and only 11% of white students attended high schools where high graduation rates were not the norm.

Educational and life experiences for high school students across the nation are not always standardized; however, there has been a movement to measure academic success through standardized testing. Jennings and Rentner (2006) stated that the 2002 passage of the

No Child Left Behind Act (NCLB) has resulted in pressure for schools to perform well on standardized testing. Reimer Rothmeyer (2020) states that standardized testing has become a regular part of the American education experience and can be crucial to future life opportunities. Success on standardized tests, which a student may take as a teenager, can have lasting effects throughout adulthood.

Shaver (2013) posits that underperforming on standardized tests can have extreme consequences based on the outcome. Shaver (2013) further asserts that test-taking strategies and academic skills must be taught to ensure students are adequately prepared for the test topics and the testing process. Students who perform poorly on standardized tests have limited career and college opportunities and are at a higher risk of dropping out of high school altogether (Carter et al. 2005). The standardized testing effect leaves students around the country preparing for an exam versus increasing their knowledge and competency in a particular academic subject.

Multiple tests have been instituted nationwide at high schools to gauge a student's career path after graduation. The American College Test or ACT is the most widely accepted college entrance exam in the United States (Strauss 2012), with over 2 million students taking the exam in 2015 (ACT 2015). The Scholastic Aptitude Test or SAT Reasoning standardized test is the second most used test for college admissions (Korbin and Michel 2006). While the ACT and SAT are used to determine qualifications for college admissions, the Armed Services Vocational Aptitude Battery, or ASVAB, is used to determine military enlistment qualifications. First introduced in 1968, the ASVAB is a multiple-aptitude battery that has been the primary tool for military enlistment qualification and career placement in the United States Armed Services (Schiano 2018). The test is administered to over one million prospective applicants each year through local high schools or one of the 65 Military Entrance Processing Stations (MEPS) across the country as their first step towards a career in military service (Rodgers 1996).

Air Force Recruiting and the ASVAB

The United States military is the nation's largest employer of high school graduates, with about 180,000 new applicants joining each year (Wall 2018). The United States Department of Defense is tasked with recruiting the next generation of military personnel to fill their ranks in support of national defense. Air Force recruiters compete with local industry, community colleges, universities, and even other military branches to recruit the population that is qualified to serve. To be eligible for military service, applicants must be between the ages of 17 and 39, be a United States citizen or legal resident, have a high school diploma, pass a medical exam, pass a criminal background check, and have a qualifying score on the Armed Services Vocational Aptitude Battery (ASVAB) Test. Each respective military branch has its own organization focused on recruiting the highest quality applicant.

The United States Air Force Recruiting Service (AFRS) oversees the Air Force's recruiting operations and is headquartered at Joint Base San Antonio Randolph, Texas. The Air Force Recruiting Service is led by a Major General and has over 2,800 personnel across 1,040 recruiting offices stationed around the world. The men and women assigned to AFRS are tasked with inspiring, engaging, and recruiting prospective applicants worldwide. Applicants are assigned to recruiters in their local area based on their high school or residence. Recruiters work one-on-one with applicants to schedule a physical examination, their ASVAB test, and medical and criminal background appointments at their closest Military Entrance Processing Stations (MEPS). Military Entrance Processing Stations are joint commands that consist of personnel from the Army, Air Force, Marines, Navy, and Coast Guard, all working together to process applicants through a complete records review to qualify personnel for military service successfully.

Standardized testing is an important factor in the military accession process. A key component of military accessions is successfully completing the Armed Services Vocational Aptitude Battery (ASVAB) exam. The ASVAB was first introduced in 1968 to predict future academic and occupational success in the military. Since then, it has been used to qualify prospective applicants for military service and job placement (Shiano 2018). The test is taken by prospective applicants from the Army, Air Force, Navy, Coast Guard, and the newly created Space Force. The test has ten subtests, about 200 items, and takes more than two hours to complete (Wall 2018). The ten subtests consist of General Science, Arithmetic Reasoning, Word Knowledge, Paragraph Comprehension, Mathematics Knowledge, Electronics Information, Automotive Information, Shop Information, Mechanical Comprehension, and Assembling Objects sections (Defense Manpower Data Center 2012). The Air Force utilizes the following four subcategories, General, Administrative, Mechanical, and Electrical, to place its personnel into their Air Force Specialties (Schiano 2018). The Armed Forces Qualification Test, a subset score taken from the ASVAB, is used as a baseline for qualification.

The ASVAB is offered at high schools around the nation through coordination with their local recruiters as well as through local processing stations. Military recruiters generally experience open access to high schools in their area of responsibility to recruit and offer the ASVAB; however, that does not always lead to a qualified applicant pool. Dibner (2013) stated that the recruiting mission of the military is thoroughly integrated into American public schools, and federal legislation ensures that public institutions receiving government funding open their doors to the Armed Forces or risk losing federal funds. Even with federal legislation opening high schools' doors to military recruiters, the list of qualified applicants remains limited. Mercado (2014) posits that up to 25% of students that begin high school do not graduate, and the numbers grow to 40% for African American and Hispanic students. Military applicants are diverse individuals with different life experiences, socioeconomic backgrounds, and academic levels; however, all applicants must meet standardized academic requirements for service regardless of their background. Colleges, universities, the local workforce, and the military are all routes for high school graduates; however, the military adds additional qualifications to serve that are not attached to the alternate routes available to potential recruits.

Prospective Applicants

Maclean and Kleykamp (2016) analyzed factors associated with high school students joining the military after graduation versus entering the workforce or attending college; Maclean and Kleykamp identified the following factors in their study: educational goals, the presence of military institutions within the vicinity, socioeconomic status, and race. A study by Cowan (2018) shows how young students have inflated expectations regarding their likelihood of attending college after high school. Many students feel that the next progressive step after high school is to enroll in college; however, they may lack the resources and educational background to be accepted into a university. Cowan (2018) further added that there might be a bias regarding college expectations for students based on their socioeconomic status and where they grow up. All students are not equally prepared to enter the workforce, educational setting, or the military after high school. The results may vary greatly depending on their school and other socioeconomic factors. Cowan (2018) concluded that many students do not comprehend the role of academic preparation when it comes to post-high school success.

While the ASVAB test is a standardized assessment, prospective recruits' education and development levels are not always equal. Lee (2014) conducted a qualitative study that included military leaders and focused on diversity in leadership positions. The study found that 29.3% of participants believed that students in low-skilled high schools were at a disadvantage when taking the ASVAB; students from low-income areas were also found to be at a disadvantage. Lee (2014) concurs that schools have programs to prepare students for the ACT and SAT

college admissions tests; however, there are no programs to prepare military applicants for the ASVAB. Lee (2014) further stated that over 40% of respondents were unaware of any programs available to prepare students to take the ASVAB and join the Armed Services. Lee's study (2014) also delved further into the disparities among African American applicants and found that military leaders of all races agreed that the ASVAB is not equitable among all applicants.

Outlining shortfalls in recruiting practices can allow the Department of Defense to reallocate resources to help recruit qualified men and women to fill tomorrow's military ranks. It is essential to understand applicant premilitary capabilities and their demographics to ensure the military meets its end-strength requirements to support global operations. Current research focuses on qualified applicants and best practices for recruiters but not on the impact of an applicant's demographics and how these may determine standardized testing outcomes (Lee 2014; McMullen 2016; Schiano 2018). The lack of established research regarding Air Force applicant demographics and the potential to identify effective procedures in recruiting applicants with varying backgrounds led to the exploration of this topic.

Minority Representation

Research by Armor and Gilroy (2010) found that enlistment standards can considerably impact minority representation because educational attainment and aptitude differ by race and ethnicity. What is not known is to what extent family income influences an applicant's ASVAB test scores. This research will focus on the applicant's family income and other demographic data to determine whether there is a correlation between income and ASVAB test scores. Tajalli (2018) stated that since the early 1990s, social scientists, educators, and lawmakers had debated the unequal distribution of resources among public school districts where most states, such as Texas, link school finances to local property tax. Property taxes can vary widely across school districts, creating a significant disparity in educational opportunities for students in low-property tax areas. In 2015, Boles Independent School District, located 60 miles east of Dallas, had \$33,641 in taxable property tax per student, while Westhoff Independent School District, located 80 miles east of San Antonio, had over \$27 million in taxable property tax. Boles ISD was able to raise \$505 per student, while Westhoff was able to raise over \$409,000 per student (Tajalli 2018). Educational opportunities, readiness, and resourcing levels vary greatly depending on where students attend school. Students from districts like Boles and Westhoff are both potential Air Force applicants.

Almost 40 percent of active-duty Air Force personnel are between 17-24 years old (Cfr.org 2020). The military has been an important institution for disadvantaged populations, especially younger populations. It provides steady employment, benefits, and compensation that exceeds equivalent civilian opportunities, such as healthcare and the GI Bill to fund education (Maclean and Kleykamp 2016). Recruiters focus on this demographic for most of their recruits and target many of their efforts between a walk-in market and local high schools. In 2019, 17-25-year-olds accounted for 89 percent of new accessions. Recruiters have access to high schools around the country to recruit prospective applicants based on the National Defense Authorization Act of 2002 and the NCLB Act of 2001 (Hagopian and Barker 2011); however, the qualified applicant pool continues to decrease.

Research

This quantitative correlational study aims to determine the relationships between gender, age, race, and socioeconomic family status (family income) as independent variables and ASVAB standardized testing scores as the dependent variable for Southern Texas and Southeastern Louisiana Air Force applicants. This study aims to evaluate how the variables of age, race, gender, and family income correlate with an applicant's standardized qualification testing scores

captured on the Armed Services Vocational Aptitude Battery (ASVAB) test. Gaining a better understanding of the applicant's family income and demographics will provide a better selection process for the United States Department of Defense to reallocate resources to enhance its recruiting methods. There were no physical participants in this study; data was extracted from personnel records for the fiscal year 2019.

While high school institutions provide preparation for college entrance exams like the ACT and SAT, there is limited test preparation for the ASVAB and a career in military service (Lee 2014). Limited resources, limited education, and a lack of test preparation for the ASVAB for specific demographic groups can lead to a lack of qualified candidates based on the current screening and qualification processes for military service (Wall 2018). To better understand the relationship between participant demographic data and ASVAB scores, this study uses secondary data to show whether significant findings exist. The information presented in this study will provide the Department of Defense and the Department of the Air Force with a better understanding of the applicants they are competing for in a dynamic competitive job market. Gaining a better understanding of the challenges prospective applicants face will help decision-makers in recruiting to tailor their efforts and resources to meet the needs of these individuals and man the Air Force to support its national defense mission.

Research Question

The following research questions will guide this study:

RQ1. What relationship, if any, exists between ASVAB general scores and an applicant's gender?

RQ2. What relationship, if any, exists between ASVAB general scores and an applicant's age?

RQ3. What relationship, if any, exists between ASVAB general scores and an applicant's race?

RQ4. What relationship, if any, exists between ASVAB general scores and an applicant's socioeconomic status outlined through adjusted gross income?

H_0 There is not a significant correlation between ASVAB general scores and applicant demographics.

H_1 There is a significant correlation between ASVAB general scores and applicant demographics.

Methodology

This study aims to identify a relationship between ASVAB standardized test scores and demographic factors such as age, race, gender, and family-adjusted gross income for applicants that joined the United States Air Force from South Texas and Eastern Louisiana in the fiscal year 2019. Applicant data was provided by the 341st Recruiting Squadron, headquartered in San Antonio, Texas. Data included the applicant's age, race, gender, and zip code. All applicant personal identifiable information such as name, address, or social security number was removed before collection to protect applicant privacy. Family-adjusted gross income was collected from the IRS.gov website for tax returns completed in 2017.

Significance of the Study

The United States military is one of the largest employers in the world. It is essential to understand applicants and their demographic background's impact on their ability to achieve a passing score on the ASVAB. ASVAB scores are important for the application process and have lasting effects on the recruit's career. The higher applicants score on the ASVAB, the more opportunities they have to serve in various career fields. Applicants are matched to jobs based on their mechanical, administrative, general, and electric scores. Specific scores are required to

serve in multiple career fields. For example, to serve as an Air Traffic Controller, an applicant would have to score a 55 in the general portion of the test, and to serve as a Weather Specialist, an applicant would have to score a 66 on the general section and a 50 in the electrical section (Military.com 2021). Given the lack of research regarding applicant demographic and background data, this study will aim to outline if age, race, gender, or family income play a role in standardized testing scores. Based on the results of this study, the Department of Defense will gain a better understanding of what leads to a successful score on the ASVAB. It can then decide how to allocate recruiting resources to such defense priorities.

Results

A total of 1,657 observations were reviewed. The variables presented in the table below include mean test scores based on age, race, and gender, as well as ASVAB scores categorized by mechanical, administrative, general, electrical, and overall or QT scores. ASVAB scores were analyzed on a percentile scale ranging from 31 to 99. The applicant's characteristic variables were categorized on an ordinal scale. Applicant gender was categorized as a 1 for Female and a 2 for Male. Applicant age was broken into the following five categories: 1 for ages 18-21, 2 for ages 22-25, 3 for ages 26-30, 4 for ages 31-35, and 5 for ages 36-41. Lastly, race was broken into the following five categories. 1 for American Indian/Alaskan, 2 for Asian, 3 for African American, 4 for Pacific Islander, and 5 for White. Total ASVAB scores were further analyzed in Tables 2-6.

Table 1: Descriptive Statistics

	Mean	Std Dev	Min	Max
agi	66322.35	33627.15	19310	490224.4
asvabt	66.526	16.721	31.000	99.000
asvabe	67.368	19.153	14.000	99.000
asvabg	65.909	17.902	24.000	99.000
asvaba	67.373	16.180	27.000	99.000
asvabm	58.098	20.705	9.000	99.000
age	1.537	0.789	1.000	5.000
race	4.419	1.004	1.000	5.000
gender	0.261	0.439	0.000	1.000
N	1657	1657	1657	1657

The following table outlines the regression of the data with ASVAB total scores listed as the dependent variable. As you can see, zip-code-based adjusted gross incomes are statistically significantly related to ASVAB scores, with a slope coefficient equal to approximately .0000657. So, for a \$100,000 increase in income, ASVAB scores would increase by approximately 6.57 points, creating more work-based opportunities for high-income recruits, and vice-versa. The high F-value for the model as a whole signifies that it is statistically significant and explains about 10% of the variability in ASVAB scores as determined by the adjusted coefficient of determination.

Table 2: Regression Table

	DV ASVAB Total
agi	0.000*** (0.000)
gender	-3.559*** (0.893)
native	-8.910** (4.133)
Asian	1.970 (1.993)
black	-7.625*** (0.980)
islander	-1.187 (3.501)
a18a21	-4.402 (4.283)
a22a25	-0.018 (4.315)
a26a30	3.309 (4.460)
a31a35	2.184 (5.176)
_cons	61.686*** (4.680)
N	1657
r2	0.103
ar2	0.097
Prob > F	0.000

Standard errors in parentheses

* p<0.10, ** p<0.05, *** p<0.01

Gender

A series of two-sample t-tests and ANOVA models were used to examine the degree to which ASVAB scores varied by group. The data in table 3 below are statistically significant at below the 5% significance level; this test included 1,224 males (67.43 mean score) and 433 females (63.96 mean score). The mean of the male applicants was 3.47 higher than female applicants. The results can possibly exist due to the heavy mechanical and electrical test components that female applicants may not have extensive exposure to at an early age.

Table 3: ASVAB Scores (Mean) by Applicant Gender

	Observations	Mean	Std Dev
Male	1224	67.431	16.87
Female	433	63.965	16.02

Age

Applicant age was reviewed to determine statistically significant differences between categories. Applicant age is outlined in table 4 below and was broken into five categories. Of the 1,657 applicants, 1,475 fell in categories 1 and 2. A variance was identified as applicants ages 26-30 reflected the highest mean score of 72.561, and applicants ages 18-21 reflected the lowest mean score of 64.453. Older applicants bring life experience, additional advanced education, and work experience, which can lead to higher test scores.

Table 4: ASVAB Scores (Mean) by Applicant Age

	Observations	Mean	Std Dev	Min	Max
Cat 1 (18-21)	1006	64.453	16.06	32.000	99.000
Cat 2 (22-25)	469	68.884	16.97	32.000	99.000
Cat 3 (26-30)	139	72.561	17.53	31.000	99.000
Cat 4 (31-35)	29	70.103	18.39	35.000	99.000
Cat 5 (36-41)	14	69.074	19.01	35.000	98.000

Race

Applicant race is outlined in table 5 below and is sectioned into five categories: American Indian/Alaskan, Asian, African American, Pacific Islander, and White, for a total of 1,657 applicants. Race varied from a low of 15 American Indian applicants to a high of 1,214 White applicants. A variance was identified in scores as American Indian applicants reflected the lowest mean test score of 58.866, and Asian applicants reflected the highest mean test score at 71.779.

Table 5: ASVAB Scores (Mean) by Applicant Race

	Observations	Mean	Std Dev	Min	Max
American Indian	15	58.866	11.36	41.000	78.000
Asian	68	71.779	18.14	31.000	99.000
African American	339	60.023	15.42	32.000	97.000
Pacific Islander	21	67.857	15.75	48.000	96.000
White	1214	68.118	16.58	32.000	99.000

Income

Adjusted gross income, outlined in table 6 below, is statistically significant and affects test scores. For every \$100,000 in family income, ASVAB scores increase by 6.57 points. An increase of just a few points can make a difference in what occupations are open to applicants, affecting recruiting, retention, and the overall job satisfaction of the applicant. Applicants in lower-income areas are not as qualified as those from higher-income areas.

Table 6: ASVAB Scores by Applicant Socioeconomic Status (Adjusted Gross Income)

	Obs	Coefficient	Std Error	t value	P> t
AGI	1657	.0000657	.0000117	5.62	0.000

Discussion and Implications

Young adults worldwide take standardized tests throughout the year that could significantly impact their future direction. This research has outlined how backgrounds vary widely and how gender, age, race, and income all play an important factor on a standardized test like the

ASVAB. Males score almost 3.5 points higher than females, applicants aged 26-30 score over 8 points higher than those straight out of high school in the 18-21 range, Asian applicants score almost 13 points higher than American Indian applicants, and for every \$100,000 a person makes, their score increased by 6.57 points. Life experiences, family backgrounds, and educational settings play a key role in a student's growth, development, and readiness for their post-high school careers.

The Air Force needs to focus on increasing their applicant pool's preparedness, which continues to decrease due to unqualified applicants. McMullen (2016) stated that the total qualified military available (QMA) or applicants aged 17-24 that were in the target recruiting population in 2011 was 33.1 million; however, 41.6 percent were disqualified due to a medical condition or criminal history, 20.2% were disqualified due to a lack of education or a low ASVAB score, and 14.8% did not meet the weight standard. This left 7.7 million, or 23.4% of the entire population in the United States, eligible for recruitment into the armed services. In a scarce job market that competes with industry, education, and even other military branches, the Air Force should look to invest in test preparation programs for applicants around the country.

The results of this study demonstrate how applicants between the ages of 17 to 25 accounted for 89 percent of new accessions in 2019; however, these applicants scored the lowest on the ASVAB. Based on these findings, there is a need for a centralized test preparation program to target applicants who have not been exposed to technical and mechanical fields, applicants from less wealthy school districts, applicants with a disadvantaged socio-economic background, or applicants with different life experiences that have not been able to prepare for the ASVAB test. A test preparation program and additional resources can help students prepare for a test for which they have little background or knowledge. Such a program will increase the limited applicant pool that is not qualified for military service and will improve the qualifications of current applicants to be qualified for additional jobs and opportunities in the Air Force.

Conclusion

Literature has provided insight into the lack of equal levels of student preparedness regarding standardized testing. A high stakes testing environment leaves students faced with difficult decisions as teenagers that can affect the trajectory of their life. A high school diploma does not equal a baseline education for students based on when and where they completed their education. The applicant pool in the United States Air Force and the United States Military is shrinking as fewer young adults have family ties to the military, and disqualifying factors such as medical, criminal, physical, and a strong educational background are present. Increasing an applicant's ASVAB score through additional test preparation programs and added resources will increase their opportunities to serve in various roles within the Air Force.

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The Struggle for Human Rights in the Microregion of Communist Czechoslovakia in the 1980s

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ABSTRACT: Czechoslovakia was part of the Eastern Bloc during the Cold War. Since 1948, the country has been ruled by a monopoly Communist Party that controlled all aspects of daily life. The ruling party enforced the official culture, the official political and social discourse. Opponents were punished by the communist regime. During the 1980s, more and more opposition groups began to circulate in Czechoslovakia and many young people began to speak out against the ruling communist regime and its power. But the situation in Czechoslovakia did not develop as quickly as in Poland or Hungary, for example. This paper focuses on the perspective of the micro-region. It presents the life stories of dissidents and young people who opposed the communist regime in the locality of a village or small town. Two examples of happening resistance are also presented in the text. The historical stories are reconstructed primarily because of recorded oral history interviews with the actors of the events, but also because of archival research.

KEYWORDS: Czechoslovakia, Communist, Oral History, Human Rights, Resistance

Introduction

This article discusses the topic of the struggle for human rights and dissent from a micro-regional perspective. The aim is to introduce: the research topic, the methodological issues involved and to reflect on the general contribution of this study to researchers around the world. This article is a basic methodological insight into research on white spaces in contemporary human history, in this case primarily in relation to regions where human rights have been or are being violated. History often focuses only on the "big stories" and the main protagonists, but to better understand the times, it is necessary to follow the life stories of people on the periphery.

The historical context

Between 1948 and 1989, Czechoslovakia was part of the Eastern bloc of states that fell under the sphere of influence of the Soviet Union. According to the constitution, the Communist Party of Czechoslovakia was the sole ruling force in the state. It had an absolutely dominant position in society: it used the secret police, the army, and armed popular militias of workers. The monopoly also manifested itself in propaganda, in the education system, in the censorship of culture. Citizens of the state could not travel freely, or even decide freely about their studies or employment. The ruling regime controlled everything. Czech historians most often identify two phases of communism in Czechoslovakia. One important milestone is 1968, when a process of democratization took place, but was soon brutally suppressed by the occupation by Warsaw Pact troops with the Soviet Union as leader. Before 1968, many citizens believed in communist ideology and thought they had their own state autonomy. But the occupation proved that this was wrong thinking. From the early 1970s, the regime began to reassert its power and control over the public life of the population. For many citizens, however, the regime was no longer credible. Its authority was thus built solely on fear, as illustrated, for example, by the essay *The Power of the Powerless*, written by the leading Czech dissident and playwright Václav Havel. He writes, for example, about a vegetable

seller who has a sign in his shop window with a propaganda slogan of the Communist Party. According to Havel, this vegetable seller does not believe the official propaganda, but is very afraid of the regime. Displaying official propaganda was an obligation, especially on important days, such as Labour Day or the anniversary of the Great October Socialist Revolution. If citizens did not participate in the celebrations, they were threatened with sanctions. As a result, many people learned to publicly declare what the regime demanded. These people thus ensured a peaceful life. Havel points out that although most of society did not believe the official propaganda, socialist Czechoslovakia appeared internationally as a unitary and stable state. In the essay *The Power of the Powerless*, this situation is named "Life in a Lie" (Havel 2015).

This study is about the 1980s. The situation in the Eastern Bloc was fluid due to the frequent changes of the Soviet Union's general secretaries. When Mikhail Gorbachev took the helm of the communist superpower, major changes were set in motion in terms of market liberalization and easing of censorship. In Poland, Hungary and the Soviet Union, gradual democratization processes were taking place. The rulers of Czechoslovakia and East Germany reject significant changes. These states are led by conservative communists who do not want to lose their monopoly of power. However, communist rule in both countries is unsustainable.

This is largely the result of the attitudes of the younger generation and new trends in culture or civic activism. Teenagers and twentysomethings in Czechoslovakia were already growing up in the post-occupation period, a time when the regime did not have real strong support across society. New artistic movements, mainly musical genres (rock, metal, punk, new wave, etc.) began to arrive in the Eastern Bloc countries. Young people are also encountering new fashion trends, but new ideas are also coming from the West. The biggest of these ideas is ecology. It became popular not only in Czechoslovakia but practically in the whole Eastern Bloc after the Chernobyl tragedy. In the second half of the 1980s, the first protests for a better environment took place in Czechoslovakia. It also became very popular to organize happenings to ridicule the ruling regime. Waldemar Fydrych, who was active in the Polish city of Wroclaw, is considered to be the founder of happening performances against totalitarianism in the Eastern Bloc (Kenney 2002). Later, protests also began to take place in the Czechoslovak Socialist Republic (Blazek 2022).

Grey zone theory

Czech sociologist and leading dissident Jiřina Šiklová (1935-2021) created a basic division of Czechoslovak society in the 1970s and 1980s. She writes that society consisted of 1) communists, 2) dissidents, and 3) people who tried to live an apolitical life. Šiklová refers to this third group as the "grey zone". This zone was the largest group of the population. The oscillation between dissent (direct and active resistance) and the grey zone is typical of the Czechoslovak anti-communist resistance. Indeed, the most important dissident protest initiative never became a mainstream issue (Šiklova 1990). It was a petition called Charter 77, which was issued on 1 January 1977. Charter 77 called on the Czechoslovak communist government to respect human rights in response to the fact that the government had committed itself to human rights at the 1975 international conference in Helsinki, Finland. Leading figures in the petition were: playwright Václav Havel, philosopher Jan Patočka, and former 1968 foreign minister Jiří Hájek. Charter 77 was signed by around two thousand citizens, but it failed to reach hundreds of thousands of people as, for example, the Polish trade union organization Solidarity. This was also due to the fact that Charter 77 was written as a philosophical and intellectually oriented text that appealed to ethical and moral principles.

Research specifics

Specific were the various forms of anti-communist resistance in the environment of a small town or village. While the "great history" of the occupation or Charter 77 has been described in the books of many historians, the life stories of dissidents from the periphery have long been neglected (Bolton 2012). It is only in the last decade that scholars have looked more closely at the lives of dissidents in the micro-regions. Approximately four districts out of a total of seventy-six districts are well covered these days. What might be the causes?

1) In the Czech Republic, the topic of communism is still topical because most of the living population remembers life under this regime. Many scholars and memorials of the events want to avoid working on studies that will cause controversy in society and in their neighborhood.

2) Researching dissent in the micro-region is a difficult multidisciplinary work. In this case, the researcher cannot use the rigid procedures of only one discipline, such as history or sociology. He must combine them. The first step should be the study of archival sources; in the Czech Republic there are extensive holdings of the Archive of Security Forces, which will make available the police personnel files that were kept on individual dissidents to researchers. These contain many documents and detailed information on the activities and movements of the suspect. The archive also offers researchers other communist police documentation, such as reports on potential risks or reports on repressive actions. These documents must be read critically, however, because they were produced by a repressive organ of a totalitarian state and represent only one biased view. Archival research must therefore be supplemented by the study of illegal and samizdat materials. However, a very important part of the research is the recording of oral history interviews with witnesses of the events. Thanks to this multidisciplinary combination of procedures, the researcher can work with plastic material and has a great deal of space for interpreting the story (Portelli 1998).

3) Dissent research in the Czech Republic today is mainly carried out by professional historians, among whom there are still disputes about the validity of the interview method (oral history). This is the reason why many scholars have avoided researching this topic (Vanek and Mucke 2021).

Examples of protest happenings

If a researcher decides to combine the study of archival sources with interviews with the actors of the events, he or she can uncover white spaces in contemporary history. An example of this is the two protest events that occurred in Czechoslovakia in 1989. Both protests took place in the region around the small town of Náchod, located near the border with Poland. All the protagonists knew each other, they formed one broader community that lived parallel lifestyles.

The first protest action was the participation of a group of dissidents in the official Labour Day celebrations. This was always celebrated on 1 May in communist Czechoslovakia. Representatives of the citizens marched through the streets of the towns: primary school pupils, policemen, workers, farmers, teachers, civil servants and so on. All citizens had to celebrate demonstratively. People carried banners with signs that glorified the communist regime or the Soviet Union. The procession of citizens had to wave cheerfully at the spectators. The communist regime wanted to demonstrate its strength and unity outwardly by this act. The town of Česká Skalice, in 1989, had about four thousand inhabitants. On Labour Day, a local group of young men decided on a happening form of protest. When a parade of celebrating citizens marched through the streets of the town, the young men joined them. They then pulled out a banner, which one of them had hidden under his T-shirt. They then raised the banner above their heads. However, what was unique was the fact that the banner

was all white. No text, no nothing. The young men wanted to draw attention to the fact that there is no freedom of speech in the country. They can't read what they want, but most importantly, they can't say their opinions out loud. They didn't last long in the parade because they were escorted out by police officers. Subsequently, the young men began to be followed, and some of them were threatened, for example, with the loss of their jobs. This is just one of the stories whose background (and the motivation of the actors) could not be retrospectively described without oral history interviews with the witnesses. There must have been many more similar happenings in Czechoslovakia.

The second protest this study presents is the publication of a provocative advertisement in the pages of the Communist Party's main ideological newspaper, *Rude pravo*. A young man, Petr Rýgr, who lived in the countryside, had an idea to make fun of the official propaganda. Together with his wife Eva, they created a cryptic text in which they congratulated the leading dissident and playwright Václav Havel on his birthday. The cipher had to be created in order for the advertisement to pass censorship and be printed on the pages of the propaganda newspaper. The name "Václav Havel" was therefore replaced by the name of a character from his play: "Ferdinand Vanek". This advertisement actually passed the censorship and was published in the pages of *Rude pravo* in October 1989. When the ruling Communists found out, they were humiliated. The police became interested in Petr Rygr, but he was lucky, because a month later the Velvet Revolution began in Czechoslovakia, which led to the fall of the communist regime (Jirousek 2022).

As in the previous case, there are not many surviving written sources about the publication of the advertisement. Only recorded interviews with the initiator of the event reveal his personality, motivation, life story and attitudes. The correct conduct of the interview (as a qualitative research method) in terms of methodology, objectification and validity is very important. The researcher must compare the narrators' accounts with the recollections of other individuals, but also with written sources. In the case of human rights struggle research, there is a dichotomy of heroization of the life story, where actors can make their role in events larger and more significant than it actually was. If a long time has passed since the events, the researcher must also reckon with the selectivity of memory (Thompson 2017).

The methods and research procedures described in this thesis on the example of communist Czechoslovakia are applicable in all countries of the world where human rights were violated. Documenting and interpreting the life stories of dissidents is not only an inspiration to many, but also a preservation of the testimony of the events themselves and their impact on society. The scholarly community must also pay attention to peripheries, micro-regions and rural areas that have been forgotten for decades. Especially in the context of Central, Eastern and South-Eastern Europe.

Conclusion

This article introduced the issue of research on human rights struggles and dissent from a multidisciplinary perspective. The author presented the context of historical events in Czechoslovakia during the Cold War. Using this country as an example, he introduced the research specifics of the topic and described the procedures that can be used to conduct relevant research. In this context, he highlighted the use of the qualitative method of interviewing (oral history) but assumed the correct methodological approach. At the end of the article, the author presented two examples of protest actions, the background of which could be uncovered precisely within the framework of the research carried out by the specific scientific procedures mentioned above. The text is an inspiration for researchers from other countries in which inhabitants had to fight for the quality of human rights - in the past, and in the present.

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People Who Move among Cultures and Languages Japanese Descendants in the U.S. from Peru

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ABSTRACT: In this paper, the writer will review the trajectory of the Japanese who immigrated to Peru during the first half of the 20th century and ended up in the United States during World War II. This hidden history has been told less often; however, they experienced three cultures and languages at that time and have overcome many issues in different countries. Their life trajectory can give the readers a hint to think about people who move and try to settle in a new environment. This paper aims to describe how their trajectory can be illustrated as a transnational movement and try to apply the transnationalism theory to the routes they experienced. In most cases, they moved around in families, and their children experienced a different educational environment at schools. This is because of the educational policy of each country. In some cases, adapting to a new environment was challenging, especially when the language and culture differed. Transnationalism has been focused on people's adaptation to the new land and how they made transnational bonds with their "motherland," but not that much on how they transmitted their experiences to the next generation. In this paper, the readers will see how the next generation inherited Japanese descendants' cultural identity and how their experiences are unique but can be generalized in nowadays transnational movements.

KEYWORDS: transnationalism, root and routes, Nikkei, cultural identity

Introduction

This paper aims to describe how the trajectory of Japanese descendants can be illustrated as transnational people and try to apply the transnationalism theory to the routes they experienced. To achieve the goal of this study, the route followed by the Japanese and their descendants who moved from Peru to the United States during World War II will be clarified through limited previous research.

In recent years, the education of children who moved transnationally due to globalization has been studied in diverse fields such as intercultural and multicultural education. In education, it is necessary to find solutions to the problems faced by migrants and the host society, particularly in the case of children unable to adapt to the host society due to the conflicts and embarrassments of identity caused by different languages, cultures, and customs at home, school, and in the community. In this study, after figuring out the transformation of cultural identity due to transnational movements, it would be appointed the role of minority communities in their children's education.

In order to do so, it is necessary to construct a theoretical framework for this study by exploring previous research on transnationalism, which deals with the study of people who move transnationally, and previous research on cultural identity, which deals with people's cultural adaptation and acculturation. As mentioned above, the framework will be approached from transnationalism, which used to be developed especially among studies that aimed to figure out the adaptation to a new land and the maintenance of the bonds with the sending country. Transnationalism has yet to examine the cultural identity of people post-adaptation to the new land. This paper is one of the challenges to analyzing the routes of Japanese Latin Americans and the next generation from the perspective of transnationalism and an overview of how the community has been developed. Another attempt is to describe the transition of their cultural identity after the settlement in the USA. In doing so, it will be examined what elements of their cultural identity are passed down from generation to generation.

Methodology

A literature review will be the primary research method used in this study. After organizing the previous studies that have been published to date and clarifying the background of the target group, it will be finally determined how their cultural identity can be interpreted from the theory of transnationalism by providing an overview of their life in American internment camps and their subsequent adaptation to the American society. The study will ultimately explore how their cultural identities can be interpreted from the theory of transnationalism. Therefore, as a methodology, it will follow their trajectory and analyze their testimonies to conduct research based on an interpretive approach that explores how their Nikkei identity influences their cultural identity as transnational people.

Preview Research

Numerous studies have been conducted on the Nikkei. However, there has been no set definition of who is considered a Nikkei, and the scope of the term is broad. According to the Association of Nikkei and Japanese Abroad, which has promoted the study and collection of materials on Nikkei since World War II, Nikkei can be interpreted as follows.

The term “Nikkei” refers broadly to Japanese people who have relocated overseas permanently, as well as their second, third and fourth-generation descendants, irrespective of current nationality and degree of Japanese ethnicity (The Association of Nikkei & Japanese Abroad Website: <https://jadesas.or.jp/en/aboutnikkei/>).

Hirabayashi et al. (2004), who summarized the research on Nikkei in various regions and notes on their cultural identities, say that Nikkei identity is not a "being," but a "becoming" and is diversified by region, gender, and era. Moreover, Nikkei identities do not exist in isolation. All Nikkei have multiple identities. These identities are also fluid and, at times, are in the state of renegotiation in more extensive national and international settings. Whether deployed subjectively or analytically, the concept of “Nikkei” is necessarily characterized by flexibility and soft boundaries (Hirabayashi et al. 2004, 344).

While other studies have defined Nikkei and conducted research on them, the author believes that it is impossible to define Nikkei in this way because their cultural identity has changed over time, transcending the ethnicity of Japan. The community discussed in this paper follows that transition and believes it belongs to all three countries, Japan, Peru, and the United States. It has hybridity that cannot be fully adapted to any of them. This section summarizes previous studies focusing on this community.

The earliest of these studies, Gardiner (1981), describes the situation in the sending country, Peru, and the receiving country, the United States, along with historical facts. Gardiner has used historical facts to unravel facts that had not been told for many years by the people involved and have also gathered testimonies from former internees and their children's generation. Although Gardiner has become a compilation of historical facts from Barnhart (1962) and Meglyn (1976), this is the first publication to include the trajectory of the Japanese Peruvians in one book. While the book makes a strong case for the Japanese Peruvians' mistreatment and lost rights, it does not detail their life after the camps. Although it does not position them as transnational people and does not address their cultural identity, it is a valuable historical study. The study of Japanese Latin Americans has not progressed much so far because there have been few testimonies from the parties involved. The trajectory of their lives has rarely been told to their children and families. Some in the Japanese American community were unaware of the existence of the Crystal City internment camp, where many Japanese Latin Americans were held. The Wartime Civil Control Administration (WCCA), which later became the Wartime Relocation Authority (WRA), had jurisdiction over the internment of Japanese Americans. Still, the Immigration and Naturalization Service (INS) of

the Department of Justice had jurisdiction over the Japanese Latin American camps. Japanese Americans did not receive information about the Department of Justice's area of jurisdiction. (McConahay 2018, 138).

Nakada (2004) used a life-story approach to this community, conducting a qualitative study of those who remained in the U.S. and those who "returned" to Japan. She sought to clarify how they were reconstructing their ethnicity. However, she argues that we need to focus on their route and question the assumptions of ethnicity that require a society that interacts with and frames them. She contends that although Nikkei identity was not seen as the core of the Japanese Latin Americans forcibly removed from Peru, it is certainly part of their identity (Nakada 2014). Rather than studying Nikkei as ethnicity, this study examines how Nikkei identity exists within the identity of the target group and how they confront that identity daily. To do so, it will trace their transnational trajectories and how they have constructed their cultural identities by tracing their routes.

Background

There is a rapid increase in international migration on a global scale, and it has been said that we are in the "age of international migration" (Caruthers & Miller 2011). The development of the airline industry and the Internet has accelerated this global migration. Still, the first significant migration of people after modern times was after the Age of Discovery, which lasted from the late 15th century to the mid-20th century. The first Japanese to migrate across the Pacific Ocean dates to 1868 when 153 people, known as "Gannen mono," crossed into Hawaii. Around 1910, the media, politicians, and anti-immigration groups in the U.S. claimed that an alien "yellow peril" was invading the United States. In 1908, a gentlemen's agreement was signed between Japan and the U.S., prohibiting Japanese laborers from entering the U.S. However, the U.S. continued to allow Japanese nationals living in the U.S. to bring their families to the U.S.

In response to the ban on Japanese laborers in the U.S., the migration of Japanese was switched to South American countries. In 1899, the first Japanese laborers in South American countries were accepted in Peru. The ship, *Sakura Maru*, arrived at the port of Callao, Peru, on April 3, 1899, carrying 789 contracted immigrants. Still, due to the harsh local climate and lifestyle, 624 contracted immigrants died four years later, and only 166 immigrants who came with the *Sakura Maru* survived (Yamada 1998). Even under these circumstances, the number of contracted immigrants from Japan reached 18,000, and the total number of pre-war immigrants reached 33,000 due to the call of relatives, etc.

The history of Peruvians of Japanese descent has been studied in various ways, and among those that have been published based on historical facts about their history in "Los Inmigrantes Japanese en el Perú" by America Morimoto (1979). As in other countries, the Japanese arrived as contract immigrants and eventually settled in urban areas, where they made their fortunes as merchants and formed communities. Within the community, emphasis was placed on the education of children, schools were built, and several newspapers were published to disseminate information. The Japanese who settled in the area gradually learned the local language, and their lives became entrenched through their activities with the local people. While living in Peru, the Japanese began to see a transformation of their identity to Nikkei. This identity as a Nikkei was likely born from the sense of togetherness they experienced as a community. It is no exaggeration to say that in Peru before World War II, the people of Japanese descent played a central role in the economy of the capital, Lima, and the surrounding Callao region. The cohesion of their community increased the community's power from the mutual aid relationship represented by the TANOMOSH (small rotating credit unions). It threatened the rest of the locals (Morimoto 1979).

Against this backdrop, the anti-Japanese movement was frequently repeated before World War II, leading to the isolation of the Nikkei as a community. The movement was

strongly supported by the private sector and the Peruvian government, which on April 8, 1932, established that foreign-owned stores should employ 80% Peruvians. Then, a law promulgated on April 20, 1937, ordered the temporary suspension of the registration of births of foreign children born before June 26, 1936, to Peruvian citizenship (Morimoto 1979). Although there were various instances of discrimination against the Japanese, what remains in the memory of the Japanese and Nikkei community in Peru is the massive riot in Lima on May 13, 1940, in which stores and homes of Nikkei were looted. More than 620 people were victims of this riot (Ito et al. 1974). Some of them lost their business and did not have anything else but to return to Japan.

At the Third Pan-American Foreign Ministers' Conference, held in Rio de Janeiro, Brazil, on January 15-28, 1942, the United States recommended that South American countries break diplomatic relations with the Axis powers in exchange for immediate shipments of economic aid and military supplies. In addition, the U.S. government called for the control of potentially dangerous aliens in South American countries, the internment of enemy aliens, the restriction of the right of naturalization for enemy aliens, and the revocation of the right of naturalization for persons who defend enemy aliens. At this point, there is no record of any request for repatriation to the United States. However, according to Yamakura (1996), 1,754 Nikkei Peruvians civilians and 25 diplomats were sent to the U.S. from Peru, about 83% of the 2,118 people sent to the U.S. from South America. Most of the repatriated Nikkei were first-generation immigrants who had some authority in Nikkei organizations or were on the U.S. government's "blacklist" of those who had achieved some success in business (Gardiner 1981). The Nikkei who remained in Peru was forced to live in hiding.

At the time of the U.S. repatriation, the passports and other identification of Nikkei were taken away, and they entered the United States as illegal immigrants (McConahay 2018). According to one of the victims, Koichi Higashide, only men were taken to temporary quarters in the U.S. military fortified area in Panama before crossing to the U.S., where they were subjected to hard labor for settlement (Higashide 1995). There were 27 camps in the United States, but only one in Crystal City, Texas, allowed families to live together (Higashide 1995). Men who had been separated from their families were sometimes reunited with them in Crystal City. In this way, they were forcibly taken to a foreign land and forced to live in an internment camp. This study will discuss the Nikkei incarcerated in Crystal City. Therefore, the next section will summarize the overview of Crystal City's internment camp.

Crystal City from previous research

The testimonies of those who have experienced life in Crystal City in previous studies will be summarized and noted. This paper describes the situation based on the testimonies of Mr. Seiichi Higashide, who was a father and interned as an adult in Crystal City, Ms. Katsura Blanca, who was interned as a child, and Reverend Yoshiaki Fukuda, a Japanese American and a reverend of Konko's Church who saved many Nikkei Peruvians.

Internment camps in the U.S. were established to create the ideal American community. Therefore, as Higashide testified, they were a utopia, except they were not allowed to go outside or connect to the outside world. They were given autonomy and entrusted with the management of the community in the internment camp. This was not only done for deportation to Japan but also to create a "model community" in the U.S. that would be Americanized while still retaining its Japanese ethnicity.

Higashide describes Crystal City as follows: Apart from a few points - and they are very important - the internment camp in Crystal City was close to a perfect utopia. Everything was almost completely guaranteed there, from the cradle to the grave (Higashide 1995, 219).

The Crystal City camp was a "family camp," according to Higashide. It also housed about 3,000 people at its most crowded. Although there were people of German and Italian

descent, the most significant number of people interned were of Japanese descent. And among the Nikkei, more than half were children (Higashide 1995, 214; Tsuboi 2010,228-229).

In the Crystal City camp, where most of the people were children, an English school and a Japanese school were set up. The English school followed the same curriculum as American schools (Higashide 1995, 221). In addition, many children of Nikkei from Peru and other South American countries attended Japanese language schools, and they converse in Spanish during breaks and other times of the day. Blanca Katsura recalls those days as follows:

We did not understand English ... Because we came from a third-class country, especially in the U.S., when people think of Mexicans, they immediately think of laborers, so they probably thought we were living the same way. In Peru, Japanese people were usually envied for their wealthy lives, so one day, a teacher from Hawaii told us, "Don't use the language of third-class country" (Kagawa 2021, 311).

Blanca Katsura's testimony shows that even within the camp, there were differences between the communities, even if they were the same Nikkei, between those sent from South America and the English-speaking Nikkei.

Discrimination between communities was not limited to Nikkei, but the U.S. government's treatment of German and Japanese Americans at the Crystal City internment camps also varied. According to Rev. Fukuda's autobiography, there were 35 special rooms for pregnant women for the 1,000-odd German inmates, and only seven for the nearly three times as many Japanese Americans (Fukuda 1957,72). In addition, after the German descendants left the Crystal City camp, the dispatch of schoolteachers was suspended. The typewriters used in the schools were confiscated. The Nikkei in the camps raised money to hire their teachers from outside (Fukuda 1957, 72). Although the camps were equipped with wards and other facilities, they were not well-equipped, and some people died because they could not be helped in the camps, even though they could have been allowed in outside hospitals (Fukuda 1957, 68-69).

Despite these unfair conditions, the Nikkei was engaged in various cultural activities in the camps. Sumo tournaments, athletic meets, and other activities rooted in Japanese and American cultures, such as Girl Scouts, were also conducted.

The Pacific War ended in September 1945 (August 15 is considered the end of the Pacific War in Japan), but the Crystal City camp remained in operation. After the war ended, many Japanese Americans who had been interned returned to where they had lived before, they were interned. At the same time, those taken from South America, especially Peru, were not allowed to return because Peru refused to accept them back. Nearly 1,000 Japanese Latin Americans "returned" to Japan on post-war repatriation ships in December 1945 and June 1946, shortly after the war. However, some of them had never been to Japan. In addition, post-war Japan was a time of hardship due to the lack of food and other necessities. Those who left their families in Peru and other South American countries or refused to be repatriated to Japan remained in the Crystal City camp. Approximately 300 Peruvians of Japanese descent decided to remain in the U.S., but they could not easily leave the camp. They had no passports or other proof of identity and were considered "illegals" in the U.S.

However, with the help of attorney Wayne M. Collins, they were able to leave the camp if they could find an outside sponsor. However, many Japanese Latin Americans without acquaintances in the U.S. faced difficulties. The Japanese Latin Americans were assisted in their release by Seabrook Farms, a frozen cannery in New Jersey. Another person who helped them get out was Reverend Fukuda, pastor of the KonKo Church in San Francisco. The Crystal City camp was closed on February 27, 1948, more than three years after the war ended (Kagawa 2019).

After the Internment Camp

With the closing of the Crystal City internment camp, some Japanese Latin Americans were "repatriated" to Japan, others remained in the U.S., and those of Japanese descent who retained their Peruvian citizenship returned to Peru. This paper will discuss those who remained in the U.S., so those who were "repatriated" to Japan and those who "returned" to Peru will not be discussed in this paper. Those who remained in the U.S. were very poor and had difficulty making a living on their own. Although they had sponsors, they were limited in the work they could do in the U.S. due to language restrictions. In addition, the Crystal City camp was a "family camp," and many of the remaining people had children.

Nakada (2014) interviewed people who had experienced incarceration using a life-story approach, which featured several testimonies from children who once remained in the U.S., many of them narrating about the hardships their parents faced. The hardships experienced by their parents and the differences in the lives of Japanese Americans reinforced their awareness of where they came from, and their sense of identity as Japanese Latin Americans became firmly etched in their daily lives. Nakada (2014) notes that many Japanese Latin Americans have shared experiences of family hardship. They also care for and explain to their children's older siblings who left the camps at a relatively young age. Children who were older and able to work worked alongside adults to sustain their families. The younger children attended local schools but had to work harder than others, and Nakada's (2014) research revealed glimpses of empathy and pride with those who had gone through these events with them. Children who attended schools where they saw their parents and older siblings struggling to make ends meet were learning English and trying to get good grades in school. There were no ESL classes at the time, and the children were treated very differently depending on their school. In the environment they were placed in, it seems they did not have time to slow down and think about their identity or care about their future life. There are still testimonies of children educated in the U.S. in this way who, despite their good grades, could not afford the cost of a college education and went on to community college or volunteered for the military, taking full advantage of their military service. They have figured out how to stabilize their lives in the U.S. in their ways. It also further nurtured their identity as "Japanese Latin American (mainly Peruvian)," shared by those who have taken this route. Of course, this is quite different from the Nikkei who remained in Peru without being deported, and it is not an ethnicity of any kind.

