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Contemporary Models of Organization of Power and the Macedonian Model of Organization of Power

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Abstract

This paper is a critical analysis of the model of organization of power, which intends to prove that the traditional dichotomy parliamentary - presidential system has a relative methodological value in view of the character of the contemporary organization of power models. The Macedonian organization of power model is no exception to this statement. The political system is not determined only by the constitutional framework. It is also determined by the (un)democratic tradition, the model of political culture, the electoral and party system. In this sense, the same normative model works differently in different countries or different periods of development of the same political system. This is especially evident in the relations between Parliament and Government. The dominance of the executive government is not characteristic only of the organization of power model in the Republic of Macedonia, it is a global tendency as well. In that sense, the Assembly of the Republic of Macedonia shares the "fate" of the representative bodies in the contemporary parliamentary system. However, in the absence of a democratic tradition, the presence of subject political culture, strong elements of partocracy and party state, fragile and fragmented civil society and weak general public, the dominance of the executive over the legislative government acquires dramatic dimensions.

Keywords: organization of power; legislative power; executive power; political control

1. Introduction

The separation of powers as a fundamental principle of the organization of state government has a long tradition and is an essential element of the philosophy of important political thinkers in search of ways and instruments to limit the absolute monarchical power. The idea behind the separation of powers is the guiding idea in overcoming absolute monarchy. This line of thought was supported by Thomas Hobbes, John Locke and Charles Montesquieu. Montesquieu, raised the question of separation of powers in book XI, Chapter 6, *"On the spirit of laws"*[1] in describing the English Constitution, although he did not specifically mention the phrase "separation of powers". It seems that the basic premise summarizing the theory of Montesquieu on the separation of powers is as follows: *"To prevent the abuse if power, it is necessary from the very nature of things that power should be a check to power."* Montesquieu advocated separation of the legislative (puissance legislative), the executive (puissance executrice) and the judiciary (puissance de judger).[2]

The doctrine of Montesquieu on the separation of powers was brought to life in the U.S. Constitution, dated 1787, which inaugurated a presidential system of organization of power. "The intent was to remove the misunderstandings occurring at that time; it was to save the people from autocracy, by applying the principle of separation of powers."[3] Although the Constitution of the United States does not contain an explicit affirmation of the principle of separation of powers and government, it is nevertheless obvious, as the first, second and third article refer to the legislative, executive and judicial power. The legislative power belongs to Congress[4], the executive to the President[5], and the judicial power is exercised by the courts or, i.e. the judicial power of the United States has been entrusted with the Supreme Court.[6] "Every American

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[1] Charles- Louis de Secondat (Montesquieu), *De l'esprit des lois,* Paris, as found in R.Malnes, K.Midgard, *Политичка филозофија,* Скопје, 2008, pg.307

[2] R.Lukic, *Monteskjeova politička teorija,* Arhiv za pravne i drustvene nauke, Beograd, 1995, pg.119-134

[3] TH.O. Sargentich, "The limits of the Parliamentary Critique of the Separation of Powers", 34 Wm. & Mary L,. Rev.679, (1993)

[4] Article 1, Section 1 of the U.S. Constitution

[5] Article 2, Section 1 of the U.S. Constitution

[6] Article 3, Section 1 of the U.S. Constitution

knows that power in America is divided into three segments ... The function of Congress is to make laws, the President, to execute the laws, and the Court, to interpret the laws."[1]

When we say that the system is based on the principle of separation of powers, this means that the relations between the holders of state power are characterized by organizational and functional independence. In this respect, we refer to systems based on the principle of strict separation of powers (presidential system) and systems based on flexible separation of powers (parliamentary and mixed systems). It is notable that all forms of organization of state power occurred and developed empirically.[2] The parliamentary system originated in England, and the presidential system in the U.S. In fact, political science, builds the model of the parliamentary system based on the English political experience, and the presidential system based on the American model.

2. Important features of the parliamentary system

The parliamentary system of government is based on the principle of flexible separation of powers. Unlike the parliamentary system, the presidential system is based on the principle of strict separation of powers.[3]

In the parliamentary system there is a balance of the three powers, and mutual relations are regulated by mechanisms of cooperation of the legislative and executive authorities.[4] Apart from the flexible separation of powers, an important characteristic of parliamentary systems is the interdependence, i.e. the political responsibility of the Government to the Parliament, where the Parliament has the power to vote no confidence to the Government and the Government can ask the Head of State to dismiss Parliament. Furthermore, the ministerial and parliamentary functions are compatible, because members of the cabinet (the Government) must be members of Parliament, as is the case in England, but not in the Netherlands[5] Norway[6] and Luxembourg[7] .