Meanwhile, the status of their stay in the U.S. was also precarious. Still, in July 1952, the Federal Council granted a postponement of deportation in 1953 to inmates who had resided in the U.S. for more than seven years and had requested a reunification hearing from the Immigration Service to defer their deportation order (Kagawa 2019, 20). They were also finally able to change their status to permanent residents of the U.S. or citizens by naturalization after 1954 (Kagawa 2019).

Discussion

There is no doubt that the trajectory of the Japanese Peruvians seen so far is unique to them. The fact that they were mistreated during the WWII and forcibly taken to a country whose language and culture they had never heard before, without any reason, can be seen from the various testimonies and studies that have been conducted so far. According to the research by Kagawa (2019), the Prisoner of War (POW) exchange program was implemented, and 128 POWs were repatriated to Japan on June 19, 1942, and 737 POWs were repatriated on September 2, 1943. The rest were not allowed to return to Peru and had to head for Japan (Gardiner 1981). However, Gardiner (1981) says this move was also unjustified, as some of them were Nisei (Second Generation of Japanese descendants) who had never visited Japan. Japanese Peruvians who had

their passports and other proof of identity taken away were not allowed to remain in the U.S. and had to have their identities guaranteed by their sponsors to leave the camps (Nakada 2004, 23).

Many Nikkei Peruvians who did not return to Japan after leaving the camps found employment in the American society, often sponsored by Japanese Americans. The most well-known example of this was employment at Seabrook Farms, a frozen cannery in New Jersey (Nakada 2004, 23). However, as mentioned in this paper, Rev. Fukuda also made efforts to sponsor and seek out many people to become sponsors.

To summarize the past trajectory of Japanese Peruvians, they came to Peru from Japan as contract immigrants. Their reasons for coming are varied, but they came to South America of their own volition. They settled in Peru of their own volition and maintained ties to Japan through language, culture, and customs in the communities they created. They did not repeatedly move back and forth to Japan but spent their days shuttling back and forth between the host and Nikkei communities. From the perspective of transnationalism, this back-and-forth between cultural and linguistic spheres is also considered transnational migration.

Following their trajectory, it was shown that Japanese Latin Americans cannot be described only in terms of ethnicity. As already noted, citing Nakada (2014), this is not to say that "Japanese-Peruvian" is their core identity, but it is certainly a part of their identity. Glick et al. (1992) also refer to transnational people as "Transmigrants" and state that their social status, nationalism, ethnicity, and race must be considered to understand their identity. As described, the target group, in this case, was economically successful as Nikkei in Peru and other South American countries and maintained a social status that threatened the host society. However, to the Allies, Japan was an enemy of the Axis powers, which put Nikkei, who had maintained ties to Japan, in a socially precarious position. This situation is an experience shared by Nikkei throughout the Americas. However, the treatment they experienced in their respective countries of residence varied by country, region, and background. Many of the people in this target group were leaders or socially influential people in Peru who were blacklisted by the FBI in the U.S. and taken away (of course, due to the complex historical circumstances, not all of them were leaders, but that is not discussed here).

The formation of transnational people's identities consists of diverse elements, as Nakada (2014) states, and among those elements are social status, nationalism, ethnicity, and race, which Glick et al. (1992) describe. However, as it has been seen in this paper, the target group is made into one group not only by these elements but also by the shared experience of "mobility." It is also one factor that constitutes their identity. Symbolic of this is the "Peru-kai." Peru-kai is a community centered on this target group. Still, it is made up of the experiences of those who were forcibly removed from their homes, or their descendants, who live not only in the United States but also in Japan and Peru.

The cultural identity of the Nikkei, including this target group, cannot be spoken of as the only one, and the cultural identity of the Nikkei is diversifying. However, it can be said that there are common parts of an identity for those who include elements of Nikkei, and Hirabayashi et al. (2002) state that Nikkei's cultural identity is not static but is constantly changing. Thus, while there are similarities among generations, Nikkei communities, and countries of residence, there are also differences. When viewing Nikkei as a transnational people, their cultural identity cannot be captured by ethnicity alone. Still, it must be analyzed regarding the country of residence, Nikkei community, social status, nationalism, and the routes they take to talk about their experiences. There is also a certain hybridity in their cultural identities within their communities and host societies. Kato (2003, 86) notes that "the proselytizing of cultural hybridity produces new things that are different and unidiomatic, creating new areas in which meaning and commendation are negotiated." This is precisely the case for the target group of Japanese Latin Americans, especially in the U.S., who have constructed a new cultural identity-based in part on their different experiences from Japanese Americans.

As noted above, this experience of theirs was rarely told to the next generation. This was due to the lack of communication between parents and children due to language differences and the first generation's perception of the experience of "forced removal" as "shame." Many children developed friendships with local Japanese Americans and later assimilated into American society as Japanese Americans. They grew up within the three bases of school, community, and home, and came to absorb the diverse ways of thinking of each. In this way, they lived their lives in American society with Japanese roots, but their Peruvian experiences remained sealed in the past for many years. However, their route gradually came to light. It led to a movement to seek postwar compensation for the many Japanese Latin Americans forced into the U.S. by the U.S. government, although not included in the 1988 Civil Liberties Act, which resulted in the settlement in *Mochizuki v United States*, 43 Fed. Cl. 97.

Matsuda (2022) stated that the cultural identity possessed by the research collaborators was greatly affected by the "mobility." Still, it appeared possible that this influence would gradually fade away in subsequent generations. He stated that there was some evidence of family experiences and memories of "migration" being passed on to future generations, but very little, and that this was only in terms of the culture and language of the parent's generation, which differs from attitudes toward one's language and culture (Matsuda 2022, 32).

Thus, the parents' generation was less likely to actively pass on to their children about their experiences in Peru and the camp. Blanca Katsura's experience also shows that she does not recall hearing much about the camps from her father after the camps. She also said that few people in her community talked about it (Kagawa 2021, 314). She also testified that among Nikkei Issei (first generation), the memory of the camps remains as a "shame." They said their parents, who did not understand English, worked simple jobs in the Japanese American community and did their best to earn money for their children's upbringing. In addition, she also said that her father felt frustrated in his daily life that he had lost all of his success in Peru and that he did not seem to have the energy to start a new business in the U.S. (Kagawa 2021).

Blanca Katsura's testimony shows that this situation meant that cultural identity was not always passed on to its children's generation positively. However, many Japanese Latin Americans who work hard and are active in American society despite the hardships are proud of their experiences, and there are many testimonies, especially from their parent's generation, of their hard work, which will not be touched on here, but rather leave for the next issue.

Conclusion

Although there is not yet a research area called Nikkei Studies, a comparable body of research has been accumulated, and the target group in this study is a minority among Nikkei. It has elements necessary to understand the cultural identity of "Nikkei" better. Although it could not be touched on in this paper, it is necessary to conduct research next on how they adapted to American society after leaving the camps, describe the lives they obtained through more difficult experiences than in the camps, and how they passed on their cultural values to their children.

The following is a summary of how their trajectories can be applied to theories of transnationalism, which was the purpose of this paper. It was once again confirmed that when considering transnationals, it is necessary to consider the elements that constitute their cultural identity. In addition to the elements mentioned by Glick et al. (1992), the experience of Japanese Latin Americans in the U.S. suggests that it is essential to touch on the routes they share as their experiences. This study reaffirms the importance of focusing on the roots they have accumulated and the routes they have taken in the migration process when studying transnationals. It must be recognized that this is not an essential way of capturing fixed cultural identities but something more constructed and constantly changing. However, it may

be able to explain their cultural identity to some extent, as it was possible to glimpse some of the shared identity of this target group by looking at their roots and routes, which, although changing, have been accumulating.

More life-story approach-based research should be pursued as it moves forward in this study. It is necessary to analyze how the parties involved perceive the route they have taken and how they intend to pass it on to the next generation. It is also necessary to explore the importance of their experiences being shared again through narratives and the importance of the generations below them inheriting some of their legacy and cultural identity. This will help to think not only about this target group but also about the cultural identity cultivated by people in constant transnational mobility, which has excellent potential for developing into a universal study.

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A Comparative Study of the Psychological Traits between Ordinary Korean Adolescents and Ethnic Korean “Goryeoin” Adolescents from Ukraine who came to South Korea after Experiencing the Ukrainian War: Focusing on Depression, Anxiety, Quality of Life, and Ethnic Identity

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ABSTRACT: Goryeoins are ethnic Koreans who settled across Eurasia to move away from persecution and oppression in the Korean peninsula. Approximately 1,200 Goryeoins entered Korea to escape the Ukrainian War. This study aimed to analyze the metrics of psychological health (i.e., depression, anxiety, quality of life, and ethnic identity) of Goryeoin adolescents and to identify factors affecting their mental health. We compiled 120 questions based on six clinically used assessment tools (i.e., KIDSCREEN-52-HRQOL, RSES, PHQ-9, GAD-7, PC-PTSD-5, and MEIM). A total of 150 Korean adolescents and 130 Ukrainian Korean adolescents were included. The score of each subject was calculated in terms of family, friends, school life satisfaction, psychological health, ethnic identity, bullying, and trauma factors between the two groups, Goryeoin and Korean adolescents. Statistical analysis was performed using students' t-tests for continuous variables that satisfied the normality assumption. For variables that did not satisfy the normality assumption, Mann-Whitney U test was performed. A p-value <0.05 was taken to indicate statistical significance. Goryeoin adolescents demonstrated significantly higher overall mental health than Korean adolescents. In metrics related to friendship, Korean adolescents showed significantly higher satisfaction than Goryeoin adolescents. Goryeoin adolescents identified with their country significantly more than Korean adolescents. Finally, Korean adolescents experienced bullying and trauma in significantly higher frequency than Goryeoin adolescents. This research was a first attempt to compare and identify factors for mental health between Korean and Goryeoin adolescents. We expect the results of this study to be used as a guide for policy decision making.

KEYWORDS: Ukrainian Goryeoin, mental health, adolescents, psychological factors, clinical assessment

1. Introduction

It has been a year since the war in Ukraine broke out in February 2022. A significant number of Ukrainian citizens fled abroad, and approximately 1,200 Goryeoins in Ukraine migrated to Korea since August 2022. The mental health of adolescents is a major study area, as adolescents are relatively more emotionally and psychologically more vulnerable compared to adults. Therefore, this study compares the mental health of Ukrainian Goryeoin adolescents who came to South Korea after the war with ordinary Korean adolescents. Furthermore, this study also addresses the Goryeoin adolescents' ethnic identities.

2. Literature Review

1) The KIDSCREEN-52 quality-of-life (KIDSCREEN-52-HRQOL) is a tool developed with the support of the European Commission to evaluate the subjective quality of life that school-age

children feel. It is a self-reported test consisting of 52 questions and 10 sub-areas. Sub-domains are physical health (5 items), psychological health (6 items), mood and emotion (7 items), friendship (6 items), family (6 items), self-awareness (5 items), autonomy (5 items), school life (6 questions), bullying (3 questions), and economic resources (3 questions). The frequency of behavior, emotion, or attitude over the span of a week is evaluated on a 5-point Likert scale ranging from “not at all” (1) to “very much” (5). The higher scores indicate a higher quality of life. This study used physical health, psychological health, friend relationship, family relationship, school life, and social acceptance (Hong et al. 2007).

2) The Rosenberg Self-Esteem Scale (RSES) is a scale developed by Rosenberg (1969) and is a self-reporting test that measures respondents' attitudes toward themselves. The 10 items include 5 items of positive self-esteem and 5 items of negative self-esteem. A higher total score means higher self-esteem. Based on the scores, the levels of self-esteem are classified into very low (1-18 points), low (19-24 points), moderate (25-38 points), high (39-44 points), and very high (45 points or more). The responses to each question are on a 5-point Likert scale ranging from “not at all” (1) to “strongly agree” (5). While the original scale developed by Rosenberg is a 4-point Likert scale that gives scores from 0 to 3, one of either scoring systems is often picked up based on researchers' demand (Lee et al. 2009; Rosenberg, 1965).

3) Patient Health Questionnaire-9 (PHQ-9) is a self-reported test developed by Spitzer et al. (2006) to screen for depression and evaluate its severity. It consists of nine questions with nine items that fall under the DSM-IV's criteria for diagnosing major depressive disorder. The questions are designed to understand how often each participant has gone through various depressive symptoms over the past two weeks. The responses to the questions are assessed on a 4-point Likert scale: “none” (0), “2-6 days” (1), “7-12 days” (2), and “almost every day” (4). The total score ranges from 0 to 27 points. PHQ-9 is known to be a helpful tool for screening and evaluating depressive symptoms in research and at the preliminary clinical evaluation stage because it has fewer items and is more straightforward to score compared to the existing depression assessment tools (Park et al. 2010).

4) The Generalized Anxiety Disorder-7 (GAD-7) was developed by Spitzer et al. (2006) to screen for generalized anxiety disorder, and Kroenke et al. demonstrated its validity as a screening test for panic, social anxiety, and post-traumatic stress, as well as generalized anxiety disorders. It consists of seven items, and the anxiety symptoms in the designated past two weeks are evaluated on a 4-point Likert scale with the following options: “not at all disturbed” (0), “disturbed for a few days” (1), “disturbed more than half of the two weeks” (2), or “disturbed almost every day” (3). A total score of 5 or higher indicates high anxiety (Spitzer et al. 2006).

5) The Primary Care PTSD Screen for DSM-5 (PC-PTSD-5) is a test tool developed by Prins et al. (2003) for primary screening of PTSD risk groups. It consists of questions about whether respondents have experienced post-traumatic stress symptoms in the past month, reflecting the DSM-5 diagnostic criteria. There are five questions in total, and respondents are asked to answer “yes” or “no.” PC-PTSD-5 is selected only if the person experienced a traumatic event and will not be used if the person has not experienced a traumatic event. A score of 3 to 5 is classified as severe and interpreted as experiencing discomfort due to symptoms related to the traumatic event and experiencing difficulty in adjusting to daily life than usual (Prins et al. 2003; Jung et al. 2018).

6) The Multigroup Ethnic Identity Measure (MEIM) was developed by Phinney (1992), modified and secured by Roberts et al. (1999), and consists of 12 questions and three factors. The three sub-factors of ethnic identity consist of behaviors of ethnic identity, emotional evaluation of ethnic identity, and sense of ethnic belonging. The scale is a 4-point Likert scale ranging from “not at all” (1) to “very much” (4) to rate the sense of ethnic identity. Higher scores indicate a more positive sense of ethnic identity (Phinney 1992; Roberts et al. 1999).

3. Methods

The test was conducted on 150 Korean adolescents and 130 Goryeoin adolescents from Ukraine from August 15th to 29th, 2022. For Ukrainian Goryeoin youth, teenagers from the Gwangju metropolitan city where Goryeoins densely reside were sampled for the test, whereas Korean adolescents across the country took part online through a survey agency. The survey questions were translated into Russian for Ukrainian Goryeoins. Among the collected questionnaires from Goryeoins, 120 were used for analysis, excluding 10 questionnaires that were not completed completely. A descriptive statistical analysis was conducted to identify the differences between these groups by factor. For this purpose, the normality test was performed to classify the factors for the t-test and the non-parametric test. When the t-test was performed, Welch-t values were obtained for factors that did not satisfy the assumption of equal variance. The R program was used for statistical analysis.

4. Results

1) Descriptive Statistics

Table 1: Goryeoin Adolescent Demographic Information

Factors	Response	Number of People
Gender	Male	53
	Female	66
	Nonresponse	1
Year of Birth	Before 2000	4
	2001-2005	37
	2006-2010	71
	After 2011	8
School	Grade 6	2
	Grade 7	5
	Grade 8	6
	Grade 9	3
	Grade 10	5
	Grade 11	2
	Grade 12	0
	Nonresponse	7
	Korean Language School	74
	Not Going to School	17
Residence	Gyeonggi-do Province	17
	Jeolla-do Province	98
	Others	4
	Nonresponse	1
Period of stay in South Korea	More than 0 months and less than 2 months 2 months <	77
	More than 2 months and less than 4 months 2 months <	34
	More than 4 months and less than 6 months 4 months <	42
	Nonresponse	4
	Who decided to come to South Korea?	Self
	Father	68
	Mother	70

Did you want to come to South Korea?	Yes	83
	No	37
Do you want to go back after the war is over?	Yes	72
	No	47
	Nonresponse	1

Table 2: South Korean Adolescent Demographic Information

Factors	Response	Number of People
Gender	Male	75
	Female	75
Year of Birth	2004	34
	2005	23
	2006	19
	2007	46
	2008	28
School	7th grade	1
	8th grade	26
	9th grade	48
	10th grade	18
	11th grade	22
	12th grade	35
	Korean Language School	
	Not going to School	
Non-respondents		
Residence	Seoul City	25
	Gyeonggi-do Province/Incheon City	59
	City of Busan/Daegu/Ulsan Gyeongsang-do Province	27
	City of Daejeon/Sejong Chungcheong-do Province	14
	City of Gwangju/ Jeolla-do Province	18
	Gangwon-do Province	3
	Jeju-do Province	4

2) Test Results

To confirm whether the t-test is applicable, normality verification was performed on all variables, and the results were as follows.

Table 3: Tests of Normality

Tests of Normality(Kolmogorov-Smirnov test)		
	statistic	p
Quality of Life	0.0433	.691
↳Physical Health	0.0538	.415
↳Mental Health	0.0779	.076
↳Friends	0.0731	.112
↳Family	0.1037	.006*
↳School	0.0700	.142
↳Bullying	0.2155	.000***
Self-esteem	0.0657	.195
Depression	0.1403	.000***
Anxiety	0.1331	.000***
Trauma	0.1987	.000***
Ethnic identity	0.0422	.000***

*:p<.05, **:p<.005, ***:p<.001

The test results show that family, bullying, depression, anxiety, and trauma under the sub-scales of quality of life did not meet the assumption of normality. Therefore, a non-parametric test was used for these factors.

Table 4: Independent Samples t-test Results

Independent Samples <i>t</i> -test result					
	<i>t</i>	<i>df</i>	<i>p</i>	Mean difference	SE difference
Physical Health	0.810	268	.418	0.431	0.533
Mental Health	3.524	268	.000***	2.066	0.586
Friends	-2.832	268	.005**	-1.923	0.679
School	0.016	268	.987	0.010	0.612
Quality of Life	1.248	266.8	.213	2.890	2.316
Self-esteem	-0.834	259.2	.405	-0.685	0.821
Ethnic identity	2.146	268	.033*	2.696	1.256

*:p<.05, **:p<.005, ***:p<.001

An independent sample t-test was employed for seven factors that passed the normality test. Among them, the quality of life and self-esteem did not pass the equal variance assumption test so those were indicated by the value of Welch-t. As a result of verification,

there was no significant difference between the two groups among physical health ($t=0.810$, $df=268$, $p=.418$), school ($t=0.016$, $df=268$, $p=.987$), quality of life ($t=1.248$, $df=266.8$, $p=.213$), and self-esteem ($t=-0.834$, $df=259.2$, $p=.405$). Meanwhile, psychological health ($t=3.524$, $df=268$, $p=.000$), friends ($t=-2.832$, $df=268$, $p=.005$) and ethnic identity ($t=2.146$, $df=268$, $p=.033$) showed significant differences between the groups. When it comes to psychological health, which means subjective psychological well-being, Goryeoin adolescents turned out to have higher psychological health than Korean adolescents (Korean group average: 20.866; Goryeoin group average: 22.933). For the friend factor, Korean adolescents showed a higher level of satisfaction compared to Goryeoin adolescents (Korean group average: 22.106; Goryeoin group average: 20.183). Lastly, Goryeoin adolescents showed a higher sense of ethnic identity than Korean adolescents (Korean group average 37.25; Goryeoin group average: 40.025).

Table 5: Mann-Whitney U test

Mann-Whitney U test			
	<i>U</i>	<i>p</i>	Mean difference
Family	7201	0.005**	2.000
Bullying	7747	0.038*	0.000
Depression	8405	0.350	-1.000
Anxiety	7212	0.005**	1.000
Trauma	7786	0.049*	0.000
*: $p < .05$, **: $p < .005$, ***: $p < .001$			

Having conducted a non-parametric test, the Mann-Whitney U test on five factors that did not pass the normality test revealed that there was no significant difference in depression between the two groups ($U=8405$, $p=.350$), while the family ($U=7201$, $p=.005$), bullying ($U=7747$, $p=0.038$), anxiety ($U=7212$, $p=0.005$), and trauma ($U=7786$, $p=0.049$) factors showed significant differences between the two groups.

Satisfaction with family (Korean group average: 21.80; Goryeoin group average: 23.72) was higher in the Goryeoin group. The group of Korean adolescents experiences more bullying (Korean group average: 4.68; Goryeoin group average: 3.58) at a higher level. Anxiety (Korean group average: 4.30; Goryeoin group average: 5.75) and trauma (Korean group average: 1.56; Goryeoin group average 1.88) were found more in the Goryeoin group.

5. Discussion

The study examined the psychology of Goryeoin adolescents, who came to South Korea due to the war in Ukraine, compared with Korean adolescents. Given that this subject was never addressed, this research is significant. Goryeoin adolescents showed higher family satisfaction and psychological health than Korean adolescents, and their sense of ethnic identity was also higher than Korean adolescents. Contrary to concerns, our research showed that the level of bullying in Goryeoin adolescents was relatively lower compared to South Korean adolescents; however, the level of satisfaction with friendship turned out to be lower, suggesting their possible difficulties in building broad friendships.

In addition, the Goryeoin group shows a high level of trauma, which could be a promising cause for anxiety. This suggests that the war as a variable may have had an

influence on their psychological impact, and therefore, additional research is needed to clarify further.

It was a meaningful discovery that Goryeoin adolescents have a higher sense of ethnic identity than Korean adolescents, while many assume the opposite.

The Overseas Koreans Act might have influenced their sense of ethnic identity as the Act helped Goryeoin adolescents to come to South Korea easier when they were confused about where to go under the extraordinary circumstance of the war. Another reason for their high sense of ethnic identity could be their childhood upbringing while listening to their grandparents' stories about Korea.

Another analogous survey result, which was part of a research conducted by Ko Ga-Young (2009), shows that Goryeoin adolescents from Moscow, Russia, also feel a high sense of ethnic identity. Goryeoin adolescents from Moscow knew that they needed to put more effort than Russians to make their lives successful in society, and there might be significant social obstacles. However, regarding ethnic identity, 55% of the respondents said they were "very proud of being Goryeoins," and 21% answered they were "proud of" their ethnicity.

In that respect, providing more active support and intervention for their trauma treatment and better school life, including language and friendship, seems necessary.

This research suggests further studies to conduct in the areas below:

1) Policies and initiatives for overseas Korean youth, such as how Goryeoins should be carefully developed and implemented, should be created.

2) Psychological intervention in trauma should be made more urgently in the case of adolescents from Ukraine who have experienced the war directly or indirectly.

In a preliminary interview with eight Goryeoin adolescents from Ukraine from August 10th to 16th, most participants said they felt fortunate and safe to come to Korea in the process of choosing a country to evacuate after the war. They added that it was because Korea is their grandparents' home country, and some of their parents have worked in Korea in the past. All these made them feel natural to come to Korea. These factors allow Goryeoin adolescents to have a higher sense of ethnic identity than Korean teenagers.

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The Evolution of the Legal Institution of Marriage in Roman Law

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ABSTRACT: Marriage was the union performed with the intention to establishing a family. Among the Romans, the family was stronger than the state. This explains the fact that they took measures, including of a legal nature, to protect marriage and, implicitly, the family. These measures had become necessary towards the end of the Republic, when Oriental-type morals had penetrated Rome. These had changed the mentality of women, who no longer wanted to come under the power of their husbands and who had begun to live in simple *de facto* unions. In order to save the family, Roman jurists consecrated the legal institution of marriage without *manus*. According to it, the woman no longer fell under the power of her husband, but remained under the *patria potestas* of the *pater familias* of the family of origin. Over time, as the Romans gained social and legal experience, they paid even more attention to this legal institution because civil marriage became an important tool in achieving the Romanization process.

KEYWORDS: marriage with manus, marriage without manus, confarreatio, usus, coemptio, connubium, affectio maritalis

The appearance and evolution of marriage in Roman Law

Marriage is the legal union performed in order to establish a family. In ancient times, marriage had the effect of the woman falling under the power of the man, who exercised over the married woman a power called *manus*. In this way, the man ensured that he would exercise parental power over the children resulting from the marriage and authority over the woman. These issues were due to the fact that the Roman family was patriarchal, and the Roman society was one in which the man participated in the activities of public and private life.

As society developed and realities changed as a result of the penetration of morals from the East, Roman women began to live in cohabitation, as they wanted to emancipate themselves and get out of the power of their husbands (Axente 2022, 175). This practice was likely to endanger the family itself, which, for the Romans, was stronger than the state. To avoid these consequences, marriage without *manus* was created. In this way, the woman was partially emancipated, as she no longer fell under the power of her husband, but remained under the power of the *pater* from the family of origin.

The formal conditions of marriage

The Roman marriage was concluded in two forms: with *manus* and without *manus*. In turn, marriage with *manus* was concluded in three forms: *confarreatio*, *usus* and *coemptio*.

Confarreatio is the oldest form of marriage. This form of marriage involves the intervention of the religious authority. It was accessible only to the patricians, as they had access to the exercise of acts specific to the religious cult. The jurisconsult Gaius gives us precious information about this form of marriage conclusion: "*farreo in manum conueniunt per quoddam genus sacrificii, quod Ioui Farreo fit; in quo farreus panis adhibetur, unde etiam confarreatio dicitur; complura praeterea huius iuris ordinandi gratia cum certis et sollemnibus uerbis praesentibus decem testibus aguntur et fiunt. quod ius etiam nostris temporibus in usu est: nam flamines maiores, id est Diales, Martiales, Quirinales, item reges*

sacrorum, nisi ex farreatis nati non leguntur: ac ne ipsi quidem sine confarreatione sacerdotium habere possunt” (Girard 1890, 180). Therefore, the *confarreatio* required the presence of the future spouses, the *pontifex maximus*, the flamin of Jupiter and ten witnesses. On this occasion, a cake of wheat flour was offered to Jupiter (the supreme god) and solemn formulas were uttered. As long as *confarreatio* was the only way to conclude marriage, plebeians lived in illegitimate unions, since they could not perform acts of worship.

In order to eliminate these shortcomings, Roman jurists created a new way of marriage, called *usus* (Hanard 1997, 148). And this time, the jurisconsult Gaius gives us information about how this form of marriage was concluded: “*usu in manum conueniebat, quae anno continuo nupta perseuerabat; quia enim uelut annua possessione usu capiebatur, in familiam uiri transibat filiaequae locum optinebat. itaque lege duodecim tabularum cautum est, ut si qua nollet eo modo in manum mariti conuenire, ea quotannis trinoctio abesset atque eo modo cuiusque anni usum interrumperet. sed hoc totum ius partim legibus sublatum est, partim ipsa desuetudine oblitteratum est*” (Girard 1890, 180). Therefore, the *usus* comes true by the cohabitation of the spouses for one year. It was inspired by the *usucapio* of *res mobiles*, which had to be possessed for one year. After the passage of a year, the woman fell under the power of the man, became his daughter and, implicitly, an element of his heritage. If the woman did not want to come under the power of the man, she had the right to be absent from home for three nights.

Coemptio (Gaudemet and Chevreau 2009, 47) is another form in which marriage with *manus* was performed. And this time, the jurisconsult Gaius sends us precious information. According to him, “*coemptione uero in manum conueniunt per mancipationem, id est per quandam imaginariam uenditionem: nam adhibitis non minus quam V testibus ciuibus Romanis puberibus, item libripende, emit uir mulierem, cuius in manum conueni*”. (Girard 1890, 180-181). Therefore, *coemptio* was one of the applications of mancipation. This explains the fact that it consisted of a symbolic sale, which involved the performance of certain rituals and the recitation of solemn formulas in the presence of at least five witnesses who were pubescent Roman citizens and a person holding a copper scale.

Marriage without a *manus* appeared towards the end of the Republic, when, on the background of borrowing morals from the East, the woman wants to become independent in relation to her husband. Many women, who did not have access to *confarreatio*, preferred to use *ius trinoctii* (the right of three nights), which interrupted the one-year period specific to *usus* marriage. These practices endangered the family, birth and, implicitly, the Roman society. To avoid these consequences, Roman jurists created marriage without *manus*, which was achieved by installing the woman in the man’s house (*deductio mulieris in domum mariti*) (Axente 2020, 181-182). On this occasion, a party was organized, which ensured the necessary publicity for the birth of the family.

Basic conditions of marriage

In order to conclude a marriage, regardless of whether it is with *manus* or without *manus*, certain basic conditions had to be fulfilled. These are *connubium*, consent and age.

Connubium (ius connubii) is the citizen’s right to enter into a Roman civil marriage. Latin *veteres* and certain soldiers who were ending their military service also enjoyed this right. The latter had the right to conclude legitimate marriages with the Latins or peregrines with whom they wanted to found a family, thus contributing to the realization of the Romanization process.

Connubium was used with two meanings: objectively and subjectively (Hanga and Bocşan 2006, 135). *Connubium* in the objective sense meant a person’s ability to enter into a marriage in accordance with the norms of *ius civile*. *Connubium* in the subjective sense meant the possibility of two people marrying each other. Not all people have the ability to marry each other because of circumstances that prevent marriage. These circumstances are called

impediments to marriage. Roman legal texts established kinship, alliance and social condition as obstacles to marriage.

The blood relationship was of two kinds: in the direct line and in the collateral line. Consanguinity in the direct line was a bar to marriage indefinitely. In this sense, the juriconsult Gaius states that people who have, in relation to each other, the quality of ascendant or descendant cannot marry each other. Father and daughter, mother and son, grandfather and granddaughter are in this situation.

Collateral kinship was a hindrance to marriage to a certain degree. And this time, Gaius tells us that there is an obstacle to marriage between persons related by a degree of collateral kinship, since between brother and sister, marriages are prohibited, whether they are born of the same father and the same mother, or come from only one among them (Popescu 1982, 81) (*inter fratrem et sororem prohibita sunt nuptiae, siue eodem patre eademque matre nati fuerint siue alterutro eorum*). Exceptionally, in the era of the Principate, the conclusion of marriage between collateral relatives of the third degree was allowed, through an imperial constitution adopted by Emperor Claudius. This measure enabled him to marry his brother's daughter, Agrippina. Later, Agrippina poisoned the emperor, which is why he reverted to the old system.

The alliance was the connection between one spouse and the relatives of the other. The alliance was of two kinds: in direct line and in collateral line. Only the alliance in a direct line was an obstacle to marriage. This explains the fact that the surviving spouse could not marry a descendant of the deceased spouse resulting from another marriage.

Another obstacle to marriage was the social condition. Until 445 BC plebeians could not marry patricians. For a long time, even the ingenues could not marry *libertini*. This restriction was abolished by the emperor Octavian.

Consent to marriage was designated in Roman legal texts by the expression *affectio maritalis*. Consent to marriage indicated the intention of the future spouses to conclude the marriage. If the future spouses were persons *sui iuris*, their consent was necessary; the consent of the woman *sui iuris* had to be supplemented by the consent of her *tutor*, because the woman was considered incapable in fact. If the future spouses were persons *alieni iuris*, their consent did not matter in ancient times; the consent of the two *pater familias* was sufficient to conclude the marriage. If the husband's *pater familias* was the grandfather, the father's consent was also required, according to the principle that no one can be given heirs without his consent (*nemini invito heres suus adgnascitur*). Later, against the background of the evolution of legal ideas, the emancipation of the sons and daughters of the family begins. This explains the fact that, during the reign of Augustus, the sons of the family could address the praetor when the head of the family objected, without reason, to the conclusion of the marriage. Later, in the age of the Antonines, the consent of the future *alieni iuris* spouses becomes sufficient to conclude the marriage.

The required age for marriage was the age of puberty. The establishment of this age was the subject of a controversy, which was settled by Justinian. He established that boys can marry at 14, when they become pubescent, and girls at 12, when they become *nubilis*.

Marriage Dissolution

Roman legal texts mentioned the existence of three causes of dissolution of marriage: the death of one of the spouses, *capitis deminutio* and divorce.

Capitis deminutio meant the abolition of personality and was of three kinds: *capitis deminutio maxima*, *capitis deminutio media* and *capitis deminutio minima*. *Capitis deminutio maxima* was due to the loss of liberty; together with freedom, the other elements of personality (*status civitatis* and *status familiae*) also disappeared. This happened, as a rule, when the Roman citizen was imprisoned. However, as the juriconsult Gaius showed, the

effects of *capitis deminutio maxima* could be erased by the effect of *ius postliminii* (Popescu 1982, 101). *Capitis deminutio media* had the effect of losing citizenship. Along with citizenship, the person also lost *connubium*, and this fact had the effect of dissolving the marriage. *Capitis deminutio minima* produced effects in the case of marriage with *manus* and resulted in the loss of family rights. It took place in the case of adoption, when the married son of the family leaves the power of the pater of the family of origin and enters under the *patria potestas* of another *pater familias*.

In Roman Law, divorce was carried out depending on how the marriage was concluded with or without *manus*. In the case of marriage with *manus*, the divorce could be achieved in a different way. If it was a matter of *confarreatio*, which was a religious act, the marriage took place through a symmetrical act, called *difarreatio*, since the old *ius civile* was governed by the principle of symmetry of forms. According to this principle, a legal act could be abolished with the help of legal forms identical to those through which the act was created. In the hypothesis of the other forms of marriage with *manus*, *usus* and *coemptio*, divorce is achieved by using mancipation; in this way, the wife was sold to a third party, and the power that the husband had exercised over the married woman (*manus*) ceased.

In the hypothesis of marriage without *manus*, things were much simpler. Since the marriage was concluded by the simple agreement of the spouses, symmetrically, it ended when it no longer existed, according to the rule *consensus nuptiae facit, dissensus divorceum facit* (Hamangiu and Nicolau 2022, 200).

Roman legal texts from the Post-classical Era mentioned four forms of divorce. The first is *divortium communi consensu*. It was allowed by Emperor Justinian in the hypothesis that the spouses want to divorce in order to become monks. The second form of divorce was *repudium*. This form of divorce could be achieved under the conditions imposed by the *lex Iulia de maritandis ordinibus*, which enshrines the fact that the divorce was achieved through a written notification given to the other spouse, in the presence of a free man, through the formula *tuas res tibi habeto*. In the time of Emperor Justinian, repudiation was carried out in three forms: *divortium bona gratia* (based on a legitimate reason of the divorcing spouse - for example, the infertility of the other spouse), *divortium ex iusta causa* (based on reasons imputable to the other spouse - for example, adultery or murder) and *divortium sine iusta causa* (based on unjust grounds).

Effects of marriage

The effects of marriage differed depending on whether the marriage was concluded with *manus* or without *manus*.

In the case of marriage with *manus*, the woman left the *patria potestas* and fell under the power of the husband. The exit from the *pater's* parental power from the family of origin implied the termination of agnation with him and with civil relatives from the family of origin (Cătuneanu 1927, 148). The fall of the wife under the *manus* had the effect of creating agnation in relation to the husband and the children resulting from the marriage. This explains the fact that the woman married to *manus* became the man's daughter and the children's sister; in this capacity, she could come to their inheritance. Thus, she was considered a person *alieni iuris*, even if before the conclusion of the marriage she had been a person *sui iuris*. Being considered a daughter of the family, the *pater* exercised unlimited power over her person and her property. The goods that the woman had received as a dowry were to enter the husband's patrimony. The woman remained related to the members of the original family, but this was of no importance, since, in ancient times, *cognatio* did not produce legal effects. As *pater familias*, the husband could impose the death penalty on the woman married with *manus*, but with the consent of the woman's former agnates, who constituted a family council for this purpose.

In the case of marriage without a *manus*, the woman did not fall under the power of the husband. She remained under the power of the *pater* of the family of origin, who could ask her back through the *interdictum de filia exhibenda et ducenda*. In other words, the marriage did not have the effect of extinguishing the connection with the members of the family from which she came. For this reason, she was not considered a civil relative neither with her husband, nor with the children resulting from the marriage. Against the backdrop of the weakening of the power of the *pater familias* and the evolution of legal ideas, it was recognized that blood kinship plays an important role in the organization of the family. In this context, the praetor reformed the system of persons who had a vocation to succession. The wife married to the *manus* and his children were included in the third category of Praetorian heirs (*unde cognati*). These reforms were finalized by the Emperors Hadrian and Marcus Aurelius (Molcuț 2011, 152-153). Hadrian, through Tertullian Senatusconsult, allowed mothers who enjoyed *ius liberorum* to come to the succession of children as relatives of the second circle of praetorian heirs (*unde legitimi*). Later, the Emperor Marcus Aurelius, through the Orfitian Senatusconsult, perfected the system, allowing the children resulting from the marriage without *manus* to come to the mother's succession as persons who are part of the first category of heirs (*unde liberi*).

The marriage also had other effects. The wife had to respect her husband and be faithful to him. To guarantee this obligation, Emperor Augustus punished the violation of this obligation by *lex Iulia de adulteriis*. Other Roman legal texts also mention the fact that when the wife violates this obligation, the husband could withhold part of her dowry. Just as the wife had to be faithful, so the husband was obliged to protect his wife and be faithful to her. If he violated this obligation, he had to return to his wife the dowry he had received at the time of the marriage. The husband could prosecute the injuries caused to his wife through *actio injuriarum*, he was prohibited from suing his wife and could not file defamatory actions against his wife (Hamangiu and Nicolau 2022, 206-207).

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Trends in the Field of Energy Security

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ABSTRACT: The predicted impact of climate change is becoming increasingly visible. Environmental and climate-related risks, including extreme weather events, water scarcity and failure to adapt to and mitigate climate change, are among the main risks facing the world. Policymakers, researchers and the public increasingly recognize the need to address climate-related security risks through cooperation and dialogue. Thus, the global energy sector is going through a deep and rapid transformation and failure to recognize megatrends would be harmful to the development of energy security strategies.

KEYWORDS: trends in energy, geo-economics, energy, security strategies

Introduction

The energy sector has gone through major transitions from the use of wood as the dominant fuel to the adoption of coal and, more recently, oil. In the 21st century, gas prices have risen faster than any other fossil fuel, and today renewable energy is rising even faster. The changes, combined with volatile energy prices and occasional shocks, create complex scenarios for the socio-economic development and future of energy security. In this sense, it is imperative that political factors take into account current megatrends and the implications of unique shocks - such as the COVID-19 pandemic or the Russian-Ukrainian war - in defining long-term strategies for a resilient energy sector.

The current geo-economic context

Today's society is now heavily influenced by the most important events on the world geo-economic scene. The COVID-19 pandemic, the growing climate crisis and, most recently, the war in Ukraine represent interconnected shocks that lead to the reshaping of the geo-economic and political order. They also have major effects on livelihoods and societal stability. The solutions addressed by policymakers must also be interconnected, cooperative and sustainable.

Faced with the worst supply chain crisis in decades during the COVID-19 pandemic, then a war generating a rapid and widespread energy crisis and substantial inflation, the current economic environment is quite shaky and business is at risk existentially. At the same time, the drive for higher productivity coming from the organizational policy level, which underpins the economic strategies for the development of companies, is now intersecting with the demand from employees and customers for increased flexibility. Customers now expect the same level of flexibility from manufacturers and e-commerce as they did during the pandemic. The step has been taken and it must be maintained.

As time goes on, the global economy returns to what it was in the mid-2020s and adjusts to the new disruptive factors that have emerged. The IMF estimates that global GDP grew by 4.4% in 2022, half a percentage point less than previously expected (The Economist 2022). The conclusion is that these events, along with others, will cause a still formidable growth in the global economy. The 4,446 CEOs from 89 countries and territories who responded to PwC's 25th Annual Global CEO Survey (PwC 2022) are optimistic about

continued economic resilience even if threats, uncertainties and tensions abound (For the past 25 years, PwC's global survey of CEOs has provided leaders of organizations, authorities and the business community around the world with a unique insight into the vision and business decisions of company executives worldwide. For the 25th edition of the study, published in January 2022, PwC interviewed 4,446 CEOs from 89 countries (including Romania), regarding the most important aspects of today's society). The same study found that CEOs are most concerned that a cyberattack could inhibit innovation and sales, or that a macroeconomic shock undermines their company's financial goals, and are less concerned about current challenges, such as climate change and social inequality, which appear to pose less immediate threats to incomes.

The optimism of Romanian CEOs regarding the evolution of the Romanian economy has decreased after the outbreak of the war in Ukraine considering the way the health crisis, the energy crisis, the accelerated inflation and the war have appeared and overlapped in the last two years, all with their wide-ranging effects and specific consequences. The war in Ukraine is taking its toll on the confidence of CEOs in our country and on the ability of their own companies to grow their revenues over the next 12 months. Thus, only 20% of respondents declare themselves extremely or very confident in the possibility of increasing the turnover (percentage decreasing from 54%), while another 49% of them are somewhat confident in the prospect of a better year (PwC 2022).

The conclusion that can be drawn is that the current geopolitical context affects the optimism of company directors and imposes an increased resilience of the business environment to the risks and crises of the moment. Caution in the face of increasing threats can be considered a natural reaction. In this sense, following the survey carried out, in the perception of general managers in Romania, macroeconomic volatility overtakes the health situation and cyber security as the top risk factors.

However, business leaders are beginning to understand the role they must play in society and the commitments they must make to avoid, or at least mitigate, the potential ill effects of global threats, such as climate change. The questions that arise are these: can climate change and decarbonization commitments become a priority in this very turbulent geo-economic context? What are the costs imposed on this process by this complex reality and how can they be assumed?

The geopolitical context of changes in the energy field

The ripple effects of climate change events have spread beyond cities to neighboring countries with geographical, climatic or economic ties. Most investors and lenders react with relevant signals in their companies' risk assessment. This is of course not enough, as climate change and geopolitics are often interrelated given that this disruptive factor acts as a strong multiplier of geopolitical risk.

In addition, climate change has major socioeconomic consequences for how different countries operate. As the resources needed for economic development are affected, productivity is also affected and the vulnerabilities of institutions are more exposed. As a consequence, populations feel the impact directly on their own livelihoods, and then there is an impact both within countries and between countries or between governments.

Climate change, accelerated by population growth and declining water resources, can lead to rapid and radical structural changes in the economies and demography of different countries. We argue that water rights, access to water resources, management, the effects of climate change, and other water-related risks are drivers of geopolitical conflict in areas where watersheds lie across national borders (Dover 2021).

Where are the most exposed geopolitical regions? Here, in this geographical space, we look at the Danube River, which crosses nine member countries of the European Union (EU)

and five non-members and which generates certain tensions between countries regarding a variety of issues.

European Union (EU) documents show that populations in this area are not growing, nor is there widespread dependence on agriculture. But water stress and changing weather patterns are real, and the need for cooperation and coordination among a disparate group of economies presents its own problems (European Commission June 2020).

The economic environment of the Danubian states derives from the significant socio-economic difference in the region. In general, EU member states are wealthier, enjoy higher quality infrastructure, and are more dependent on industry than agriculture. In addition, the Upper Danube region has more diversified economies and the Lower Danube region is more dependent on agriculture and has a less diversified economy. All 14 countries share poor demographic projections, according to the World Bank (World Bank Open Data September 2021). Also, in most countries of Eastern Europe and the Balkans, there is a fragile infrastructure construction in the period since their transition to democracy.

However, the largest investor in the Danube region remains the EU, although it faces many obstacles to sustainable economic progress (e.g., inefficient use of EU funds). From the analysis, the largest water consumption in the region is given by hydropower generation (92%), followed by water supply to society (4%), only 1% being intended for agriculture, forestry and fishing (Management Plan of the Danube River 2022) and Romania is one of the countries dependent on water capture for hydropower. The natural question is what will happen with the increase in investments in digitization and how much will this affect the current geopolitical context in the economic structure of the Danube riverside states? What will the changes in the power game be, and how will strategies, policies and, especially, funding to delay climate change adapt?

Until now, climate change recorded and presented especially in the academic environment failed to attract the attention of many of the main actors of world geopolitics, so for a long time, there was a lack of tangible cooperation between them. COVID-19 has acted as a catalyst for better cooperation among competing powers, all of whom have a concrete fight to wage against a world-class enemy. We appreciate that after a common reaction to the global pandemic, countries will be able to ally themselves in the fight against climate change and their strategies will be common and effective.

Trends in the energy field

The energy future seems to be shaped by some newly emerging behaviors and due, in particular, to the crises we have experienced in recent years. Thus, we are talking about the new socio-economic and political developments, the unique shocks, the accelerated use of renewable sources, the technological innovations in the energy markets, to which the change in consumer behavior is also added. These trends highlight the major opportunities that renewable energies represent. Moreover, it is well known that the sector has been disrupted in the short term by COVID-19, and the major global changes imposed on the energy sector and energy security by the Russian-Ukrainian war are more than evident.

In today's world, understanding the interdependencies and opportunities, the risks associated with the energy field and the awareness of how they could affect economies, societies, countries and even the North Atlantic Alliance will allow NATO to better prepare for future security challenges.

Until recently at the level of the European Union, it was decided to build the Energy Union with its five closely related and mutually reinforcing dimensions: "security, solidarity and trust which consists in the diversification of energy sources to which is added the assurance of energy security; a fully integrated internal energy market that entails adequate infrastructure backed by barrier-free regulations; improved energy efficiency that will lead

states to reduce energy imports; decarbonization of the economy as well as research, innovation and competitiveness to stimulate the energy transition" (European Commission).

The period we are going through is also marked by the socio-economic and political consequences of Brexit, an event that cannot quickly erase the 50 years of England's accession to the European Union (EU). They facilitated a series of "electricity and gas pipeline interconnections between Great Britain and Northern Ireland on the one hand and France, the Netherlands, Belgium and Ireland on the other" (European Commission). As a result, energy trade is no longer managed through the existing instruments of the single market and requires measures appropriate to the post-Brexit period, measures which in turn lead to the creation of new infrastructures in the field, doubled by new policies.

The rising use of renewable energy is one of the most important trends for several reasons. The first is given by the fact that concerns related to global warming have increased in recent years and the complementary one consists of increased technological progress leading to cost reduction, thus becoming more and more competitive with fossil fuels. Global electricity production from renewable sources grew by 7% in 2018 and industry experts expect these trends to strengthen over the next decade. In this sense, globally in 2021, compared to 2020, there was a 17% decrease in annual wind capacity additions that was offset by the increase in solar photovoltaic energy and the increase in hydropower installations, say the statistical data (Renewable net capacity additions report 2019-2021). In terms of the annual growth rate of renewable capacity was slower in 2021, after an exceptional jump in 2020 as Chinese developers rushed to connect projects ahead of the phasing out of subsidies, particularly for onshore wind.

Renewable electricity capacity additions hit another record in 2021 and demand for biofuels has almost returned to pre-Covid levels, despite continued logistical challenges and rising prices. However, the Russian Federation's invasion of Ukraine is sending shockwaves through energy and agricultural markets, leading to an unprecedented global energy crisis. Thus, "the demand for renewable energy is estimated to increase globally by 64% between 2018 and 2030" (Real Instituto ELCANO, Royal Institute 2020). Currently, governments in many countries are trying to protect consumers from rising energy prices, while reducing dependence on Russian supplies and proposing policies to accelerate the transition to clean energy technologies.

Renewable energy has great potential to reduce prices and dependence on fossil fuels in the short and long term. Although the costs of new solar, photovoltaic and wind installations have increased, the prices of natural gas, oil and coal have increased much faster, thus further improving the competitiveness of renewable electricity.

However, the questions we need to answer boil down to this: how quickly can renewables replace fossil fuels, and how can an acceleration of the energy transition be achieved? What are the major factors influencing this trend? Will renewable energy sources expand despite current geo-political and macroeconomic challenges? Does renewable energy have the potential to significantly reduce dependence on the use of Russian gas in Europe? Depending on the answers given, the decision-makers will develop the most suitable and effective strategies and policies.

From another perspective, related to global warming, it is found that due to the lack of real developments in relation to environmental protection and the decisions that have been made in the last century regarding this aspect, more and more researchers evaluate climate policy as ineffective, lacking solid instruments or institutional solutions. This thesis is confirmed by the fact that the most developed countries in the world, which obtain the greatest benefits from the globalization process, do not always fully accept and do not implement policies to counteract climate change.

Research from International Renewable Energy Agency (IRENA) publications shows that current and planned global policies provide a relatively slow path for the world to exhaust

its energy-related “carbon budget” in less than 20 years, in which regarding the efforts to keep global temperate growth well below 2°C (Adnan Z. Amin, Director-General, IRENA). At the same time, in a report called *The Age of Consequences*, carried out by the US Center for Strategic and International Studies (CSIS), experts warn that climate change could lead to the end of globalization. So, what should be done?

Another solution to this problem can be seen in the implementation of the decline model of the global economy, combined with effective supra-state regulations. In order to replace fossil fuels with renewable sources and to be able to accelerate the energy transition, the necessary technological changes are required, which substantially raises the level of investments. Thus, the International Renewable Energy Agency Report 2018 estimates that the additional cost of the energy transition would be approximately 1.7 trillion USD annually (calculated at the level of 2050). Surely it can be dwarfed by the benefits calculated at an average of 6.3 trillion USD (at the level of the same year).

Methodology used

The research methodology used aims to describe the current economic, social and energy environment from various perspectives and to analyze the policies, strategies, statistics of the actors in the field of the researched field, to shed light on their reactions, limitations and resources and to clarify the consequences, reporting them to the trends determined in the energy sector of humankind.

In this endeavor, we used basic research, used for the purpose of improving knowledge and with the intention of going beyond known data and facts and contributing to the development of specific scientific analyses. We completed with applied research to identify social, political, economic and energy changes that have current and effective effects in the researched area and with descriptive research method to describe different data collections.

Conclusions

Given the current deployment trends, wind and solar expansion, we believe that the European Union has the potential to significantly reduce dependence on the use of Russian gas. However, the contribution of variable renewables will also depend on policies on energy efficiency measures and coal and nuclear phase-out policies in several Member States.

It is also increasingly clear that the global energy system must be adapted to new technology and new market demand. The consequence is that it has to be transformed from an energy supply system based largely on fossil fuels to a system based on renewable energy, which involves massive costs. But this process also establishes a path towards decarbonization based on high energy efficiency and renewable energy.

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Exploring The Unmet Needs of Medicare Frequent Users of Emergency Room Departments: A Theoretical Literature Review

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ABSTRACT: For over a decade now, healthcare reform has been front and center in public and political forums, largely driven by concerns about access, cost, quality, and the economic burden placed on patients, employers, and payers. Despite the significant improvement in Medicare spending in recent years, frequent emergency department use continues to be a recurring issue for many Medicare beneficiaries. This research will examine the literature on Medicare frequent users of emergency departments. While frequent users of emergency departments are a small proportion of all patients, they account for a disproportionate number of visits to the emergency department. The Centers for Medicare & Medicaid Services efforts focus on decreasing costs and improving the quality of care. It is important to understand the characteristics of Medicare frequent users of emergency departments to target this population more effectively through policy intervention. To understand this population, this review will focus on demographics, degree and type of illness, access to medical care, patterns of utilization, and challenges experienced by this population.

KEYWORDS: Medicare, Emergency Department (ED), Frequent Users of Emergency Departments (FUED), Sociodemographic, Minorities

Introduction

The emergency department (ED) is an important public service that provides immediate access and stabilization for patients with emergency conditions (Rasouli et al. 2019). Nonetheless, emergency department visits (both preventable and non-preventable) cost \$76.3 billion in the United States in 2017 alone (AHRQ 2017). Policymakers have long argued that the use of the emergency departments (ED) for conditions preventable through alternative high-quality outpatient care contributes to a high percentage of waste and inefficiency within the U.S. healthcare system and delays care for patients with emergent conditions (Balakrishnan et al. 2017). As such, the ED has been subject to policymaker scrutiny as momentum has grown to curb healthcare spending, and payers have moved towards delivery reforms and alternative payment models designed to improve the value of healthcare services more broadly (Burwell 2015).

Individuals who seek care at the ED often are referred to as frequent emergency department users (FUED). FUED users are typically identified as having four or more visits to the ED in a year. The issue of frequent ED use is relevant to the Medicare population. Medicare beneficiaries are nearly twice as likely as privately insured individuals to be frequent ED users (Hunt et al. 2006). Today, Medicare provides this coverage for over 64 million beneficiaries, most of whom are 65 years and older (Medicare n.d.). Frequent users aged 65 years or older represent as little as 6% of all ED patients but can account for up to 28% of its accesses (Dufour et al. 2019). Understanding the causes of frequent ED use and designing interventions to address driving factors has been the focus of an ever-growing body of literature (Brunner et al. 2021). The fact that patients from disadvantaged areas are more likely to rely on the ED for routine care, or even at times preventative care, only further reinforces the need for robust emergency care systems as an essential part of the fabric of the public health system (Carlson et al. 2021).

Medicare Population and Healthcare Reform

The U.S. Centers for Medicare and Medicaid Services (CMS) supports medical funding for the aged, low-income, disabled, and high-risk populations. Eligibility for Medicare is available for the following individuals:

- People who are 65 or older
- Certain younger people with disabilities
- People with End-Stage Renal Disease (permanent kidney failure requiring dialysis or a transplant, sometimes called ESRD) (Medicare n.d.).

Medicare is expected to experience the fastest spending growth (7.6 percent per year over 2019-2028), largely due to having the highest projected enrollment growth (CMS 2021). Meanwhile, the annual Medicare spending per beneficiary reportedly increased from \$7,172 to \$14,931 to \$32,498 when the beneficiary had one, two, and three or more chronic conditions, respectively (Ahn et al. 2020). The projected increase in enrollment, along with rapid growth in reported federal spending, is being addressed through healthcare reform initiatives that focus on proactive care coordination and improved quality of care in an effort to curve excess healthcare spending.

A reform implies sustained, purposeful, and fundamental changes (Marušič & Rupel 2016). The Affordable Care Act (ACA) reform introduced various programs to support access to care, quality of care, and expanded coverage for many Americans. The ACA also established the Center for Medicare & Medicaid Innovation (hereinafter, the Innovation Center) within CMS to develop and evaluate new reimbursement and incentive models in federally funded insurance programs, with the goal of improving the value of Medicare and Medicaid expenditures and population health (Buehler et al. 2017). The CMS initiatives include, but are not limited to, accountable care organizations (ACOs) and bundled payments that may promote better case management and care coordination for patients with complex diseases and reduce their reliance on emergency departments (Colligan et al. 2016).

The literature surrounding the success of the ACA demonstrates a need for continued assessment of the barriers that persist among healthcare delivery models today. A study by McWilliams et al. (2017) revealed that widespread efforts to improve the management of chronic conditions for ACO patients had not been associated with program-wide reductions in hospitalizations for chronic conditions, even though they have probably enhanced access and patients' experiences. Another study found an increase in the probability of having ≥ 1 emergency department (ED) visit by 4.3 percentage points in the post-Affordable Care Act (ACA) period among older Medicare beneficiaries with two or more multiple chronic conditions (Ahn et al., 2020). Frequent ED use increases the risk of adverse effects such as hospitalizations, functional decline, complications related to treatment and procedures, and suboptimal follow-up (Calder et al. 2014).

Additionally, seniors present more vulnerability factors, as well as more chronic conditions and complex medical needs (Calder et al. 2015). According to Thomas-Henkel and Schulman (2017) people who have unmet social needs are more likely to be frequent ED users, to have repeat “no-shows” for medical appointments, and to have poorer glycemic and cholesterol control than those who are able to meet their needs.

Frequent Users of Emergency Departments

Frequent users of emergency department visitors account for a disproportionate number of ED visits. The quality and sustainability of the U.S. healthcare system depend on achieving improved population health, reduced per capita costs, and improved patient experience, yet the challenge experienced by the system includes the number of ED visits, specifically by patients that could be served by primary care. A study by LaCalle and Rabin (2010) found that ED overutilization

contributes to overcrowding and poorer patient outcomes, rising healthcare costs, and low-value care. LaCalle et al. (2010) found that frequent ED users ranged in age between 25 to 44 and 65 years or older. FUEDs have been found to have a high chronic illness burden or poor health as compared to infrequent users of ED services.

A qualitative study by Arroliga (2005) focused on the relationship between FUEDs and Primary Care physicians. The results of this study showed that FUEDs were more likely to agree that ED care was more accessible than primary care. The reasons given by the study participants were childhood instability or trauma and difficult relationships with healthcare providers.

Mautner et al. (2016) further investigated frequent ED visitors' primary care utilization and perceptions of primary care access and compared perceptions from frequent and infrequent users of ED. This study found that FUEDs had a significant chronic illness burden, reported poor or fair health, and were more likely to be African American.

A study by Colligan et al. (2016) used a multinomial logistic regression model to compare frequent ED use with infrequent use. The goal of the investigation was to investigate whether frequent ED users in one year remained frequent users in subsequent years. This study found that sociodemographic, clinical, and health-system-level factors contribute to the frequent use of ED. The sociodemographic characteristics included minority race, low educational attainment, poor physical and mental health, low income, and public insurance. The results of his study showed that only 1.1% of fee-for-service Medicare beneficiaries were persistent ED users compared to 54.7% nonusers, 36.1% infrequent users, and 4.2% episodic frequent users.

Many studies of frequent users of EDs have used the Andersen Model (1968), shown in figure 1, which posits that an individual's use of health services is linked to their predisposition to seek care, the factors that affect access to care, and underlying needs that precipitate seeking healthcare. This model reflects on predisposing, enabling, and need factors influencing health services use.

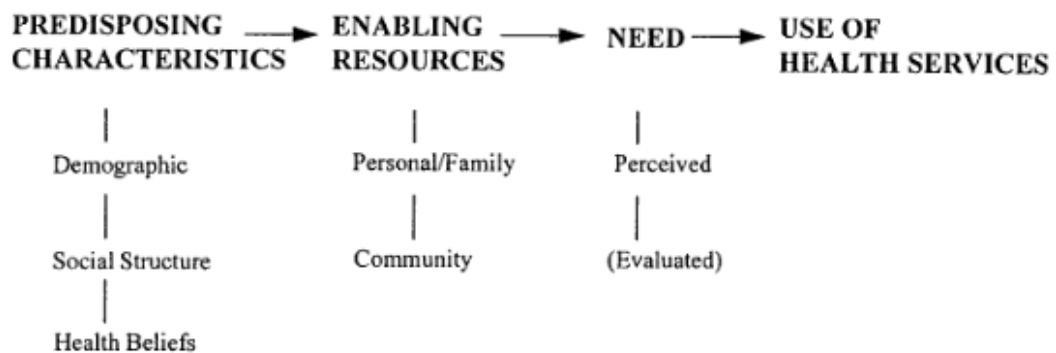


Figure 1. Andersen's behavioral model of health services use (1960s)

In Andersen's attempt to revisit his original work and behavioral model, phase 4 emerged as his final proposal to the theory. Figure 2 reflects this model, which portrays the multiple influences on health services use and, subsequently, on health status and feedback loops showing that outcome, in turn, affects subsequent predisposing factors and perceived need for services as well as health behavior (Andersen 1995).

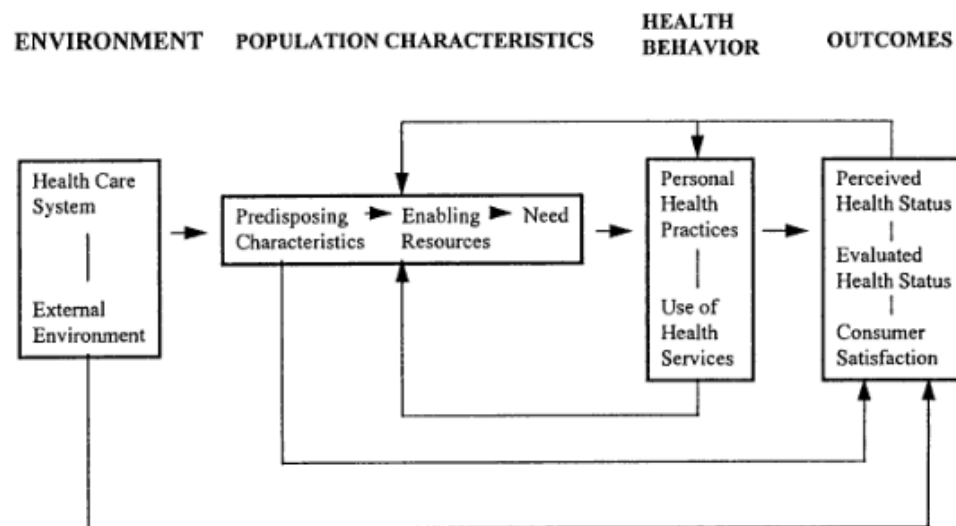


Figure 2. Phase 4 of the Andersen behavioral model of health services use (1995)

The emerging model- phase 4 of Andersen's behavioral model of health services use differs from the original model by adding additional evidence from environmental and health behaviors that influence outcomes to the framework.

Determinants of Health

Health is influenced by many factors, which may generally be organized into five broad categories known as determinants of health: genetics, behavior, environmental and physical influences, medical care, and social factors (CDC n.d.). Genetics refers to the biological and genetic factors that affect individuals more than others based on medical conditions, age, and sex, among other characteristics. Individual behaviors, such as diet, exercise, and smoking, may also influence health status as certain behaviors are known to reduce the risk of disease. In contrast, other behaviors place the individual's health at risk. Environmental and physical influences include environment, housing, and other physical barriers, while social factors refer to the economic and social conditions that influence the health of people and communities shaped by socioeconomic position, which is the amount of money, power, and resources that people have, all of which are influenced by socioeconomic and political factors (e.g., policies, culture, and societal values) (CDC n.d.).

The key domains of social determinants of health (SDOH) identified by the Center for Disease Control and Prevention (CDC) in Healthy People 2020 are economics, education, social and community context of living, neighborhoods and the built environment and their relationship to health (Baah et al. 2018). These domains reflect the fact that health outcomes are impacted by both the experience of individuals in their environment and the environment's effects on the individuals (Havranek et al. 2015). Baah et al. (2018) noted that the current conceptualization of SDH lacks a critical focus on the personal experience that results from an individual's interaction with society and the environment.

Long-term systemic inequities have been addressed extensively, which have led to the implementation of various programs and policies that help narrow the gaps in health inequity in the US. Unfortunately, standardization of policies and criteria within healthcare programs has limitations, and many individuals continue to be challenged by one or more determinants of health. Despite ongoing interest in addressing social determinants of health to improve patient outcomes, little progress has been made in integrating social services with medical care (Murray et al. 2020). According to a 2018 Physicians Foundation Survey of America's

Physicians, nearly 90% of U.S physicians reported having patients with a social condition that affects their health, whether it be unemployment, lack of education, or drug addiction (Houlihan & Leffler 2019).

Social and Demographic Characteristics

With diversification, the barriers to health for minority groups will also impact more people over time. The U.S. Census Bureau recently published its last batch of race-ethnic population estimates in advance of the 2020 census. The new estimates showed that nearly four of 10 Americans identified with a race or ethnic group other than white, suggesting that the 2010 to 2020 decade was the first in the nation's history in which the white population declined in numbers (Frey 2020).

Hastings et al. (2005) described the development of effective interventions to reduce ED visits among older patients as challenging. Age, along with other characteristics, have been reported to be factors that contribute to vulnerability. There are a number of groups that are considered vulnerable populations, including racial and ethnic minorities, the economically disadvantaged, and those with chronic health conditions (Joszt 2018). Hanchate et al. (2019) found that emergency department (ED) services were shown to be consistently higher among racial/ethnic minorities than among non-Hispanic whites. CMS (n.d.) identified that certain populations – including racial and ethnic minorities, gender minorities, people with disabilities, and individuals living in rural areas – are more likely to experience worse health outcomes. Lower socioeconomic status may lead to a higher risk of disease and poor management of chronic conditions.

A study by Adekoya et al. (2022) described the characteristics associated with frequent user visits with referrals for follow-up medical care after emergency room discharge. The study found that referral rates were highest among females than among males; higher among Black patients than White patients; highest in the South, and highest for patients with Medicaid/Children's Health Insurance Program (CHIP) than those with Medicare or private insurance. Abnormal clinical findings and injuries triggered follow-up medical care.

Mayfield et al. (2021) conducted a study using a cross-sectional analysis of electronic health and billing records of 99,637 adults residing in an urban North Carolina County who visited an ED in 2017. The study highlighted the patient's characteristic predictors as insurance coverage (Medicaid, Medicare, private, uninsured), total visits to ambulatory care (0, 1, >1), and patient demographics: age, gender, race, ethnicity, and living in underprivileged communities. Results showed that having Medicare or Medicaid was positively associated with ED visits and that Black patients were found to have more ED visits compared to their White counterparts.

Access to Care

Ethnicity, language barriers, and insured status may also impact establishing care with a primary care provider. If diseases are not managed appropriately, then patients can be at risk of developing comorbidities, which is the presence of more than one disease in an individual. Issues relating to access to care prompted the primary care delivery system and incentivized providers for improved care outcomes in Medicare. Jacobs (2021) reviewed the impact of Medicare on access and affordability of care for newly enrolled Medicare beneficiaries once they turned 65 years old and found a positive relationship between eligibility and improvement in both, access to care and affordability of care across a range of measures.

However, previous studies suggest that simply focusing on primary care physician (PCP) access alone will not lead to lower emergency department (ED) utilization (Maeng 2017). While access to care is an ongoing challenge for minority groups, communities in

border towns, specifically South Texas, are impacted by physician shortages, which places Medicare beneficiaries at risk for limited access to primary care services. The Texas Physician Supply and Demand Projections report published by Texas Health and Human Services (2020) warned that general internal medicine, pediatrics, and psychiatry are projected to have critical shortages. Figure 3 illustrates the specific supply and demand projections of full-time equivalents (FTEs) reported in 2018 for South Texas.

Specialty	2018 Supply (FTEs)	2018 Demand (FTEs)	2018 Percent Demand Met	2032 Supply (FTEs)	2032 Demand (FTEs)	2032 Percent Demand Met
General Internal Medicine	579	724	79.9%	775	1,015	76.4%
Pediatrics	379	554	68.4%	471	688	68.4%
Psychiatry	257	327	78.5%	290	402	72.2%

Figure 3. Critical Shortages of Physician Specialties in Region-8 South Texas

In relation to the engagement of clinicians in patient outcomes, several studies have found similar results in perceived patient barriers from the perspective of healthcare providers. A study by Powell et al. (2016) of interprofessional perceptions among case managers, social workers, and community health workers found that participants identified barriers related to social determinants of health, a complex system organization, and patients' mistrust of the health system. While payment reforms could provide the funding mechanisms to support social determinants of health in primary care, there is currently insufficient evidence to support many of these practices (Kovach et al. 2019). Additional research into ACO's success at improving health equity and social barriers is needed to verify the effectiveness of current health policies that promotes provider engagement.

Discussion

With the significant health consequences seen secondary to COVID-19, healthcare disparities have been further exacerbated (Andraska et al., 2021). Despite healthcare delivery transformation through healthcare reform, literature has sharpened our eyes on the ongoing inequality, barriers, and challenges that Medicare beneficiaries continue to be affected by, which result in the frequent use of the emergency department (FUED). Finding a long-term solution for the variables that influence frequent and preventable emergency department use is part of the ongoing efforts to improve public policy.

Although the main goal of the healthcare reform was to improve access to healthcare, the Medicare population continues to be one of the most vulnerable groups of individuals that require a high degree of care coordination and an interdisciplinary approach to achieve positive health outcomes. Characteristics such as demographics, degree and type of illness, access to medical care, patterns of utilization, and challenges experienced by this population make quantitative metrics such as reductions in ED use difficult to meet without addressing the root cause of disparities in healthcare. While the 2022-2023 CMS framework for health equity is in the early stage, the future of healthcare delivery for all people, regardless of age, sex, gender, and socioeconomic status, will focus on the unmet needs of vulnerable

populations. The literature on the Medicare population will provide a foundation for key areas of improvement in the years to come.

Literature has also found that primary care practices should be the first point of access to the larger healthcare system. Yet, a number of obstacles, such as organizational and structural challenges, make PCPs question their ability to care for FUEDs. Frequent ED visitors have expressed dissatisfaction with care and limited accessibility to primary care as a reason to seek ED care instead. It has been found that to serve frequent ED users' needs better, an integrated, coordinated, and adaptive framework must be put in place. Research in this area would benefit from exploring ways to improve communication between the larger healthcare system, which includes PCPs and ED physicians. Healthcare policy would also benefit from exploring ways to incentivize PCPs to deliver optimal care to FUEDs.

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The Offense of Incitement to Violence, Hatred or Discrimination Provided in the Romanian Criminal Code

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ABSTRACT: The offense of incitement to violence, hatred or discrimination is provided for in art. 369 of the Romanian Criminal Code. This offense consists in inciting the public, by any means, to violence, hatred or discrimination against a category of persons or against a person on the grounds that he or she is part of a certain category of persons defined on the basis of race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion or political affiliation, wealth, social origin, age, disability, chronic non-contagious disease or HIV/AIDS infection, considered by the perpetrator as causes of a person’s inferiority in relation to others. This article was amended by Law no. 170 of June 3, 2022, for the amendment of art. 369 of Law no. 286/2009 regarding the Criminal Code. This amendment to the Criminal Code was imposed because in the old text, namely “Inciting the public, using any means, to hatred or discrimination against a category of individuals,” no discriminatory criteria were provided for the existence of the crime. Therefore, the act of incitement to hatred or discrimination could be based on a wide variety of criteria, such as sex, gender, sexual orientation, race, ethnicity, nationality, language, religion, opinion, political affiliation, beliefs, age, illness, disability, social origin, wealth etc., which can generate feelings of hatred and the desire to discriminate against a certain social category, but were not expressly listed. The commission of the offense is punished by no less than six months and no more than three years of imprisonment or by a fine. The change was carried out as a transposition into legislation of the Framework Decision 2008/913/JAI on combating certain forms and expressions of racism and xenophobia through Criminal Law. The focus of this study is to conduct a thorough analysis of this offense.

KEYWORDS: incitement, instigation, hatred, discrimination, violence, offense

Introduction

Before the amendment of article 369 of the Romanian Criminal Code, it stipulated that only incitement to hatred and discrimination, by any means, against a category of persons are considered crimes.

In the current regulation of the Romanian Criminal Code, the legislator considered that the term *incitement* is much broader than that of *instigation*.

According to the New Explanatory Dictionary of the Romanian language, inciting means “intentionally bringing to a state of agitation, urging hostile actions; to instigate; to sow; arouse; to provoke; start.”

In legal terms, it can be concluded that *violence* is the general violation of human rights: right to life, to security, to dignity and to physical and mental integrity. In a general sense, it refers to the use of physical force or other persuasive means to bring prejudice to some goods or injuries to a person’s integrity. In this sense, an act of violence, most often, has a premeditated character and is developed intentionally or it signifies the intent to cause suffering or physical injury to another person (Căprioară and Căprioară 2013, 481).

The term *hatred* represents a strong feeling of hostility, a hostile attitude towards someone or something. It was considered that it must exist even in the title of the crime, as it is regulated in the international documents signed by Romania, and there is an obligation to be provided in the crimes of the Criminal Code when a public incitement to hatred is made. Council Framework Decision 2008/913/JHA of November 28, 2008, on combating certain forms and expressions of racism and xenophobia by means of criminal law, published in J.O.L 328 of December 6, 2008, art. 1 lit. a): “Each Member State shall take the necessary measures to ensure that the following acts, committed with intent, are punishable: (a) public incitement to violence or hatred against a group of persons or a member of such a group defined on the basis of race, color, religion, descent or national or ethnic origin (Pascu, Buneci and Buneci 2020, 421 with note no 1).”

Discrimination represents the clear distinction made between several objects, ideas, it can be a state policy by which a category of citizens is deprived of certain rights based on illegitimate considerations (Pascu, Buneci and Buneci 2020, 421).

In the European Convention of Human Rights (1950), it is provided in art. 14 prohibiting discrimination as follows: “The exercise of the rights and freedoms recognized by this Convention must be ensured without any distinction based, in particular, on sex, race, color, language, religion, political or any other opinions, national or social origin, membership to a national minority, wealth, birth or any other situation.”

Art. 30 para. (1) of the Romanian Constitution provides that: “The freedom to express thoughts, opinions or beliefs and the freedom of creations of any kind, by speaking, writing, images, sounds or other means of public communication, are inviolable.”

Freedom, as a fundamental principle of the rule of law, is the foundation of all moral principles and requires the development of such legal norms that guarantee all people the right to express their own options in relations with other members of the community. That is precisely why incitement to hatred and discrimination is, in essence, an abusive manifestation of rights and freedoms. Tolerating such facts would contravene all constitutional provisions, as well as international conventions to which Romania is a party - Constitutional Court, Decision no. 480/2004, published in M. Of. no. 1197 of December 14, 2004 (Pașca 2016, 35).

Art. 10 para. (1) ECHR provides that “Every person has the right to freedom of expression. This right includes freedom of opinion and freedom to receive or communicate information or ideas without interference from public authorities and regardless of borders (...).”

However, the right to free expression is not an absolute right, being subject to certain limitations. One of the exceptional situations in which the right to free expression can be restricted is when the limitation is imposed in order to prevent the commission of crimes.

Amendment of art. 369 of the Romanian Criminal Code was operated as a transposition into legislation of the Framework Decision 2008/913/JAI of the Council of November 28, 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, published in the Official Journal of the European Union (OJUE), series L, no. 328 of December 6, 2008.

Pre-existing elements

The special legal object of the crime of incitement to violence, hatred or discrimination is social relations regarding coexistence between people, which must be done without violence, hatred and discrimination regardless of race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion or political affiliation, wealth, social origin, age, disability, chronic non-contagious disease or HIV/AIDS infection.

The crime does not have a *material object* because it is one of danger, and consists in inciting or persuading other persons to violence, hatred or discrimination and is not directed at an asset or a person.

Subjects of the crime

The immediate active subject – that is, the perpetrator of the crime can be any person who fulfills the general conditions of criminal liability.

Criminal participation is possible in all forms: coauthorship, instigation and complicity. Coauthors are people who blatantly incite the public to violence, hatred and discrimination. Instigators are those who cause other persons to commit acts of incitement to violence, hatred and discrimination in public. Accomplices are those who provide the perpetrators with the means necessary to promote their actions of inciting the public to practice violence, hatred and discrimination against other groups of persons.

The main passive subject is the state, which has the obligation to ensure public order and the social coexistence of its citizens.

Secondary passive subject can be any category of persons exposed to the action of incitement to violence, hatred or discrimination.

Constituent content

The objective side

The material element is achieved by the action of inciting the public by any means to violence, hatred or discrimination against certain categories of persons.

The objective side can only consist of an action, the commission of the crime through an omission being factually excluded. The inciting action can be carried out by any means: audio, video, press, online, etc.

The immediate consequence of the crimes consists in creating a state of danger for social order relations and public order.

The causal link results *ex re*, that is, from the commission of the crime itself.

The subjective side

The form of guilt is direct intent. Through the activity of persuasion or incitement to violence, hatred or discrimination, the perpetrator foresees the result of his actions, following its occurrence by committing the act.

The motive and *purpose* will be taken into account when individualizing the punishment. For the realization of the subjective side of the crime, the motive or purpose is not important.

Forms of the crime

Preparatory acts are possible, but not punishable. *The tentative* is not criminalized.

Consummation of the crime – the crime is consummated when the state of danger for public order was created by inciting violence, hatred or discrimination against a certain category of people. It is immaterial to the consummation of the offense whether or not the act of incitement had a result, but it must come to the knowledge of the public.

Exhaustion of the crime – this can last over time by repeating acts of incitement based on the same criminal resolution, actions that each present the content of the same crime, exhaustion occurring when the last material act is committed.

Penalties

The crime of incitement to violence, hatred or discrimination is punishable by imprisonment from 6 months to 3 years or a fine.

Procedural aspects

The action is set in motion *ex officio*. The competence to carry out the criminal investigation rests with the criminal investigation bodies of the police (see in detail Buneci 2022, 26-30). Jurisdiction in the first instance rests with the court (see in detail Paraschiv, Teodorescu and Nicolescu 2022, 1-6).

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Research on the Connection between the Administrative Capacity of the National Education System and the Management of Educational Change (Part one)

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ABSTRACT: Changes and challenges in the universal social system are also leading to obvious changes in education systems. In this context, there is a need for efficiency among national education systems, made possible by developing administrative capacity and accelerating educational change. Starting from this premise, the present article reflects on a scientific approach based on the quantitative research method in order to establish the connection between the administrative capacity of the Romanian education system and the management of educational change. Thus, the phenomenon of change plays a fundamental role in the process of evolution of educational management, as educational entities become organizations in terms of structure, management, vision, mission, relationships and climate. Organizational development and good governance are therefore supported by effective management of administrative capacity in line with educational change.

KEYWORDS: administrative capacity, national education system, connection, development, educational change management

1. Introduction

Since the 1960s and 1970s, the phenomenon of educational change has been mentioned at UNESCO conferences. In Europe, the concept of educational change was mentioned by Lapière (1997) in the context of social change. According to social scientists, it contributes to “organizational development, a modern trend of great significance, including in education” (Anghel 2012, 67). At the same time, it is leading to the emergence of a new management trend, that of educational change.

Educational change management is the process of transformation, reorganization and future foresight marked by bold educational reform initiatives. Adopting educational reform with the aim of achieving progress in education takes us towards a quantum leap, a vision in which performance and quality become the benchmarks for affirming the administrative capacity of national education systems. In this context, the governance of the national education service is linked to administrative capacity and educational change management. The process of managing the national education service in relation to the administrative capacity of the national education system, influenced by educational change management, becomes a paradigm for efficiency and progress.

In order to satisfy the public interest in the national education service, the research is punctuated with practical suggestions to define the relationship between the administrative capacity of the education system and the dynamics of educational change. Thus, the administrative phenomenon “constitutes a veritable transmission belt between the impulses of political power and the satisfaction of citizens’ needs” (Slabu 2018, 5). According to these findings, the investigation undertaken is based on the hypothesis that: If there is a connection between the administrative capacity of the national education system and the management of educational change, then we will find that the development of educational infrastructure, good administration and efficient change management contribute to the evolution of the national education system.

The investigative technique applied to the research undertaken is a reasoned decision, because the transfer of data from sender to receiver is carried out as efficiently and quickly as possible, there is flexibility in data collection, as well as a “higher level of concentration on responses, assurance of anonymity” (Walter and Berndt 1971, 40). Considering its position in empirical research as a data collection method, the questionnaire applied in our approach is structured in three sections: the first section is devoted to generalities regarding the typology of respondents; the second section deals with how the administrative capacity linkage takes place of the national education system with the management of educational change; the third section looks at the means to make management more effective change management in order to develop administrative capacity.

In order to demonstrate the causal relationship between administrative capacity and educational change management, as well as to find valid answers to the formulated research hypothesis, three types of indicator questions were used:

- identification-type questions with concise information, used for filtering purposes general issues related to field of work (public-private), age, professional status, position held, professional experience;
- open-ended multiple-choice questions used to eliminate the subjectivity of respondents' choice of answer. These are easy to process by the researcher.
- open questions with a role in free expression and accuracy of language on the part of the respondents, in highlighting rational elements, in developing the capacity of thinking and analysis. Such questions lead to the formulation of precise research directions, full of vision and concreteness.

At the same time, linking the administrative capacity of the national education system to the phenomenon of educational change also involves a number of secondary assumptions, such as:

- the existence of a connection between administrative capacity and change management in the national education system is based on administrative-managerial actions such as planning, organization, predictability and adaptation to change;
- to affirm the interconnection between the administrative capacity of the education system and the management of educational change requires a balance between the vision of public authorities and the national interest in education;
- to improve and increase the administrative capacity of the national education in the context of educational change management, the development of educational infrastructure, good management of the education system, adaptation to change is necessary;
- qualitative transformations in educational infrastructure are achieved through human resources - the agent of educational change;
- the administrative capacity of the national education system is influenced by professional development by strengthening areas of professional, decision-making and pedagogical competence;

Given the breadth of the administrative sciences, it is inevitable to state certain limitations encountered in the investigation, limitations captured from an empirical perspective. Thus, limitations such as: the collection of answers partially justified by plausible arguments, the respondents' lack of adaptation to the time management of the researcher are eloquent. As the research undertaken is part of a complex scientific endeavor, a PhD thesis, we propose below only the first part of the quantitative study, later, in a future article to present the second part. The analysis of the investigation was based on quantitative research supported by a questionnaire to test hypotheses and make measurements that can be benchmarks for refining certain social processes/phenomena/mechanisms. Therefore, the research can be considered “an approach to replace a particular study with an overall study” (Franklin 2008, 240-241). To this sense, a number of 25 questions were developed and applied to a target group of teaching staff working in the public and private education system,

with guidance and control functions, with expertise and professional experience in the field of education. The first part of the quantitative research reflects the analysis of 12 questions and the second part will reflect the analysis of 13 questions, set out in a new article.

Recruiting respondents with a “higher level of education” (Chelcea 2022, 191) ensures “self-determination, without great difficult” (Ibidem) in understanding the research issues. The quantitative research conducted through the questionnaire and the number of respondents qualified in the field of education place the study at a high level of knowledge of the issues in the education system, a valid scientific approach. Without encountering difficulties in understanding the content of the questions, the respondents showed an interest in the topic under investigation. Through the variety of questions asked, it was possible to clearly identify and measure the main contents targeted.

In order to achieve the objectives and validate the hypotheses proposed in the research undertaken, data from a total of 41 respondents were used, even though we aimed for a number of fifty selected respondents. Thus, 80% of respondents took part in the questionnaire, showing a major attention to the field.

IBM SPSS Statistics for Windows, Version 26.0 software was used for statistical processing of the study data. Armonk, NY: IBM Corp. The statistical tools used to process the data were: descriptive statistical analysis, cross-tabulation and χ^2 test (chi-square). Categorical variables were presented as frequency and percentage. Analysis of the association between categorical variables was done using cross-tabulation and χ^2 test (chi-square). If the results of the chi-square test were sufficiently skewed that they could not be taken into account, Fisher’s exact test was used. Therefore, a statistical significance coefficient value of $p < 0.05$ was considered significant.

The questionnaire begins with a brief presentation of the application of the selected method and the topic to be investigated. At the same time, for each section, relevant aspects, specific to the contents dealt with, are listed in order to introduce the respondents involved in the research topic and to ensure a clear perception of their answers. Thus, the research and interpretation of the identification data of the respondents in the first section is related to gender, professional field, professional environment, professional experience, professional status, age, position held. The following presents the results obtained through the collection and analysis of the data contained in the research conducted.

2. Gender

The study sample includes subjects of both sexes, with 22% male representatives and 78% female representatives. Gender imbalance in the teaching profession is observed. This situation is faced by the majority of European education systems. According to a 2019 European regional survey, at “ISCED 1 level, the vast majority of teachers in the EU are women” (Report on the state of pre-university education in Romania 2020 – 2021, p. 59). Romania, together with Greece and Italy, has “the third highest proportion of female teachers in Europe” (Report on the state of pre-university education in Romania 2020 – 2021, p. 59). The trend of increasing female teaching staff continued in 2020-2021. At present, female teaching staff represents “52.1% of the total, continuing the growth trend of recent years” (Report on the state of higher education in Romania 2020 – 2021, p. 38).

Table no. 1. Gender

		Frequency	Percent
Validated date	Male	9	22,0
	Female	32	78,0
	Total	41	100,0

3. Your area of professional activity

Analyzing the distribution of the sample according to the field in which the respondents work, the overwhelming majority (87.8%) work in the public sector, with the remaining 12.2% working in the private sector.

Table no. 2. Your area of professional activity

		Frequency	Percent
Validated date	Public	36	87,8
	Private	5	12,2
	Total	41	100,0

4. Age

Of the respondents surveyed, 51.2% are aged over 50, 26.8% are aged between 41 and 50, while 22% are aged between 31 and 40.

Table no. 3. Age

			Frequency	Percent
Validated date	31-40	years old	9	22,0
	41-50	years old	11	26,8
	over 50	years old	21	51,2
	Total		41	100,0

5. Professional status

More than two thirds of the participants in the study are teachers in pre-university education. A quarter (24.4%) are university teachers, while 4.9% are trainers/education experts. Only 2.4% are active members of an educational NGO. The professional status held confirms the teaching profession and membership of the national education system.

Table no. 4. Professional status

		Frequency	Percent
Validated date	University teaching staff	10	24,4
	Teaching staff in pre-university education	28	68,3
	Trainer/Education Expert	2	4,9
	Active member educational NGO	1	2,4
	Total	41	100,0

6. Position held in education

The following table shows the weights of the positions held in education by respondents to the questionnaire. Thus, 4 persons (9.8%) hold the position of inspector general/deputy/specialist, 3 (7.3%) are department directors, 8 (19.5%) are directors/deputy

directors, 5 (12.2%) are board members and 1 (2.4%) is responsible for national/international educational programs/projects. A total of 3 (7.3%) are responsible in the Education Quality Assurance Commission, another 2 (4.9%) are heads of department and 6 (14.6%) are members of specialist departmental committees and 9 of the study participants do not hold a teaching position. The exercise of the functions held requires from the respondents the use of specific knowledge of public administration, necessary in the administration and management of the national education system.

Table no. 5. Position held in education

		Frequency	Percent
Validated date	Inspector General/Deputy/Specialist	4	9,8
	Department Manager	3	7,3
	Director/Deputy Director	8	19,5
	Member of the Administrative Board	5	12,2
	Responsible for national/international educational programmes/projects	1	2,4
	Head of the Commission for Quality Assurance in Education	3	7,3
	Head of curriculum area	2	4,9
	Member of the curriculum/specialty committee	6	14,6
	It's not the case	9	22,0
	Total	41	100,0

7. What is your professional experience?

Experience in their professional activity is quite diverse: 14.6% have between 5- and 10-years' experience, 22% have between 10- and 20-years' experience, 29.3% have between 20- and 30-years' experience, and no less than 34.1% of respondents have more than 30 years' experience in their professional activity.

The majority being held by respondents with high teaching experience means that the identification of the needs in the education system and the challenges imposed by the socio-economic framework are treated with objectivity and professionalism. This percentage also indicates a greater knowledge of the issues of the educational environment and a greater depth of knowledge of the educational mechanism. At the same time, the professional experience they have gained recommends them in outlining directions that confirm the hypothesis of the research undertaken.

Cross tab no. 6. What is your professional experience?

		Frequency	Percent
Validated date	5-10 years old	6	14,6
	10-20 years old	9	22,0
	20-30 years old	12	29,3
	over 30 years old	14	34,1
	Total	41	100,0

8. To what extent do you see a connection between the administrative capacity of the education system and the management of educational change?

Opinions regarding the existence of a connection between the administrative capacity of the education system and the management of educational change are divided among the study participants. Only a little over half of the respondents (53.7%) believe to a large and very large extent that this connection exists, with the remaining 46.3% believing that this connection exists to a small or very small extent.

Cross tab no. 7. To what extent do you see a connection between the administrative capacity of the education system and the management of educational change?

		Frequency	Percent
Validated date	to a very small extent	3	7,3
	to a small extent	16	39,0
	largely	12	29,3
	to a very large extent	10	24,4
	Total	41	100,0

In the following table, the weights of the responses regarding the existence of the connection between the administrative capacity of the education system and the management of educational change, according to the field in which the respondents work, can be followed. In order to test the relationship between the field in which the respondents work and their responses regarding the existence of a connection between the administrative capacity of the education system and the management of educational change, we used the chi-square test, for the calculation of which we started from the following hypotheses:

Hypothesis H0=No statistically significant association between the two variables

Hypothesis H1=There is a statistically significant association between the two variables

Since $p=0.011$, hypothesis H1 is accepted. The bivariate Chi-square (χ^2) test indicated the presence of a significant association between the two variables ($\chi^2=11.077$; $df=3$, $p=0.011$).

We note that a higher proportion (55.5%) of those working in the public sector believe that there is a strong and very strong relationship between the administrative capacity of the education system and the management of educational change, while the proportion of those working in the private sector who agree to the same extent with the existence of this relationship is much lower (40%).

Cross tab no. 8. Field of your professional activity * To what extent do you think there is a connection between the administrative capacity of the education system and the management of educational change?

			to a very small extent	to a small extent	largely	to a very large extent
Field of your professional activity	Public	Frequency	1	15	12	8
		%	2,8%	41,7%	33,3%	22,2%
	Private	Frequency	2	1	0	2
		%	40,0%	20,0%	0,0%	40,0%

$\chi^2=11,077$; $df=3$; $p=0,011$; Cramer's V=0,520

Although the proportion of older people (both in the 41-50 age group and in the 50+ age group) who strongly and very strongly believe that there is a connection between the administrative capacity of the education system and the management of educational change is much higher than the proportion of 31-40 year olds who hold the same view, the result of the correlation analysis shows that the views on the existence of the connection do not differ significantly ($\chi^2=4.898$; $df=6$; $p=0.557$) according to the age of the questionnaire respondents.

Cross tab no. 9. Age * To what extent do you think there is a connection between the administrative capacity of the education system and the management of educational change?

			to a very small extent	to a small extent	largely	to a very large extent
Age	31-40 years old	Frequency	1	6	1	1
		%	11,1%	66,7%	11,1%	11,1%
	41-50 years old	Frequency	1	3	4	3
		%	9,1%	27,3%	36,4%	27,3%
	over 50 years old	Frequency	1	7	7	6
		%	4,8%	33,3%	33,3%	28,6%

$\chi^2=4,898$; $df=6$; $p=0,557$

The proportion of teachers who strongly and very strongly believe that there is a connection between the administrative capacity of the education system and the management of educational change is significantly higher than the proportion of people of other professional status who hold the same view. Although the difference is statistically significant, this assessment must be made with caution given that the group of persons with a professional status other than that of being teacher includes only 3 persons out of the entire sample studied.

Cross tab no. 10. Professional status * To what extent do you think there is a connection between the administrative capacity of the education system and the management of educational change?

			to a very small extent	to a small extent	largely	to a very large extent
Professional status	University teaching staff	Frequency	1	3	3	3
		%	10,0%	30,0%	30,0%	30,0%
	Teaching staff in pre-university education	Frequency	0	12	9	7
		%	0,0%	42,9%	32,1%	25,0%
	Trainer/Education Expert	Frequency	2	0	0	0
		%	100,0%	0,0%	0,0%	0,0%
	Active member educational NGO	Frequency	0	1	0	0
		%	0,0%	100,0%	0,0%	0,0%

$\chi^2=29,571$; $df=9$; $p=0,001$; Cramer's $V=0,849$

We observe that as work experience increases, the proportion of those who believe, to a great and very great extent, that there is a connection between the administrative capacity of the education system and the management of educational change also increases. However, the

result of the statistical analysis ($\chi^2=13.289$; $df=9$; $p=0.150$) shows us that opinions on the existence of a connection do not differ statistically significantly according to work experience.

Cross tab no. 11. What is your professional experience? * To what extent do you see a connection between the administrative capacity of the education system and the management of educational change?

			to a very small extent	to a small extent	largely	to a very large extent
What is your professional experience?	5-10 years old	Frequency	1	4	0	1
		%	16,7%	66,7%	0,0%	16,7%
	10-20 years old	Frequency	1	5	2	1
		%	11,1%	55,6%	22,2%	11,1%
	20-30 years old	Frequency	0	3	7	2
		%	0,0%	25,0%	58,3%	16,7%
	over 30 years old	Frequency	1	4	3	6
		%	7,1%	28,6%	21,4%	42,9%

$\chi^2=13,289$; $df=9$; $p=0,150$

9. Which of the administrative-managerial actions ensure a good connection between administrative capacity and educational change management?

63.4% of survey participants felt that all actions such as planning, organization, predictability and adaptation to change provide a good connection between administrative capacity and educational change management. Of the remaining respondents, 17.1% mentioned predictability, 14.6% adaptation to change and only 2.4% mentioned planning and organization. We can conclude that predictability is the action that best connects administrative capacity and educational change management in the view of the respondents. The phenomenon of predictability and adaptation advances a foundation of the administrative-managerial mechanism.

Cross tab no. 12. Which of the administrative-managerial actions ensure a good connection between administrative capacity and educational change management?

		Frequency	Percent
Validated date	planning	1	2,4
	organisation	1	2,4
	predictability	7	17,1
	adapting to change	6	14,6
	all variants	26	63,4
	Total	41	100,0

All private practitioners mentioned all the actions presented as having a role in ensuring a good connection between administrative capacity and educational change management, while among public practitioners only 58.3% mentioned all the options as valid.

Cross tab no. 13. Field in which you work * Which of the administrative-managerial actions ensure a good connection between administrative capacity and educational change management?

			planning	organization	predictability	adapting to change	all variants
Field in which you work	Public	Frequency	1	1	7	6	21
		%	2.8%	2.8%	19.4%	16.7%	58.3%
	Private	Frequency	0	0	0	0	5
		%	0.0%	0.0%	0.0%	0.0%	100.0%

$\chi^2=3,285$; $df=4$; $p=0,511$

The following table shows the weights of the mention of administrative-managerial actions that ensure a good connection between administrative capacity and educational change management according to the age of the respondents. Regardless of age category, over 60% of respondents mentioned all 4 administrative-managerial actions as playing a role in ensuring a good connection between administrative capacity and educational change management.

Cross tab no. 14. Age * Which of the administrative-managerial actions ensure a good connection between administrative capacity and educational change management?

			planning	organization	predictability	adapting to change	all variants
Age	31-40 years old	Frequency	1	0	0	2	6
		%	11.1%	0.0%	0.0%	22.2%	66.7%
	41-50 years old	Frequency	0	0	3	1	7
		%	0.0%	0.0%	27.3%	9.1%	63.6%
	over 50 years old	Frequency	0	1	4	3	13
		%	0.0%	4.8%	19.0%	14.3%	61.9%

$\chi^2=7,372$; $df=8$; $p=0,497$

The results of the chi-square test refute the presence of a significant association between professional status and the expression of opinion on administrative-managerial actions that provide a good connection between administrative capacity and educational change management. Regardless of their professional status, a high proportion of respondents mentioned all four of the administrative-managerial actions presented as playing an important role in making a good connection between administrative capacity and educational change management.

Cross tab no. 15. Professional status * Which of the administrative-managerial actions ensure a good connection between administrative capacity and educational change management?

			planning	organization	predictability	adapting to change	all variants
Profes- sional status	University teaching staff	Frequency	0	0	2	1	7
		%	0.0%	0.0%	20.0%	10.0%	70.0%
	Teaching staff in pre-university education	Frequency	1	1	5	5	16
		%	3.6%	3.6%	17.9%	17.9%	57.1%
	Trainer/Education Expert	Frequency	0	0	0	0	2
		%	0.0%	0.0%	0.0%	0.0%	100.0%
Active member educational NGO	Frequency	0	0	0	0	1	
	%	0.0%	0.0%	0.0%	0.0%	100.0%	

$\chi^2=3,161$; $df=12$; $p=0,994$

And in the case of the different categories of work experience, the percentage of those who mentioned all the administrative-managerial actions presented as playing an important role in making a good connection between administrative capacity and educational change management is high, over 55% in each category of work experience. In the categories with less experience (5-10 years and 10-20 years), a higher proportion of those who indicated adaptation to change as an important action in ensuring a good connection between administrative capacity and educational change management, while those with more experience (20-30 years and over 30 years) indicated predictability as an important action in ensuring a good connection between administrative capacity and educational change management.

Cross tab no. 16. What is your professional experience? * Which of the administrative-managerial actions ensure a good connection between administrative capacity and educational change management?

			planning	organization	predictability	adapting to change	all variants
What is your professional experience?	5-10 years old	Frequency	0	0	0	2	4
		%	0.0%	0.0%	0.0%	33.3%	66.7%
	10-20 years old	Frequency	1	0	1	2	5
		%	11.1%	0.0%	11.1%	22.2%	55.6%
	20-30 years old	Frequency	0	1	3	0	8
		%	0.0%	8.3%	25.0%	0.0%	66.7%
over 30 years old	Frequency	0	0	3	2	9	
	%	0.0%	0.0%	21.4%	14.3%	64.3%	

$\chi^2=11,446$; $df=12$; $p=0,491$

10. Which of the elements listed determines appropriate management of this connection?

More than half of the respondents (53.7%) mentioned the balance between the public authorities' vision and the national interest in education as an element that determines the appropriate management of the connection between administrative capacity and educational change management. Similar percentages also mentioned effective management of educational resources (46.3%) and inter-institutional and intra-institutional dialogue (41.5% of respondents). Flexibility in the face of impending challenges was mentioned by 39% of respondents.

Cross tab no. 17. Which of the elements listed determines the appropriate management of this connection?

		Responses		Percentage of respondents
		N	Percent	
Which of the elements listed determines the appropriate management of this connection?	flexibility in impending challenges	16	Percent	39.0%
	balancing the vision of public authorities with the national interest in education	22	29.7%	53.7%
	inter- and intra-institutional dialogue	17	23.0%	41.5%
	efficient management of educational resources	19	25.7%	46.3%
	Total	74	100.0%	180.5%

Regardless of the field in which they work, respondents mentioned in similar percentages the elements that determine the appropriate management of the connection between administrative capacity and educational change management.

Cross tab no. 18. Your area of professional activity * Which of the elements listed determines appropriate management of this connection?

Your area of professional activity	of Public	Frequency	flexibility in impending challenges	balancing the vision of public authorities with the national interest in education	inter- and intra-institutional dialogue	efficient management of educational resources
				%	14	21
			38.9%	58.3%	38.9%	47.2%
	Private	Frequency	2	1	3	2
		%	40.0%	20.0%	60.0%	40.0%

Percentages are reported on the number of respondents.

Even though different weights of the elements that determine the appropriate management of the connection between administrative capacity and educational change management are mentioned according to the age of the study participants, the differences are not statistically significant.

*Cross tab no. 19. Age * Which of the elements listed determines appropriate management of this connection?*

		flexibility in impending challenges	balancing the vision of public authorities with the national interest in education	inter- and intra-institutional dialogue	efficient management of educational resources	
Age	31-40 years old	Frequency	5	3	4	4
		%	55.6%	33.3%	44.4%	44.4%
	41-50 years old	Frequency	3	8	6	8
		%	27.3%	72.7%	54.5%	72.7%
	over 50 years old	Frequency	8	11	7	7
		%	38.1%	52.4%	33.3%	33.3%

Percentages are reported on the number of respondents.

Mention of the elements that determine appropriate management of the connection between administrative capacity and educational change management was made in similar weights, regardless of the professional status of the respondent, as can be seen in the following table.

*Cross tab no. 20. Professional status * Which of the elements listed determines appropriate management of this connection?*

		flexibility in impending challenges	balancing the vision of public authorities with the national interest in education	inter- and intra-institutional dialogue	efficient management of educational resources	
Professional status	University teaching staff	Frequency	3	4	3	3
		%	30.0%	40.0%	30.0%	30.0%
	Teaching staff in pre-university education	Frequency	12	17	12	14
		%	42.9%	60.7%	42.9%	50.0%
	Trainer/Education Expert	Frequency	0	1	1	1
		%	0.0%	50.0%	50.0%	50.0%
Active member educational NGO	Frequency	1	0	1	1	
	%	100.0%	0.0%	100.0%	100.0%	

Percentages are reported on the number of respondents.

The table below shows the percentages in which the participants in the study, grouped according to their work experience, indicated the elements that determine an appropriate management of the connection between administrative capacity and educational change management.

Cross tab no. 21. What is your professional experience? * Which of the elements listed determines the appropriate management of this connection?

			flexibility in impending challenges	balancing the vision of public authorities with the national interest in education	inter- and intra- institutional dialogue	efficient management of educational resources
What is your professional experience?	5-10 years old	Frequency %	3 50.0%	2 33.3%	3 50.0%	3 50.0%
	10-20 years old	Frequency %	2 22.2%	6 66.7%	3 33.3%	4 44.4%
	20-30 years old	Frequency %	6 50.0%	7 58.3%	5 41.7%	6 50.0%
	over 30 years old	Frequency %	5 35.7%	7 50.0%	6 42.9%	6 42.9%

Percentages are reported on the number of respondents.

11. To increase the administrative capacity of the national education system in the context of educational change management we need to:

The elements needed to contribute to increasing the administrative capacity of the national education system in the context of educational change management, in descending order of the number of mentions by respondents, are the following: development of educational infrastructure (mentioned by 58.5% of respondents), good administration of the education system (51.2%), strategic planning (46.3%), digitization of the education service (39%), corps of experts specialized in education administration internally and externally (34.1%), quality education administration environments (26.8%) and strengthening of public-private partnership (24.4%).

Cross tab no. 22. To increase the administrative capacity of the national education system in the context of educational change management we need to:

		Responses		Percentage of respondents
		N	Percent	
To increase the administrative capacity of the national education system in the context of educational change management we need to:	development of educational infrastructure	24	20.9%	58.5%
	good governance of the education system	21	18.3%	51.2%
	strategic planning	19	16.5%	46.3%
	quality educational management environments	11	9.6%	26.8%
	a team of experts specialized in internal and external education administration	14	12.2%	34.1%
	digitization of the education service	16	13.9%	39.0%
	strengthening the public-private partnership	10	8.7%	24.4%
Total		115	100.0%	280.5%

The following table shows the percentages in which the survey participants, grouped according to the field in which they work, indicated the elements that determine the increase in the administrative capacity of the national education system in the context of educational change management.

Cross tab no. 23. Your area of professional activity * To increase the administrative capacity of the national education system in the context of educational change management we need to:

		Public		Private	
		Frequency	%	Frequency	%
To increase the administrative capacity of the national education system in the context of educational change management we need to:	development of educational infrastructure	20	55.6%	4	80.0%
	good governance of the education system	19	52.8%	2	40.0%
	strategic planning	17	47.2%	2	40.0%
	quality educational management environments	11	30.6%	0	0.0%
	a team of experts specialized in internal and external education administration	12	33.3%	2	40.0%
	digitization of the education service	15	41.7%	1	20.0%
	strengthening the public-private partnership	9	25.0%	1	20.0%
	Total		36		5

Percentages are reported on the number of respondents.

Mentioning the elements that determine the increase of the administrative capacity of the national education system in the context of educational change management was done in similar weights, regardless of the age of the respondents.

Cross tab no. 24. Age * To increase the administrative capacity of the national education system in the context of educational change management we need to:

		31-40 years old		41-50 years old		over 50 years old	
		Frequency	%	Frequency	%	Frequency	%
To increase the administrative capacity of the national education system in the context of educational	development of educational infrastructure	5	55.6%	7	63.6%	12	57.1%
	good governance of the education system	5	55.6%	4	36.4%	12	57.1%
	strategic planning	4	44.4%	8	72.7%	7	33.3%

change management we need to:	quality educational management environments	3	33.3 %	4	36.4%	4	19.0%
	a team of experts specialized in internal and external education administration	4	44.4 %	3	27.3%	7	33.3%
	digitization of the education service	5	55.6 %	5	45.5%	6	28.6%
	strengthening the public-private partnership	4	44.4 %	3	27.3%	3	14.3%
Total		9		11		21	

Percentages are reported on the number of respondents.

Neither in the case of the grouping of respondents by professional status, there are significant differences between their answers on the elements that determine the increase of the administrative capacity of the national education system in the context of educational change management.

Cross tab no. 25. Professional status * To increase the administrative capacity of the national education system in the context of educational change management we need to:

		University teaching staff		Teaching staff in pre-university education		Trainer/ Education Expert		Active member educational NGO	
		Frequency	%	Frequency	%	Frequency	%	Frequency	%
To increase the administrative capacity of the national education system in the context of educational change management we need to:	development of educational infrastructure	7	70.0 %	14	50.0 %	2	100.0 %	1	100.0 %
	good governance of the education system	5	50.0 %	13	46.4 %	2	100.0 %	1	100.0 %
	strategic planning	4	40.0 %	13	46.4 %	1	50.0 %	1	100.0 %
	quality educational management environments	2	20.0 %	9	32.1 %	0	0.0 %	0	0.0 %
	a team of experts specialized in internal and external education administration	4	40.0 %	9	32.1 %	1	50.0 %	0	0.0 %

digitization of the education service	4	40.0 %	11	39.3 %	0	0.0 %	1	100.0 %
strengthening the public-private partnership	4	40.0 %	6	21.4 %	0	0.0 %	0	0.0%
Total	10		28		2		1	

Percentages are reported on the number of respondents.

Below are how the study participants, grouped according to their work experience, identified the elements that determine the increase in the administrative capacity of the national education system in the context of educational change management. The weights of the responses are not statistically significantly different.

Cross tab no. 26. Experience in professional activity* To increase the administrative capacity of the national education system in the context of educational change management we need to:

		5-10 years old		10-20 years old		20-30 years old		over 30 years old	
		Frequen- cy	%	Frequen- cy	%	Frequen- cy	%	Frequen- cy	%
To increase the administrative capacity of the national education system in the context of educational change management we need to:	development of educational infrastructure	4	66.7 %	6	66.7 %	6	50.0 %	8	57.1 %
	good governance of the education system	3	50.0 %	3	33.3 %	6	50.0 %	9	64.3 %
	strategic planning	2	33.3 %	4	44.4 %	7	58.3 %	6	42.9 %
	quality educational management environments	2	33.3 %	2	22.2 %	4	33.3 %	3	21.4 %
	a team of experts specialized in internal and external education administration	2	33.3 %	3	33.3 %	4	33.3 %	5	35.7 %
	digitization of the education service	3	50.0 %	3	33.3 %	6	50.0 %	4	28.6 %
	strengthening the public-private partnership	4	66.7 %	1	11.1 %	2	16.7 %	3	21.4 %
Total		6		9		12		14	

Percentages are reported on the number of respondents.

12. The process of educational change aims at qualitative transformations in the educational infrastructure as evidenced by:

By far, mentioning human resources was the most frequent response (85.4% of respondents) to the question of what qualitative changes in the educational infrastructure are highlighted in the educational process. At a considerable distance were responses such as material resource (48.8%), information resource (46.3%) and experiential resource (36.6%). According to the responses received, it highlights the role and importance of the indispensable agents of educational change: human resources and material resources.

Cross tab no. 27. The process of educational change aims at qualitative transformations in the educational infrastructure as evidenced by:

		Responses		Percent of respondents
		N	Percent	
The process of educational change aims at qualitative transformations in the educational infrastructure as evidenced by:	human resource	35	39.3%	85.4%
	material resource	20	22.5%	48.8%
	information resource	19	21.3%	46.3%
	experiential resource	15	16.9%	36.6%
Total		89	100.0%	217.1%

Regardless of the field in which they work, respondents gave similar answers to the question of what qualitative changes in the educational infrastructure are highlighted in the educational process.

Cross tab no. 28. Your area of professional activity * The process of educational change aims at qualitative transformations in the educational infrastructure as evidenced by:

			human resource	material resource	information resource	experiential resource
Your area of professional activity:	Public	Frequency	30	18	17	14
		%	83.3%	50.0%	47.2%	38.9%
	Private	Frequency	5	2	2	1
		%	100.0%	40.0%	40.0%	20.0%

Percentages are reported on the number of respondents.

Although different weights of answers are given depending on the age of the study participants, the differences are not statistically significant.

Cross tab no. 29. Age * The process of educational change aims at qualitative transformations in the educational infrastructure as evidenced by:

			human resource	material resource	information resource	experiential resource
Age	31-40 years old	Frequency	7	5	5	5
		%	77.8%	55.6%	55.6%	55.6%
	41-50 years old	Frequency	10	7	7	4
		%	90.9%	63.6%	63.6%	36.4%
	over 50 years old	Frequency	18	8	7	6
		%	85.7%	38.1%	33.3%	28.6%

Percentages are reported on the number of respondents.

Even in the case of the grouping of respondents according to professional status, there are no significant differences between their responses with regard to the elements that highlight qualitative changes in the educational infrastructure within the educational process.

Cross tab no. 30. Professional status* The process of educational change aims at qualitative transformations in the educational infrastructure as evidenced by:

		human resource	material resource	information resource	experiential resource	
Professional status	University teaching staff	Frequency	8	3	5	1
		%	80.0%	30.0%	50.0%	10.0%
	Teaching staff in pre-university education	Frequency	24	14	13	13
		%	85.7%	50.0%	46.4%	46.4%
	Trainer/Education Expert	Frequency	2	2	0	0
		%	100.0%	100.0%	0.0%	0.0%
	Active member educational NGO	Frequency	1	1	1	1
		%	100.0%	100.0%	100.0%	100.0%

Percentages are reported on the number of respondents.

Below, it is presented how the participants of the study, grouped according to their work experience, specified the elements that highlight qualitative transformations in the educational infrastructure within the educational process. The weights of the responses are not statistically significantly different.

Cross tab no. 31. Experience of professional activity * The process of educational change aims at qualitative transformations in the educational infrastructure as evidenced by:

		human resource	material resource	information resource	experiential resource	
Experience of professional activity	5-10 years old	Frequency	6	2	4	3
		%	100.0%	33.3%	66.7%	50.0%
	10-20 years old	Frequency	6	5	4	3
		%	66.7%	55.6%	44.4%	33.3%
	20-30 years old	Frequency	10	8	6	5
		%	83.3%	66.7%	50.0%	41.7%
	over 30 years old	Frequency	13	5	5	4
		%	92.9%	35.7%	35.7%	28.6%

Percentages are reported on the number of respondents.

13. What factors influence the administrative capacity of the education system?

Nearly two-thirds of respondents (61%) said that professional development through strengthening professional, decision-making and pedagogical areas of competence is the factor influencing the administrative capacity of the education system. The remaining 39% of respondents chose investment in educational infrastructure as their answer. Thus, the administrative capacity of the national education system is largely influenced by professional development through strengthening areas of professional, decision-making and pedagogical competence, which, by improving and modernizing it, becomes an agent of educational change.

Cross tab no. 32. What factors influence the administrative capacity of the education system?

		Frequency	Percent
Validated date	investments in educational infrastructure	16	39.0
	professional development by strengthening the areas of professional, decision-making and pedagogical competence	25	61.0
	Total	41	100.0

In the case of those working in the public sector, 63.9% of respondents believe that the most important factor influencing the administrative capacity of the education system is professional development through the strengthening of professional, decision-making and pedagogical areas of competence, while among those working in the private sector 60% believe that the most important factor influencing the administrative capacity of the education system is an investment in educational infrastructure.

Cross tab no. 33. Your area of professional activity* What factors influence the administrative capacity of the education system?

			investment in educational infrastructure	professional development by strengthening areas of professional, decision-making and pedagogical competence
Your area of professional activity:	Public	Frequency	13	23
		%	36.1%	63.9%
	Private	Frequency	3	2
		%	60.0%	40.0%

$$\chi^2=1,053; df=1; p=0,305$$

Although the factors influencing the administrative capacity of the education system are mentioned in different weights for each age group, the differences found are not statistically significant.

*Cross tab no. 34. Age * What factors influence the administrative capacity of the education system?*

			investment in educational infrastructure	professional development by strengthening areas of professional, decision-making and pedagogical competence
Age	31-40 years old	Frequency	5	4
		%	55.6%	44.4%
	41-50 years old	Frequency	3	8
		%	27.3%	72.7%
	over 50 years old	Frequency	8	13
		%	38.1%	61.9%

$\chi^2=1,680$; $df=2$; $p=0,432$

In the table below we can see the weights of the answers, regarding the factors influencing the administrative capacity of the education system, according to the professional status of the respondents. No significant association is found between professional status and the specification of certain factors influencing the administrative capacity of the education system ($\chi^2=5,249$; $df=3$; $p=0,154$).

*Cross tab no. 35. Professional status * What factors influence the administrative capacity of the education system?*

			investment in educational infrastructure	professional development by strengthening areas of professional, decision-making and pedagogical competence
Professional status	University teaching staff	Frequency	4	6
		%	40.0%	60.0%
	Teaching staff in pre-university education	Frequency	9	19
		%	32.1%	67.9%
	Trainer/Education Expert	Frequency	2	0
		%	100.0%	0.0%
	Active member educational NGO	Frequency	1	0
		%	100.0%	0.0%

$\chi^2=5,249$; $df=3$; $p=0,154$

Opinion on the factors influencing the administrative capacity of the education system is evenly split (50% - 50%) between those with between 5- and 10-years work experience. Those with 10 to 20 years work experience and those with more than 30 years experience believe in a higher proportion, more than 65%, that the main factor influencing the administrative capacity of the education system is professional development by strengthening the areas of professional, decision-making and pedagogical competence. A majority (66.7%) of people with between 20- and 30-years professional experience believe that the most important factor influencing the administrative capacity of the education system is investment in educational infrastructure.

There is thus a significant association between work experience and the specification of certain factors influencing the administrative capacity of the education system ($\chi^2=7,880$; $df=3$; $p=0,049$; Cramer's $V=0,438$).

*Cross tab no. 36. What is your professional experience? * What factors influence the administrative capacity of the education system?*

			investment in educational infrastructure	professional development by strengthening areas of professional, decision-making and pedagogical competence
What is your professional experience?	5-10 years old	Frequency	3	3
		%	50.0%	50.0%
	10-20 years old	Frequency	3	6
		%	33.3%	66.7%
	20-30 years old	Frequency	8	4
		%	66.7%	33.3%
	over 30 years old	Frequency	2	12
		%	14.3%	85.7%

$\chi^2=7,880$; $df=3$; $p=0,049$; Cramer's $V=0,438$

From the corroboration of the above hypotheses and the statistical data presented, the connection between administrative capacity and educational change management develops on the basis of institutional resources - agents of change in the national education system. The issues highlighted facilitate the shaping of effective management of administrative capacity, which is only possible through investment in the infrastructure of the national education system, as well as through the strengthening of professional, decision-making and pedagogical areas of competence. Under these circumstances, the management of educational change is an attribute of the coordination and rational management of the whole set of resources invested in the education system. Moreover, ensuring a quality public education service to satisfy the general interest is supported, on the one hand, by optimizing the administrative capacity of the national education system and, on the other hand, by its good administration, which are indispensable conditions for adapting to the dynamics of educational change. It confirms the possibility of effective management of the national education system by strengthening the relationship between administrative capacity and educational change management, more precisely the correct management of educational change and the organization/coordination of institutional resources - agents of educational change management: the human resource and the educational infrastructure resource.

From these considerations, an innovative theory emerges, based on the statement: "the material is the means and the necessary condition of intellectual development" (Xenopol 1967, 79). Therefore, the endowment and rational use of institutional resources to ensure the entire education process, as well as the structuring of means and techniques for the qualitative functioning of the entire education system are indispensable components for the development of the administrative capacity of the education system under the influence of the dynamics of educational change.

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In order to fully present the quantitative research undertaken, it is structured in two parts. The first is contained in this article and the second will be published in the next one.

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The Clash between Creativity and Tradition in the Financial Governance of Family Businesses

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ABSTRACT: This paper aims at the theoretical modeling of the clash between innovation and tradition based on the culture of the manager in the family firm. Our analysis of theoretical and empirical work confirms that, contrary to what is commonly believed, managerial innovation and family traditions are by no means contradictory but rather complementary. Thus, despite their attachment to cultural values, family firms can successfully implement change without threatening the stability and durability of the family heritage. This theoretical result gives rise to a model to be tested in the framework of our research program, which allows us to determine the key factors of the reconciliation of the traditional with the innovative for a better response to the requirements of the market dynamics in a context of crisis.

KEYWORDS: family businesses, financial goals, family goals, culture, innovation, family tradition

1. Introduction

Family businesses are characterized by the duality of interests and the confrontation between the socio-emotional objectives of the family and the economic objectives of the business. This duality of interests gives family businesses a specific character. In fact, this type of capitalism is characterized by its informal governance (Almaleh & Francois 2016) motivated by the values and non-economic objectives of the families in business (reputation, family image, family cohesion, power protection...) (McCracken 2020). Indeed, the strategic orientations of family businesses are in turn influenced by this specific mode of governance motivated by long-term goals that go beyond financial profitability objectives (Gomez-Mejia et al. 2007).

That said, family businesses are at the center of research in response to their complex nature. This complexity is proven by the multiplicity of theories that have been interested in family capitalism. In this context, we can cite the agency theory to analyze the relationship between the owner and the manager (Jensen & Meckling 1976), the stewardship theory centered on the motivations of the managers (Donaldson & Davis 1989), the theory of planned behavior which stipulates that the behavior of the individual is guided by his beliefs (Ajzen 1991), the theory of hierarchical financing based on the asymmetry of information between the external actors and the internal actors (Myers & Majluf 1984)

To illustrate and explain the different theoretical facets of our problem (the impact of the manager's culture (internal/external) on the dilemma of family businesses between managerial innovation and family tradition), we will first study the state of the art of family businesses through the explanation of recent trends in research on the management of family businesses and the study of specific managerial trends in family businesses. Then, in a second step, we will analyze the role of the leader's culture in the reconciliation of tradition and innovation within companies through the explanation of the origins of the tradition/innovation dilemma. To conclude, we will present the consequences of the specific character of family firms on the relationship between respect for tradition and innovation through a theoretical research model.

2. Mosaic of contributions discussing a specific management of a specific structure

Family businesses dominate the economic world since they represent a high percentage in the majority of economies (La porta & Lope-de-Silanes 1999). This type of entrepreneurship is currently the core of research given their uniqueness and specificity in comparison with the

classical managerial entrepreneurship. These specificities are mainly explained by the informal and unstructured mode of governance (Almaleh & Francois 2016). In this same context, Ken McCracken (2020) states in his article "The natural advantage of family businesses" that the family business is characterized by its so-called natural governance since it is based on family values and culture that are far from being studied financially.

2.1. The role of family characteristics in the typicality of the family business

Family businesses are characterized by the duality of interests as a result of the coexistence between the family driven by its socio-emotional objectives and the business driven by its economic objectives. In fact, this type of capitalism is characterized by its informal governance (Almaleh & Francois 2016) driven by the non-economic values and objectives of families in business (reputation, family image, family cohesion, power protection...) (McCracken 2020). Indeed, the strategic orientations of family businesses are in turn influenced by this specific mode of governance motivated by long-term objectives that go beyond the objectives of financial profitability (Gomez-Mejia et al. 2007). Faced with this heterogeneity, family leaders tend to favor non-economic objectives in order to defend the socio-emotional wealth of the family in business (Gomez-Mejia et al. 2007).

Indeed, the ultimate goal of family businesses is the protection of the business considered as a family heritage that must be preserved and passed on to future generations (Strike et al. 2015). That said, the specificity of family entrepreneurship lies in the favoring of long-term strategies and decisions that guarantee the preservation of family control and the maintenance of power. In fact, family leaders believe that the survival of the business is vigorously linked to the continuity of the founding family's control (Westhead 1997). In other words, family businesses avoid any decision, action or direction that may result in the loss, in whole or in part, of family power.

This protectionist vision can be explained by the socio-emotional attachment and identification of members with the company (Micelotta & Raynard 2011). In fact, the company represents for family members a set of family memories whose protection must be prioritized. That said, emotions are central to the governance of the family business.

Based on the above, the management of family businesses is informal and far from being based on financial logics that aims at the short-term profitability of the company. More precisely, the governance of family businesses favors the achievement of objectives that maximize the value and socio-emotional wealth of the family in business without focusing on the creation of financial wealth. However, despite their awareness and confirmation of the benefits of adopting structured management, family leaders are reluctant to change and favor the preservation of their own modes of governance (Bloom et al. 2013). Therefore, no one can deny the effect of the existence of the family on the management and performance of the family business.

From there, a legitimate question arises: will the force that the family character exerts on the management of the company not in turn affect its basic strategic orientations, specifically its investment policy, its financial policy as well as its transmission policy?

To better answer the above question, we will analyze in the following section the specific managerial trends of family businesses.

2.2. Managing two interfaces - family and managerial -: What constraints and challenges?

The performance and survival of family businesses are linked to the non-economic objectives of family managers (Kotey 1999). In other words, the management practices of family managers impact the strategic orientations of the firm and then influence its growth. From the above, family capitalism is characterized by a specific decision-making process influenced by the family character generated by the presence of the family entity.

2.2.1. The impact of family governance on investment decisions

Investment is an orientation that ensures the proper functioning of the organization in order to survive as much as possible. However, the investment decision is not a quick action, in fact, according to the classical financial theory, it is based on interpretable quantitative studies and analysis in order to choose the optimal option (Rigar & Majhed 2020).

In other words, managers should opt for the investment project that maximizes the value of the company and the wealth of the family shareholders. Indeed, the ultimate goal of family managers, which is to keep the family business as long as possible (Lumpkin et al. 2010), is totally in line with the performance and development objectives of the company, and since investment is one of the pillars on which these organizations rely to achieve their objective, the motives and determinants behind it should in principle be imperatively rational. Nevertheless, within the family business, the family character curbs the rationality of the investment decision in favor of the non-economic objectives of the family in business.

Indeed, emotions and relationships are always favored over any other objective in family businesses. Thus, according to Yeung (2000), informality is a decision-making tool given the difficulty of properly formalizing the hierarchical links between family members. In fact, the business is an illustration of all the values and considerations of the family, and these values and principles are undoubtedly included in the decision-making process. In fact, the decisions taken within family firms, especially their investment decisions, are not motivated by prior studies, nor are they the result of a choice made between several possibilities, but rather if they are taken out of conviction, it would certainly be because they satisfy first the aspirations and non-economic objectives of the founding family and then the financial objectives of the company.

At this level, family members who are also shareholders of the firm are very much influenced by their past experiences through previous projects in their investment decisions, so they will favor a loss of return to the detriment of a loss of control of their entity, i.e., they are more averse to loss than to gain (Tversky et al. 1988).

Indeed, family managers prioritize the independence of their company (Zellweger 2006), and this preference is a parameter of the investment, as long as the choice is made on this basis. In other words, if an investment project will cause the firm to lose its control and autonomy, family managers will not hesitate to reject it. Once the independence criterion is met, the family actors involved in the decision-making process will seek to control the risk of the project, which comes down to the family's risk aversion and their concern about putting their family assets at risk by resorting to excessive debt, for example, to finance the investment.

In fact, investment decisions are strongly influenced by the behavior and attitudes of family members (Leary & Roberts 2010). Their preferences, which generally tend towards: maintaining power, controlling risk, respecting family values, and satisfying long-term objectives such as succession and value creation, are the determinants of their investment choices, and it is at this level that the particularity of family business investment decisions lies. In other words, the socio-emotional objectives of the family in business, mainly the preservation of control and transmission, conform the investment policy of the family business and its openness to the possibilities of the external environment.

In this same context, the investment policy of family businesses is conditioned by their financial constraints. Indeed, the desire to maintain power pushes family managers to limit themselves to their internal resources in order to avoid the control of creditors, so the company may miss very profitable investment opportunities in case of a lack of self-financing. In fact, the financial risk is accompanied by a risk of devaluing the human capital of family managers. Again, banks are reluctant to grant credit to family businesses since family shareholders are keen to keep the family secret. This finding aggravates the asymmetry of information and therefore increases the risk perceived by banks and financial institutions.

From there, and in order to ensure the achievement of their social objectives, family shareholders tend to sacrifice their own interests related to the distribution of dividends to allow

the financing of the company's activity. In fact, family firms are characterized by low dividend distribution. Thus, the empirical study carried out by Hirigoyen (1985) shows that the distribution of dividends within medium-sized family firms is exceptional, even abnormal. This fact is confirmed by Bruno Grandjean, Chairman of the Board of Directors of the family firm Redex: "If Redex had not been a family firm, it would not have survived the crisis because it would have been tempted to pay dividends at the very moment when it was necessary to continue investing and modernizing the production apparatus" (Michiels & Molly 2017). That said, to better detail the financial policy of family businesses, the following paragraph will analyze the influence of family character on the financial decisions of the company.

2.2.2. The impact of family objectives on the financial thinking of family businesses

The intertwining of the family's social goals and the firm's financial goals gives family firms a different specific character than non-family firms. Thus, the set of specific characteristics influences the totality of behaviors related to firm governance.

Similar to all strategic orientations of family capitalism, financial policy is also affected by the presence of the family entity (Molly 2019). In fact, the attachment of family members and the importance placed on the transmission of family wealth pushes managers to further entrench the desire to maintain control as well as prioritize decision independence within the firm.

That said, family businesses tend to favor financing arrangements that ensure the protection of family power and enable the achievement of the family's social-emotional goals in business (Zhang et al. 2002).

In fact, in order to guarantee the defense of the family legacy, managers opt for conservative financial strategies (Allio 2004). Based on this, it can be seen that internal financing comes first among the financing choices within family capitalism since it allows the protection of the dynasty (Li 2006).

Family businesses are characterized by adherence to the hierarchical financing theory (Myers & Majluf 1984), which states that internal resources are the priority choice for financing growth, followed by debt, the issuance of hybrid securities, and finally, as a last solution, the opening of the capital to new investors (Chen & Ye 2007).

However, although debt is the second solution, family businesses are characterized by a low debt ratio (Gallo et al. 2004). Indeed, the use of debt threatens the independence of the decision-making process within the company. Thus, decisions will be impacted by the requirements of the financial institution. Moreover, the conditions of financing can lead to conflicts of interest between the firm and the creditor (Jensen & Mecking 1976). Moreover, indebtedness negatively influences the financial autonomy of the enterprise and can lead to the loss of family control in the event of a fall in the ability to repay. Thus, the use of debt requires the company to declare its financial situation and its performance visions. Thus, the firm must have a clear and accurate information system, nevertheless this requirement may impact the non-economic objectives of family capitalism characterized by informational enclosure and professional secrecy.

Thus, based on the same explanations cited above, the managers of family businesses radically refuse to open up their capital to non-family investors, even if they represent an interesting opportunity for the development of the business (Gallo et al. 2004). In fact, it is considered that the company is a family affair where the outsider cannot find his place or give his opinion (Hamilton & Cheng 1990).

Based on the above, it is concluded that the financial policy of family firms is motivated mainly by the objective of maintaining the financial independence of the firm in order to guarantee the protection of the family fortune through the elimination of any option that may, probably, lead to the loss, total or partial, of the family power. Thus, the impact of the presence of the family entity depends mainly on the nature of the family, the concentration of power as well as the importance given to socio-emotional objectives (Romano et al. 2000). In fact, the financial risk is accompanied by a risk of devaluation of the human capital of family leaders.

In conclusion, we believe that the financial policy of family firms is strongly influenced by the specific character generated by the presence of the family entity. In fact, the interest allocated to the protection of family control curbs the recourse to external financing since it can threaten the concentration of power in the hands of the family. Thus, shareholders tend to favour the interests of the firm over their own interests by sacrificing the distribution of dividends. This sacrifice is motivated mainly by the desire to protect the family legacy to be passed on to future generations. From this point of view, it is legitimate to wonder about the effect of the new challenges of succession on the performance of family businesses.

2.2.3. A theoretical look at the impact of succession challenges on the performance of family businesses

According to Bennedsen et al. (2010), a firm is considered family-owned if the family holds a significant share of the capital and voting rights related to control. Again, the family character depends on the preferences of preservation of the business so that it will be transmitted to future generations. Indeed, the family business is seen as an inheritance that the family holds and that must be passed on from one generation to the next. However, the performance of the family business decreases significantly after succession (Bloom & Van Reenen 2010).

In fact, the ratio of growth and investment opportunities is more significant for companies that are not yet inherited. In fact, the 2nd generation is generally more risk averse, in other words, it is less courageous in seizing opportunities that could promote the growth of the company. This comes back to the desire to preserve the heritage founded by the antecedents and therefore the guarantee of the survival of the family firm. In fact, the successor generations are more open to indebtedness since they are less attached to power, but they only go into debt to finance operations or increase cash flow and not to invest. As a result, the company is in a situation of underinvestment.

Indeed, the main impact of the transmission is the stagnation of wealth. Thus, the successors do not seek the growth of the company but rather its preservation and survival. That said, the successor generations tend to structure the management of the enterprise more to guarantee the continuity of the operation.

Indeed, this drop in performance is also due to the lack of preparation of the transmission since, for the most part, the eldest member of the family is automatically the successor without checking whether he or she has the required skills and qualities. This lack of preparation can also amplify family conflicts as a result of the involvement of third generation cousins. In turn, these conflicts threaten the performance of the family business and even its survival. In this same context, studies done by Jing Melanie Xi in 2015 showed that only 30% of businesses successfully pass on to the second generation and only 10% survive to the third generation.

Indeed, the implementation of a process of transmission of the family business requires many regulatory and legal provisions. Thus, many disciplines are intertwined: economics, finance (analyzing the financing decisions of the transmission, strategic management, management (managing change), law, taxation (the choice of a transmission technique is influenced by taxation). This being said, and faced with disciplines that he does not master adequately, the manager often finds himself unable to decide and therefore gives up preparing a succession plan.

The situation is even worse when the founder has several descendants. Indeed, he is obliged to choose the successor among them. Then, for fear that his children will misinterpret this act (favorism) the head of the company will constantly postpone the discussion on the transmission of the company. The postponement of transmission can also be explained by the fact that the manager can feel eternal, so the transmission of the company is often considered as the end of a dynamic era. "Giving up what was the reason for living and entering into the ultimate certainty

(death)" is a very difficult decision to take and can therefore be the subject of reluctance, even unconscious.

3. Analysis of empirical work on the cultural impact on the clash between innovation and tradition in family businesses

Often associated with respect for tradition, and paternalism...family entrepreneurship has long been the victim of a negative image. In fact, the surviving family business, thanks to its specificities (value and culture specific to the family, long term horizon, weight of the family in the management and control...) is reputed to be part of the tradition that privileges the routines responsible for the old victories, while avoiding change and innovation. As a result, social representations of the perennial family business rarely associate it with innovation rather than tradition. Contrary to popular belief, however, innovation is not the prerogative of non-family businesses. Like nonfamily businesses, family businesses innovate, as shown by the many examples of long-lasting family businesses (Bouygues, Toyota, Adidas, Hermès, Michelin, etc.) that have succeeded in establishing themselves in their respective sectors while ensuring their longevity, thanks in particular to their capacity for innovation. In order to better analyze this dilemma, we will begin by studying the effect of the family character on managerial innovation and then analyze the role of the manager's culture in its reconciliation.

3.1. Towards an innovative family business: what constraints?

The specificities of family business management analyzed in the previous paragraph lead us to wonder about the effect of the presence of the family entity on managerial innovation in this type of entrepreneurship. Nevertheless, the behavior of family firms in terms of managerial innovation is an area of research that has not yet been studied. Indeed, the field of entrepreneurship/innovation constitutes less than 5% of the work on family businesses (Temri 2018).

In this context, we distinguish between three different frames of reference in the literature on innovation in family businesses. The main difference between these three logics is related to the impact of the family character on the managerial innovation of family firms.

The first current states that family businesses are characterized by their status quo. In other words, this type of capitalism is characterized by a low rate of innovation because of its immobility, inertia and risk aversion. Thus, for the proponents of this approach, innovation is less sustained in family firms due to these conservative characteristics (Naldi et al. 2007; Schulze et al. 2001, 2003).

The second is opposed to the first in that it supports the idea that family businesses are more innovative, creative and proactive than non-family businesses (Ward 1997; Zahra 2005). According to this approach, the specific character of family businesses and the promotion of their non-economic objectives constitute a competitive advantage that enables them to introduce change more fluidly thanks to family cohesion.

Based on the above, the 3rd framework resulting from the work of Bloch et al. (2009, 2010, 2012) supports the adoption of an intermediate approach according to which family firms are characterized by a specific culture that guarantees more measured risk-taking and therefore more rational managerial innovations than non-family firms (Zahra et al. 2004; Carney 2005). These works are based on the resource theory, paying more attention to the family/firm interaction that generates sustainable competitive advantages, some of which represent key factors for the development of a sustainable innovation strategy; mainly the emphasis is put on the long term, the stability of external relations, the low cost of capital, the low debt ratio, the values and the corporate culture, the trust and the stewardship of the leaders (Arrégles et al. 2010).

Based on this, family businesses face a complex dilemma between maintaining traditions and the need for innovation. Indeed, family managers avoid unmeasured risk-taking in order to

balance the process of exploration by favoring family values associated with a pragmatic dynamic of insertion/construction of their environment. Thus, the search for sustainability, which represents a responsibility towards future generations for whom the company is a family legacy, curbs any change considered as risk-taking in order to avoid jeopardizing the survival of the company (Gomez-Mejia et al. 2007).

Indeed, the management of innovation within family capitalism is characterized by a strong involvement of managers, little formalism, pragmatism, a long-term horizon, strong values and culture, the importance of learning related to sustainability, low risk-taking ... which give the "prudential" character to managerial innovations of family businesses (Saibi 2012).

In fact, the above allows us to highlight the role of traditions in guaranteeing the sustainability of the company and which is reflected in the accumulated experience, know-how, culture and values specific to this type of company (Bloch et al. 2009, 2012).

As a result, the perennial family business is subject to a tension that can highlight two contradictory and indissociable logics: tradition and managerial innovation. From then on, it is appropriate to ask ourselves the question of how to manage this paradox and how to reconcile these two logics which, at first glance, seem antagonistic.

3.2. The role of the leader's culture in reconciling managerial innovation and traditions within the family business

Family firms are characterized by their high performance and higher average profitability than non-family firms (Charreaux 1991; Allouche & Amann 1997), a low debt ratio (Gallo & Vilaseca 1996; Allouche & Amann 1997; Mahérault 1998) and a better self-financing capacity (Allouche & Amann 1997). This, combined with a policy of low dividend distribution (Hirigoyen 1984; Mahérault 1998; Calvi-Reveyron 2000), is then reinvested in the growth of family assets. Based on this, the existence of the family, mainly the family manager, has a positive influence on the durability of the firm by favoring investments that create long-term value. In this same context, the empirical study carried out by Vigoureux in 1997 states that when the functions of management, control and ownership are separated, the managerial behavior of the family firm becomes more structured, innovative, proactive but more risky. In other words, family businesses perform better when they are led by a family member than when the responsibility lies with an external manager.

Indeed, the involvement of family leaders is characterized by the presence of the emotional factor, since their success, reputation and personal well-being depend to a large extent on the fate of the company (Davis et al. 1996; Miller & Le Breton-Miller 2006; Gomez-Mejia et al. 2007). Thus, family business leaders/priorities would be driven by a sense of altruism favoring the interests of the business and family members over their own interests (Schulze et al. 2003).

In fact, according to Zahra (2005), the altruism, the influence of the culture that characterizes the managers/owners of this type of capitalism and the longevity of the control/management structures have a positive impact on the risk-taking of family entrepreneurship. This also encourages them to allocate the necessary resources to innovation, thus stimulating the exploration of new activities that can promote investments capable of creating new distinctive skills. Thus, several studies (Miller et al. 2006; Anderson et al. 2003) have shown that, in terms of resource allocation, family firms tend to sacrifice their own interests in order to reinvest a larger share of their profits than their non-family counterparts.

Indeed, it would seem that the culture of innovation adapts to that of the firm, motivated mainly by the culture of the family in business. According to Mignon (2009), the invariants composed of values and cultural variables specific to the family in general and to the manager in particular play the role of filters leading to the orientation of innovations in the direction of the durability of firms and the protection of the family heritage. For his part, Zahra et al. (2004), following the comparison between family and non-family firms, demonstrated that a group

culture (characterized by trust and the exchange of ideas) that is open, decentralized and oriented towards the long-term is conducive to the development of entrepreneurial activities. In other words, a family leader with an open culture is conducive to entering new markets and developing new businesses.

This being said, although tradition, which is embodied in the accumulated experience, know-how, culture and identity of the firm, can result in rigidities that inhibit any desire for innovation and learning, particularly when the family firm persists in responding to new problems with these good old practices, this attachment to history and the past influences the innovation process (Teece et al. 1997). In effect, the firm limits itself to its already acquired heritage of competence in order to innovate.

Thus, according to this logic, the innovation process is based on the routines and know-how existing within the family business, and is part of a cumulative phenomenon, the product of a heritage that determines its innovation trajectory (Dosi et al. 1994; Teece 1997; Nelson & Winter 1982). As a result, we no longer speak of a break with the existing and the past but rather of continuity.

Indeed, all of these analyses bring us back to the key concept of "routines" characterizing family firms that are attached to their own ways of doing things in order to guarantee respect for the cultural values of the leader. In fact, family firms acquire over time, thanks to the experience of the management team, managerial customs and habits that influence the way the firm manages its innovation (Teece 1997). Indeed, these routines constitute a unique set that explains the family organization's solutions to innovation problems. However, it should be noted that the specificity of family businesses, characterized by the favoring of traditions, hinders the acquisition of new managerial modes.

Based on the above, the successful implementation of managerial innovation requires the establishment of a learning process based on experience, hence the value of tradition and the past. In other words, tradition and managerial innovation become complementary thanks to the moderation of the culture and values of the leader. Therefore, good innovation management is linked to the creation of new ways of doing things and the improvement of old efficient routines.

In short, the innovation process is oriented and structured by the weight of tradition in the family business, the desire to preserve its brand image, the altruism and culture of the manager/owner, and the concern to influence the long-term horizon. This explains the strategy of prudent innovation that this type of capitalism adopts and which protects it from getting lost in practices that are too risky. Thus, far from being contradictory, it seems that tradition and innovation are rather complementary. As Dumoulin and Simon's (2008a) title so aptly states, innovation and tradition represent "two sides of the same coin." Far from being a nostalgia for the past, tradition motivated by the culture of the leader seems to be a source of dynamics that guarantees not only evolution through innovation but also its orientation to ensure the sustainability of family businesses.

4. Discussion and conclusion

Family businesses are characterized by their uniqueness generated by the divergence of interests between the different stakeholders: Family, Shareholders, Managers... Indeed, family members tend to favor their non-economic objectives related to the socio-affective wealth of the family in business. In this context, our study has shown that the favoring of these family objectives can prevent managerial innovation because of the attachment to cultural traditions. Nevertheless, reconciliation is possible since the two aspects can complement each other.

Thus, the evaluation of family businesses is not only done through the results and economic objectives but also through the socio-affective objectives of the family in business. Social-emotional wealth can be represented in several ways: the satisfaction of belonging needs, emotions, and intimacy (Kepner 1983) and especially the respect of the family's cultural values

and traditions. Often, the failure of the business to meet non-economic goals and expectations can be seen as a failure of the business itself for the family, in this sense family leaders continually ensure that these goals are prioritized over the profitability of the business.

At the strategic level, studies in this regard have shown that family businesses in particular make major strategic decisions based not only on an economic logic but rather on a logic of preserving social-emotional wealth, which makes them unique from other managerial firms.

Indeed, for family businesses, the choice of financing is a rather complicated issue because - in contrast to managerial businesses - the choice of financing is subject to several constraints, among them the refusal of recourse to debt as a means of financing since the latter limits the financial autonomy of the business on the one hand and affects family control on the other hand (Sonnenfeld et al. 1989)

The pecking order theory (Myers 1984) states that there is a certain hierarchy in the choice of financing among firms, since this hierarchy begins with self-financing as the optimal choice, followed by debt and, towards the end, the issue of new shares. The logic of financial management in family businesses is different from that in non-family businesses, since the latter is motivated by several reasons, mainly the maintenance of family control. This implies the refusal of any choice that could influence this control unless the company could not finance itself by any means.

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The Gift of Infertility

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ABSTRACT: Religious gender views influence expectations on the identity and purpose of women. Traditionalism teaches that the highest, sacred calling is to be a wife and mother. These portrayed admirable goals, but barrenness continues to result in confusion, doubt, shame, and a questioning God's plan. This article began with the personal journey of the author from sadness to joy as she realized infertility was, in reality, a gift from God. Barrenness allowed her to experience and grasp God's complete purpose, power, and promise. This testimony was shared to explain the effects of religious gender views. True peace was not found in rhetoric and theory, but through understanding and trusting in God's design. Practical suggestions were provided to counsel and encourage other evangelical women discouraged by motherhood culture and point them to Christ.

KEYWORDS: infertility, women, traditionalism, motherhood, identity, purpose, children

The Gift of Infertility

“There is no greater place of ministry, position, or power than that of a mother” (George 1997, 97). This was the standard, the absolute truth I was taught growing up in a traditional Christian household. The godly woman is saved through childbearing and “the mother’s womb the work-place of the Holy Spirit” (Murray 1975, 180). The Titus 2 stereotype spoke of the high calling of being a wife and mother and keeping the home. The Proverbs 31 woman exemplified the wife and mother which inspired beauty, creativity, and thoughtful planning. Bible studies for women always taught the same message: “motherhood is in God’s sight a holier and a more blessed thing than you realize” (Murray 1975, 183).

The traditionalist girl’s greatest dream was to be a pastor or missionary’s wife and have a respectably large group of giggling children. The aspirations came from ideal woman portrayed in the ladies’ Bible study books which taught, “Woman’s highest dignity and her greatest honors are found in contributing to the perfection of the divine purpose of her Creator in her peculiar character of mother” (Burns 2001, 230).

Thus, I entered my marriage with the concept that my identity, my purpose, and my worth were based on my success as a mother and homemaker. Thankfully, God did not leave me with that misconception; He gave me the gift of infertility. That gift was a journey which opened my eyes to look past my personal pain and struggle, to discover my true value from God’s perspective, to experience God’s peace, and to encourage others.

The Beginning of the Journey

My husband and I are planners. We were married in January and intended to start a family right away. According to the schedule, we started trying to conceive in the late summer. Nothing happened. Christmas came and went with no announcement. As each month passed, I felt like I was on a roller coaster of emotions. A single day late in my cycle would cause me to run to the store for another pregnancy test. Each time the test would show negative. This went on for years.

Mother’s Day was the worst. It was always on a Sunday, which meant that the morning church service would be completely given over to celebrating those women who were able to bear babies. Usually, the children would present their moms with a flower. Church was normally a sanctuary where the hurting could meditate on the grace and lovingkindness of Christ, but every year the focus seemed to change from honoring Jesus to honoring mothers. In a moment of

transparency, I approached the pastors to share my struggle about the holiday. I can only imagine it was out of a desire to minister that the next Mother's Day sermon directed everyone's attention on infertile Hannah and how her prayers were answered. I ran into the bathroom to weep. To me, Hannah was miraculously blessed by the Lord and joined the privileged group of respectable women, even though this blessing seemed (to me) to come at a high cost. Her bargain with the Lord was to remove her shame, and in return she would give up her son to temple service. Was this the message that women like me was meant to receive? Did I not pray hard enough? Did I not promise to sacrifice enough? I related more to Hannah at the beginning of the story, fluctuating between broken, sad, and grievously irritated. I felt provoked going to the house of the Lord (1 Samuel 1:6-7).

While being a wife and homemaker is a blessing, a lifetime of only serving one husband confines one to a small sphere. A mother's impact allows a woman to branch out into the world. Her children, who begin under her guidance and care, develop into mature influencers of society. More than that, the mother's effect is not bound by time. Her children are immortal souls which exist for eternity (Cameron 2001, 235). "Mothers have as powerful an influence over the welfare of future generations, as all other earthly causes combined" (Abbott 1984, 137). Therefore, infertile women wonder, what will be the purpose of life if there is no one to influence nor a legacy to produce. If motherhood was a sacred calling to follow, then why are godly women not allowed to answer the call? Respected traditionalist authors offer little counsel. They write about the blessings of motherhood where "hugs and kisses should be routine," but are no little hugs and kisses in a barren home (Peace 1997, 83).

Consequently, I found new female authors who understood my pain. It was comforting to know that I was not the only one who struggled with these feelings. However, most of the authors I read had the happy ending of a provided family, and they shared from hindsight how they conquered their struggles. As time progressed, those other women could only commiserate with me but never relieve my pain. I felt more depressed. While what they expressed was true and heartfelt, it did not satisfy my heart. It was then, in the midst of despair, that the Lord opened my eyes. The authors of the books were not God, and their writings were not inspired by the Holy Spirit to speak to my soul. The only peace I would find to save me from the raging turmoil inside was understanding God's perspective. Many women with infertility, myself included, struggle with our view of God in three areas: His purpose for women, His power over events, and His promises fulfilled. This article will examine these doubts, discover how to find peace, and give practical examples of how others can help those hurting.

Spiritual Confusion

God's purpose for women suggests a consideration of why He created the different sexes. Traditional churches and women's studies often give the answer, "We were created male and female for lifetime partnership through marriage (and) for a lineage through parenting" (Way 2003). The Creator of all things has the authority to proclaim the purpose for His design, which includes procreation (Genesis 1:28). Obedience to the sacred calling of marriage and motherhood demonstrates trust in God's kind authority. He is a good Father who wants to give the best to His spiritual children, and one of the greatest gifts He can give is physical children (Matthew 7:11; Psalm 127:3-5). Therefore, when women follow the directives of God without question, they demonstrate their faith in His goodness, wisdom, and love (John 14:15, 23; 1 John 5:3). God rewards such faith as the Psalmist exclaims, "He gives the barren woman a home, making her the joyous mother of children. Praise the Lord!" (Psalm 113:9).

With these expectations as the foundation, the woman's identity becomes wrapped up in the necessity of marriage and the ability to bear children. However, if the purpose of women is childbearing, how can Paul's teaching in 1 Corinthians 7 be explained that it is better for some to remain single? Singleness appears to be a contradiction with one's created function. Additionally,

if a woman's identity comes through childbearing, what becomes the purpose of a baby, toddler, young girl, and older woman? Is a female child's worth waiting until she is older and able to conceive? Is usefulness in her older years best served through offering help and guidance to younger mothers? Carolyn James states, "We overlook all the other seasons of a woman's life – which impacts every girl and adult woman and excludes entirely women whose lives follow a different path" (James 2015, 40). If the reader may think that such statements are an overreaction, consider Evans' observation:

Growing up in the Church, I must have heard a thousand times that my highest calling as a woman was to bear and bring up children. While men could honor God in varying capacities through work, family, and ministry, a woman's spiritual aptitude was measured primarily by her ability to procreate. Even as a child I notice that the church deaconesses hosted dozens of wedding and baby showers each year, but never a housewarming party for a single woman or a celebration dinner for a woman who passed the bar or graduated from medical school. Subtly, the belief that I was incomplete without a husband and children crept into my subconscious. Without procreating, I believed, my contribution to the church didn't really count (Evans 2012, 178).

Confusion over a woman's expectations and identity leads to misunderstandings about God's character and purpose. Genesis 1 describes God intentionally creating women in His image. A narrow focus on the image bearer complicates the problem further. Jennifer Saake, who experienced infertility for ten years, explains the dilemma: "God had the desire to create new life, and He wanted to create it in His own image. If he, being perfect and complete, had this desire to create, how could it be selfish or wrong?" (Saake 2005, 27). Since God gave women the same desire to create, barrenness makes them feel inferior or incomplete in their purpose. Infertility seems to disqualify her from being a *complete* image bearer, only allowing her to partially represent God. Thus, God's purpose in creating a reflection of himself has been marred.

This reasoning leads to doubting God's power. If His purpose is for women to bear children, then has His power been thwarted by sin? James describes the lies many believe regarding God's original failed design which led to an alternate arrangement. Infertile women have "the conviction that they have lost God's best plan for them. They believe that they had missed or fallen off the plan, or that something has happened to destroy it" (James 2001, 72). This fear encourages women to take the matter into their own hands, bear the responsibility to fix it and make it happen. This is not a modern-day problem. Scripture provides examples of men and women in the Bible who believed that God was not working and took control for themselves (Genesis 16:1-2; 30:1-5; 1 Samuel 13:8-12).

Infertility also causes doubt in the consistency of God's promises. If the Bible teaches in passages such as Psalm 128:1-3 and Exodus 23:26 that children are a gift to the righteous and then no children are given, does that mean that person is not pleasing to God? If God is quick to bless, then why does He withhold this joy? To rationalize His promise, the barren woman thinks either she is currently living in sin or she has displeased God. The alternative is a God unable to fulfill his promise or thwarted by the enemy. Without a promise to cling to, hope is lost, and "if the light of hope goes out, life shrinks to mere existence, something far less that life was meant to be" (Packer 2013, 89-90). Thus, infertility makes women question God's purpose, power, and promises. While these three subjects plague the soul, God graciously gives His perspective.

Spiritual Peace

Peace comes through understanding and trusting in God's design. Only His perspective can free the deep longings and the bondage of emptiness that infertility causes. Solace can be found in knowing God's true purpose, power, and promise for His children.

Peace can be found in *clarification* of God's purpose. Women are made in the image of God; it defines who they are, but it is not their function. God did command Adam and Eve to fill the earth, but that is not His objective for each individual life. God delights in creating the unique. Ephesians 2:10 reminds us, "For we are his workmanship, created in Christ Jesus for good works, which God prepared beforehand, that we should walk in them." God has never mass-produced any part of His creation. Each snowflake is different; each blade of grass is different; and each of His children is not only formed physically different, but their path is spiritually unique. God prepared the distinctive talents, gifts, responsibilities, and purpose for each person beforehand. He knew which of His daughters would be infertile. That did not happen as a mistake. Yet, He has created each one for good works, through the preordained purpose that He specifically designed. God has not decreed that every woman bear a certain number of children or that every woman serve the church in the same way; rather, God's purpose for each woman is different, specially aimed for her good and His glory.

Ultimately, all people were created for the purpose to glorify God and find satisfaction in Him (Westminster 1648, question 1; Acts 17:26-27; Revelation 4:11; Psalm 19:1; Isaiah 43:7). The core of women's actions and thoughts should revolve around God. Believing that children will give purpose or bring fulfillment means the mind is no longer fixed on God but rather focused on the action. God desires the unwavering love of the heart, not just duties fulfilled. He wants His daughters to rest in complete trust in Him alone, not her ability to produce children. Sometimes to reveal the heart, the caring God uses trials such as infertility to procure a woman's attention and bring her focus back to Him (Coe 2006; Exodus 20:5; 34:14; Mark 12:29; Proverbs 3:5; 1 Timothy 1:5). God has designed each woman for a specific purpose in His plan. To find peace amid infertility, women must forfeit their preconceived plans and seek to discover His. If He has not called on her to bear children, then what ministries does He have in store for her? How can she serve Him with the talents and gifts He has bestowed on her?

Peace can be found in the conviction of God's power. God is sovereign, meaning He has the power to do all things, He is not dependent on an outside source for help or advice, and He is able to accomplish all He desires (Psalm 147:5; Job 42:2; Matthew 19:26; Ephesians 1:11; Philippians 2:13). Scriptures make His omnipotence perfectly clear. The angel Gabriel told Mary, "With God nothing will be impossible" and Jesus declared, "With God all things are possible" (Luke 1:37; Matthew 19:26). God's sovereignty is limited by one thing: His character. A good God does not do something that is not good. A powerful God cannot lose control. Regarding the question of God failing His original plan and developing an alternate one, James responds, "God's plan for us is intact, proceeding exactly as he intended, neither behind nor ahead but right on schedule. Nothing - not our sins, failures, disappointments, bad decisions, nor the sins of others against us - can deter a sovereign God from accomplishing his purposes" (James 2001, 72; Romans 8:35-39). God's plans are never hindered.

Peace can be found in the certainty of God's promises. His promises are always true. God never promised that every woman would have a child, but God did promise that He will do good to those who love Him (Romans 8:28; James 1:2-4, Lamentations 3:37-38). The turmoil women face due to their infertility demonstrates that their definition of "good" might be different from God's definition of "good." Perhaps mankind's definition of "bad" is also skewed. Nik Vujičić, born without arms or legs, is a prime example of what the world determines as "bad." He came to realize that his body's formation was meant for his good and for the good of those around him. Although he initially labeled it as suffering, God has used his "bad" differences as an instrument to proclaim the gospel of Jesus Christ and see many saved. He mused that if God asked if he would rather have his life with arms and legs, his answer would be no (Christian Broadcast 2013, 6:45). Being without limbs is not "bad," but being without a relationship with Christ is. Nik testifies, "If you don't know the truth, then you can't be free, because then you'll believe that the lies are the truth. But once we realize that when we read the Word of God and you know the truth

of who you are, then I'm not a man without arms and legs. I am a child of God" (Christian Broadcast 2013, 5:30).

Likewise, women must see themselves not as women without children, but as daughters of God. A woman's high and sacred calling is not motherhood, but as a disciple of Christ. "Following Christ is something a woman can do whether she is married, or single, rich or poor, sick or healthy, childless or Michelle Duggar" (Evans 2012, 180). Nancy Wolgemuth details three truths that combat the lie that women must have their desires met to be happy: happiness is not found in children or any relationship, but only found in Christ; God promised to give His daughters what they truly need, not necessarily what they want; and contentment is found with God and His provisions alone (Wolgemuth 2001, 139-140). While women may feel like children are necessary, God responds by promising that true peace and happiness is found only in Him (John 14: 27; 16:33; Colossians 3:15; Philippians 4:6-7; 2 Thessalonians 3:16). God uses trials, such as infertility, to dispel false hopes and misconceptions, and spiritual peace is displayed through the clarification of His purpose, the conviction of His power, and certainty of His promises.

Helping Others

Infertility is a difficult problem for women because they often feel misunderstood. Scientific journals admit that "involuntary childlessness is recognized as one of the greatest forms of unhappiness and loss an adult woman might endure" (Thompson 2001, 52). Genesis clearly portrays the woman's hurting heart. "Give me children, or I shall die!" is Rachel's cry to Jacob. He did not understand her depth of pain and instead became angry (Genesis 30:1-2). A dear friend of mine also struggled with infertility. She had a solid view of God's perspective yet was still sad. Her traditionalist husband even quoted Elkanah saying, "Why is your heart sad? Am I not more to you than ten sons?" (1 Samuel 1:8). Although he meant to encourage her, this response broke her heart more. As my friend and I cried together, we wondered if pastors and husbands could ever understand Proverbs. "Three things are never satisfied; four never say, 'Enough': Sheol, *the barren womb*, the land never satisfied with water, and the fire that never says, 'Enough'" (Proverbs 30:15-16, emphasis added). Frequently women with fertility issues hear simplified answers like "trust in God" or "pray with thanksgiving." However, those remedies last only for a month and then are quickly forgotten when they are again reminded of their unfulfilled desire. Women who are hurt need a compassionate understanding and a practical way to apply God's perspective. Elkanah's original query, "Am I not more to you than ten sons?" was self-focused, assuming his love and affection should have been enough for her. Elkanah's words demonstrated that he thought he was the answer to her problem. Instead, Hannah's struggle, similar to many barren women in the traditionalist movement, was an inward and shameful dilemma. She likely felt worthless, especially as she was reminded daily of her failure by Elkanah's other wife. What Elkanah should have said to Hannah is, "You, Hannah, are worth more to me than ten sons." Hannah and my friend needed to understand that their identity, purpose, and worth were valued by their husbands, regardless of barrenness.

The first step to help is through listening, comprehension, and acceptance. Women desirous of reproduction grieve over their difficulties. Shame, anxiety, depression, and guilt are some of the burdens that they carry. The problem is deeper than just not having a child; it is giving up their hopes and expectations. They need a loving community that will be available, sensitive, and comforting. Rebekah Hannah, a biblical counselor and instructor, works with women and the anxieties they experience with childlessness. She suggests that the best way to help hurting women is to comfort them in their moment of need by listening carefully and asking questions, rather than making statements or giving advice (Hannah 2013). The knowledge that someone else hears and seeks to understand the pain felt is often enough to bring encouragement. "Asking appropriate heart probing questions" allows others to enter into her trial and provide acceptance

(Hannah 2013). Frequently, outside expectations (spouse, extended family, church family, community) are harder for a woman to manage than with her own internal struggles. Sometimes she wishes to have reassurance that it is not shameful to be childless. Comfort through listening, physically being there, and prayer are the best tools for support.

The second step is presenting and teaching a solid biblical foundation for suffering. Cynthia Heald asserts, “Whenever we begin to doubt, we must not waver in our faith, but be fully assured that what God has promised, He is also able to perform” (Heald 1992, 74). Not to waver when struggles happen implies that faith must already exist and be firmly rooted in the truth. Ideally, pastors, authors, Sunday school teachers, and mentors should establish a basic groundwork of teaching God’s purpose, power, and promises before a crisis arises. Sermons on infertility are rare. Most messages discuss the topic in the light of God overcoming bareness, but a faithful rendering of God’s provision and care to the barren, the fatherless, and the widow can provide great comfort (Roets 2013). Vujičić reminds, “God can heal you without changing the circumstance” (Christian Broadcast 2013, 3:45). Even during the trial or if there is no end in sight, God’s perspective still brings peace.

Stuart Scott, a Christian counselor and professor, suggests that when faced with any difficult trial, three short questions should be asked: “Could God have stopped this? Did He? If not, why not?” (Scott 2013). Working through the answers to these questions grants insight into God’s character as well as one’s true needs. The beginning question can be rephrased in this way: “Is God powerful enough to fix the problem?” The answer in every case is yes. God’s sovereignty means everything is planned by Him and under His control (Isaiah 46:9-11; Ephesians 1:11). While God is not the author of evil, both hardships and blessings are in His power (Jeremiah 32:42; Lamentations 3:37-38). Therefore, God is powerful enough to solve every challenge, answer every desire, and mend every relationship (Psalm 147:5; Job 42:2; Matthew 19:26; Ephesians 1:11; Philippians 2:13). God delights in turning the brokenness of this world into good (Genesis 50:20). God can give children to the childless.

With that foundational understanding, the second question is, “Did He?” Did God, in His power, take away infertility, the feelings of shame, the reproach of others? The simple answer is no. If God answered the problem according to one’s desires, then there would not be an ongoing trial. This negative response produces the third and most important question, “Why not?”

The answer to “why not” is found in God’s methods which always bring Him glory and us good (Scott 2013). All trials, including infertility, are designed to bring God glory (Job 1-2; John 9:1-3). But when the heart is breaking, it is not focused on God receiving glory; rather, it is turned inward. That is why God, in His kind mercy, also designed for trials to be the means to bring good to His children. Job did not struggle with infertility, but he keenly felt the loss of a family. He learned that God has a purpose for suffering and confessed, “when he has tried me, I shall come out as gold” (Job 23:10). Other biblical examples include Joseph in Genesis 50:20 and Paul in 2 Corinthians 12:7-10. Eric Spier lists five blessings that come through waiting on God: it reveals our true motives, builds patience, increases anticipation, transforms our character, and develops a deeper intimacy with God (Spier 2013). All of these things are for our good.

Women who are hurting need more than simple testimonies and sermons. The responsibility of the body of Christ is to understand and “mourn with those who mourn” (Romans 12:15-16). The obligation of leaders is to first listen and care and then never stop teaching the application of God’s perspective which brings ultimate hope and healing.

The Gift of Infertility

In my testimony, I claimed that God gave me the *gift* of infertility. At the time it did not feel like a gift, but it was. He has made use of ongoing heartache to bring me to a deeper understanding and reliance on Him. He gave me compassion for others who are hurt and the opportunity to minister to them. Most surprisingly, He used infertility to fulfill my desire to serve Him on the mission

field. After coming to terms that we would not have biological children, my husband and I looked into adoption. Through a series of providential events, God led us to Eastern Europe. Over the years, God used adoptions to introduce us to people groups that needed the gospel. He began to instill a heart for missions and a firm faith in His sovereignty. God does not always give the opportunity for us to see how His plans work out for His glory and our good, but we are thankful that He allowed us to see His design in our lives. My testimony is James 1:2-4, “Count it all joy, my brothers, when you meet trials of various kinds, for you know that the testing of your faith produces steadfastness. And let steadfastness have its full effect, that you may be perfect and complete, lacking in nothing.” Traditionalists must be reminded that barrenness is not simply a curse. God’s gift of infertility supplies an abundance of peace and trust, which is worth more than ten sons.

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Jokes – Legally Speaking (Part one)

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ABSTRACT: The article was written with the purpose of shedding some legal light on the juridical implications that might arise with expressing jokes and satire. The analysis first tried to create a general overview of what constitutes satire or a joke, how they are created and to what purpose. After identifying the social construct – that is “jokes” – the author, recognizing the principles of freedom of speech, searches for breaches as noted in the case-law of the European Court of Human Rights in correlation to the right to privacy and protection of one’s honor. The author concluded that satire is a powerful tool for social commentary and an imperative tool in a democratic society; a tool, just like any other, might be misused thus courts have to intervene and level the plain field.

KEYWORDS: jokes, pranks, memes, code of conduct, freedom of expression

Of satire and jokes - philosophically

The ancient Greeks were the first to encapsulate human nature in recreations of life through the art of theater. Later, the Romans perfected it – *ars simiae nature (art resembles life)*. The theater offers us one of the greatest psychological dichotomies of the human mind: tragedy and comedy; the coming together of which creates life as all of us live it. Tragedy and comedy, just like good and evil, in order to both exist, must cohabit. We cannot have one without the other, as they involve opposition and conflict (Amir 2019, 72).

According to Hegel (1975, 1199), laughter and comedy are not to be confused. Any difference between something genuine and how it seems, between a goal and the means, may be something risible but in order for something to be comical, Hegel suggests there should be something deeper. Satire, even though it produces the same laughing effect, provides us with evidence of this, and the more crudely it depicts the contrast between the real world and what morally upright people should be, the more tediously it illustrates the point (Hegel 1975, 1200).

A pertinent question does arise relating to the provenance of laughter: why do people laugh and why is laughing so subjective? The items that people laugh at tend to have the most paradox overall. On one side of the spectrum, we are capable of laughing at the most banal platitudes, but on the other hand, we also frequently do so even when discussing deep issues if we discover only one utterly trivial discrepancy that goes against our perception of the world. Laughter may also come from a place of mockery and disdain.

A great Romanian philosopher and poet, Lucian Blaga (1919, 44-45), in his poem “Heaven’s light” writes “[...] *But would so much laughter bear fruit in my field without the warmth of evil? [...] Like a heretic I think and wonder: where does Heaven get its light? - I know: Hell, lights it up with its flames!*” The author uses the oxymoron “the warmth of evil” to express the influence sin has over man and also to weaken evil’s negative stigma. Moving forward, the poem’s final lines serve as an illustration of the philosophical idea that good and evil materialize in the world in equal measure and with equal forces, acting in opposition to one another to keep the universe stable and in balance.

Laughter, throughout history, was subjected to a lot of analysis. For example, Aristotle (2001, 69) considered humankind to be the only one capable of laughing; but when going in depth in his work *Nicomachean Ethics*, he asks himself what defines a person who jokes well: he who says what is not inappropriate for a liberal human being, or he who does not cause

pain to the listener? A person's honor was a virtue of great importance ever since those times, so Aristotle suggested equating slander with joking about certain things because the buffoon, as opposed to a witty person, will do anything and everything for a joke (Aristotle 2011, 87-88). Stoics saw laughing as something permissible but would recommend "*not to allow your laughter be much, nor on many occasions, nor profuse*" (Epictetus 1865, 627).

An interesting strict correlation has been made between the comic and human experience. Henri Bergson (2005, 2) observed that "*the comic does not exist outside the pale of what is strictly human.*" He further holds that nature can be anything but laughable: it can be serene, beautiful, pristine etc. This does not mean that comedy cannot be found in animate or in inanimate things, but the reason for this will always be the projection onto them of the human conceptualizations or their use for him. In his opinion, human seems to be the only animal that is laughed at (Bergson 2005, 2), a view to which we must give legal connotations and implications.

According to Thomas Hobbes, the grimace of laughter is associated with sudden glory. He sees it as coming from either pleasure or a place of arrogance or superiority: "[laughter is caused] *by the apprehension of some deformed thing in another, by comparison whereof they suddenly applaud themselves. And it is incident most to them that are conscious of the fewest abilities in themselves; who are forced to keep themselves in their own favor by observing the imperfections of other men. And therefore, much laughter at the defects of others is a sign of pusillanimity. For of great minds one of the proper works is to help and free others from scorn and compare themselves only with the most able*" (Hobbes 1651, 36).

Satire employs humor to mock or denigrate social groups or social constructs and while speaking of parody, the most distinctive features of another author's work are purposefully imitated and warped in order to produce sarcastic or humorous effects. These acts may easily fall outside the protection of the law, being sanctioned by civil law or criminal law in different ways (e.g., nullity of a contract, civil tort liability, criminal charges); their authors must give due consideration to their jokes and their legal complications because, quoting Balzac (2012, 379), "*I see too much of the law not to know that it is well to have nothing to do with it.*"

Satire, jokes and the European Court of Human Rights (ECHR)

Globalization is the most important driving force for economic cooperation and peace, but unity also comes from maintenance and further realization of common sets of rights and values, like Human Rights and Fundamental Freedoms.

Freedom of expression, be it verbally or through actions, artistically or non-artistically, is one of the most important pillars of democracy, set out in a number of national, European and international documents, like the Universal Declaration of Human Rights or the European Convention on Human Rights. According to art. 10 of the European Convention on Human Rights, everyone has the right to freedom of expression. This freedom includes the ability to express ideas freely across national boundaries, without intervention from the government, and to hold opinions. Furthermore, the licensing of radio, television, or movie theater businesses is not prohibited by this article.

Notwithstanding, paragraph 2 imposes some limitations, making it a non-absolute right. Since exercising these freedoms entails duties and responsibilities, exercising them may be subject to the formalities, conditions, restrictions, or punishments that are required by law and essential to a democratic society in order to protect national security, territorial integrity, or public safety, to prevent disorder or crime, to protect one's health or morals, to protect one's reputation or other people's rights, to prevent the disclosure of information, or for other reasons.

In *Handyside v. the United Kingdom*, the ECHR held that “*freedom of expression constitutes one of the essential foundations of such a society, one of the basic conditions for its progress and for the development of every man. Subject to paragraph 2 of Article 10 [referring to legitimate restrictions] it is applicable not only to “information” or “ideas” that are favorably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock, or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance, and broadmindedness without which there is no “democratic society”. This means, amongst other things, that every “formality”, “condition”, “restriction” or “penalty” imposed in this sphere must be proportionate to the legitimate aim pursued.*” (§ 49)

ECHR has a 3-point test that it uses to assess the interference with art. 10: a) it must be prescribed by law; b) pursuance of a legitimate aim (national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary); and c) necessity in a democratic society, meaning that there must be “pressing social need” for it (Callamard 2013, 26).

In *Simić v. Bosnia and Herzegovina*, ECHR defended the plaintiff’s joke made in an appeal for which he was found in contempt of court because, criticizing the application of rules of evidence in his client’s case, he compared the court to a professor who expected his students to provide the names, and not only the number, of the victims of the bombing of Hiroshima, and stated that the second-instance court had treated him like the professor treated his students in that joke. Even though the Government tried to evoke the joke was a gratuitous personal attack with the sole intent to insult a court or members of a court, the ECHR did not agree.

The ECHR found in favor of the appellant, concluding that the interference with the applicant’s right to freedom of expression was not “necessary in a democratic society”.

Another interesting case-law of ECHR (*Cumpănă and Mazăre v. Romania*. Application 33348/96), presented itself after the conviction of two journalists for an article entitled “Former Deputy Mayor [D.M.] and serving judge [R.M.] responsible for series of offenses in Vinalex scam” accompanied by a cartoon depicting the two holding bags of money, saying to each other:

- “*Hey, [R.] [diminutive form of Mrs. R.M.’s first name], you’ve done a good job there! When I was deputy mayor we made quite a bit, enough to go to America ...*”

- “*[D.] [diminutive form of the former deputy mayor’s first name], if you become a lawyer, I’ll become a judge and we’ll have enough to travel round the world ...*”.

Applying the 3-point test, ECHR ruled that i) concerning the existence of interference: it was undeniable that the applicants’ conviction, even with the sentence suspended, interfered with their right to freedom of expression; ii) concerning the justifiability of the interference: while the interference was indeed prescribed by law, art. 205 and 206 of the former Criminal Code, and while indeed it was legitimate in the interest of protecting the rights of others, the nature and severity of the sanctions are to be taken into account when assessing the interference with art. 10.

It was observed (Feldmane 2019, 25-26) that even though the appellants stressed the satirical nature of their expression in their defense, the court did not inspect this aspect in depth. The correlation between satire and humor or jokes is not one of confusion because satire has more depth; it uncovers the many faces of society’s faults and makes us think. Satire is helped by humor to ease itself into one’s conscience (Feldmane 2019, 48).

In a different case (*Sousa Goucha v. Portugal*, application 70434/12), ECHR was asked to give a decision where national courts would not prosecute in a criminal case for insult and thus having to establish if the state has achieved a fair balance between the applicant’s right to

protection of his reputation, under Article 8, and the other parties' right to freedom of expression, under Article 10. Goucha lodged a defamation and insult complaint with local authorities against public television company RTP because, during a live talk show, the host asked his guests: "Who is the best Portuguese female TV host?"; there were three female possible answers and Goucha, his being the "correct" one. The local investigating judge dismissed the case having regarded all the facts, including the defendants' statements that they did not mean to insult his honor, and the special status of the appellant – a well-known television host in Portugal, with a publicly declared homosexual orientation, with behavior that is attributed to the female gender, such as his way of expressing himself, his colorful and feminine clothes, and the fact that he has always lived in a world of women.

ECHR found to be no violation of article 8 in this case. Having to balance the rights guaranteed in articles 8 and 10, it kept in mind that no hierarchical relationship exists between the rights guaranteed by both articles (*Timciuc v. Romania*, application 28999/03 §144).

Conclusions

Jokes and satire are a serious matter. Both are powerful tools for social commentary and imperative tools in a democratic society, but a tool, just like any other, might be misused, thus courts have to intervene and level the plain field. The European Court of Human Rights, when discussing satire and jokes through the analysis of article 10 (freedom of expression), made great achievements in advancing human rights for the whole world (*Mendel n.d. 2*). Further analysis is needed and will follow on the matter of jokes, pertaining to civil and criminal law.

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Resilience Leadership: Bouncing Forward with Efficiency

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ABSTRACT: The article is designed to aid academics and practitioners envisioning the future of resilient leadership in the finance world. In the aftermath of substantial crises, resilience is key for survival. The system dynamics of resilience are associated with fast-paced decision making under uncertainty, which predestines resilience more to be housed in a muddling-through approach rather than slow-thinking optimality control. Given the nature of resilience to gravitate towards satisficing crisis management, the marriage of resilience with leadership offers to imbue invaluable efficiency and rationality in market survival. Resilience leadership draws attention to leadership features in resiliency, such as clear goal attainment and rational execution plan strategy. This article provides an overview of resilience leadership in finance by the contemporary governmental, corporate and global governance efforts of three cases: (1) The Green New Deals as governmental resilience finance leadership; (2) Socially Responsible Finance as a corporate and financial sector resilience endeavor as well as (3) climate justice redistribution pledges as an international sustainable development strategy. The new age of resilience leadership in finance captures monetary means as a source of politics, diplomacy and international aid. Our new resilience leadership features the contemporary societal impact of the current outpouring of rescue and recovery funds and a boom in socially responsible investments that integrate environmental, social, and governance criteria in portfolio choices imbuing sustainable value of finance for society. Climate change resilience in redistribution funds serves as additional resilience leadership example at the forefront of sustainable development.

KEYWORDS: Comparative Corporate Social Responsibility & Social Justice, Coronavirus, COVID-19, Creative destruction, Economic growth, Economics, Environmental financialization, European Green Deal, Finance, Global governance, Goals, Government spending, Green New Deal, Health, Healthcare, International finance, Law & Economics, Leadership, Multiplier, Optimality, Pandemic, Public finance, Public policy, Recovery, Rescue and recovery aid, Responsible investments, Social welfare, Sustainable finance, Well-being

Resilience leadership

Ever since crises have become turning points for society. The 2008/09 World Financial Recession and the COVID-19 pandemic external shock changed international finance around the world. In light of system-inherent and external shocks but also looming environmental crises, finance has been put into service for society in providing one of the most powerful means for resilience in liquidity.

While resilience is a dynamic mechanism to cope with crises in many domains, the uncertainty and complexity imbued in sustaining large-scale and widespread shocks make resilience prone to diverge from slow-thinking optimal choice mechanisms as practiced in standard neo-classical economics (Kahneman 2011).

Resilience leadership draws attention to the economic rationality imbued in leadership management theory and practice for the concept of market survival. Leadership theory with economic calculus holds the most sophisticated means to efficient goal attainment and contingency strategy plan execution, which is fundamental for resilience.

Given the worldwide impetus of contemporary crises – such as the 2008/09 World Financial Recession, the COVID-19 pandemic as well as climate change – the time has come to imbue efficiency in resilience in resilience leadership in finance.

Resilience leadership describes governance, governmental efforts and corporate endeavors to provide contingency to society and markets during internal and external shocks via financial liquidity coupled with aspirational goals for a sustainable future. The concept of resilience leadership imbues leadership efficiency into resilience. Through efficient leadership, resilience is thereby brought closer to optimality in times of uncertainty. Resilience leadership also gives a closer plan to where to go and into what to change through crises. Instead of ‘bouncing back,’ resilience leadership advocates for ‘bouncing forward’ with a clear goal and mission where to end after a crisis. One of the tasks resiliency leadership management focuses on is to weed out what changes that were done in a fast pace should remain in place after crises and what policy and market changes should be reverted to previous models. In this feature, resilience leadership embraces positive aspects of creative destruction that advocate for letting go of inefficient parts of economic systems through crises.

Resilience leadership marries the ideas of resilience in survival with goal-focused efficiency in leadership. Resilience leadership in finance is a worldwide phenomenon with international variations and diverse implementation strategies. Resilience leadership in finance can intertwine monetary means to provide financial liquidity for system survival with social responsibility in sustainable development.

In our post-pandemic new Renaissance, finance is put in the service of society in resilience leadership steering financial flows to social causes in the global and local as well as the public and private sectors. More than ever before in the history of industrialization are finance and economics powerfully pegged to improve societal causes in an efficient and structured way with a long-term future-oriented socially-conscientious focus. This article offers a Law & Economics approach to understand the most contemporary resilience leadership examples in international finance in governance, governmental as well as corporate efforts to sustain efficiently.

Already in the aftermath of the 2008/09 World Financial Recession, governance, governmental, corporate and stakeholder interest grew in Socially Responsible Investments (SRI). Economic external shock disruptions in the wake of the COVID-19 pandemic heralded practitioners of finance and global governance experts to use economic means to alleviate the most pressing societal concerns of our contemporary times by providing liquidity in Green New Deals. In the Western world, the Green New Deal in the United States and the European Green Deal in the European Union are plans to peg crisis rescue and recovery packages to societal advancement. Resilience leadership in climate justice redistribution pledges addresses global inequality alleviation in redistributing global economic gains of internal and external shocks within society, between nations and over time.

The post-COVID-19 recovery era is also a time of blatant disparities and inequalities in terms of access to healthcare and social justice. The COVID-19 bailout and recovery packages provide a unique opportunity to develop fairer and more sustainable societies. How to align economic interests with justice and fairness notions is the question of our times when considering the massive challenges faced in terms of environmental challenges, healthcare demands and social justice pledges. In many countries, governmental crisis aid is particularly pegged to concrete social, economic and environmental causes. In the aftermath of the COVID-19 pandemic shock and its subsequent economic fallout, the currently largest-ever governmental rescue and recovery aid is justified by the positive multiplier effect in the hope for a revitalization of the economy.

The current economic fallout of the COVID-19 crisis has exacerbated socio-economic disparities and inequalities. The new finance order in the aftermath of the COVID-19 pandemic leverages responsible finance as a means to alleviate the finance performance versus real economy gap. The different affective fallout propensities disparately distributed within society create social volatility. High inflation and longest-ever low interest rate regimes dominate the call for responsible finance that targets rescue, recovery and relief aid. Urban, local, regional

or national foci as well as global and future-oriented beneficiaries of governmental recovery aid are potential recipients of aid. Institutional frameworks may ground recovery aid with a long-term future-oriented sustainability vision.

With the largest rescue and recovery funds being distributed around the world in response to the economic fallout of the crisis, economic growth is currently also being called for being inclusive and green in light of growing awareness of inequality and climate change. With the COVID-19 governmental control and liquidity provision needs around the world, finance has also become political in funding of political crises resilience and divestiture acts as never before in the history of modern times. In the eye of global inequalities rising, governments around the world tried to align economic interest with justice and fairness notions in our turbulent world – driven by pandemics, economic turmoil, the onset of climate change and, more recently, the re-emergence of East-West tensions. The new role of capital during contemporary world events, leveraged finance as a novel political and international relation means to make the world a safer, fairer, more sustainable place, in which the economic benefits of our times are distributed more equitably. In the post-2008/09 World Financial Recession era and after the COVID-19 pandemic inequality gap featuring rising cost of living expenses, resilience leadership has also entered the corporate world in a boost for social responsibility and financial conscientiousness – for one in negative screenings and sanction mechanisms in international law infringements – for another in the establishment and fortification of the current Sustainable Development Goals.

The paper provides the theoretical foundations for possibilities to make resilience more efficient via leadership insights. The societal impetus of finance portrays liquidity as a panacea in order to help ease the most pressing law and economics predicaments of our times. The article also provides vivid cases where finance became more responsible and sustainable after the 2008/09 World Financial Recession. In addition, an example is given where finance provides access to funds to sustain the climate crisis more equitably.

In capturing positive perspectives of resilience leadership, this paper depicts the most recent governance, governmental and industry resilience finance developments. The article also addresses social, environmental and sustainable corporate and finance trends in Corporate Social Responsibility and Financial Social Responsibility. Climate change and environmental equity are portrayed to steer the power of finance via redistribution for enabling a better world through responsible investing.

Socially Responsible Investment (SRI)

Since finance exists the power of liquidity can be steered toward betterment of the world. Financial social responsibility is foremost addressed in Socially Responsible Investment (SRI), which imbues personal values and social concerns into financial investments (Schueth 2003). SRI and sustainable finance merge the concerns of a broad variety of stakeholders with shareholder interests (Steurer 2010).

SRI is an asset allocation style, by which securities are not only selected on the basis of profit return and risk probabilities, but foremost in regard to social and environmental contributions of the issuing entities (Beltratti 2003). SRI assets combine social, environmental and financial aspects in investment options (Dupré et al. 2004; Harvey 2008). Political activism finds expression in financial markets by political divestiture, which refers to the removal of stocks from socially irresponsible markets with the greater goal of accomplishing social and political changes. Political divestiture features capital withdrawal from politically-incorrect markets – for example, such as the foreign investment drain from South Africa during the Apartheid regime and capital flight from Sudan for the humanitarian crisis in Darfur or the search for clean energy and market reaction to Russia's accession attempts. Positive-screened funds are SRI ventures of the future addressing climate stabilization financialization and

climate wealth redistribution mechanisms. Positive-screened SRI ventures are future prospective drivers of change to implement the United Nations Sustainable Development Goals on a large scale.

SRI practices differ throughout the international arena as SRI emerged out of several historic roots. In recent decades, Socially Responsible Investments (SRI) already experienced qualitative and quantitative growth in the Western World that can be traced back to a combination of historical incidents, legislative compulsion and stakeholder pressure. The 2008 World Financial Crisis has heralded the call for responsible finance around the world. The 2008 World Financial Recession drove SRI demand. Rising inequalities in light of the COVID-19 external shock have further risen attention to the need for social justice in markets.

Through the last decades, financial social conscientiousness grew qualitatively and quantitatively. As of today, SRI has been adopted by a growing proportion of investors around the world. The incorporation of social, environmental and global governance factors into investment options has increasingly become an element of fiduciary duty, particularly for investors with long-term horizons that oversee international portfolios.

Today social responsibility has emerged into an *en vogue* topic for the corporate world and the finance sector. Contrary to classic finance theory that attributes investments to be primarily based on expected utility and volatility, the consideration of social justice and responsibility in financial investment decisions has gained unprecedented momentum (The Economist, January 17, 2008; The Wall Street Journal, August 21, 2008; Zhang, 2020).

Socially responsible investors allocate financial resources based on profit maximization goals as well as societal implications. Pursuing economic and social value maximization alike, socially responsible investors incorporate CSR into financial decision-making (Renneboog et al. 2007; Schueth 2003; Steurer, Margula & Martinuzzi 2008). Socially conscientious investors fund socially responsible corporations based on evaluations of the CSR performance as well as social and environmental risks of the corporate conduct. Thereby SRI becomes an investment philosophy that combines profit maximization with intrinsic and social components (Ahmad 2008; Livesey 2002; Matten & Crane 2005; Wolff 2002).

SRI allows the pursuit of financial goals while catalyzing positive change in the corporate and financial sectors as well as the international political arena (Mohr, Webb & Harris 2001; Schueth 2003). In the case of political divestiture, socially responsible investors use their market power to attribute global governance goals. Through foreign direct investment flows, SRI relocates capital with the greater goal of advancing international political development (Schueth 2003; Starr 2008).

As of today, SRI accounts for an emerging multi-stakeholder phenomenon with multi-faceted expressions. The United Nations plays a pivotal role in institutionally promoting SRI in guideline principles and public-private-partnership initiatives guiding a future outlook in redistribution finance. To align various SRI notions, the UN builds institutional frameworks in respective initiatives, foremost in the pursuit of the Sustainable Development Goals.

Green New Deals

The COVID-19 crisis represents the most unforeseen external shock for modern economies. The pandemic required governments to take drastic steps to stabilize the economy as consumption, trade and finance flows changed dramatically. In response to the COVID-19 economic fallout, all major economies around the world rolled out economic assistance packages or recovery releases (Cassim, Handjiski, Schubert & Zouaoui 2020; The White House 2020).

In the international arena, central banks of all major world economies – such as Australia, Brazil, Canada, Denmark, Japan, New Zealand, Singapore, South Korea, Sweden, Switzerland, United Kingdom, United States – and the European Central bank coordinated to lower the price of USD liquidity swap line arrangements in order to foster the provision of

global liquidity (Alpert 2021). The International Monetary Fund (IMF) and the World Bank issued economic stimulus and relief efforts in the hundred billion USD range with the majority of relief aid being distributed in the developing world (Alpert 2021; World Bank 2020a, b, c).

Across countries, economic-stimulus responses to the COVID-19 crisis outsize those to the 2008 financial crisis (Cassim et al. 2020; The White House 2020). The qualitative and quantitative stimulus, rescue and recovery aid have surpassed any other similar attempt in human history. Economic COVID-19 stimulus and relief efforts mainly comprise international fiscal and monetary stimulus and relief efforts but also direct rescue bailout packages. The potential focus of bailouts and recovery ranges from urban-local and national to even global and future-oriented beneficiaries, as pursued in public investments on climate stabilization in the United States Green New Deal or European Green Deal Sustainable Finance Taxonomy.

In the United States, the current rescue funds are targeting a transition to renewable energy in the wake of the so-called Green New Deal (GND). Inspired by the economic success story of the New Deal reform of the United States to recover from the Great Depression of the 1920s, the so-called Green New Deal (GND) is a large-scale governmental attempt to secure a sustainable economic solution in harmony with the earth's resources (Braga, Fischermann & Semmler 2020). The GND is meant to strengthen the United States economy and foster inclusive growth. One core GND strategy is to share the economic growth benefits more equally within society. The GND advocates for using a transition to renewable energy and sustainable growth in order to stimulate economic growth (116th Congress of the United States, House Resolution 109, Introduced Feb 7, 2019). In times of rising inequality, the GND has also become a vehicle to determine the COVID-19 economic bailout and recover aid targets. The GND thereby combines Roosevelt's economic approach with modern ideas of economic stimulus incentivizing industries for a transition to renewable energy and resource efficiency as well as healthcare equality and social justice pledges (Puaschunder 2020, 2021).

In the European Union, the European Green Deal marries the idea of finance with sustainability. In response to the crisis of responsibility in markets and the widening inequality gaps, the European Bank Recovery and Resolution Directive (BRRD) coordinates resilient finance endeavors in Europe (LaBrosse, Olivares-Caminal & Singh 2014). The financial crisis revealed the substantial reform need of member-state bank deposit guarantee schemes and measures to resolve banks in financial distress within the European Union compound (LaBrosse, Olivares-Caminal & Singh 2014). Within Europe, the banking sector experienced substantial government intervention and support that led to the recapitalization of several systemically-important European banks (LaBrosse, Olivares-Caminal & Singh 2014). Besides capital aid, the rescue and recovery funds also targeted the reform of bank capital standards that should help ensure resilience in the financial world. Rescue and recovery aid recipients also had to agree to various austerity measures, such as the increase of national value-added tax, social spending cuts, an increase of retirement age and the reduction of the workforce in the public sector (Lengfeld & Kley 2021). The European Sustainable Finance taxonomy quantifies the carbon emission impact of various industries in order to make economic impacts on environmental conditions more transparent and accountable.

As an avenue of hope, the Green New Deals could be presented as a possibility to make the world and society more equitable in the domains of environmental justice. Governmental aid can help access to affordable healthcare and social justice excellence. Ethical imperatives and equity mandates lead the economic rationale behind redistribution in the GND as social peace, health and favorable environmental conditions are prerequisites for productivity. The GND offers unprecedented opportunities in making the world and society but also overlapping generations more equitable and thus fosters social harmony within society, around the world and over time.

In the currently implemented GND and European Green Deal as the most widespread, large-scale and financially extensive programs, society will first have to define what resilience

leadership is, how to implement financial social justice and why it matters in its multiple implementation facets and international angles. Ethics of inclusion and a diverse mindset with multiple stakeholders involved can thereby serve as a guiding post and beacon of hope that a turn of finance to inclusive change is for everyone.

Green finance and climate stabilization financialization

Sprung out of SRI and socially conscientious market acts that are of benefit to the greater public, green finance propagates the idea of leveraging financial assets for environmental causes. The insurance sector, general banking and credit regulation but also mutual funds development as well as foreign direct investments and trade policies have become intertwined with the idea of environmental stability as a key to prosperity. Green finance promises to promote the positive development of ecological environments in booming economies with positive spillover effects for society (Li & Gan 2021).

One of the starkest examples of green finance is the currently-debated financialization of climate stabilization. Today's urgent global challenges in regard to climate change demand fast action from the global community. Research has elucidated the economic impact of climate change on the world and found vast national differences in Gross Domestic Product (GDP) prospects under climate change around the world (Puaschunder 2020). Climate inequality arises within society, between nations as well as inbetween generations.

One of the most promising avenues for finding the funds for climate change mitigation and adaptation strategies around the world proposes redistributing some of the expected relative economic short-term gains from a warming globe in taxation and green bonds to areas that are losing out from global warming the fastest and most (Puaschunder 2020). Climate inequalities are proposed to be alleviated by redistribution mechanisms enacted by a taxation-and-bonds strategy based on 9 indices (Puaschunder forthcoming).

A 9-index redistribution model for economic prospects under climate change is introduced in order to determine a fair share of relative expected short-term economic gains under global warming. Redistributing some of the expected economic gains of a warming globe is meant to offset economic losses based on economic, ecological, historic and political factors. The model determining redistribution patterns throughout the world is based on the geo-impact of climate change, the financial crisis resilience capabilities of countries as well as the global connectivity and science diplomacy leadership of a country.

Empirically, nine indices provide a basis to determine which countries should be using a taxation strategy and which countries should be granted climate bond premiums in order to enact a fair redistribution between countries. A country's starting ground on the climate gains and losses spectrum, a country's climate flexibility in terms of temperature zones and a country's CO₂ emissions contributions in production and consumption levels as well as a country's CO₂ emissions levels changes and the historically-grown bank lending rate, as well as resilient finance strategies coupled with science diplomacy leadership and economic connectivity on the international level, thereby determine whether a country is on the taxation regime for funding mutual climate stabilization or whether a country will be on the receiving end of the climate bonds solution. The countries expected to be relatively economically gaining from climate change in the short run and being climate flexible as well as countries with high CO₂ emissions and not changing CO₂ emissions levels as well as consuming goods and services from other countries but also having favorable bank lending rates and a history of resilience finance and crisis intervention expertise but also embodying science diplomacy and trade leadership advantages could be taxed to transfer funds via climate bonds for regions of the world that are losing from global warming and are not climate flexible as well as countries with low CO₂ emissions and lowering CO₂ emissions levels that are producing goods and services that are consumed in other parts of the world as well as having unfavorable bank lending rates

and missing resilience finance expertise as historic science diplomacy and trade followers. The proposed taxation and bonds strategy could aid a broad-based and long-term market incentivization of a transition to a clean energy economy (Puaschunder forthcoming).

The future of Resilience Leadership

Future research avenues for the concept of resilience finance leadership may tap into the wealth of knowledge created by behavioral economists on how to decide when to make quick decisions or when to ruminate about choices more sophisticatedly (Puaschunder 2022). Directly aligning resilience with leadership skills could become an area of leadership and management training that sets out clear goals and decision-making strategies on how to plan under heightened uncertainty conditions. Resilience in the trade-off from optimality could become a subject of scrutiny and the negative externalities of survival in weakening the market powers of creative destruction, which points to the positive aspects of market disruptions to weed out unproductive parts of the economy (Schumpeter 1942).

The future of finance outlook now faces an international economic climate of high inflation levels in the Western world triggering a crisis of unaffordability, monetary pressures as well as mounting trade and economic sanctions between the Eastern World and the Western World. How finance can be pegged to ideologies and thereby become an ethical choice could be studied in historical examples of political divestiture that can inform the current political events of East-West tensions.

In the future, responsible investment trends are expected to continue to rise with a particular focus on social equity and inequality alleviation of the disparate impact of the external shock on the finance world and the real economy. Finance after the Great COVID-19 Reset is prospected to flourish resilience in sustainable development. Active stakeholder engagement and green regulation ranging from community investment projects in the finance world after the COVID-19 pandemic up to finance diplomacy on the climate agenda at a global scale are shaping the new era of resilient finance.

In analyzing the new role of social online media, finance can be understood as a new democratized form of voicing opinion. On the most futuristic account, resilient finance also serves future-oriented access to revenues in social media and cryptocurrencies.

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Online Sales Impact on Management Strategies in Times of a Pandemic

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ABSTRACT: Internationally, the pandemic represented a threat to the economy. Managers sensed that a threat to their companies was coming and worked to protect them. This protection has been directed at assets, customers and jobs. The impact of the pandemic has varied from sector to sector and company to company, exposing vulnerabilities. While before the pandemic the changes in a company associated with digitization were a major challenge, the closure of retail premises has led to a pressing need to reorganize and embrace online commerce as widely as possible by creating or multiplying online sales channels. The use of online sales channels became so important that it was soon followed by a new phase, of research, based on all the information collected from customers.

KEYWORDS: management strategies, pandemic, online sales, impact, companies

Introduction

The ability of companies to ensure business continuity in times of crisis varies greatly depending on the nature of the sectors they operate in, as their power of adaptation is sometimes restricted due to isolation and partial unemployment. However, there have also been exceptional cases of companies that have managed to adapt spectacularly thanks to a strong culture of innovation. Excluding these exceptions, however, the main characteristic of those that have responded best to the challenges of the crisis is the pre-existence of a remote working culture. Thus, IT firms and others have been able to maintain almost all their activities thanks to a long-established digital culture.

The ability to work from home a few days a month, flexible working hours and teleworking have been increasingly in demand for several years. The tone was set by IT companies, followed by multinationals and some startups, and then it became a benefit targeted by many employees. Among the main reasons for making such a change are better management of working time, elimination of time lost in traffic, increased personal comfort, reduction of some expenses (transport, meals, etc.) as well as lower stress levels caused by office conflicts. For companies, the benefits mainly relate to savings on office space. In areas such as sales, insurance, consultancy of various kinds, field work, etc., dependence on a fixed space is reduced. People go where they are needed and take their office with them.

Obviously working remotely is not deprived of challenges, the biggest being the need for networking, communication and belonging to a group. Going to the office, among other things, brings people together and creates communities, disciplines and energizes. Other challenges are related to management itself, which in these circumstances is about virtual teams, with people who may only meet once a month or less often. It is also harder for managers to push themselves. It is harder to create teams and achieve cohesion. It should not be forgotten that teamwork is about people with varied professional experience and skills, different perspectives on life and often they may not have 'chemistry', which leads to conflict situations that are difficult to manage. In order to overcome these challenging situations and create an environment that is conducive to the performance of everyone in the team effort and commitment from everyone is required.

Remote working also seems to create a shift in the boundary between private and professional life, in the sense that the boundary between professional and human ties becomes much more flexible. The fact that for the first time an economic crisis is being subordinated to a health situation that puts people at risk, leads to a move to maintain social connection.

Priorities, in the epidemiological context, are being re-ordered. Today more than ever, people come first and then comes the group unity. In more and more companies, which practice remote working, each employee is in daily contact with his or her manager. While it is impossible to say at this stage to what extent the boundary between private and professional life will remain open, it is increasingly clear that the dismantling of the artificial boundaries too often established between economic objectives and the social rationale of the enterprise will be long-lasting (Nistorescu 2020, 46-47).

Online sales impact on management strategies in times of pandemic

The strong support comes from technology, which is indeed the key to doing business in the virtual environment, but unfortunately it is only the means, the tool, the essence still focusing on people, driven by the need to solve certain problems. It is a fact that in the new context of the Covid 19 pandemic, we have suddenly shifted from working with people face-to-face to working in the virtual environment, and its development has shifted from the motivation of limited human resources to cost efficiency, from the need to work with specialists in other parts of the world (in international projects) to the need for survival. The world is now becoming a much smaller place, communicating online as a necessity, including in institutions or even on the block.

It is true that the multitude of web technologies has brought advantages. It has allowed the development of more intense and richer communication. It has allowed greater flexibility among communicators in the virtual environment, overcoming organizational, time and space barriers. The teaching process taking place outside the teaching spaces, and sometimes outside strict working hours. As an argument, here is what a researcher in the field said about these advantages (Nistorescu 2020, 33).

82% of Fortune Magazine's top 100 best companies to work for embrace virtual work and support virtual work policies. As companies experience less overhead and a lower carbon footprint, virtual team members demonstrate higher productivity, better health, reduced absenteeism (an average of 3.7 days/year), higher retention rates, and reduced workplace accidents. This research suggests that hiring virtual workers poses fewer risks than having on-site employees (Lee 2014, 6).

Although digital transformation looks different for each individual company, we can define it as reshaping the industry by disrupting existing business and operating models. Specifically, digital transformation proposes the use of new digital technologies to streamline operating models, processes and activities in your business.

Now you may be thinking that digital transformation is the equivalent of a simple technology upgrade, but the truth is that it is much more than that. It is not just about adapting to the new technologies available. It is about adapting to the real changes and needs in the market, as well as to customer expectations.

<i>National situation</i>	<i>Global situation</i>
<p><i>Romania ranks 27th among EU countries regarding the integration of digital technology by companies</i></p> <p><i>11% of small and medium enterprises in Romania carry out sales online</i></p> <p><i>23% of Romanian companies carry out electronic information exchanges, and only 8% use social media platforms</i></p>	<p><i>In 2019, digital companies had 64% more chances of exceeding their business objectives of 2018, compared to the companies that did not adopt digital transformation</i></p> <p><i>45% of the companies that reported a positive impact of digital transformation on their businesses also reported a high increase of their net revenues</i></p> <p><i>52% of companies intend to reduce or postpone investment costs because of the Covid19</i></p>

	<p><i>pandemic, but only 9% of them postpone their investments in digital transformation</i></p> <p><i>89% of all companies have already adopted a digital business strategy or intend to do so</i></p> <p><i>Only 23% of companies do not depend on digital products or operations</i></p> <p><i>Entrepreneurs and managers say that the main benefits of digital transformation are operational efficiency (40%), faster lead time (36%) and the capacity to satisfy client expectations (35%)</i></p> <p><i>Digital transformation and the focus on client experience may generate a 20-30% increase of client satisfaction and economic profits of over 20-50%</i></p> <p><i>73% of users use several channels during a shopping session</i></p> <p><i>39% of high-performance companies have a fully-integrated digital-physical strategy</i></p>
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Source: Costea 2022

The pandemic has severely disrupted world trade. Some sectors faced much higher demand than others (e.g., manufacturers of personal protective equipment, medical supplies or hygiene products) or were able to react more quickly. At the same time, areas such as vehicle and machinery manufacturing have faced difficulties in terms of the increased volume of demand and supply. Regardless of the sector, companies have had to adapt, from implementing new processes to offering new products or services that reflect the change of spending behavior. Perhaps the most lasting result has been the shift to e-commerce. Online presence has become the key factor in meeting customer demands, and even reaching out to new ones, which is still the case today.

Looking to the future, it is difficult to predict what will happen, but we can be sure of one thing: the importance of adaptation. Businesses that can adapt, increase their resilience, digitize quickly and become more flexible will have the best chance of growing. It is also clear that the process of globalization can no longer be stopped. It will continue to be important for small businesses, facilitating their access to new markets, stimulating innovation, creating jobs and offering new opportunities. Today's world, with its revolutionary technology, global supply chains and extensive connectivity, makes this more possible than ever. So, it is up to us as leaders to make this happen and support the development of our communities, our neighbors and our businesses.

As governments have acted to prevent the spread of the virus, companies across Europe have begun to migrate entirely online. The digital transformation, which would normally have taken five years, was implemented within months. Web hosting provider GoDaddy saw a significant increase in the number of companies subscribing to its e-commerce products between February and April 2020, with the increase standing at 48%.

Online payment platform providers are growing as many companies migrate online, and Stripe, one of the largest providers, was even valued at \$36 billion. Supply chains avoid just-in-time suppliers as well as the cheapest ones. Companies are rethinking their supply chains in the wake of the pandemic. The use of just-in-time models is likely to decline, and 70% of companies say they may no longer focus so much on sourcing products from the lowest-priced suppliers.

This includes giving up Chinese supply chains. The long-term stability of supply chains is now an important priority. The costs of diversifying supply chains may be higher, but these will be

offset by faster market entry and resilience against future disruptions. It has become essential for companies to reassure their customers that they can be supplied with goods no matter what happens, and many companies are investing in supply chains that they see as stable over the long term (Mc Williams-Poatek 2021, 2-11).

In order to analyze the impact of the pandemic on e-commerce companies at the national level, a study was conducted with the participation of business owners, middle and top managers from 217 retail companies in Romania. Participants were asked about how the COVID-19 pandemic has impacted the companies they own or operate, and what strategies and tools have helped them overcome these challenges. The COVID-19 pandemic has had a positive impact on Romanian e-commerce companies, regardless of size. More than half of the companies surveyed (58%) reported increases in online sales in March 2022 versus the same month in 2020.

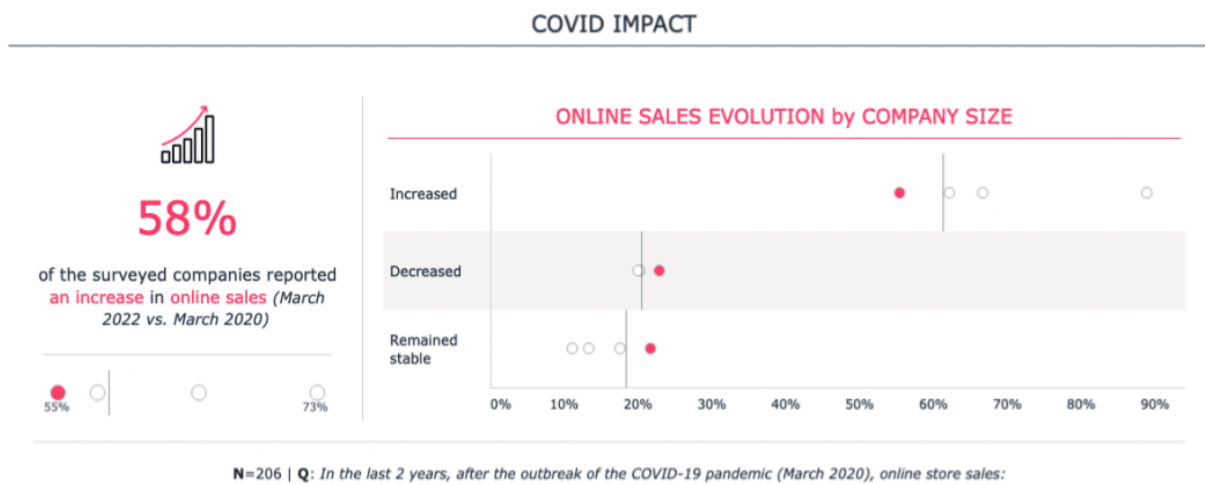


Figure 1. Covid Impact, Online sales evolution by company size

ALEX & MKUR Source: Romanian E-Commerce Report (2022a)

Most of the business KPIs increased during the reporting period, while operational indicators stagnated regardless of company size or age in online commerce. The main strategies for adapting to the challenges posed by the pandemic were aimed at expanding the product or service portfolio (62%) and increasing the marketing budget (48%).

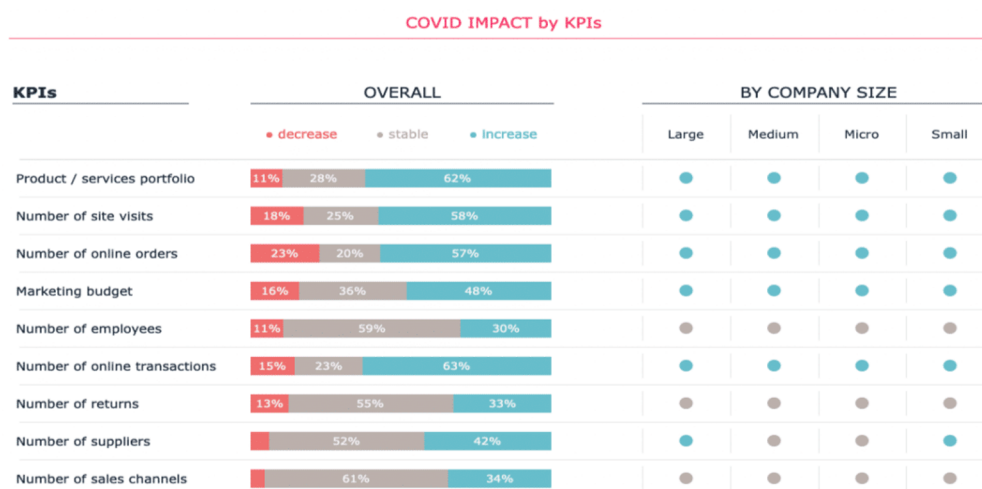


Figure 2. Covid Impact by KPIs

ALEX & MKUR Source: Romanian E-Commerce Report (2022b)

In terms of sales strategy, the results show that SMEs rely mainly on digital channels to market their products, while large companies are more likely to have both online and physical stores.

On average, e-businesses in Romania have faced two different types of challenges. The size of the company influences the number of difficulties experienced, which diversify as the business increases in complexity.

Most pain points reported by respondents relate to external factors such as:

- competitors (21%)
- consumer behavior (especially shopping basket abandonment)
- supply chain

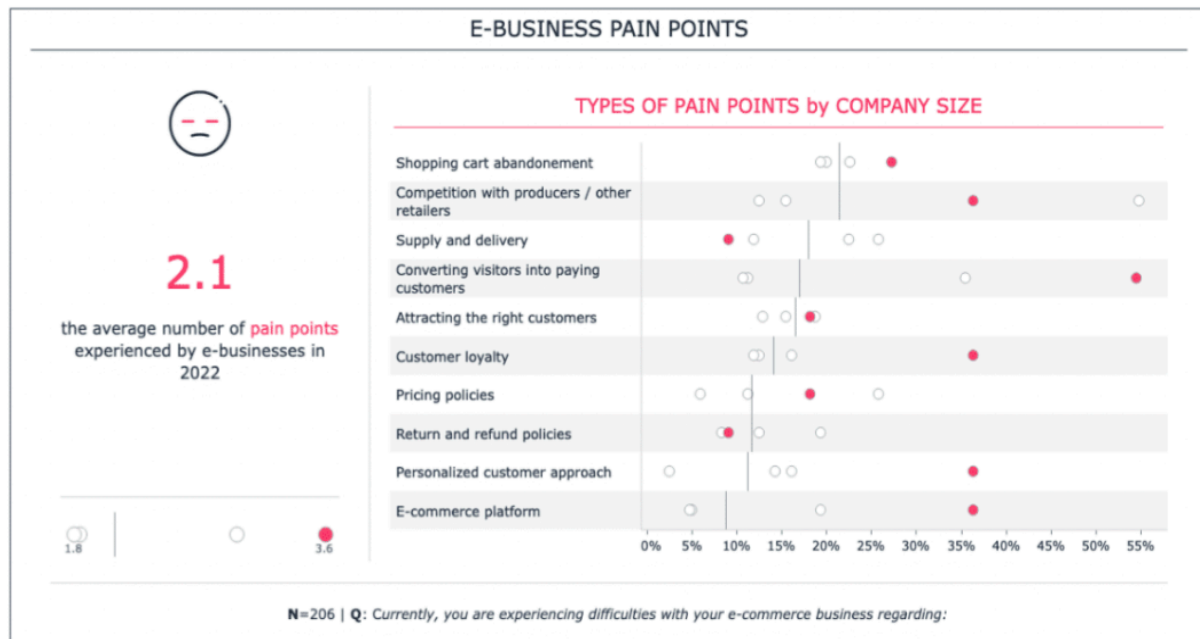


Figure 3. E-Business Pain Points

ALEX & MKOR Source: Romanian E-Commerce Report (2022c)

Small businesses mainly faced challenges related to shopping cart abandonment (23%) and supply chain and delivery (23%), while medium-sized businesses perceived challenges related to the competitive environment (55%). Large companies identified converting website visitors into customers as the main challenge (55%).

More than half (62%) of the tools used by online retailers for promotion are paid tools. The use of mainly paid social media and Google Ads campaigns is justified in the context of growing marketing budgets during the pandemic. They have also contributed to increased website traffic.

Content marketing is also popular, with SEO optimization being the most used organic method of promotion.

However, the choice of marketing tools depends on the size of the company. Micro businesses mainly use paid online campaigns to gain visibility, while large companies adopt multi-channel strategies and rely on their already acquired reputation.

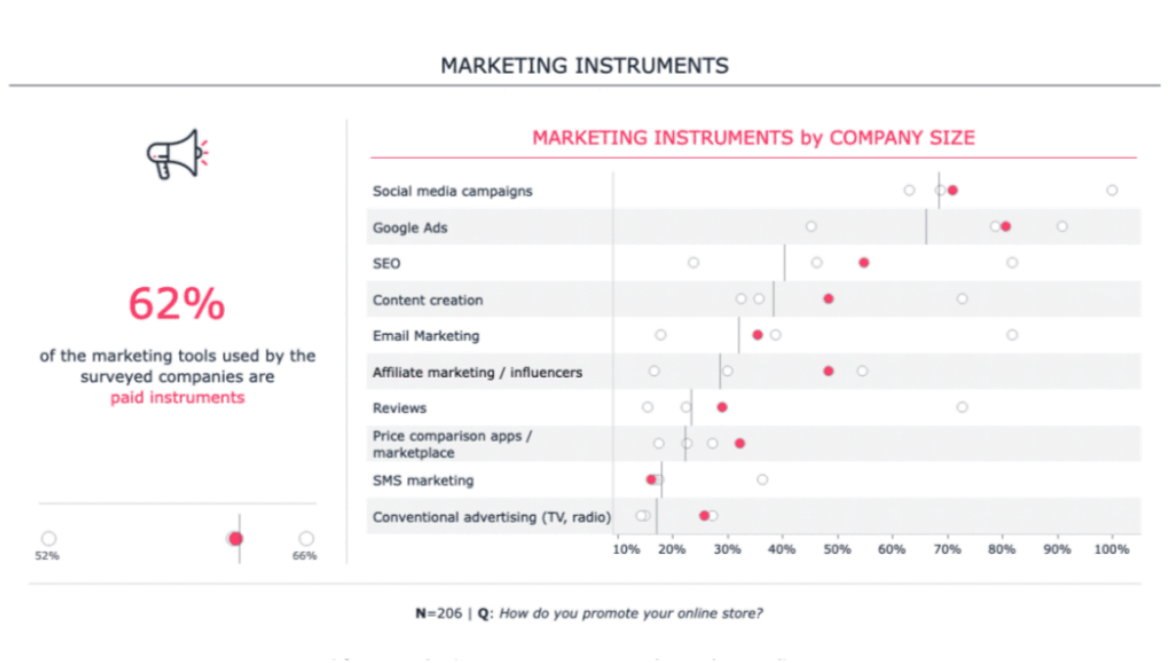


Figure 4. Marketing Instrument by Company size

ALEX & MKUR Source: Romanian E-Commerce Report (2022d)

Conclusions

Internationally, the emergence of the pandemic has forced the creation or multiplication of online sales channels. This has led to a change in the behavior and thinking of buyers, generating major changes at company and international levels.

The shift to digital commerce has enabled significant sales growth in this market segment, lower expenses and increased profitability. It has been a shift that has changed consumer behavior and the way consumers think. All the information that has been collected through this service has led to the formation of a stage of research on customer needs and thus to the development of this service. Once the customer's needs, requirements and desires were covered, sales increased leading to record profit growth for the companies.

The most important advantages of the development of online trade were: the possibility to promote their own products and sell them internationally, more efficient relations with suppliers, and lower costs.

Online sales impacted management strategies during the pandemic because E-Commerce was not just about online shopping. It also included related activities such as contract negotiations, in-house activities in support of sales activities, completing and exchanging documents, signing commercial contracts, maintaining contracts with suppliers, and promoting products.

In conclusion, we can say that the shift to online commerce has been a factor in the development of international trade, leading to consumer dependence on today's electronic communications and technology. E-Commerce has become the most efficient business network, putting its grip on the social and economic life of every country.

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Daniel - A Prophet at the Crossroads of History

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ABSTRACT: The paper analyzes the historical context and impact of Daniel's life, emphasizing his loyalty to God while living in an unfamiliar land and culture. Daniel was born around 625 BC, about the time Jeremiah was beginning his prophetic mission, about the time King Josiah was reaching the climax of his religious reforms. The land of Daniel's birth, the kingdom of Judah, was on an upward, positive slope, with religious reforms taking place as the prophet Jeremiah began his sermons to the people. The genius of the pagan world, Nebuchadnezzar, meets Daniel, the most intelligent man in the Hebrew world at the time. Daniel, at the turning point of history, through his personality, his earnestness and his prophetic vision, which he had taken upon himself, succeeded in conveying to King Nebuchadnezzar the three things: the intelligence, the power and the sovereignty of God, and this was to be conveyed to a whole world through the interpretation of the dream. So at a turning point in history, Daniel was able to light a light, and it would reach the end of history.

KEYWORDS: Daniel, prophet, Nebuchadnezzar, Babylonian bondage, 70 years of servitude, historical time

Introduction

Often, we as people are not aware of the importance of the moment we are living in, because it seems to us that this is normal. Changing a system, changing a civilization is a much slower and much more unnoticed work to be fully aware of. Daniel lived through the time when his country, the kingdom of Judah, was conquered, and the Temple in Jerusalem was destroyed, and they would remain for 70 years as slaves in Babylon. No Jew wanted to accept 70 years of bondage. They even had prophets who said that in 2 years they would return. One such prophet was Hananiah, son of Azur, a prophet of Gibeon, who said: „Thus speaketh the LORD of hosts, the God of Israel, saying, I have broken the yoke of the king of Babylon. Within two full years will I bring again into this place all the vessels of the LORD'S house, that Nebuchadnezzar king of Babylon took away from this place, and carried them to Babylon: And I will bring again to this place Jeconiah the son of Jehoiakim king of Judah, with all the captives of Judah, that went into Babylon, saith the LORD: for I will break the yoke of the king of Babylon” (Jeremiah 28: 2-4)

But the prophet Jeremiah cried out loudly that they would not return for 70 years: „Therefore thus saith the LORD of hosts; Because ye have not heard my words, Behold, I will send and take all the families of the north, saith the LORD, and Nebuchadnezzar the king of Babylon, my servant, and will bring them against this land, and against the inhabitants thereof, and against all these nations round about, and will utterly destroy them, and make them an astonishment, and an hissing, and perpetual desolations. Moreover I will take from them the voice of mirth, and the voice of gladness, the voice of the bridegroom, and the voice of the bride, the sound of the millstones, and the light of the candle. And this whole land shall be a desolation, and an astonishment; and these nations shall serve the king of Babylon seventy years. And it shall come to pass, when seventy years are accomplished, that I will punish the king of Babylon, and that nation, saith the LORD, for their iniquity, and the land of the Chaldeans, and will make it perpetual desolations” (Jeremiah 25: 8-12)

Daniel reading the books of Jeremiah knew this, he knew that the Jews would be in Babylon for 70 years, he knew when the time was near for his people to go home from bondage and he made preparations for this. Because the Jews at first did not want to accept

this situation, although the prophet Jeremiah told them very clearly that they would stay 70 years in bondage, especially since some prophets told them that they would return in two years, and precisely because they did not want to accept that situation of staying in bondage for 70 years, the first generation had to suffer and it was very hard for them. The second generation, who were born there in Babylon, began to settle in there, learn the language and integrate into Babylonian society. Daniel, however, did not integrate into Babylonian society, although he worked all his life in the Babylonian court, yet he remained a convinced Jew. He knew that Babylon, as an empire, would also pass away. After the Kingdom of Judah, the next empire to fall was the Babylonian empire. If the Jews had known and believed this, they would not have stayed in Babylon in 537-536 BC when Zerubbabel returned to Jerusalem, but would have sold their houses, gathered up their coins and all returned and worked together to make Israel special, which the prophets Isaiah and Jeremiah also spoke of. Some of the Jews thought that their time then was in Babylon, when already Babylon as an empire had ended its historical mandate.

Names, considerations, appreciations

The name Daniel, of Hebrew origin, is also frequently found in the Christian world, a world that values characters from the Old and New Testaments. When a parent gives such a name to a child, he wants his son to grow up to be as intelligent as Daniel, as successful as he was, and as upright, loyal or faithful as Daniel was.

The name Daniel means - God is my judge. That is, it means that when you hear the name Daniel know that God is above you, He sees you, He knows you and in the end He will consider and decide everything in your favour. Daniel, in the Hebrew vision, is a name that causes you to behave correctly, cleanly, morally and beautifully. For whom does a name matter more, for the one who gave it, i.e., the parent, or for the one who receives it, i.e., the son? For the name giver, i.e., the parent, there is something very clear: the name given to the child represents his conviction and desire, knowing the biblical character Daniel, that his son will become like Daniel.

The name also has an influence on the child, because at some point, the child will want to know why he was given that name and will ask who was that Daniel? And the parents tell him: look who Daniel was, look what he did and when this child comes into contact with this biblical character, reading his history and his work, this history will influence him. But there are also situations where parents are not responsible enough for this and some names are given just to make it sound good or with reference to characters that will not be known about for some time. Let us go back to the time when Daniel and his parents lived. The Bible tells us nothing about his parents. The period of his birth, childhood and adolescence was a very troubled time, with many events taking place in his country. Historical and archaeological documents reveal the people's conception at that time. We often find the word *Elimelech* in the Bible given as the name of children. *Elimelech* = *God is my king*, or *Ahimelech* = *my father is king*. Thus, the name given to the children represented a certain religious conception, and could also represent a position of pride: *Ahimelech* = *My father is king*, which conveyed the idea: see, look, see who I am? My father is king and if my father is king, it means that I am the son of a king, i.e., a prince.

On some shards of pottery or found names, which meant: *God is a calf*. This fact shows that the pagan culture influenced the image of the Jew so much that he saw in his mind the calf, the Apis ox. Naming was a way of expressing religious conviction, which depending on certain religious knowledge at a given time, the child was given a name.

The Southern Kingdom, that is, the Kingdom of Judah was conquered by the Babylonians and ended up in a religious decadence, the people no longer related to God in the right way and did not put such names, as we put Daniel's parents the name of the child, being

afraid to say: *God is my judge*. The name given to Daniel by his parents could also have been a message to other compatriots.

Daniel was born around 625 BC, about the time Jeremiah was beginning his prophetic mission, about the time King Josiah was reaching the climax of his religious reforms. So we can say that the land of Daniel's birth, the kingdom of Judah, was on an upward, positive slope, with religious reforms taking place as the prophet Jeremiah began his sermons to the people. The timing of his birth was not exactly a bad time. Probably his parents were also influenced by the finding of the Book of the Law (2 Chronicles 34: 14-16), by the great discussion that took place about it, by the beginning of the special interest in the Temple, and made him put all these events of the time into a beautiful name: *Daniel = God is my judge*, with the message to the people, that they as people have to relate to Him. This was the direction of the time. In Daniel's teenage years, about 15-20 years old, the spiritual reality of his country was much sadder. Already there was the next king, Jehoiakim, a very morally bankrupt king, with a very ugly, negative attitude, who led the people into great moral decay, and in the end, they ended up in Babylonian bondage. It is possible that during his teenage years Daniel was confronted with two things, namely: the positives he learned as a child from his parents and educators, and the political sea change that was in his time.

Daniel's parents were from the elite of Jewish society, they were not simple people, because the children who were chosen from the elite of society: „And the king spake unto Ashpenaz the master of his eunuchs, that he should bring certain of the children of Israel, and of the king's seed, and of the princes; Children in whom was no blemish, but well favoured, and skilful in all wisdom, and cunning in knowledge, and understanding science, and such as had ability in them to stand in the king's palace, and whom they might teach the learning and the tongue of the Chaldeans. And the king appointed them a daily provision of the king's meat, and of the wine which he drank: so nourishing them three years, that at the end thereof they might stand before the king. Now among these were of the children of Judah, Daniel, Hananiah, Mishael, and Azariah” (Daniel 1: 3-6).

Daniel arrived in Babylon around 605 BC, and the Kingdom of Judah continued to exist until 586 BC, almost 20 years. At this time the Jews were very proud to have one of their own at the imperial court in Babylon. The Jews knew Daniel very well and he is cited by Ezekiel, a contemporary of his, among the great men who saved others: Ezekiel 14:12, Noah, Daniel and Job respectively. Noah saved his family, Job saved his friends (unless Job prayed and offered sacrifice for them) and Daniel, a contemporary of Ezekiel, saved all the wise men of Babylon, a fact that has become known to the whole world, namely that Daniel was a saviour of the wise men of Babylon.

Historical time frame - end of historical cycle

Daniel was born around 625 BC, and was taken hostage in 605 BC, at about the age of 20, during which time great changes took place in the world of the time. After the death of King Solomon, the Kingdom of David was split into two unequal parts. Ten tribes in the north, with Samaria as their capital, formed the Kingdom of Israel, and two tribes in the south formed the Kingdom of Judah, with Jerusalem as its capital. Being situated between the two great superpowers of the time, Egypt to the south and Assyria to the north, both these kingdoms were tempted to ally themselves with Egypt to face Assyria. Both kingdoms having the same fate because the unfortunate political alliance hastened their downfall (Doukhan 2013, 18).

At the time of his birth in 625 BC, the dominant power in the area was still Assyria, which had formed an empire throughout the Middle East, a power that had destroyed the Northern Kingdom of Israel as early as 732-722 BC, a power that had also threatened Jerusalem with occupation many times. This Assyrian power had more or less ceased its influence from around 631 BC, when the last great Assyrian king, Ashurbanipal, ended his

reign and his life. With him came the end of Assyria's glory, until in 612 BC. Nineveh, the capital of the Assyrian Empire, was conquered (Diakonoff 1985, 124.), and in 608 the last remnants of the army, of Assyrian power, were completely destroyed and Assyria disappeared from the political scene of the world. So a great political power, which in Daniel's time is already disappearing.

The second great power of the time was Egypt, an ancient state, with very close relations with the Jews, and in many instances the Jews were under Egyptian influence. After a long period of weakness during this period, Egypt also reared its head again on the political world stage and tried to rebuild the old empire of the Pharaohs, coming with armies to the Middle East in a desire to recapture this area which included the Land of Philistia, the Kingdom of Judah, Phoenicia and part of Syria. So Egyptian armies would meet in Jewish territory, there would even be Egyptian-Israeli wars during this period, but the power that would rise during this time, very quickly, would be the Babylonian power. The Babylonians first break free from the Assyrians by 526 BC, through Nebuchadnezzar (658-605 BC), and in 605 BC, Nabuchodonosor II (Hebrew for Nebuchadnezzar), takes over, the Babylonians become a great power. For the name of this king, we will use in this study the transliterated version of the name in Hebrew, namely Nebuchadnezzar.

First, in 612 BC the Babylonians in alliance with the Medes will conquer the Assyrian capital, Nineveh, and completely destroyed it. How did it come to this? The alliance between the Medes and Babylonians was cemented by a marriage, the daughter of the Med king, Cyaxares, named Ahmeta (Amytis) (Diakonoff 1985, 123), would marry the Babylonian prince Nebuchadnezzar, an alliance that would remain throughout the king's reign, with no conflict between the two, but Nebuchadnezzar, who was crown prince at the time, was sent with the Babylonian armies to destroy the last remnants of the Assyrians. The Egyptians intervened in this battle, who at that time, realizing the great Babylonian power that was rising on the stage of history, and not wanting the Babylonians to become a superpower, sided with the Assyrians, with whom they had in fact fought many times, but political interests had made them friendly enemies.

The Egyptians, on their way to Assyria to offer military support, encounter the army of the Jews of the Kingdom of Judah, led by King Josiah, who also intervenes in the war. The last strong king of Judah, Josiah, believed he would be much safer after the death of the great Assyrian king Ashurbanipal and saw the Babylonians as a great help in escaping the Assyrian yoke. So King Josiah, being a pro-Babylonian, went out with his army to meet Pharaoh Necho II, who was going to ally himself with the Assyrians and fight the Babylonians. The Egyptian Pharaoh Necho II had no intention of going to war with King Josiah's army, which is why he also tells him so that he knows this fact: „After all this, when Josiah had prepared the temple, Necho king of Egypt came up to fight against Carchemish by Euphrates: and Josiah went out against him. But he sent ambassadors to him, saying, What have I to do with thee, thou king of Judah? I come not against thee this day, but against the house wherewith I have war: for God commanded me to make haste: forbear thee from meddling with God, who is with me, that he destroy thee not” (2 Chronicles 35: 20-21).

King Josiah does not understand that the Egyptians have not come to fight against his country and so he enters into battle with the Egyptians (2 Chronicles 35: 22-24). In this battle the king of Judah, Josiah will die at Megiddo in 608 BC and so the Egyptians will come to dominate the Kingdom of Judah, on which they will put a heavy tribute, for several years 608-605 BC, because in 605 BC the great decisive battle took place between the two remaining great powers, Egypt, which wanted to regain its territories, and Babylon, which wanted to seize all the territories that had belonged to the former Assyrian empire. The decisive battle would take place at Carchemish on the Euphrates River in what is now northern Syria, and a few days after the battle of Carchemish, the Babylonians pursued the Egyptian armies and another battle took place around Hamath that summer, resulting in the complete destruction of

the Egyptian army. So after 605 BC we can say that the Egyptians disappear from the scene of the great powers of the time, remaining only in their own land, with unsuccessful attempts to return. Never since have the Egyptians reached the Euphrates with their armies.

Thus, on the stage of history at that time were the three great powers: Assyria, Egypt and Babylon. If Nebuchadnezzar's father, the king Nabopolassar, had not died that summer, Nebuchadnezzar might have conquered Egypt in 605 B.C. The death of his father, Nabopolassar, caused him to return with great haste to Babylon to take his throne (he was only crown prince at the time) and the Egyptians escaped because of this. He became king Nebuchadnezzar (Nabuchodonosor) II. He was called Nabuchodonosor II because Nabuchodonosor I was king of the Babylonian Empire from 1125 BC to 1103 BC.

But 605 BC is the first year the Babylonians arrive in Jerusalem. We do not know whether or not a battle took place, but we do know that the Jewish king, Jehoiakim, who had previously been pro-Egyptian, sides with the Babylonians and becomes a pro-Babylonian, swears allegiance to the Babylonians, remains on the throne, but to ensure his righteousness, the Babylonians will take a number of hostages, young men from the elite of society, highly educated young men, who will be taken to Babylon. This is when Daniel arrives in this group and is taken to Babylon (Daniel 1:1-4). After the time of King Josiah, Judah was no longer an independent nation, but a vassal of both Egypt and Babylon. Jehoahaz reigned about three months, Eliakim (Jehoiakim) reigned eleven years, Jehoiachin reigned three months, and Zedekiah reigned eleven years (2 Chronicles 36:1-11).

From the very beginning of history, the first to invent writing, the wheel, urbanization and the city, social classes, the structure of society, everything we call society today, in a word, will be the peoples between the Tigris and the Euphrates, who at first were called Sumerians, then the Akkadians were added, then came the Arameans, Chaldeans, Assyrians. All these peoples belonged to the Semitic group, the descendants of Shem. Among these Semites are the Jews. All of them formed the peoples of the Middle East, with the first civilization, the first culture, constructions, buildings, a rich literature, and a certain way of life that they imprinted on themselves. A civilization has two criteria for evaluation, namely: monuments and writings, and from the writings you can clearly see religion, which was the most important thing for all the Semitic people, and for the Babylonians their religious system would become their primary element.

This Babylonian civilization went through several stages: the first stage was that of Nimrod, which is biblical history with the Tower of Babel and all that he did as ruler. Then comes the first phase or imperial period called the Akkadian period between 2800 BC and 1950 BC. The leading representative of this period was King Sargon I (2371 B.C.-2315 BC) Then you can talk about ancient Babylon between 1900 B.C. and 1600 B.C., about 300 years, which has the most important representative, namely Hammurabi I, around 1750 B.C. This was the Old Babylonian period, a period that remains in history through the Stele of Laws or Code of Hammurabi, discovered and now in the Musée du Louvre in Paris. The following period was one of Babylonian decline and the rise of the Akkadians, also Semitic, also from the same system of culture, so that from 626 BC to 539 BC, which was actually the second stage of Babylonian civilization, the so-called Neo-Babylonian Empire, with its most prominent representative, Nebuchadnezzar II. In this period, in the last Babylonian period of power, in the new Babylonian empire, the Assyrians would disappear; the Syrians, also a fairly powerful people, would be completely assimilated, and the Phoenicians as well. The kingdom of Judah will also be conquered by the Babylonians and taken into slavery. The small Semitic states: Ammon, Moab and Edom will also be conquered and taken into slavery, so we can say that all the countries of that era, countries of Semitic origin, end up being conquered, dismantled, with their populations displaced to Babylon, and they disappear, leaving only Babylon. In 539 B.C., the same thing happens to Babylon, i.e., it disappears from the scene of history. This is the end of Semitic civilization.

It is within this framework that Daniel appears, as a representative of God, at the highest level of his time, in the phase of the Neo-Babylonian empire at the imperial court and even before the king Nebuchadnezzar, to communicate to this king the plans, the projects of God and to ask for his collaboration.

The fact is that these extremely great political movements: the Assyrian power, of which everyone was trembling at the time, fell, the Egyptian power also fell, and the Babylonians suddenly rose up in a flash, and they will also fall in a flash. What was happening? During this period a lot of prophets appeared. The first prophet is Nahum, who speaks of the fall of Nineveh (the capital of the Assyrian empire) around 660 B.C., before it happens. Then comes the prophet Obadiah, who talks about the total demise of Edom, then comes Habakkuk, who was a prophet-philosopher and who presents the sovereignty of God who sits on the throne and rules everything, i.e., he means that everything that happens in the world, the politics of countries, is not random. So, Habakkuk is saying that God is at the helm of all matters and He directs them, without them occurring at random. Then come the prophets Zephaniah and Jeremiah, two prophets who talk about the Day of the Lord and the judgment of God, telling people that what they saw then was actually God's judgment on people for their wickedness, their crimes, for all their transgressions that they had done.

Generally, in history, empires are presented in a positive way, in the sense that they have made some formidable constructions, that they had a large extension, that they had a strong military force, presenting the achievements, the temples, etc. Usually, only the positive things are presented, without looking at the negative side. How many people died in the imperial wars? How many houses, cities (fortresses) were destroyed in imperial wars? How many widowed women, how many orphaned children? How many populations were displaced? How many people became wretched? It is hard to count. How many people died for the erection of those monumental buildings?

This negative, painful side, human suffering, even if it was avoided by the historians of the time (historians of the imperial courts), was presented by the prophets. They analyze the situation and tell the believers that the time is coming when everyone will give an account and pay for their deeds, using the expression that the day called the day of the Lord will come for them. Later on, in their time Ezekiel and Daniel will come. So notice, at a time of great change in the political scene of the world, prophets appear, with a lot of explanation, so that people will understand God's sovereignty and trust in Him and choose God's plan.

We have in those times the divination of pagan cultures (we cannot call them prophets) who all presented only positive aspects of political factors. The king would come and ask the wise man (prophet, soothsayer): should I go and fight against a certain city or a certain people? Their answer was always: go and you will win. They never said that their kings would lose in war. In this period of the 6th century B.C. there is no evidence that any pagan prophet foretold the fall of Assyria, Egypt, etc. They only predicted victories. And some Jewish false prophets prophesied that in 2 years the servants and ships would return from Babylon, which did not happen. The court of King Nebuchadnezzar was full of pagan prophets, soothsayers, sorcerers, star-readers, etc., and these wise men of Babylon admitted their helplessness and said: we don't know, only the gods could do that (Daniel 2: 2,10-11). And the kings of the time of Nebuchadnezzar, Cir were put in a position to admit that the Great God, whom Daniel and his three friends worshipped, had come into contact with them. Nebuchadnezzar, that he had sent him a dream. And, in this way, God wanted these great men of their time to know that the fall of one empire or another is not a matter of chance, but is part of a divine plan, that after one kingdom there will follow another and another, that they will not last forever, and that in the end the Kingdom of God will be established and unlike these the final kingdom will have no end. The eternal defeats the ephemeral (Doukhan 2013, 44).

Daniel and Nebuchadnezzar - two geniuses of antiquity

People usually refer to Daniel as a young man in Babylon, and to Nebuchadnezzar as a mature, older man of authority. Daniel's age when he arrived in Babylon is estimated at about 20 years. Nebuchadnezzar is known to have married Ahmeta, daughter of the Medo-Babylonian king Cyaxares, around 612 B.C., in the context of the Medo-Babylonian alliance to fight against the Assyrians, a deal sealed by the marriage of the two princes. Marriages then took place quite early. He could have been as young as 20. In 605 B.C. Nebuchadnezzar is sent with his armies to the battle of Carchemish, is defeated there, returns to take his throne in 605, and from 604, the first year of his reign is chronicled and he reigned 43 years. To reign 43 years, you had to start reigning very early, very young. How old could he have been? 25 years old, maximum around 30. $30+43=73$, an age that people did not really reach in that period of antiquity. Nabopalassar, his father, lived to be 53. So between Daniel and Nebuchadnezzar there cannot be a difference of more than 5-10 years.

Daniel comes from a family of elite society, but not royal, while Nebuchadnezzar comes from a royal family, he was crown prince. They were somewhere close, but not equals. In 605 BC. Nebuchadnezzar ascends to the throne of Babylon, and Daniel descends to the status of a slave, trapped by war, a hostage, and at this point the contrast between the two is stark.

The next step is their intelligence. Nebuchadnezzar was a very intelligent man. All his work shows his intelligence. He was concerned with schooling, with education, and his empire was not based on force and cruelty, as the Assyrians were, who would catch you and impale you or crucify you, but the Babylonians would take you and send you to school, and through education they were able to get much more out of those people.

Daniel was so smart in school (university) that he and his other classmates were noticed by the emperor 10 times, bright young men: „Now at the end of the days that the king had said he should bring them in, then the prince of the eunuchs brought them in before Nebuchadnezzar. And the king communed with them; and among them all was found none like Daniel, Hananiah, Mishael, and Azariah: therefore stood they before the king. And in all matters of wisdom and understanding, that the king enquired of them, he found them ten times better than all the magicians and astrologers that were in all his realm” (Daniel 1: 18-20). Thus Daniel becomes one of the emperor's advisors, something that the monarchs of the time did not do.

Because Nebuchadnezzar valued school, he valued intelligent children, regardless of what people they were from: if he thought you were intelligent, he would take you with him. This says that Nebuchadnezzar was a special person. Daniel proved it. How? By exams. In the exams he and the other young Jews took, they far outperformed the other young students, their peers.

Daniel and Nebuchadnezzar - two very intelligent men. Those who have studied their case in depth have said so: Nebuchadnezzar was a genius of antiquity, considered the most illustrious representative of the ancient pagan world. If other kings were distinguished by their bravery in wars, by conquests, by military exploits, he was distinguished by culture, by intelligence, by the construction of the greatest and most beautiful city of antiquity, Babylon. Many have built, done great things, but what Nebuchadnezzar built bore the stamp of beauty, order, functionality, well thought out. Nebuchadnezzar created a city that was not only beautiful to look at, but also an important centre of the arts and intellectual pursuits. He is credited as the builder of Semiramis' hanging gardens, in a desire to remind his wife of her country, Persia.

The genius of the pagan world, Nebuchadnezzar, meets Daniel, the most intelligent man in the Hebrew world at the time. The name in ancient times spoke volumes. Nebuchadnezzar. Nebuchadnezzar is the Hebrew transliteration of the Akkadian name Nabu-kudurri-usur which meant: *May Nabu protect the border*. So, the name speaks of religion, faith. The god

Nabu, who they believed was powerful to protect the boundaries and the child. So, the parents entrusted the child to the deity, to be protected by it. *Daniel - God is my judge*. So, behave yourself because God knows you, knows you and will judge you.

We are discussing two strongly religious personalities, each very religious in name. In terms of his religion, Nebuchadnezzar imposed his deities, which can be seen in the 60-cubit golden statue he tried to force everyone to worship. Daniel, on the other hand, ignores the fact that he comes to Babylon from a defeated, conquered land, that the temple in Jerusalem has been destroyed and that his God has been mocked. Daniel knows one thing, and that is that his God is alive, that he is sovereign, and that he will remain faithful to Him no matter what. Two men, convinced to the depths of their souls of their gods, their religion, their faith, and it will be seen from his book that the conflict between them was in fact a religious confrontation. Nebuchadnezzar wanted to impose his deities, while Daniel was convinced that his God would resist because he was sovereign over all.

Daniel, if he was that smart in those schools it is proof that he had by then educated himself. You cannot get into college if you only have three grades. And to be able to get into college and be valedictorian means that in high school and middle school you were a very bright student. That means Daniel did well in Jerusalem.

We believe that Daniel was a student or a great admirer of Jeremiah. Why? Because we meet him in Babylon, reading the books of Jeremiah that were written after he went to Babylon. Where did he get them from? It is possible that Daniel asked his parents or family to send him everything else Jeremiah was writing, because he wanted to be aware of everything the prophet was saying. And if in Jerusalem Jeremiah was disregarded and thrown into prison, in Babylon Jeremiah was read, because Daniel writes clearly. I read in the books that 70 years had to pass: "In the first year of his reign I Daniel understood by books the number of the years, whereof the word of the LORD came to Jeremiah the prophet, that he would accomplish seventy years in the desolations of Jerusalem" (Daniel 9:2).

Which books did Daniel read? In the books of Jeremiah: "And this whole land shall be a desolation, *and* an astonishment; and these nations shall serve the king of Babylon seventy years. And it shall come to pass, when seventy years are accomplished, *that* I will punish the king of Babylon, and that nation, saith the LORD, for their iniquity, and the land of the Chaldeans, and will make it perpetual desolations" (Jeremiah 25:11-12). "For thus saith the LORD, That after seventy years be accomplished at Babylon I will visit you, and perform my good word toward you, in causing you to return to this place" (Jeremiah 29:10). So here was Daniel a man of the book, doing his best to keep up with the latest news coming from the mouths of the Hebrew prophets. The books Daniel read, his upbringing gave him a very correct ideological stance, remaining loyal to his God no matter what. Daniel compares his upbringing to Babylonian upbringing, regarding their religion, culture and literature. Huge difference. Heaven and earth. And Daniel was not descending from the level of Hebrew literature and culture to the level of Babylonian stories and mythology. He was way too low, but he was learning them to take the exams. Daniel was a man trained in Hebrew education, a man who only intellectually appropriates Babylonian education, but retains the moral, philosophical, religious structure and vision of Jewish life.

Daniel arrives in Babylon in the summer of 605 B.C. and enters the Babylonian university, where both the boarding house and the canteen were of the highest standard and his first challenge was food. As a result of the food and the victory he gained, Daniel gains physical superiority. The text says he looked better than the others, ruddy face, strong body, quick mind. At the time, these qualities were highly valued.

Daniel's first victory was on the physical ground, the simplest and easiest to see, and the Babylonians seeing this left him and his friends alone to continue eating like this, which could not be done with the Assyrians. The Babylonians seeing that the young men looked better,

were sharper in mind with that diet did not force them, because in the end the benefit was all the Babylonians.

Society often sees religious people as people with an undeveloped intellect, and science has a hard time accommodating religion's simplistic explanations. On the other hand, we often expect to find beauty and health in people who do not strain their eyes over books and do not spend their elbows studying in libraries. What Daniel tells us, however, is that intelligence and physical development are not mutually exclusive, which leads to the idea that man should give importance to all dimensions of the human being (Doukhan 2013, 26).

Secondly, the three years of school he attends make him and his friends the most intelligent, and the emperor himself notices his intelligence. Daniel's first step was physical. The second rung was the intellectual one. The third step was the spiritual, that is, religion.

Daniel gets to make a demonstration of physical, intellectual, and philosophical-religious superiority. These three steps elevate Daniel from the obscurity of a Jewish servant to the level of a very important figure in the empire. Daniel thus impresses the emperor with his intelligence, and as such he takes him to the imperial court. Then it is noted that Daniel's God was powerful (the three young men in the fiery furnace). Thirdly, it can be seen that Daniel's God is sovereign (he can shut the mouths of lions), that he is above all, that he determines the time for each kingdom.

The book of Daniel is not a negative book, a book of criticism, of pointing out evil deeds, not even the wise men of Babylon are criticized, but Daniel and friends pray for their salvation. Daniel and friends could say: good riddance to them, but no, they pray for them. Daniel is always positive, without specifically portraying evil.

Daniel, at the turning point of history, through his personality, his earnestness and his prophetic vision, which he had taken upon himself, succeeded in conveying to King Nebuchadnezzar the three things: the intelligence, the power and the sovereignty of God, and this was to be conveyed to a whole world through the interpretation of the dream. So at a turning point in history, Daniel was able to light a light, and it would reach the end of history.

Nebuchadnezzar was one of the few monarchs of the world who would recognize the sovereignty and power of the God whom the Jews worshipped, worship Him and proclaim Him throughout the kingdom.

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Exploring the Sneakerhead Culture, Expression, Buying Behavior, and a Billion-Dollar Industry: A Theoretical Literature Review

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ABSTRACT: Understanding and identifying the culture of Sneakerheads and their buying behaviors has become a marketing strategy. Sneakers have become a symbolic commodity of ideas, attitudes, and beliefs. Sneakers have been defined as culturally significant and a form of expression for this unique culture. The purpose of this literature review is to identify the Sneakerhead culture, how Sneakerheads use sneakers as a form of expression, consumer buying behavior, and how this market has become a billion-dollar industry. Sneakers have become a symbol of status and wealth, a global commodity, an asset of choice, and a best-selling product. In 2020, China was the world's leading footwear consumer, in line with its population and luxury consumption. By 2026, sneakers will account for a \$120 million market. For Millennials and GenZ, sneakers have become a discreet luxury that signals wealth and bridges the fashion gap between established luxury and everyday wear. The sneaker phenomenon dates back to the 70s and 80s, first as an iconic marker of street identity to now becoming a celebrity staple. The Sneakerhead culture is worth exploring as it has become not only a profitable endeavor but also a form of expression and empowerment.

KEYWORDS: Sneakerheads, cultural traits, buying behavior, industry, expression, luxury

Introduction

The sneaker industry has evolved from ubiquitous footwear into various iterations, ranging from being a form of personal expression to selling in a secondary market (Suseno & Hidayat 2021). In 2022, the sneaker industry reported a revenue high of \$ 86.72 billion, which is expected to grow annually at around 9.6% (Statista Market Forecast 2022). Collecting sneakers has become more than a hobby for Sneakerheads; it has now become a form of expression as well as a financial opportunity. Research has been completed on the topic of how a brand's unique benefits and image will influence a buyer's behavior and, in turn, also lead to the formation of groups, communities, and alliances. However, fewer articles have focused on how footwear, specifically sneakers, has become a form of identification within the sneakerhead culture. Sneakerheads are a distinctive group that holds a strong and unique relationship with certain brands of sneakers. In order to expand on the understanding of this unique group and their relationship with sneakers, it is necessary to analyze literature that will allow us to understand their motivations, brand preferences, and identity perspectives.

Sneakerhead Sub-Culture

Sneakerheads are defined as a group of individuals who collect, trade, and/or admire sneakers. The sneakerhead culture has become an encompassing platform that breeds expression and creativity. For Sneakerheads, sneakers have become an important facet of their identities, particularly for African American men who grew up in the 1970s and 80s (Matthews, Cryer-Couper, & Oleniacz 2021). The sneakerhead culture was initially thought of as a fad. Still, it quickly became apparent that this group has also had a financial impact on the marketplace within the sneaker community (Powell 2014). Sneakerheads will seek out rare and exclusive sneaker collections, create a sense of scarcity, and in turn, drive purchase behaviors within the

sneakerhead community. This unique group also shares norms, practices, and even vocabulary, such as the term “drops,” referencing a release date for a certain shoe, and “colorway,” which refers to the color scheme of a new shoe. Sneakerhead membership is based not only on the unique shoe they own but also on knowing the history, background, and evolution of sneakers.

The advent of the Sneakerhead subculture began in the late 1970s/early 1980s with the introduction of notable sneakers such as the suede Puma Clydes, Adidas Shell Toes, Converse Chuck Taylors, and Pony David Thompsons (Garcia and Semmelhack 2015). Many Sneakerheads will argue that the introduction of this sub-culture began with the release of the Nike Air Jordan 1s in 1985. This shoe gained its notoriety because of its connection to the athlete Michael Jordan. The Air Jordan series accounts for more than half of the basketball shoe market (Choi and Kim 2019). Research by Matthews Cryoer-Coupet, and Degirmencioglu (2012) posits that the appeal of the celebrity sneaker collection has created a deeper relationship and a connection between Sneakerheads and their sneaker collection.

Author and Sneakerhead historian, Bobbito Garcia, explains that the Sneakerhead culture emerged during the 1970s when hip-hop communities and basketball transformed the perception of sneakers as a sports shoe into a medium of self and cultural expression (Gunduz 2020). Sneakerheads have a strong interest in the sneaker history, seek out rare and exclusive sneaker collections, and feel a strong sense of community and exclusivity regarding their subculture. They feel connected to other Sneakerheads that understand the history and culture of sneakers. For the Sneakerhead sub-culture, it is more than being big spenders and more of identity and nostalgia (Matthews et al. 2021).

Sneakers as Self-Expression, Creativity, and Violence

Sneakers have become a strong force in our modern world, breeding self-expression, creativity, and evolution. Sneakerheads use sneakers to symbolize material status and wealth and to communicate their identity (Gunduz 2020). This omnipresent force in the sneaker industry has also given way to sneaker-related violence that has been traced to an artificial scarcity during sneaker releases. This perceived *scarcity* is purposely done to maximize product anticipation and increase profit projections. According to Gunduz (2020), sneaker-related violence cannot be traced to one specific group but to several factors.

Gunduz's (2020) study focused on sneaker-related violence as a result of a societal imbalance of values, social class, and racial inequality. Gunduz (2020) found that the violence associated with sneaker consumption extends far beyond the sneaker culture. He argues that the violence is a cause of opinions and biases towards specific racial groups, specifically Black Americans. His research led him to assert that the societal core issues of racism and inequality must first be tackled before directing blame at any one group.

Wallace and Andrews (2022) highlighted the racial politics of sneaker customization, manifested through the use of marginalized minorities as a way to assert their humanity and uplift others who are considered disadvantaged. These forms of self-expression highlight how sneakers have transcended their original purpose, which could explain how sneakers have remained embedded in popular culture.

Interestingly, a theory by Pierre Bourdieu (1992) elaborates on how social ranking is based on taste. He separates individuals with higher cultural capital from groups with less cultural capital. He describes consumers with higher cultural capital as educated, which elevates them to a higher class. Bourdieu's theory asserts that having a large amount of cultural capital allows consumers to dictate and determine what constitutes good taste, and those with less cultural capital accept such preferences. Bourdieu further asserts that this compliance leads to what he calls *symbolic violence*.

Trigg (2001) points to Thorstein Veblen's (n.d.) *Theory of the Leisure Class*, which critiques the neoclassical theory of consumerism by stating that preferences are determined

socially and are dependent on a consumer's position in the social hierarchy of status. Veblen's (n.d.) theory elaborates on how society focuses consumption of materialistic goods to demonstrate their wealth. Veblen (n.d.) labeled this behavior as *conspicuous consumption*, where consumers spend money on goods rather than experiences. Veblen's (n.d.) theory also declares that different social classes will mimic the consumer behavior of social classes above them; he asserts that consumers feel a burden and desire to match the spending habits of the wealthy. Such behavior inevitably leads to what Bourdieu (1992) called *symbolic violence*.

The theories presented by Bourdieu (1992) and Veblen (n.d.) have been criticized as being too restrictive in positing that preferences and consumption emerge from top to bottom. Trigg (2001) posits that trendsetters could be of a lower social class and that consumer behavior is shaped by lifestyles that cut across social hierarchies. Such criticism aligns with the Sneakerhead subculture and its consumers, who are known to dominate trends and buying habits but are historically perceived as a lower social class.

While the sneaker culture has the potential to unite races when marketed with the right message, it has instead acted as an instrument to divide society. The author provides examples where sneakers, namely New Balance sneakers and the Kaepernick Nike ad, were used as a political force. The first example occurred when the Vice President of New Balance and strong Trump supporter declared New Balance sneakers the "official shoe of White people." The second example occurred in mid-2018 when Nike released a controversial social advertising campaign featuring Colin Kaepernick, known for refusing to stand for the national anthem to bring awareness to the police killings of Black individuals. These political displays of status and awareness further propel the racial divide.

Sneakers have been tied to racial discord, crimes, drugs, gangs, and intimidation. In 2014, it was estimated that sneaker-based conflicts were responsible for over 1,200 deaths per year (Friendly 2015). According to Friendly (2015), many of these crimes were a result of envy and what he called the "desperation of the youth." Criminal gangs have used sneaker brands to differentiate their organizations. Such examples include The Bloods, who primarily wear red Reeboks, and the Crips, who identified themselves by the color blue and typically wore blue British Knight (BK) athletic shoes. In order to lessen the racial divide, violence, and rivalry, many rappers have collaborated with sneaker companies, such as Kendrick Lamar, who teamed up with Reebok to release a pair of sneakers with the colors red and blue in an attempt to unify gangs (Gunduz 2020).

Shoe companies need to take notice of the violence that is caused by sending the wrong message through advertising. Telander (1990) noted that a sense of status fed those starving for self-esteem. He further asserted that consumers are motivated by peer pressure based on what is seen on social media. Social media, geared towards malleable Millennials, has only exacerbated the notion that sneakers are a representation of who a person is. Shoe companies claim that their advertising is geared toward sports, yet, according to Telander (1990), more than 80% of sports shoes sold in the United States were not used for athletic purposes.

Sneaker-Buying Behavior and Marketing

Jenkins (2015) argued that the consumption of sneakers has been gentrified as a subculture of sneaker-savant millennials who are eager to wear the latest release. For marketers, identifying the why behind a trend, the drivers, and brand preferences is important to inform marketing efforts. The sneaker market has developed its own unique culture, and while many options and brands are available, exclusivity, followed by a perception of scarcity, is still a driving force.

Powell (2023), a Senior Industry Advisor at NPD Group, explains that consumers have noticed a decline in the collaboration between celebrities and shoe brands that create a product closely tied to their life experiences. He further explains that limited edition

collaborations are announced about every 10 seconds; hence the scarcity and authenticity are lost. Nonetheless, consumers continue to look for authenticity in products.

Nike, Adidas, and other brands also use what is known as *limited edition products* (LEP). LEP is related to ‘limited time scarcity’ and ‘limited quantity scarcity’ in consumer behavior (Chae et al. 2020). Research by Chae et al. (2020) found that LEP serves to stimulate a consumer’s purchase intention, although such practice has been criticized as a negative type of marketing. While consumers expect products or brands that have a sense of individuality, many know that marketers intentionally adjust the scarcity of a product. Consumers who are exposed to scarcity messages perceive such messages as gimmicks and lose the intention to purchase a product. According to Snyder and Fromkin (1977), consumers look for ways to express their identity that is different from others by purchasing a product that others may not possess.

Billion-Dollar Industry

Americans are known to spend on apparel and footwear as a means of self-expression. According to Smith (2021), the apparel market in the U.S. was the largest in the world in 2021. The U.S. also has the largest footwear market, generating over 78 billion U.S. dollars in revenue in 2021 (Tight 2022). The revenue of the athletic footwear industry amounted to approximately 13.6 billion in 2021 and is expected to increase to over 18 billion by 2025 (Tight 2022). Footwear brands, retailers, and celebrities have a huge impact on catering to this market through targeted marketing campaigns. Nike, for example, has held the largest share of the U.S. footwear market.

Sneakers have become one of the hottest globally traded assets and a global phenomenon. According to Ho (2022), consumer sentiment and supply and demand drive sneaker prices. An example of this is the collaboration between Dior and Nike and the release of Dior Jordans, which can sell for up to \$10,000, previously \$28,000 during the height of the pandemic. Such a collaboration is not common, meaning a limited quantity exists. Collaborations such as that between Dior and Nike require large budgets, resources, marketing, and having the right celebrity to build up the hype of the new release.

The sneaker resell market has become a global industry worth billions of dollars. High-profile collaborations such as Dior, Nike, and Jordan 1s or Travis Scott and Nike Jordan collection can go for thousands beyond their initial retail price. StockX, founded in 2015, is a new player in the resale industry, an online marketplace and clothing reseller primarily of sneakers; the company has become the place to go for market prices on almost every pair of sneakers. In 2020, the firm reported \$1.8 billion in gross merchandise volume. Prior to StockX, there was no clear pricing consensus on resale sneaker value (Moniz 2021).

Resale Market

In addition to personal expression, sneakers also have strong resale value, further emphasizing the product's versatility as a possession for many people (Choi & Lee 2021; Raditya & Hanafiah 2021; Slaton & Pookulangara 2021). According to Slaton and Pookulangara (2021), factors such as rarity or limited availability, celebrity endorsements, and social media contribute to the resale value of some sneakers. As a result, sneakers have become financially attractive among sneaker collectors (Kulinicheva 2021). “Mixed-role sellers” is a term given to consumers who purchase with the intention of reselling consumer goods (Chu & Liao 2007). Sneakerheads are known to both collect and resale sneakers for different reasons.

The resale of limited goods in high demand leads to a large increase in resale value (Evans 2015; Powell 2014a; Shapiro 2013). An example of such an increase in resale value occurred with a pair of Nike Yeezy 2 Red October sneakers priced at \$245 when released in 2014. The same pair of sneakers was resold a year later on eBay for \$3,350. Such a sneaker

can be sold for up to \$6,500 if in pristine condition (“Air Yeezy 2 Red October | Campless.” 2022; Fischer 2014; Sawyer 2016). While not all consumer goods are resalable, consumers have become aware of the profitability of purchasing and reselling products perceived as limited, unique, or scarce.

According to Chu (2013), there are four resale motivations; such motivations are also based on four styles of consumers. The motivations include utilitarian motivation, the guilt of compulsive buying, the guilt of disposition, and hedonic motivation. Consumer behavior, according to Tatzel (2002), can be explained by using two axes: the level of money disposition which explains how guarded a consumer is with money, and materialism, which refers to the “devotion to acquisition and possession.” Tatzel (2002) further describes consumers as value seekers, big spenders, non-spenders, and experiencers.

Tynan et al. (2010) describe luxury goods as “high-quality, expensive and nonessential products and services that appear to be rare, exclusive, prestigious, and authentic, an emotional/hedonic values through consumer experiences” (1158). The sneakers collected by Sneakerheads fall into the latter definition. An example of such is the price of a pair of Air Jordans, which had a retail price of \$190 in 2016, with the remastered models costing about \$220. Most retro Air Jordan models are also limited in quantity, making them a coveted purchase.

Research on the resale value of sneakers supports the *Meaning Transfer Theory* (McCracken 1986, 1989) and the *Transactional Utility theory* (Thaler 1985, 2008). McCracken’s *Meaning Transfer theory* associates celebrities, for example, to ascribe that person’s qualities to a brand. This theory is not specific to sneakers, yet it can be applied in such a manner where the value of sneakers, for example, is constructed by the consumer when they themselves assign value while discussing, comparing, and bragging about their sneaker collection, rather than the value that comes from using celebrity endorsers. The *Transactional Utility Theory* measure the satisfaction consumers derive from making a purchase; Sneakerheads are fully aware of the profit they can make by purchasing high-demand, limited-quantity sneakers at retail price and then selling them at a higher price.

Discussion

The purpose of this literature review is to highlight the impact the Sneakerhead subculture has on different facets of not only life but also the economy. Sneakers continue to be a platform of expression, identity, and creativity and a major force in the primary sneaker market. Sneakerheads, a new consumer group of sneakers, are described as people who are passionate about collecting limited-edition sneakers (Choi et al. 2015). The Sneakerhead subculture began around the 1970s, and 80’s when sports teams began to sign athletes to endorse sneakers. Hip-hop stars and basketball legends became a strong force for the beginning of the Sneakerhead subculture.

It has become important to gain an understanding of this subculture’s brand preferences, practices, and group identity factors. Delisia Matthews, Assistant Professor of textile brand management, conducted a qualitative study to discover the motivations of people who go for a particular trend. Her study uncovered three themes about the motivations and preferences of the Sneakerhead subculture. The first theme references the nostalgia attributed to the beginning of this era with hip-hop stars who wrote unique rhythms and lyrics and sported unique sneakers, as well as the legendary basketball player Michael Jordan; researchers called this theme “back in the day” to trace the origin of this movement. The second theme was “All About the Jumpman,” which refers to the legendary basketball player Michael Jordan and the release of the Nike Air Jordan 1s in 1985. The last theme in Matthews’s (2021) research was called “For Members Only” and refers to the community of the Sneakerhead subculture. Sneakerheads feel a sense of community; they understand and respect the history of sneakers

and separate themselves from other groups such as the “Hypebeasts,” who are a group that is more interested in the resale of sneakers rather than the overall history, nostalgia, and sense of community.

Choi et al. (2015) conducted a qualitative study to understand the consumption motives and decision-making behaviors of Sneakerheads. Choi (2015) describes this movement as a billion-dollar market but also a movement that brings about extreme behaviors and violence; she termed these behaviors “consumer misbehaviors.” Choi et al.’s (2015) study uncovered six themes. The themes included: culture, rarity, purchase decision process, quality and price, reselling, and violent incidents. Choi’s findings are in line with the cumulative research in this paper. The Sneakerhead culture is about collecting, wearing, and having a deep connection with their sneakers. Rarity comes in the form of a commodity that is difficult to acquire due to exclusive collaborations between sneaker companies and famous and legendary athletes. The purchase decision is a more complicated process and tends to rely on rumors, leaked or insider information which then creates anticipation. This anticipation drives prices; when sneakers are purchased as “used,” quality may be compromised. For Sneakerheads, quality is important in order to resell shoes at a higher price. The final theme in this research was the perceived inequity, which leads to violence.

All research points to a strong culture that is here to stay and will continue to be a strong force in all facets of life, society, and the economy. Understanding the Sneakerhead subculture will uncover valuable leads to not only target marketing messages to this group but also to understand how the feelings of inequity may lead to violence and how to create a more equal space for all groups. The Sneakerhead subculture has given way to a billion-dollar industry that will continue to grow.

Conclusion

Literature has provided insight into the Sneakerhead subculture, its motivations, sense of community, buyer behaviors, and in some cases, misbehaviors. This research has also highlighted the benefits of reselling limited and unique sneakers in a secondary market. The sneaker market is booming and continues to be driven by Sneakerheads and now by Millennials and GenZers. The sneaker trend is no longer inclusive of the Sneakerhead subculture; Millennials are driving a different trend of their own by wearing sneakers as a status symbol. Further research should focus on how Millennials and GenZers are creating a subculture of their own and how this contributes to the booming billion-dollar sneaker industry.

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The Art and Gender – A Gender Perspective Analysis The 2022 Calendar – *Comorile Muzeului*

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ABSTRACT: The author started this research based on an article published in *The Guardian* titled “Mind-blowing: Why do men’s paintings cost 10 times more than women’s?” Shocking: Why do artists’ paintings cost 10 times more than those painted by women painters? Being a feminist and interested in equal opportunities between women and men, the author looks at everything around through a gender lens. The general theme is meritocracy. As a colleague of the author used to say: I don't care if the person applying for a job is a woman or a man, but be the best. If only it were that simple! In the artistic field, as in many other fields, the value is given by the price of the product, in our case, of works of art. As we shall see, not by a long shot.

KEYWORDS: men’s paintings, women painters, gender equality, equality of opportunity

Introduction

The writer Mary Ann Sieghart was the first to point out that in the UK, for every pound a male artist earned, a woman's work was worth 10p - and when she signed it, the value of the work dropped even further. She thought, according to this reality, is a man's painting level ten times that of a woman? The famous German artist Georg Baselitz said (Clark 2013): “Women can’t paint well. It’s a fact. The market doesn’t lie.” If we only evaluate artistic talent from the perspective of the market, we can conclude that male artists are ten times better than female artists. But is the market valuation strictly objective? Does it only consider the artistic value of this painting, or is there another reason?

The Art and Gender

The most expensive painting ever made is Leonardo da Vinci’s *Salvator Mundi*, which sold for \$450 million, while the world record for female artist Georgia O’Keeffe is \$44.4 million, just one-tenth. According to the author, works by women were pulled from the gallery after announcing their pregnancy. This action was taken because art curators considered they could not devote themselves as fully to their art career as they had previously, and investing in painting was considered risky.

Sieghart feels that this judgment is unfair. In this field also, as in most of human history, women have not been allowed to practice art in the same way as men, so inevitably fewer female artists than male artists are recognized as masters. Among living artists, Jeff Koons holds the \$91 million record, while Jenny Saville's female record is just \$12.5 million. Even down in the hierarchy, the spread is still 10:1.

Sieghart presents the findings of Helen Gorrill, author of *Women Can't Paint*, who examined the prices of 5,000 paintings sold worldwide and found that for every pound earned by a male artist, a woman artist earns only 10 pence. Gorrill found the finding truly shocking, given that women have long made-up 70 percent of merit-based art schools and an art world that prides itself on its liberal, progressive values. She also found that while the value of works signed by men increased, the value of works signed by women decreased.

To examine art lovers’ perceptions of the quality of paintings, Mary Ann Sieghart presents research by Oxford University finance professor Renée Adams (2021), which

conducted a study on how to appreciate a painting. She showed study participants the work of five men and five women and asked them to identify the gender of the artist. These guessed right 50% of the time. Renée Adams concluded that this is pretty good evidence that men's art is no different from, and therefore not superior to, women's art. In the second part of the study, she showed male art connoisseurs and investors a painting created by the AI and randomly assigned either an artist's name or a female artist's name. They said they liked the painting more when they thought it was done by a man than when they were told it was done by a woman.

Francis Morris, director of Tate Modern, explained this result as an unintended collision between the market, art history and institutions. The need for validation becomes a convention for those interested in investing in the arts, which intersects with a patriarchal society. He cites the example of EH Gombrich's world-bestselling art book, *The Art Story*, which is must-read for art students. Only one artist is featured on 688 pages. How did this happen? Why?

Noting the differences between male and female artists, he also pointed out the number of art collections by male and female artists in museums. Once an artist is acquired by a museum, the value of their work increases. The same happens when they receive temporary exhibitions. As in other fields, female artists face serious discrimination as they are thrown out of galleries immediately after announcing their pregnancy. The reason given was that they were no longer considered to be fully devoted to their art and career, and investing in their work was considered risky.

It was also noted that women and men use different criteria when evaluating artwork for purchase. Men pay more attention to the artist and their background, while women pay more attention to the artwork. Such representation-based assessments can be a barrier for underrepresented people to enter the art world, Elsesser (2022) also noted for Forbes magazine.

Gender-focused pay disparities have also been identified by research from the National Endowment for the Arts, an independent federal agency in the United States that is the nation's largest funder of the arts and arts education. For example, female visual artists in the U.S. earn 0.85 cents for all dollar male artists earn, according to the study, even though women make up the majority of the field, accounting for 51 percent of all artists. The study found that women are significantly underrepresented in major arts institutions. The study, conducted by the Association of Art Museum Directors and the National Center for the Study of the Arts, among 200 museums across the United States, was published in 2017. The study also highlights the fact that women in leadership positions earn 75% of their male counterparts.

However, both Mary Ann Sieghart and Kim Elsesser believe the field is changing as museums and art collectors become more interested in and support women's art.

According to a BBC documentary, secondary market prices for works by female artists rose 29 percent faster than those for male art, despite lower starting prices. Meanwhile, the representation of women in exhibitions and collecting has increased, according to a survey by Art Basel and UBS. They observed a gradual increase in the share of collections made by women, from 40% in 2021 to 39% in 2020, 37% in 2019 and 33% in 2018.

According to Nuria Madrenas (Elsesser 2022), art tastes have also changed, from Baby Boomers and Generation X to Millennials who are more interested in buying art from their generation. They want to buy as much art as possible from up-and-coming artists. They do not care about blue chip art because of the huge variance.

“Treasures of the Museum” calendar produced by the National Museum of Art of Romania from the Alias Calendar Collection – Analysis

With this optimism in mind, the calendar I purchased for 2022, a “Museum Treasure” from the Alias Calendars series produced by the National Museum of Art of Romania, caught my attention. Through quantitative and qualitative research, I became interested in the representation of women

in this calendar, including the number of female artists in the work, the models for the artwork, and the attitudes expressed by the painters. The calendar consists of 13 paintings including the cover, a selection of 7 portraits of women and 5 portraits of men, including a portrait of Ion Luchian also on cover 1.

Portraits of men are: a man with a goose (Fig. no. 2), a man with a revolver (Fig. no. 5), a man with folded hands (Fig. no.6), a man with a paintbrush in his hand (Fig.no.7), going to or coming back from nature with an easel behind him (Fig. no. 3). As we can see, all the portraits have subjects to express something about them, they are in motion, in activity. The man with geese symbolizes the commerce; that with his revolver means defending a site, or a person, or engaging in combat; the painter at work, another on his way to or from a painting session, is producing art. Including the portrait of a man who embraces himself, has an assertive air, a fortitude, and self-confidence. He seemed willing to argue his case during a debate.

Analyzing these seven female subjects, we noticed that four of them were image staring straight at them while the artist was painting (Fig. no. 1, Fig. no. 4, Fig. no. 11, Fig. no. 12), and one stared at the orange in her hand (Fig. no. 12), a meal, women and girls are often related to food; among them a subject is depicted with a hand on his hip (Fig.no.9), in a way that suggests movement, while the revolutionary Ana Ipatescu (Fig.no.10) is depicted holding a revolver in her hand as she moves. I even think that the portraits of architect Delavrancea Gibory (Fig. no. 11), even if static, have an open, direct, decisive gaze. Of the seven models, one is in motion, another captures her direct and confident nature, and the rest are static with innocent poses and sad expressions.

From a gender perspective, the calendar's subjects are arguably balanced. There are 50% images of female models and the same number of images of male models. The difference is found when analyzing those who make art, the painters. No works by women painters were included in the calendar. All the paintings are by male painters. We meet Nicolae Grigorescu (1838-1907), Ștefan Luchian (1868-1916), Ion Andreescu (1850-1882), Alexandru Ciucureanu (1903-1977), Eustașiu Stoenescu (1884-1957), Nicolae Tonitza (1886-1940) and Anton Chadek (1794-1882), Czech Artists. I do not see any specific theme or intent in the calendar's content that had the theme in mind for the calendar maker. Plus, I do not even know if the museum owns the female artist's work. I used the red line of this calendar as a portrait.

By doing a simple search in the virtual space, I found an article from Civilization Magazine titled "*An incursion of Romanian Fine Art: Women Painters in the 20th Century*", which, as the title suggests, describes the work done by female artists to consolidate Romanian culture, namely: Rodica Maniu Mütznier (1892-1958), Micaela Eleutheriade (1900-1982), Cecilia Cuțescu-Storck (1879-1969), Nina Arbore (1889-1942), Nadia Grossman Bulighin (born 1891-1930), Eugenia Filotti Atanasiu (1880-1968).

Conclusion

This research shows that international resolutions and guidelines on equal pay in all areas of life, including the arts, are relevant. We were able to show that the valuation of a woman's work is often not related to her worth but to social norms, and underestimation is representative of a patriarchal society. I have also found that motherhood in art is often a reason why work is undervalued, as men's and women's art is valued differently when it comes to buying. However, times and tastes are changing with the generational shift towards millennials and more women entering the market. Admittedly, before this field also achieves gender balance, certain positive steps will need to be taken to encourage female participation and investment in art produced by women, such as creating virtual galleries (the online Art Gallery and consultancy TACIT) dedicated to artists for women at lower prices.

Methods

This article used a different method. The method of analysis, called “documentary analysis,” is not very clear. In this study, the type of data used for documentary analysis is not just paper stuff because we are currently analyzing things people create online.

Nor are we limited to words, we also include images in our analysis, as sometimes images are used to suggest something so offensive that they cannot be ‘said out loud’ (Stuart Hall talks about this). Examples of documents are pictures like paintings, but also advertisements on the side of buses (and anywhere else), packaging for products we use and buy, passports, meeting minutes, letters, diaries, and anything else with text or pictures thing. I must admit that the structure presented here allows for more hierarchies to be added, if necessary, to extend the research on this topic. We consider this flexible structure to be particularly important, as further developments and methodical shifts in focus are inevitable over time.

“Historical research” is the method of gathering data and information used alongside and combined with the study of documents and the form of the study question is: How? Why? We chose these strategies because they are the most revealing of cultural characteristics.

The “comparative method” was used as a basis for analyzing equality of opportunity in art and painting, applied to the most important works over the centuries. To answer the question, compare society’s value to women’s and men’s paintings, why?

Subsequently, the theoretical material is summarized by means of analysis and synthesis, and conclusions are drawn accordingly. Statistical and sociological methods allow to analyze the consequences of the current socioeconomic situation and also to estimate some of the trends we have identified in the concluding chapter.

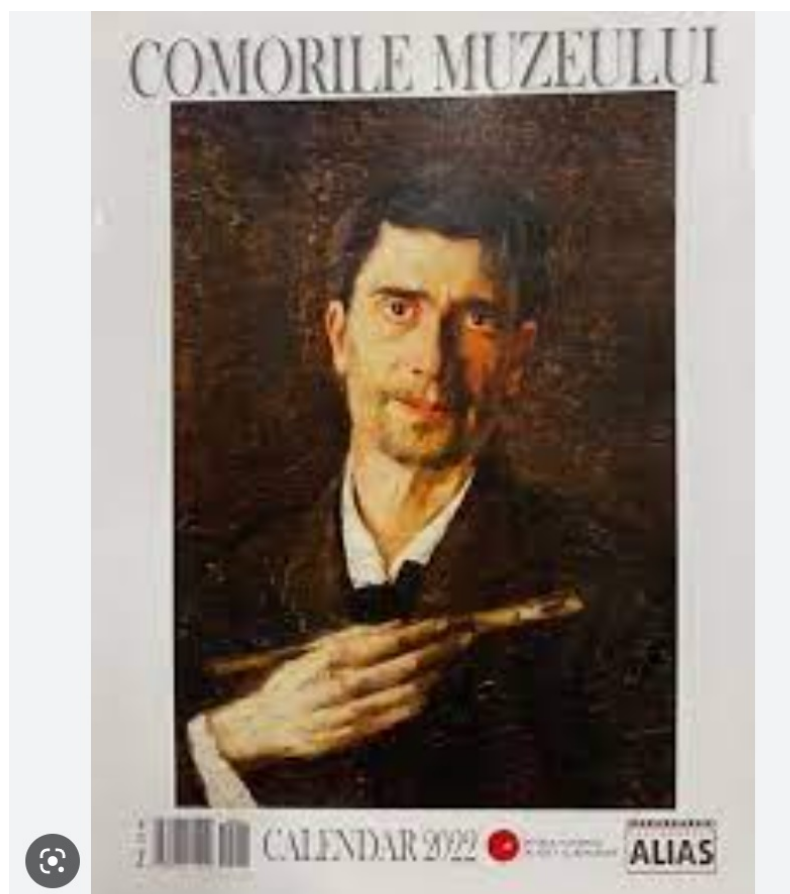


Fig.no.0.2022_Calendar_Cover
The 2022 Calendar – *Comorile Muzeului*



Fig. no. 1. Anton Chadek - Alexandrina G. Manu



Fig. no. 2. Nicolae Grigorescu - Evreul cu gășca

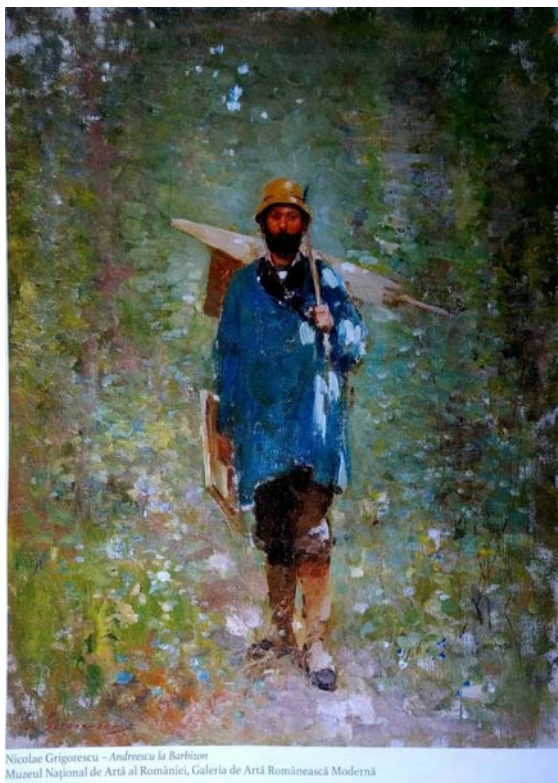


Fig. no. 3. Nicolae Grigorescu - Andreescu la Barbizon



Fig. no. 4. Nicolae Grigorescu - Maria Nacu



Fig. no. 5. Nicolae Grigorescu - Paznicul de la Chailly



Fig. no. 6. Ion Andreescu - Autoportret

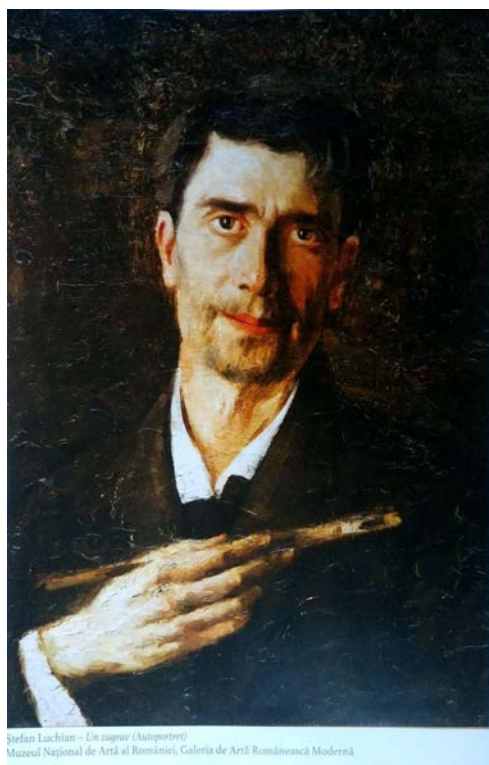


Fig. no. 7. Ștefan Luchian - Un zugrav (autoportret)

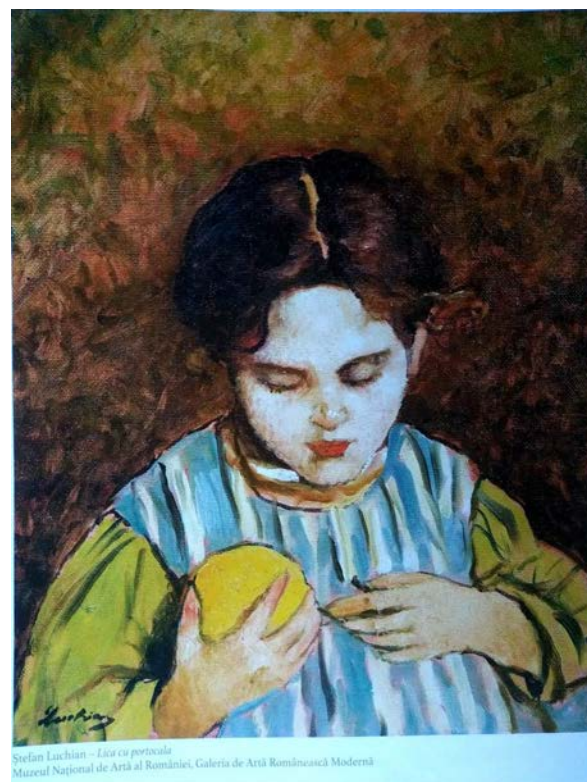


Fig. no. 8. Ștefan Luchian - Lica cu portocala



Ștefan Luchian - Safta Florăreasa
Muzeul Național de Artă al României, Galeria de Artă Românească Modernă

Fig. no. 9. Ștefan Luchian - Safta Florăreasa



Alexandru Ciucureanu - Ana Ipătescu
Muzeul Național de Artă al României, Galeria de Artă Românească Modernă

Fig. no. 10. Alexandru Ciucureanu - Ana Ipătescu



Eustațiu Stoenescu - Portretul Arhitectei Delavrancea Gibory
Muzeul Național de Artă al României, Galeria de Artă Românească Modernă

Fig. no. 11. Eustațiu Stoenescu - Portretul Arhitectei Delavrancea Gibory



Nicolae Tonitza - Irina
Muzeul Național de Artă al României, Galeria de Artă Românească Modernă

Fig. no. 12. Nicolae Tonitza - Irina

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Considerations Concerning the Legislative Delegation Procedure as it is Now Enforced in Romania

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ABSTRACT: The paper presents a critical analysis of the modalities through which the legislation that does rule the legislative delegation procedure is nowadays effectively applied in Romania. Its excessive use is therefore pointed out, as well as the negative consequences respectively generated by this now custom-enforced practice. The present work's structure includes an introduction describing the main motivations that have led us towards the choice of its topics, its present impact, a section reserved to the description of the currently enforced legal frame which does rule over this procedure, and a case study. This latter refers to the Government's Emergency Ordinance no. 57/2019 issued on July 3, 2019, concerning the Administrative Code, which could be considered as the subsequent evolution undergone by the regulation process fulfilled throughout it and the quality level itself held by its contained juridical norms. De lege ferenda suggestions are as well formulated.

KEYWORDS: administrative code, legislative delegation procedure, juridical norm, quality level of regulatory activity

1. Introduction

The Administrative Code is in the Romanian case a quite longtime awaited for normative act (more precisely for about thirty years); the personnel who is active in the frame of public administration as well as the citizens who do interact with the above-mentioned personnel have sought for it hoping that its consequently enforced juridical norms and that it could contribute to the increase of the public administration's quality standards (simultaneously in its respectively held senses of *ergonomic structure* and *performed activity*). By the end of 2022, the Official Monitor of Romania, Part I, has published two normative acts through which the Administrative Code has been modified. In its no. 1255 of December 27, 2022, it had published the Law no. 375 of December 23, 2022, on the modifying and completion of the Government's Emergency Ordinance no. 57/2019 concerning the Administrative Code (adopted by the Romanian Parliament). In the Official Monitor of Romania no. 1280 of December 30, 2022, it had published a normative act issued by the Government of Romania namely its Emergency Ordinance no. 191 of December 28, 2022, on the modifying and completion of the Emergency Ordinance no. 57/2019 concerning the Administrative Code.

While performing a routine check-up of this above-mentioned normative act (https://www.cdep.ro/pls/legis/legis_pck.frame) "Government's Emergency Ordinance no. 57 of July 3, 2019, concerning the Administrative Code" we have remarked the respective facts that after its enforcement it had suffered a lot of successive changes – that is to say through thirteen Emergency Ordinances and through thirteen laws. On its turn the Constitutional Court of Romania had as well stated upon it through two issued Admission Decisions of its own, respectively concerning two non-constitutionality exceptions, the respective objects of which had been some juridical norms which pertained to the above-mentioned Administrative Code. These namely are: "-Decision no. 112 of February 23, 2021, concerning the non-constitutionality exception held by the respective statements of; -the Law no. 188/1999 concerning the Statute of the Public Servants in its art. 98 par. (1) letter d) under the written form that had been prior to its modifying operated through the Law no. 156/2018 on the modifying and completion of the Law no. 188/1999 concerning the Statute of the Public

Servants in its art. I item 24; - Law no. 188/1999 concerning the Statute of the Public Servants in its art. 98 par. (1) letter d) as these had been modified through the Law no. 156/2018 on the modifying and completion of the Law no. 188/1999 concerning the Statute of the Public Servants in its art. I item 24; - the Law no. 188/1999 concerning the Statute of the Public Servants in its art. 98 par. (3) as well as the Government's Emergency Ordinance no. 57/2019 concerning the Administrative Code in its art. 517 par. (1) letter d)"; or through this Decision the fact has been ascertained that the above-mentioned statements held by the Government's Emergency Ordinance no. 57/2019 concerning the Administrative Code in its art. 517 par. (1) letter d): «are constitutional insofar the syntagm: „standard age conditions” should not exclude for a woman the possibility of requesting for the continuation of her own employment prerogatives under conditions that would be identical to the ones which are legally imparted to a man that is to say until she had reached to the statutory age of 65». The Constitutional Court had thus been vested to elucidate certain aspects which apparently would have led towards the idea of a non-constitutionality statute eventually held by the Government's Emergency Ordinance no. 57/2019 concerning the Administrative Code in its art. 517 par. (1) letter d); its drawn conclusion had been the one that insofar its statements would be interpreted otherwise than in accordance with the argument line precisely upheld by the Court the concerned regulation would be non-constitutional (See for details the Official Monitor of Romania, Part I no. 353 of April 7, 2021). The Court's conclusion does therefore demonstrate the concerned regulation's lack of clarity, therefore its defective quality level.

The second studied decision is respectively the: "Decision no. 240 of June 3, 2020, concerning the non-constitutionality objection risen against respectively the: - Law for the approval of the Government's Emergency Ordinance no. 44/2020 concerning the prolongation of the mandates held by the local public administration's authorities contained within the time period going from 2016 until 2020; - certain actions taken in view of organizing the local elections held in 2020; - modifying of the Government's Emergency Ordinance no. 57/2019 concerning the Administrative Code; - modifying of the Government's Emergency Ordinance no. 44/2020". On its occasion the constitutional Court has therefore decided to: "admit the risen non-constitutionality objection and state that the: - Law for the approval of the Government's Emergency Ordinance no. 44/2020 concerning the prolongation of the mandates held by the local public administration's authorities contained within the time period going from 2016 until 2020; - certain actions taken in view of organizing the local elections held in 2020; - modifying of the Government's Emergency Ordinance no. 57/2019 concerning the Administrative Code; - modifying of the Government's Emergency Ordinance no. 44/2020 - all of these normative acts being understood as a coherent legislative aggregation - are not constitutional" (See for details the Official Monitor of Romania, Part I no. 504 of June 12, 2020). The Court had thus stated that the contested normative acts - being understood as a coherent legislative aggregation - do find themselves in a therefore attested contradiction with certain norms stated by the Constitution of Romania so we do find ourselves again in the presence of a defective quality level held by the concerned regulation.

The above-mentioned normative act had as well been the object of two hereby mentioned decisions stated by judicial teams acting within the frame of Romania's High Court of Cassation and Justice. In these two situations, the above-mentioned judicial instance had been vested to clarify (through the procedure tool known as recourse in the interest of the law) certain aspects so that could be effectively ensured: "the law's unitary interpretation and applying by all of the judicial courts" (Law no. 134/2010 – New Civil Procedure Code in its art. 514 par. (1)). The Civil Procedure Code in its art. 515 does bring the precision that in order to be admitted the above-mentioned procedure of the recourse in the interest of the law ought to fulfill the respective requirements that: "the fact should be proven that the law issues which do form the object of the judgement had before been differently resolved through

definitive judicial decisions” and that these decisions ought to be thereby annexed to the request through which the recourse in the interest of the law’s procedure is therefore promoted. The deduced conclusion had thus been the one that certain juridical norms which pertained to the Administrative Procedure Code had been differently interpreted and therefore applied by the judicial courts which means that these had been formulated without clarity – thus leaving a void to be occupied by further interpretations. For example through the Decision no. 1 of January 18, 2021, concerning the interpretation of the Government’s Emergency Ordinance no. 57/2019 concerning the Administrative Code in its art. 160 par. (1) letter b), with the text’s changes supervened prior to the Decision’s uttering moment, the recourse in the interest of the law sustained by the Guiding College of the Appeal Court of Craiova had been eventually admitted. The lawful modality of applying the above-mentioned legal text had been thus elucidated because corroborated with the statements of the art. 91 par. (1[^]) of the Law no. 161/2003 concerning certain actions to be taken in order to ensure transparency in the exercise of public dignities, of public offices and throughout the business environment, the prevention and sanction of corruption deeds – with its ulterior modifying and completions as well as with the statements of art. 25 par. (1) and (3) of the Law no. 176/2010 concerning the integrity status while exercising public dignities and offices for the modifying and completion of the Law no. 144/2007 concerning the foundation, organization and functioning of the National Integrity Agency as well as for the modifying and completion of other normative acts with its own ulterior modifying and completions. The above mentioned court has as well brought the precision that the above-mentioned corroborated legal texts do lead towards the drawn conclusion that: ”the mayor’s mandate lawful ceasing should supervene even if this latter would be ulterior in respect to the mandate during which the incompatibility status had been ascertained through an evaluation report elaborated by the National Integrity Agency and the legal validity status of which had been stated through a judicial decision remained afterwards definitive.”

The second hereby studied recourse in the interest of the law had been formulated by the Guiding College of the Constanța Appeal Court being therefore resolved through the Decision no. 19 of September 27, 2021, concerning the interpretation of the Government’s Emergency Ordinance no. 57/2019 concerning the Administrative Code in its art. 382 letter h) and in its art. 536 with its ulterior modifications and completions of the Law on social Dialogue no. 62/2011 in its art. 1 letter p) thesis I republished with its ulterior modifications and completions and of the Law no. 550/2004 concerning the organization and functioning of the Romanian Gendarmes’ Corps in its art. 23 par. (1) with its ulterior modifications and completions, published in the Monitorul Oficial al României, Part I no. 1080 of November 11-th 2021, by its admission. The Court has elucidated the lawful interpretation modality of the corroborated interpretation of the art. 382 lit. h) and of "art. 536 of the Government’s Emergency Ordinance no. 57/2019 concerning the Administrative Code with its ulterior modifying and completions”, of the Law of Social Dialogue no. 62/2011 republished with its ulterior modifyings and completions in its art. 1 letter p) thesis I and of the Law no. 550/2004 concerning the organization and functioning of the Romanian Gendarmes’ Corps in its art. 23 par. (1)”. The Court had also brought the precision that should these be corroborated the mentioned texts would lead towards the following interpretation: ”the material judicial competence of resolving in their first lawsuit the causes the object of which does consist in the obligation of the public institutions which are active in the frame of the Romanian Gendarmes’ Corps to pay certain salary rights to their own military personnel does belong to the sections/panels specialized in the matter of labor conflicts that are active in the frame of tribunals.”

Upon the site of the Deputies’ Chamber the precision is brought (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2022&emi=3&tip=13&rep=0) that in 2002 the Government of Romania had adopted thirty-seven ordinances pertaining to the

category also denominated in the specialized literature and by the law's practitioners "simple ordinances" in order to be differentiated from the *emergency ordinances* about which doctrine had instead expressed the opinion that these could as well be denominated „*constitutional ordinances*” (Apostol Tofan 2015, 243) because the Government's prerogative of adopting them does directly result from the constitutional norm and the respective number of which had been of one hundred and ninety-two (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2022&emi=3&tip=18&rep=0). As we have therefore continued our research we have ascertained the respective facts that: in 2021 the Government had adopted 145 emergency ordinances (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2021&emi=3&tip=18&rep=0&nrc=100), and 19 ordinances (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2021&emi=3&tip=13&rep=0), in 2020 it had adopted 226 emergency ordinances (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2020&emi=3&tip=18&rep=0&nrc=200) and 8 ordinances (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2020&emi=3&tip=13&rep=0); in 2019 it had adopted 91 emergency ordinances (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2019&emi=3&tip=18&rep=0) and 27 ordinances (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2019&emi=3&tip=13&rep=0); in 2018 it had adopted 114 emergency ordinances (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2018&emi=3&tip=18&rep=0&nrc=100) and 18 ordinances (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2018&emi=3&tip=13&rep=0) while in 2017 it had adopted 117 emergency ordinances (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2017&emi=3&tip=18&rep=0&nrc=100) and 30 ordinances (https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2017&emi=3&tip=13&rep=0).

We have on purpose also chosen three years prior to the Covid-19 pandemics in order to illustrate the fact that the great number of issued emergency ordinances had been in no way at all related to the special situation undergone by the social relationships during the pandemics. All of the above evoked aspects have therefore convinced us of the imperative necessity of realizing a study which should be focused upon the respective necessity and usefulness held by the juridical institution usually designated as "legislative delegation procedure" (and the specific sources of which are by the way constitutional ones) as well as upon the specific modalities through which the current Romanian social practice does effectively make use of it.

2. Current legal frame of the legislative delegation procedure in Romania (See Nicu Alina Livia 2020, 51-68)

The Government's Emergency Ordinance no. 57/2019 of July 3-rd 2019 concerning the Administrative Code does state in its art. 16 that the Government ought to function in accordance with the constitutional statements upon the ground of the Governance Program accepted by the Parliament in order to transpose it into the practical reality. In view of fulfilling the objectives previously established through the Governance Program the Government does effectively exert six legal functions ruled over through the art. 15 of the above-mentioned Government's Emergency Ordinance no. 57/2019 of July 3, 2019, concerning the Administrative Code. Those six functions respectively are:

„a) *Strategy* through which the elaboration of the applying strategy concerning the Governance Program is ensured;

It has been in the exercise of this function that for example upon the respective grounds of the re-published Constitution of Romania in its art 108 and of the Government's Emergency Ordinance no. 57/2019 concerning the Administrative Code with its ulterior modifyings and completions in its art. 25 letter e) that had been adopted the Government's Decision no. 430/2020 concerning the approval of the National Strategy of Social Reintegration of the liberty deprived individual persons 2020-2024.

b) *Implementing* through which the applying strategy concerning the Governance Program is pursued;

This function does refer to the existing ensemble of attributions and correlative responsibilities upon the ground of which concrete actions could be taken in view of the transposition in the practical life of the decided upon Governance Program. For example, the Government of Romania in the Governance Program 2017-2020, (https://www.cdep.ro/pdfs/guv201706/Program_de_Guvernare.pdf) in the chapter „Policies in the health domain” had mentioned that: „The main vision uphold by the Government's Program in the health domain is built around the citizen and not around the medical system as its final goal is that the individual citizen should no more have to travel far for a high quality medical act but that instead the system itself should be edified as close it could be to the citizen” and had defined a set of measures to be adopted which only concerned the materially owned patrimony. Yet in the practical daily life, the gravest problem which required its solution had been acknowledged as being the existence of an acute lack of medical personnel within the public health establishments. As a direct consequence and upon the technical ground of the implementing function the Government had therefore decided that the measure of the salary increases which had been disposed through the Frame Law no. 153/2017 concerning the salaries paid towards the personnel waged from public ownership funds should be applied sooner insofar the medical personnel should be concerned and that this should be done with the aimed purpose of stopping the departures of the medical doctors and of the medical assistants from the country. On February 8, 2018, the Ministry of Health had thus posted upon its site a communiqué where the precision is brought that: „The salaries' increases stated by the government been disposed through the Frame Law no. 153/2017 concerning the salaries paid towards the medical personnel waged from public ownership funds should be applied in two different stages: – Starting from January 1, 2018, the gross salaries of the medical personnel should increase by 25% in respect to their level that had been granted in December 2017 including the ones of the additions that had been effectively paid on December 31-st 2017; – Starting from March 1, 2018, the salaries paid to the medical doctors and to the medical assistants are increasing until the level of the basic salaries prior established for the level held by the year 2022” Ministry of Health Romania (2018).

c) *Regulation* which ensures the elaboration of the normative and institutional frame necessarily required by the realization of the strategic objectives;

d) *Administration of the state's ownership right* which ensures the administration of the state's public and private ownership rights as well as the management of the services which the state is due to provide;

As an example of exercising the administration function in respect to the State's owned patrimony, let us mention that upon the respective grounds of the Constitution of Romania re-published in its art. 108 and of the Government's Emergency Ordinance no. 57/2019 concerning the Administrative Code with its ulterior completions in its respective articles 287 letter a), art. 288 par. (1), art. 297 par. (1) letter a) and art. 299 as well as of the Law no. 287/2009 concerning the Civil Code re-published with its ulterior modifyings in its art. 867 par. (1) and art. 868, the Government of Romania had consequently adopted the Decision no. 105/2020 concerning the entrusting for administrative purposes towards the Accounts' Court of an immobile good situated in the department of Dolj and until then pertaining to the State's public domain and its inscription into the annex no. 33 of the Government's Decision no.

1.705/2006 for the approval of the centralized inventory drawn of the goods pertaining to the State's public domain. This is as well an illustrative example concerning the regulatory function.

e) *Representation* through which on behalf of the Romanian state and under the conditions stated by the law its internal and exterior representation within its domain of activity;

As an illustrative example of materializing the representative function, let us mention the fact that on December 5, 2018, in Bruxelles a meeting took place between the Prime-Minister of Romania and the General Secretary of the European Union's Council in the frame of which the members of the Government of Romania had as well participated; or this meeting had been a duly acknowledged part pertaining to the: „usual dialogue of the representatives of the state which is going to exert the rotating Presidency of the E.U.'s Council with some high officials active within the European institutions” (Government of Romania 2018).

f) *State Authority* through which are ensured the pursuit and control of the applying and respect vowed to the regulations in the domains of defense, public order and national security as well as within the economical and social domains together with the one of the functioning of the institutions and organisms, which are carrying out their activities as subordinates of or under the Government's authority”. As a practical example, we may read about the modalities through which the state's authority function could be fulfilled in „Balance of the Main Activities Carried Out by the Prime Minister's Control Corps during the Year 2022” (Prime-Minister's Control Corps 2022) that ”during the interval 01.01.2022 - 31.12.2022 at the PMCC's level (*our note*: PMCC = Prime-Minister's Control Corps) had been carried out 50 control/documentation profiled actions (of which 30 control actions and 20 documentation actions) out of which had been finalized 24 control/documentation actions (of which 11 control actions and 13 documentation actions). The control-related documents being sent for analysis and reevaluation to the authorities competent to dispose the taking of actions in order to remedy the ascertained defaults. The 24 actions finalized until 31.12.2022 had been respectively carried out during time intervals going from 3 months until 17 months; on 31.12.2022, their mean time duration had therefore been of about 8,5 months/control action.”

The Constitution of Romania under its re-published form does rule through its art.108 two types of juridical acts that the Government could be able to adopt while exercising the imparted attributions, which do compose its legal profile functions: *Government's Decisions* respectively *Ordinances* with the further brought precision in its art. 115 – „Legislative Delegation Procedure” – that the above-mentioned ordinances could as well pertain to two distinct categories respectively: (*simple*) *ordinances* and *emergency ordinances*. In its par. (1) the art. 115 does also bring the precision that the (simple) ordinances are to be adopted upon the ground of a habilitation law which should be adopted by the Parliament, yet under the brought reserve that no ordinances could ever be adopted insofar as it could respectively involve the domains which are chosen to be reserved to their ruling through organic laws. In the same article par. (2) and (3) do bring the precision that the respective habilitation law ought to imperatively indicate „the domain and the date until when ordinances could be issued” as well as suiting the case if the concerned ordinance to the Parliament is submitted for approval (in accordance with the current legislative procedure) prior to the date when the term ends until which the Government had been habilitated to issue ordinances should have been reached or not be taken into consideration as necessary. In the occurring case of an affirmative response towards this latter question but when the respective ordinance would still not be submitted for approval within the time interval legally established through the habilitation law, the sanction that is therefore prescribed by the Constitution should be the: „ceasing of the ordinance's effects”.

The Constitution through its art.146 letter d) does enumerate among the prerogatives that are imparted to the Constitutional Court of Romania its latter's aptitude to decide upon the non-

constitutionality exceptions that would be sustained versus the Government's ordinances in judicial or in arbitration courts.

The current legal frame concerning the legislative delegation procedure does as a matter of fact as well contain regulations that had been enforced in virtue of a special law. For example, the Government's Emergency Ordinance no. 57/2019 of July 3-rd 2019 concerning the Administrative Code does state in its art. 37 that: "Throughout the exercise of its imparted attributions the Government does adopt decisions and ordinances. The decisions are issued in view of organizing the execution of laws. The simple ordinances are issued upon the ground of a special habilitation law under the conditions established by the Constitution through its art. 115 par. (1) - (3). Should extraordinary situations supervene emergency ordinances could be issued under the conditions established by the Constitution through its art. 115 par. (4) - (6)." The Administrative Code does then through its art.38 bring the precision that the consensus among the Government's members should be required in order to issue its decisions; should the consensus not exist instead, the legislator had reserved to the Prime Minister the decision right upon the respectively concerned matters.

Insofar the *ordinances* could be concerned these are *administrative authority acts adopted upon the respective grounds of a legislative delegation procedure granted by the Parliament*; furthermore these are only issued under certain special conditions (lawfully qualified as being extraordinary) which are defined in virtue of the emergency feature held by the effectively occurred situations which ought to be ruled over. The syntagm „*extraordinary situations*” had been inserted to the Constitution's revised form in order to substitute the syntagm „*exceptional situations*” which had existed before in the Constitution's form of 1991 for the purpose of eliminating the existence of „numerous non-unitary practical applyings” since the new formulation „*extraordinary situations*” is able to evoke „*an emergency status related to the juridical regulation of a fortuitously occurred issue which could take no delay at all*” (Vedinaş 2018, 234). It is the Government which is due to sustain the imperative peculiarity of the concerned situations prior to the Parliament's possibly granted (or not!) habilitation. As doctrine has already stated the *legislative delegation procedure* does represent (Constantinescu 1992, 254) in virtue of the valid and acting principle of the power's separation yet cooperation within the state of law the most appropriate modality through which the Parliament and the Government could work together in view of the occurring possibility for the Government to be vested under certain fulfilled conditions with the (limited) exercise of a legislative function.

As it has been understood by the constituent legislator as an exceptional situation the possible adoption of emergency ordinances is therefore ruled through the uttered statement that this type of ordinance: „could become enforced only after it should be submitted in view of its debate under an emergency status procedure to the Chamber which is competent to be vested with it and after its publishing within the Monitorul Oficial al României”. The Constitution in its art. 115 par. (5) does as well precise the existence of certain procedure norms which do concern the emergency ordinances out of which could be specifically deduced these latter's intrinsic feature of peculiarity. These above-mentioned rules are:

- should the Chambers not be in session, these would be imperatively summoned within a five days' interval from the concerned ordinance's moment of submission to (or suiting the case envoy towards the) Parliament;

- should the vested Chamber not utter upon the concerned ordinance within an interval of at most 30 days from the concerned ordinance's moment of submission then the ordinance would be taken into consideration as being adopted and therefore sent towards the other Chamber which would be thus due to decide upon it under an emergency status procedure;

- for the approval of the emergency ordinances which might contain norms that through their inner nature should pertain to an organic type of law, the respective votes of the

majorities of the members of each Chamber should be necessary (in accordance with the statements of the Constitution in its art. 115 par. (5) corroborated with its art. 76 par. (1));

- the ordinances should be either approved or rejected by the Parliament in virtue of a law which should as well mention the ordinances the respective effects of which had ceased due to the fact that these had not been submitted for approval inside of their respective habilitation intervals;

- the approval or rejection law should contain if this fact would be necessary: „the required measures to be taken concerning the juridical effects consequently produced during the ordinance’s applying period” (Art. 115 par. (8), Constitution of 2003 re-published).

Because these are normative acts that is to say acts which do contain juridical norms endowed with a lawful power *the ordinances* (both the *simple* and the *emergency* ones) do produce juridical effects from the moment of their respective publishing on or if not then from an ulterior date on which should be stated within their respective final dispositions.

As lawful exceptions (Art. 115 par. (6), Constitution of 2003 re-published) from the regulation regime manifested through emergency ordinances the Constituent legislator has respectively instituted: - the domain of constitutional laws; - the regime of the State’s fundamental institutions; - the rights, liberties and duties respectively stated by the Constitution; - the electoral rights; - the actions taken in view of a compulsory transition of some goods towards the public ownership regime.

The Constitutional Court through its Decision no. 68 of February 27, 2017 in its par. 74 concerning the request for a lawful solution in the existing conflict of a constitutional nature between the Government of Romania and the Public Ministry – Prosecutor’s Office pertaining to the High Court of Cassation and Justice – National Anticorruption’s Direction – the respective request being formulated by the President of the Senate – had therefore referred towards its own Decision no. 63 of February 8-th 2017 concerning the requests for lawful solutions in the existing conflicts of a constitutional nature between on one side the executive authority – namely the Government of Romania – and on the other side the legislative authority – namely the Parliament of Romania as well as between on one side the executive authority – namely the Government of Romania – and on the other side the judicial authority – namely the Magistrate’Superior Council – the respective requests being formulated in the former case by the President of the Magistrate’Superior Council while in the latter case by the President of Romania (published in Monitorul Oficial al României, Part I no. 145 of February 27-th 2017) had therefore stated that: „the rule is the one that the Government does not dispose of the right of primary regulation over the social relationships but instead of the only right of adopting the secondary legislation” (Decision of the Constitutional Court no. 63 of February 8-th 2017 in its par. 89) and: „in spite of the fact that through the habilitation’s effect the Government does issue an act which in virtue of its own contents does hold a legislative nature because it is the direct consequence of a legislative delegation procedure the ordinance does however remain an administrative act issued by the executive authority” (Decision of the Constitutional Court no. 63 of February 8-th 2017 in its par. 90) since the main reason for which its own existence has been regulated is the one that: „as a normative act which does allow for the Government (while being still situated under the Parliament’s survey) to cope with an extraordinary situation, the emergency ordinance should therefore be justified through the necessity and emergency status generated by this situation which due to its occurring circumstances does impose the adoption of some immediate solutions in view of avoiding a grave prejudice which could be brought to the public interest” (Decision of the Constitutional Court no. 63 of February 8-th 2017 in its par. 91).

Yet since 1998 the Constitutional Court in virtue of its Decision no. 83 of May 19th, 1998, concerning the non-constitutionality exception risen against the dispositions of the Government’s Emergency Ordinance no. 22/1997 on the modifying and completion of the Law on the local public administration no. 69/1991 re-published (Published in Official Monitor of Romania, Part I no. 211 of June 8th, 2017) by referring to the syntagm which at that moment

was contained by the constitution but which in 2003 had been substituted by the one of „*extraordinary situations*” had clarified the precise motivations which could define a situation as being *exceptional* that is to say extraordinary in the exact sense that it does effectively by far deviate from the usual and therefore commonly known situation. It had thus stated that: „its main feature is objectiveness in the sense that its existence does in no way at all depend upon the Government’s will which under such circumstances is constrained to most promptly react in order to defend a public interest through the emergency ordinance’s mean”.

As doctrine has demonstrated: „neither the Constitution nor other regulation had precised how and starting from whatever criteria could be grounded the appreciation that exceptional cases do effectively occur which could determine the Government to take on the recourse of ruling over certain matters through the emergency ordinance’s procedure (Negruț 2004, 74-75). The Romanian legislator has expressed its opinion (through the Constitution re-published in 2003 in its arts. 102 and 108) according to which in order to realize our country’s internal and foreign policy as well as in order to exert the general guiding process upon the public administration the Government could be therefore entrusted by the Parliament to adopt some acts that could contain juridical norms holding the value of laws. These normative acts being therefore denominated simple ordinances respectively emergency ordinances; yet this could only happen while the Government should be correlatively obliged to respect certain conditions and regulatory limits as well as under the assumed condition that the survey regulation of this mechanism itself should be so enforced that the principle of the power separation within the state could be respected and effectively applied throughout the current social practice. The Parliament should not be turned into a simple accessory while the Government should not instead turn into an ambivalent social organ namely both a legislative and executive one. We do fully uphold the above-mentioned opinion.

As doctrine has demonstrated (Deleanu 2006, 669) as a category pertaining to the delegation’s concept, the legislative one should constitute an exception because it has been defined precisely in order to substitute the Parliament’s *legislative exercise under some particularly critical circumstances such as the status of an ongoing war*. As its social role had been analyzed, the appreciation has been issued (Constantinescu 1992, 254) that the legislative delegation procedure is a working together modality between the Parliament and the Government in virtue of the principle of the State’s power separation and cooperation. This principle does allow for the Government to be vested under certain fulfilled conditions with the lawful exercise of a legislative function. Yet the question does hereby rise: what these conditions should exactly be?

Should we then analyze the Constitution statements in its art. 115, we could remark the fact that in the respective cases of the simple or „legal” (Apostol Tofan 2008, 203) ordinances, the necessary habilitation law should contain two compulsory elements: namely the habilitated time intervals and the respective domains into which the ordinances could be adopted as well as a facultative element: namely the submission procedure of the concerned ordinances to the Parliament’s approval in accordance with the ordinary legislative procedure. The respective habilitation’s time interval may be situated wherever throughout the year (that is to say no matter if within a Parliament’s session or outside of it) (Iorgovan 2005, 408; Preda 2007, 92; Prisăcaru 2002, 129). Their regulation domain does contain all domains except for the ones which are on purpose and restrictively ruled by the Constitution in its art. 73 par (3) as being regulation objects that are reserved to organic laws. Insofar the facultative element could be concerned. That is to say the compulsory submission of the simple ordinances to the Parliament’s approval: even if as doctrine had demonstrated (Apostol Tofan 2008, 204) „in virtue of the interpretation granted to the constitutional norm concerning these ordinances’ ulterior approval by the Parliament the naturally drawn conclusion should be the one that usually the simple ordinances would not be submitted for approval since this latter could only become necessary if on purpose requested.” The author does however sustain the trend effectively generated due to the Parliament’s daily practice. In the author’s opinion, should

this action be imposed by the occurring social reality, the habilitation ought to be granted with no reserves at all but that simultaneously the ordinances' ulterior submission for approval ought to effectively become a rule. The author does uphold the above-mentioned opinion because she does take into consideration as being necessary to preserve a certain minimal quality standard to be held by the issued regulations; or as a matter of fact, the current trend is the one that the Parliament does better sustain this minimal quality standard than the Government and on the other hand this latter ought to remain aware of the fact that the legislative mandate has been imparted directly by the electorate to the Parliament only. In the author's opinion the Constitution's art 73 in its par. 3 ought to acquire the following form: „Ordinances should be submitted to the Parliament's approval in accordance with the legislative procedure until the fulfillment of the habilitation's granted time interval. The disrespect brought to this limit would generate the ceasing of the ordinance's juridically created effects". In the author's opinion, the only difference that should exist between the simple and the emergency ordinances would be the existence of the respectively issued habilitation law and that the request for the Parliament's approval should be compulsory for the both ordinance types because these are both exceptions in respect to the normal course of the legislative process and because the respective modalities through which the delegated legislative mandate had been carried out ought to be duly supervised. She does also appreciate that in terms of time durations the respective debates of the ordinances' approvals should not be lingered upon but instead performed under an emergency regime too. Insofar the emergency ordinances could be then concerned. These do represent a species of normative acts which should be adopted in „extraordinary" cases only and therefore as doctrine has demonstrated (Apostol Tofan 2008, 205) the cumulative existence of two elements is necessary: the urgent necessity of juridically regulating an effectively occurred situation which does impose the taking of some immediate actions and the necessity of avoiding a grave prejudice which might be brought to the public interest. The Constitutional Court through its Decision no. 65/1995 published in the Official Monitor of Romania, Part I no. 129/1995 has as a matter of fact also pointed out the effective necessity for these two elements to exist. In the author's opinion, the regulation currently stated by the fundamental law in its art. 115 par. 6 is effectively defaultive because due to it some rather troubling situations could occur: on the one hand the so-called „extraordinary" case ought to necessarily imply the fact that no exceptions could ever exist from the regulation through emergency ordinances therefore rendering possible the use made of them for whatever domain – which in the author's opinion could jeopardize the grounds themselves of the state of law – or on the other hand the lack of a precise definition brought to the syntagm „extraordinary situation" should lead towards the Government's abuse made of the emergency ordinances because under extraordinary circumstances habilitation laws would no more be required and should such a case occur should these even be afterwards rejected or either declared as being non-constitutional their consequently generated juridical effects would still remain valid (a fact which in many cases could serve the Government's interests). In the author's opinion, the Constitution's art.115 in its par. (6) should therefore acquire the following formulation: „(6) Emergency ordinances could not be adopted in the respective domains of the constitutional laws and of the organic laws, could not afflict upon the rights, liberties and duties stated by the Constitution." No matter how intensely extraordinary an occurring circumstance could effectively ever become, this procedure instrument should not be allowed for the Government to make use of in the respective domains of the constitutional and of the organic laws since the Parliament is by itself in such cases able to issue some duly deliberated upon laws under an emergency procedure. Such a solution could on one hand oblige the M.P.s to effectively assume their own imparted responsibilities while being confronted with some extraordinary situations and thus to hide no more behind the rather large and most comfortable Government's back or to no more sweetly linger in the softy shadow graciously provided by the Government's most comprehensive umbrella while on the

other hand no more political intrigues could be realized through the often most useful instruments that the emergency ordinances might easily become.

As for the fundamental law's art.73 par. (5) in accordance with the opinion expressed by the doctrine [(Apostol Tofan 2008, 213): „Consequently in few but clear and simple words some precise terms ought to have been established for both Chambers (not just for one of the Chambers and not just for the emergency ordinances but as well for the simple ones – our own underlining) into which the ordinance ought to be effectively approved or rejected under the sanction of caducity this term once flown.”] in the author's opinion, it ought to be formulated as it hereby follows: „The emergency ordinance could only be enforced after its submission for due debate under an emergency procedure to the chamber respectively competent to be vested with it and after its publication in the Official Monitor of Romania. Should these not be in ordinary session, the Chambers ought to be compulsorily summoned within a five-days time interval from the moment of the respective ordinance's submission (or envoy suiting the case). The vested chamber ought to state upon the respective ordinance under an emergency procedure therefore sending it to the other chamber which is as well due to state upon it under an emergency procedure.”

In the author's opinion, though its regulatory sphere does in its appearance assume a quite petty importance, the legislative delegation procedure ought to be dressed into such juridical clothes so that its feature of being an exceptional procedure tool could be most obviously pointed out and that it could therefore no more be applied throughout the social relationships' pathological sphere.

3. Aspects concerning the use made of the legislative delegation procedure in Romania

Insofar could be concerned the modalities through which the Romanian Government does effectively make use of the legislative delegation procedure, the author has estimated as being necessary for her analysis to elaborate a survey perspective about how intensely is this work modality made use of. Information published upon the Chamber of Deputies' site had therefore been gathered while the data concerning the time period going from 1990 until 2022 had been consequently reunited within an illustrative Table. (For reasons of scientific rigor, it is imperative to precise that on this site there is as well uttered a responsibility declining statement that does concern the offered information having the form: “*Responsibility declining: Informations published in this column as well as the texts of the normative acts are deprived of an official acknowledgement*” but that these still are offered for informative purposes to the interested readers. https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2021&emi=3&tip=18&rep=0, accessed on January 22nd, 2023).

Table 1: Information published on Chamber of Deputies' site from 1990-2022

No. crt.	Year	Number of emergency ordinances/ information's source	Number of ordinances/information's source
1.	1990	https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1990&emi=3&tip=18&rep=0&nrc=0	https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1990&emi=3&tip=13&rep=0&nrc=0
2.	1991	https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1991&emi=3&tip=18&rep=0&nrc=0	https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1991&emi=3&tip=13&rep=0&nrc=0
3.	1992	1 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1992&emi=3&tip=18&rep=0&nrc=0	28 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1992&emi=3&tip=13&rep=0&nrc=0
4.	1993	2 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1993&emi=3&tip=18&rep=0&nrc=0	27 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1993&emi=3&tip=13&rep=0&nrc=0
5.	1994	2 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1994&emi=3&tip=18&rep=0&nrc=0	70 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1994&emi=3&tip=13&rep=0&nrc=0
6.	1995	2 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1995&emi=3&tip=18&rep=0&nrc=0	45 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1995&emi=3&tip=13&rep=0&nrc=0
7.	1996	13 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?	44 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an

		an=1996&emi=3&tip=18&rep=0&nrc=0	=1996&emi=3&tip=13&rep=0&nrc=0
8.	1997	92 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1997&emi=3&tip=18&rep=0&nrc=0	70 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1997&emi=3&tip=13&rep=0&nrc=0
9.	1998	72 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1998&emi=3&tip=18&rep=0&nrc=0	131 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1998&emi=3&tip=13&rep=0&nrc=100
10.	1999	218 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1999&emi=3&tip=18&rep=0&nrc=200	120 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=1999&emi=3&tip=13&rep=0&nrc=100
11.	2000	297 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2000&emi=3&tip=18&rep=0&nrc=100	138 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2000&emi=3&tip=13&rep=0&nrc=100
12.	2001	195 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2001&emi=3&tip=18&rep=0&nrc=100	88 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2001&emi=3&tip=13&rep=0
13.	2002	209 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2002&emi=3&tip=18&rep=0&nrc=200	73 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2002&emi=3&tip=13&rep=0
14.	2003	127 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2003&emi=3&tip=18&rep=0&nrc=100	95 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2003&emi=3&tip=13&rep=0
15.	2004	142 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2004&emi=3&tip=18&rep=0&nrc=100	94 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2004&emi=3&tip=13&rep=0
16.	2005	209 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2005&emi=3&tip=18&rep=0&nrc=200	55 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2005&emi=3&tip=13&rep=0
17.	2006	136 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2006&emi=3&tip=18&rep=0&nrc=100	64 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2006&emi=3&tip=13&rep=0
18.	2007	157 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2007&emi=3&tip=18&rep=0&nrc=100	47 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2007&emi=3&tip=13&rep=0
19.	2008	229 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2008&emi=3&tip=18&rep=0&nrc=200	28 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2008&emi=3&tip=13&rep=0
20.	2009	111 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2009&emi=3&tip=18&rep=0&nrc=100	27 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2009&emi=3&tip=13&rep=0
21.	2010	131 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2010&emi=3&tip=18&rep=0&nrc=100	29 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2010&emi=3&tip=13&rep=0
22.	2011	125 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2011&emi=3&tip=18&rep=0&nrc=100	30 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2011&emi=3&tip=13&rep=0
23.	2012	95 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2012&emi=3&tip=18&rep=0	26 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2012&emi=3&tip=13&rep=0
24.	2013	115 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2013&emi=3&tip=18&rep=0&nrc=100	32 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2013&emi=3&tip=13&rep=0
25.	2014	94 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2014&emi=3&tip=18&rep=0	29 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2014&emi=3&tip=13&rep=0
25.	2015	66 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2015&emi=3&tip=18&rep=0	43 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2015&emi=3&tip=13&rep=0
26.	2016	99 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2016&emi=3&tip=18&rep=0	27 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2016&emi=3&tip=13&rep=0
27.	2017	117 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2017&emi=3&tip=18&rep=0&nrc=100	30 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2017&emi=3&tip=13&rep=0
28.	2018	114 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2018&emi=3&tip=18&rep=0&nrc=100	18 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2018&emi=3&tip=13&rep=0
29.	2019	89 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2019&emi=3&tip=18&rep=0	27 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2019&emi=3&tip=13&rep=0
30.	2020	226 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2020&emi=3&tip=18&rep=0&nrc=200	8 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2020&emi=3&tip=13&rep=0
31.	2021	145 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2021&emi=3&tip=18&rep=0&nrc=100	19 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2021&emi=3&tip=13&rep=0
32.	2022	192 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2022&emi=3&tip=18&rep=0	37 / https://www.cdep.ro/pls/legis/legis_pck.lista_anuala?an=2022&emi=3&tip=13&rep=0

From it the general trend, which does obviously result, is the one that from 1992 until 2022 the legislative delegation procedure had been made use of with an always increased intensity degree. For example, if in 1992 a one and only emergency ordinance had been adopted their maximum number of 297/year had been respectively reached to in 2000 while even in 2022 have been adopted 192 of such normative acts. Such an evolution does indeed

respect logics because it does closely follow the current dynamics of the social relationships. The author does as well remark the fact that from 1992 until 2022 every year a lot of ordinances had also been adopted upon the lawful grounds of habilitation laws duly adopted by the Parliament but that however comparatively speaking, these latter number had been by far smaller.

Of course, a simple enumeration of how many ordinances or emergency ordinances had been adopted every year could in no way at all lead towards the real understanding of the currently manifested social phenomena in the respective senses that there are not enough grounds upon which to appreciate that the effective use made of them could be or not excessive or either that their use could or could not be associated with an allegedly doubtful quality level held in general by the regulatory activity itself. Though the legislative delegation procedure is by itself an exceptional mean, the great number of normative acts usually adopted through it is however not the most dangerous concern to become worried about in this respect. It is instead the creation and subsequent existence of some social relationships which are effectively able to evolve upon the respective grounds of some juridical norms in regard to which a certain moment could come when the fact should be ascertained that these are effectively contrary to the fundamental law. The author does mention two issues we should be worried about. The former issue does refer to the possible valid effects which could therefore be generated by the non-constitutional juridical norms initially enforced because of being contained by ordinances or emergency ordinances. Throughout the current juridical practice, the effects generated by the above-mentioned defaultive norms might still remain applicable even after the Constitutional Court should have had ascertained these norms' non-constitutional status. In this sense the Constitution of Romania in its art. 147 par. (1) does state that: "(1) Should these have been respectively ascertained as being non-constitutional the dispositions contained by the enforced laws and ordinances as well as the ones of the enforced regulations would cease their current juridical effects within a time interval of forty-five days since the moment of the publishing of the Constitutional Court's Decision should within this interval the Parliament or Government suiting the case not situate the above-mentioned and uttered as being non-constitutional dispositions in accordance with the statements of the Constitution. Throughout the duration of this term the dispositions having been ascertained as non-constitutional are lawfully suspended." The concerned persons and law subjects could therefore in no way be restored into their respective status that had existed before the enforcement of the ordinance or emergency ordinance which had contained the juridical norms afterwards declared as non-constitutional because this issue is by now not even taken into consideration. The second issue to become worried about is the one that the constitutional or not respective status held by the juridical norms that are contained within ordinances or emergency ordinances could be verified by the Constitutional Court of Romania only should this latter be intimated through a to it submitted non-constitutionality exception. (The Law no. 554/2004 of December 2nd, 2004 – Law on the administrative contentious procedure, published in Official Monitor of Romania, Part I, no. 1154 of December 7th, 2004, with its up-to-dated modifyings does precise what should be the procedure to be followed by a law subject person which would consider herself as being prejudiced in one of her rights or legitimate interests through ordinances or dispositions by these latters contained:" Art. 9 Lawsuits versus the Government's Ordinances).

(1) The person prejudiced in one of her rights or legitimate interests through ordinances or dispositions by these latters contained may sue them at the administrative contentious procedure's court should this lawsuit be accompanied by the forwarded non-constitutionality exception. Insofar the lawsuit's main object would not be the ascertaining of the non-constitutionality status held by the respective ordinance or emergency ordinance.

(2) Should it appreciate that the forwarded exception does effectively fulfill the conditions stated by the Law no. 47/1992 on the organization and functioning of the Constitutional

Court, re-published, in its art. 29 par. (1) and (3) the contentious administrative procedure's court would therefore intimate about it through a motivated conclusion the Constitutional Court would as well suspend the essential resolution of the cause.

(3) After the Constitutional Court has uttered the contentious administrative procedure's court would therefore reinstate the cause upon its own lawsuits current roll with the sides citing procedure therefore also issuing a time interval. Should the respective ordinance or one among its dispositions have been declared as non-constitutional, the court would resolve the cause's essential issue; on the opposite case the respective lawsuit would be rejected as non-admissible.

(4) Should the Decision of declaring a non-constitutionality status have been the consequence of an exception risen in another cause, the initial lawsuit could therefore be directly intimated towards the competent administrative contentious procedure court within the limits of a one-year decay term calculated from the moment of the Constitutional Court's Decision's publishing in the Official Monitor of Romania, Part I.

(5) The lawsuit stated by the present article may have as its own object the granting of indemnifications for the prejudices caused through the Government's ordinances, the annulment of the administrative acts issued upon their grounds as well as suing the occurred case the obligation for a public authority to issue an administrative act or to realize a certain administrative operation. Should no person at all feel prejudiced through the applying of such a norm (even would this norm be effectively contrary in respect to the constitutional statements), it would therefore continue to produce its juridical effects because it could still enjoy the presumption of lawfulness.

Since the lawfulness analysis, which ought to be performed upon the ordinances adopted by the Government, is the imparted prerogative of the Constitutional Court, the author has therefore performed the analysis of the admission Decisions it had uttered (<https://www.ccr.ro/jurisprudenta-decizii-de-admitere/>). The respectively ascertained facts had been the ones that during the time interval going from 1994 until 2022, there had been years when no non-constitutionality exceptions at all had been admitted (1997 and 1999) but that in other years a lot of them had been admitted instead (for example in 2007 and 2008 each year a number of ten non-constitutionality exceptions had been admitted, which did concern dispositions from ordinances or emergency ordinances; or in the author's opinion, this is a too large number). This statement does not point out the number itself but instead towards the social consequences respectively generated by the above-mentioned ten regulations afterwards declared as being non-constitutional. It does practically underline the unfortunately existing phenomenon that a still unknown number of juridical relationships do exist which had been created as direct consequences because upon the grounds of some regulations afterwards declared as being non-constitutional; or these juridical relationships would be able to still exist even after their respectively generating regulations would have ceased their actions.

The question does thus naturally arise: Is this legislative mean useful? Is it worthy to be maintained?

The author does estimate that to this question the answer could only be affirmative. The legislative delegation procedure does continue to be necessary in order to resolve some quite urgent social problems that the legislative practice while functioning in accordance with its usual procedure could not efficiently cope with because it would take too much time or because the Parliament might not be active right at that respective moments. The author has studied all of the admission Decisions uttered by the Constitutional Court during the chosen period and has therefore ascertained the respective facts that it had issued a rather important number of Decisions which do concern the non-constitutionality status established for juridical norms which are contained by laws (so which had eventually been adopted through the usual legislative procedure). For example, in 2007 apart from the above-mentioned ten

non-constitutionality exceptions that had been admitted which did concern dispositions from ordinances or emergency ordinances, another twenty-six non-constitutionality exceptions had as well been admitted which had concerned norms contained by laws (https://www.ccr.ro/jurisprudenta-decizii-de-admitere/?anul_postului=2007, accessed on January 15, 2023). The main problem to be dealt with does thus not refer in the author's opinion to the procedure instrument itself through which the legislative practice is effectively performed but instead to the by far more delicate issue which as a matter of fact is represented by the quality level effectively reached to by the individual persons which do become involved in the legislative process (Nicu 2012, 293-301). In the author's opinion most of the issues that ought to be perfected do pertain to this latter area.

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The Legal Status of *Libertini* in Roman Law

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ABSTRACT: Towards the end of the Ancient Era, the legal institution of manumission represented a more advanced form of exploitation of former *servi*. Manumission was not created in favor of the former *servi*, proof that they were considered free people only in relation to third parties and that they did not acquire all civil and political rights, but in favor of the former masters, who had turned into patrons and who continued to exercise their influence on them through patronage relations.

KEYWORDS: *libertini*, *libertus*, *vindicta*, *censu*, *testamento*, limitation laws of manumissions

Notion

Libertini were *servi* freed by their masters from legal slavery (*libertini, qui ex iusta seruitute manumissi sunt*) (Girard 1890, 167). In order to understand more quickly the reason for the existence of the legal institution of manumission, it should be mentioned that towards the end of the Republic, there was a *servus* revolt led by Spartacus. The reality demonstrated the fact that *servi* were not considered persons (subjects of legal relations), but their objects. They could be exploited until exhaustion, which is why they did not give the return sought by their owners. The revolt led by Spartacus drew attention to the legal condition of the *servi* and demonstrated their desire for freedom.

Under these conditions, the *servus* owners understood the fact that the system of slavery is anachronistic and that the exploitation of people must take on other, more efficient forms. Therefore, the *servus* owners did not resort to manumit out of generosity, since the Roman economy was based on the labor of *servi*, but for practical reasons, since they understood that freed *servi* gave a better economic return in exchange for freedom.

The granting of freedom did not mean that the *servus* had left the former master's sphere of influence, since the former master had become the patron. The *libertus* was seen as a free person only by third parties. In relation to the former master, he had a condition similar to that of the son of the family in relation to the *pater familias*, proof that he depended on the former master with his person and goods.

In ancient times, when the *ius civile* was rigid and formalistic, the manumission was carried out through solemn forms and had the effect of acquiring Roman citizenship by the former *servus*. As the relations between the owners and the *libertini* weakened and the legal acts were freed from the ancient formalism, the manumissions became informal and no longer had the effect of acquiring the quality of a Roman citizen, but that of a Latin (Popescu 1992, 69).

The solemn forms of manumission

In ancient times, manumission was carried out through solemn forms: *vindicta*, *censu* and *testamento* (Axente 2020, 155). The person enslaved in these ways became a Roman citizen.

Vindicta was a solemn form of manumission that was carried out in front of a state authority. In ancient times, it was performed in front of the magistrate. On this occasion, the master uttered a solemn formula - *hunc liberum hominem esse volo* (I want this *servus* to be free) and touched the *servus* with a rod (*vindicta*). Touching the *servus* with the rod symbolized the presence of the spear, which was the symbol of Roman power and war. The free man lost his freedom by using the spear; symmetrically, the *servus* regained his freedom also by using the spear. Therefore, touching the *servus* with the rod symbolized the

renunciation of the power that the master had exercised over the servus until that moment. After completing these formalities, the magistrate pronounced the word *addico*, by which he gave legal value to the claims of the former master. In classical law, *vindicta* was much easier, since there was no longer any need to pronounce the previously mentioned solemn formula.

The *censu* was carried out at the time of the census. This is done in order to establish taxes. The censors had registers with the help of which they kept records of people and goods. Normally, *servi* were registered by their masters in the property register. The manumission was carried out, with the master's authorization, by transferring the servus from the register of goods to the register of persons (Garrido 1996, 451).

Manumission could also be done *testamento*. Testamentary manumission was of two kinds: direct and indirect. In the first situation, the testator expressed his will to free a servus. Manumission produced its effects at the moment of accepting the inheritance. This form of manumission was more advantageous for the *libertus*, since he had no patron.

Indirect manumission was the responsibility of the heir, as a result of an act of last will. As a rule, the act of last will took the form of a *fideicomis*. It represented a request addressed to the heir, by which he had to disenslave a servus through an act subsequent to the will. This form of testamentary manumission was disadvantageous for the former servus, because the heir became the patron of the *libertus*.

In Post-classical Law, a new solemn form of manumission appeared, the manumission made in the church (*manumissio procedit: aut enim ex sacris constitutionibus in sacrosanctis ecclesiis*) (Hanga 2002, 19). This was done through a declaration by the owner in the presence of the bishop and the people.

The non-solemn forms of manumission

Roman Law also knew non-solemn forms of manumission. These ways of manumission are provided by the Roman legal texts. According to Gaius's Institutes, manumission could be done by letter (*per epistulam*), in a circle of friends (*inter amicos*) or on the occasion of organizing a party (*per mensam*) (*manumissio procedit: aut enim ex sacris constitutionibus in sacrosanctis ecclesiis*). In the first situation, the manumission was carried out by means of a letter written by the master. In the second situation, the manumission was carried out based on the master's statement made in a circle of friends. In the third situation, manumission was done as a reward for the services rendered to the master. Compared to these methods, Justinian's Institutes add the possibility of freeing the servus in the street, when the praetor, proconsul or governor goes to the public bath or the theater (*servi vero a dominis semper manumitti solent, adeo ut vel in transitu manumittantur, veluti cum praetor aut proconsul aut praeses in balneum vel in theatrum eat*) (Girard 1890, 541).

Categories of *libertini*

Roman texts mention the existence of three categories of *libertini*: Roman citizens, Junian Latins and *dediticii* (*libertorum genera sunt tria, cives Romani, Latini Juniani, dediticiorum numero*) (Girard 1924, 124)

The *libertini* who became Roman citizens are *servi* freed by Roman citizens through *vindicta*, *censu* or *testamento*. They did not acquire all the rights enjoyed by the Roman citizen. In the opinion of the Romans, for easily understandable reasons, it was unacceptable that a *libertus* could have *ius militiae* (the right to be a soldier in the Roman legions) and *ius honorum* (the right to be elected as magistrate). He could not have *ius militiae*, because it was possible that the servus had fought against the Romans and it would have been inconceivable that a former enemy, who had become a Roman citizen, could enjoy this right. He also had no *ius honorum*, since a former enemy of the Roman people could not be elected as magistrate,

since, in this capacity, he would have participated in the decision-making process in Rome. The *libertus* took over part of the component elements of the former master's name: *praenomen* and *nomen gentilicium*. For example, after his release, Cicero's *libertus* was called Marcus Tullius Marci *libertus* Hermodorus. Marcus was the patron's first name, Tullius represented the patron's *nomen gentilicium*, *Marci libertus* was the equivalent of the parentage indication, and the *cognomen* was the name he had worn as a *servus* (Girard 1924, 129).

Junian Latins are *servi* manumitted through an informal way. Gaius tells us about them that they come from among the *servi* manumitted by letter or in a circle of friends, on the occasion of a party and that this name is due to the fact that they are assimilated to the Latins in the colonies and that they acquired their freedom through the benefit of the *lex Iunia* (*homines Latini Iuniani appellantur; Latini ideo, quia adsimulati sunt Latinis coloniariis; Iuniani ideo, quia per legem Iuniam libertatem acceperunt, cum olim servi uiderentur esse*) (Girard 1890, 168-169). We also know about them the fact that they lived free, but died *servi*, because the legal norms governing the matter of legal inheritance and testamentary inheritance did not apply to them (*non tamen illis permittit lex Iunia uel ipsis testamentum facere uel ex testamento alieno capere uel tutores testamento dari. Quod autem diximus ex testamento eos capere non posse, ita intellegemus, ne quid inde directo hereditatis legatorumue nomine eos posse capere dicamus; alioquin per fideicommissum capere possunt*) (Girard 1890, 169).

The *dediticii* are the former *servi* to whom the provisions of the *lex Aelia Sentia* were applied (Ciucă 1998, 163). Gaius mentions that this category included *servi* who were put in chains by their masters as punishment, those who were subjected to the red iron, those who, being suspected of committing a crime, were subjected to investigations by torture, and later it was proved that they were guilty of committing that crime, as well as those who were made to fight as gladiators (*lege itaque Aelia Sentia cauetur, ut, qui serui a dominis poenae nomine uincti sunt, quibusue stigmata inscripta sunt, deue quibus ob noxam quaestio tormentis habita sit et in ea noxa fuisse conuicti sunt, quiue ut ferro aut cum bestiis depugnarent traditi sint, inue ludum custodiamue coniecti fuerint, et postea uel ab eodem domino uel ab alio manumissi, eiusdem condicionis liberi fiant, cuius condicionis sunt peregrini dediticii*).

The legal condition of the *libertini*

After liberation, the former *servus* did not leave the sphere of influence of the one who had enslaved him. The power that the master had exercised over the *servus* (*dominica potestas*) was replaced by the legal relationship of patronage, which was characterized by the existence of certain rights and obligations.

The *libertus* had three obligations towards his *patronus*: *bona*, *obsequium* and *operae*.

Bona denotes the right that the *patronus* has over the goods of the *libertus* (Axente 2022, 153). Initially, when the patronage relationship was strong, this right was exercised even during the life of the *libertus*. Later, against the background of the decline of the power of the *pater familias* and the weakening of the relations between the *libertini* and the patrons, the latter exercised the *bona* upon the death of the *libertus*, provided that he had no legal heirs from the *sui heredes* category. If the patron was in difficulty, he had the right to receive maintenance from the *libertus*.

The *libertus* owed respect to his former master. This obligation of the *libertus* was designated by the term *obsequium* (Cătuneanu 1927, 135). In ancient times, the *obsequium* was the equivalent of the obedience that the *libertus* owed to the patron due to the fact that he had been manumitted. In other words, the *libertus* had a position almost similar to that of *filius familiae*, since the patron had over him the right of life and death (*ius vitae necisque*). The passage of time transformed this situation into the respect that the *libertus* owed to his patron, as

it follows from two classical texts, one belonging to Ulpian, the other to Gaius. According to Ulpian, when a patron asserts that his *libertus* has behaved contemptuously or offensively, or that he has insulted him, or his children, or his wife, or other such bad things, he will address the prefect who, depending on the seriousness of the complaint, will correct the culprit, either by reprimanding him, or by threatening him, or by hitting him with the *rub*, or by applying a harsher punishment; for most of the time, the free deserve to be punished. In any case, if the patron shows that he was accused by the *libertus* or that he conspired with his enemies against him, the *libertus* must be punished with deprivation of liberty by being sentenced to forced labor in a mine (*cum patronus contemni se a liberto dixerit vel contumeliosum sibi libertum queratur vel convicium se ab eo passum liberosque suos vel uxorem vel quid huic simile obicit: praefectus urbi adiri solet et pro modo querellae corrigere eum. Aut comminari aut fustibus castigare aut ulterius procedere in poena eius solet: nam et puniendi plerumque sunt liberti. Certe si se delatum a liberto vel conspirasse eum contra se cum inimicis doceat, etiam metalli poena in eum statui debet*) (Sâmbrian 2002, 190-191). According to Gaius, this obligation is materialized by the prohibition of the *libertus* to sue his patron without the authorization of the magistrate (*in summa sciendum est eum, qui cum aliquo consistere uelit, in ius uocare oportere et eum, qui uocatus est, si non uenerit, poenam ex edicto praetoris committere. quasdam tamen personas sine permissu praetoris in ius uocare non licet, uelut parentes patronos patronas, item liberos et parentes patroni patronae; et in eum, qui aduersus ea egerit, poena constituitur*) (Girard 1890, 290).

The *libertus* was obliged to render certain services to his patron. This obligation is designated by the term *operae* and materializes in two ways: *operae officiales* and *operae fabriles*. *Operae officiales* were ordinary services, resulting from the moral obligations that the *libertus* had towards his patron. The purpose of these services was to satisfy certain personal needs of the patron (for example, the obligation to accompany the patron on a trip). *Operae fabriles* were the services the *libertus* owed the patron according to his professional qualifications. They did not originate from the patronage relationship, but from a contract, *iusiurandum liberti*.

For a long time, *libertini* could not marry ingenues. Starting from the time of Augustus, this prohibition was annulled, except for the ingenues who were part of the senatorial order.

Limitation laws on manumissions

During the reign of Augustus, the question of limiting manumissions arose. Compared to the advantages it presented, this practice had gained momentum and risked affecting the economy, as well as the way of organization and functioning of the Roman state. The Roman economy was based exclusively on the work of *serui*, but the increase in the frequency of manumissions was likely to affect economic relations. The numerous manumissions were likely to affect the way the state was organized and operated, as certain *libertini* could become citizens, a quality that opened the doors to a career as a civil servant in the state apparatus. By virtue of these considerations, Augustus was obliged to limit the manumissions by means of the *lex Aelia Sentia* and the *lex Fufia Caninia*.

By the first law, measures were adopted against the manumissions that the *seruus* owner could do during his life. This law established the fulfillment of certain conditions (Watson 1991, 5) for the realization of manumissions. Gaius says that the first condition was that the manumission should not be done to defraud the creditors or the patron. *Serui* who had suffered serious punishments could not become Roman citizens, but *dediticii*. The *Lex Aelia Sentia* imposed certain conditions regarding the person of the master and that of the *seruus*. The jurisconsult Gaius stated that young people under the age of 20 could only free *serui* by *vindicta* and only if they had proven the just reason for the release before a commission. In Rome, this commission was composed of five senators and five pubescent Roman knights;

instead, in the provinces, the commission was made up of twenty recovery workers, Roman citizens. Gaius also tells us that just grounds for release are when someone releases his father or mother, a perceptor or a foster brother (*iustae autem causae manumissionis sunt, ueluti si quis patrem aut matrem aut paedagogum aut conlactaneum manumittat*) (Girard 1890, 171). The law also imposed certain conditions regarding the person of the servus. He had to be over 30 years old to become a Roman citizen; otherwise, it became Junian Latin.

Lex Fufia Caninia governed manumissions made by will. The jurisconsult Gaius, through a fragment of the Institutes, shows us that the testator can manumit a certain number of *servi*, which was related to the total number of *servi* at his disposal. The master who would have more than two *servi*, but not more than 10, can free up to half of their number; he who would have more than 10, but not more than 30, is allowed to release up to a third of this number. Instead, the one who would have more than 30, but not more than 100, is given the opportunity to release at most a quarter. The person who would have between 100 and 500 *servi* cannot free more than one fifth of the total number of *servi*. If someone has more than 500 *servi*, he cannot free more than 100 of them (*nam ei, qui plures quam duos neque plures quam decem seruos habebit, usque ad partem dimidiam eius numeri manumittere permittitur; ei uero, qui plures quam X neque plures quam XXX seruos habebit, usque ad tertiam partem eius numeri manumittere permittitur. at ei, qui plures quam XXX neque plures quam centum habebit, usque ad partem quartam potestas manumittendi datur. nouissime ei, qui plures quam C habebit nec plures quam D, non plures manumittere permittitur quam quintam partem; neque plures quam D habentis ratio habetur, ut ex eo numero pars definiatur, sed praescribit lex, ne cui plures manumittere liceat quam C*) (Girard 1890, 171).

Conclusions

Although it represented the foundation of the economy, towards the end of the Ancient Era, the institution of slavery had proven to be anachronistic. The *servi* wanted their freedom. Knowing that they could be exploited until exhaustion, they were not interested in working efficiently, or this fact could result in poor quality products and was likely to weaken the Roman exchange economy. To avoid such consequences, the Romans thought of a system that was not created in favor of the *libertini*, but in favor of the servus owners. This system allowed more efficient exploitation of the *libertini*, limited their rights and allowed the *pater familias* to maintain them in a state of dependence.

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