The birthplace of the pure/classical parliamentary system is England (Mater Parliamentorum).[8] Although Great Britain has a constitution in the material sense, it is a specific example in its modern constitutionalism, in the absence of written, i.e. codified constitution. This legal and political paradox springs from and responds to a unique historical tradition in which the fight against absolute power, in support of limited power, and the recognition of the Parliament, as the carrier of the sovereignty and a school of democracy, along with the rule of law and the changing constitution discarded the need for a written Constitution.[9] In Great Britain, the contemporary model of government organization qualifies as a cabinet system or a system of cabinet government, even as a prime minister system, because of the dominant role of the cabinet, or the prime minister. In England, the House of Commons (lower house) selects the Cabinet and the Cabinet is accountable to the House of Commons, however the Cabinet can also dismiss the House of Commons in case of a no-confidence vote against them, according to the maxim stand or fall together. As for the responsibility of the Cabinet to the Parliament, the rare occurrence of a no-confidence vote does not diminish its importance.

In this country, the parliamentary system actually arose from and in relation to the political responsibility of the government and its two essential elements; first: the government is fully accountable for its work, i.e. the entire cabinet must enjoy the confidence of the House of Commons, and second, in case of no-confidence, the government resigns[10]. However, there are still cases where the Prime Minister was overthrown by the House of Commons, the one with MacDonald in June 1924 and the one with Callaghan in March 1979[11].

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[1] The Federalist, 1961, No.48. pg. 347

[2] С. Климовски, В. Митков, Т. Каракамишева и Р. Тренеска, *Уставно право,* Просветно дело, АД. Скопје, 2003, pg.350

[3] R.J Krotoszynski, " The separation of legislative and executive powers", in Tom Ginsburg, Rosalind Dixon (eds) , *Comparative Constitutional Law,* Edward Elgar Publishing, Cheltenham, 2011, pg.234.

[4] С.Шкариќ, Г.Силјановска, *Уставно право,* Скопје, 2009, pg.508.

[5] Article 57, line 2 of the Constitution of the Kingdom of the Netherlands.

[6] Article 62 of the Constitution of the Kingdom of Norway

[7] Article 60 of the Constitution of Luxembourg

[8] С.Шкариќ, Г.Силјановска, *Уставно право,* Скопје, 2009, pg.512.

[9] In this respect see also О. Диамел, *Уставно право-Демократиите,* Скопје, 2004, pg.108

[10] С.Шкариќ, Г.Силјановска, *Уставно право,* Скопје, 2009, pg.512.

[11] О. Диамел, *Уставно право- Демократиите,* Скопје, 2004, pg.117.

With respect to the relationship between the legislative and executive power, it must be noted that, in England, although the legislative function is formally in the hands of parliament, in over 90% of cases, the Cabinet proposes the laws. The situation is similar in other modern democracies, with the exception of the U.S., where Congress has still retained a proactive role in the legislative process, and only the members of the House of Representatives and the Senate are authorized to propose and adopt laws. Nevertheless, the aforementioned statement with respect to the British parliamentary reality does not mean that British MPs have given up proposing legislation. It only means that in today's environment, the control function towards the Cabinet has become the dominant feature of the House of Commons. The budgetary function and control, has also been reduced to the close supervision of the executive branch policy, particularly with the departmental select commissions, introduced in 1979.

Throughout history and even today, the parliamentary system is found in various forms in Italy, Belgium, the Netherlands, Sweden, Norway, Japan, India, Canada and other countries.[1] After World War II, the Constitution of Italy introduced features of a classic parliamentarism. The organization of power is based on the principle of separation of powers.[2] The characteristic of the Italian parliamentarism is the responsibility of the Government before the two houses, unlike other countries with a parliamentary system in which the Government answers only to the House of Commons (lower house). The Parliament can delegate the legislative function to the Government, but only with prior, set out principles and guidelines by the Parliament, and only for a limited time and in certain areas.[3]

3. Presidential model of government organization

The presidential system is based on the principle of strict separation of powers into legislative, executive and judicial, as well as the system of checks and balances. This system ensures the independence of the three branches of government. The name of this system comes from the shape of the executive power, which is performed by a collegiate body – the President. The function of the head of state and head of government are united in one person – the President.[4]

Therefore, the flexibility of the executive functions in the collegiate body is the key feature of the presidential system.[5] Apart from that, the presidential system is characterized with: relations between the legislative, executive, and judicial powers, structured on the principle of checks and balances. In a presidential system, there is a greater degree of independence of each of the three powers, in comparison to the parliamentary system.[6]

There is no clear constitutional model of the presidential system in the modern democracies, except in the United States.[7] The U.S. Constitution introduces not only a model of presidential republic; it also introduces a model of a presidential system of organization of state power. More than two hundred years after the adoption of the U.S. Constitution of 1787, the U.S. presidential republic and the American presidential model of government organization still function efficiently with the help of the checks and balances among the three powers.[8]

The aim of the founding fathers of the American constitution was to create a government organization which will provide the right balance between the legislative, executive and judicial power. However, the relationship between the legislative and the executive power is not always determined solely and exclusively by the constitutional framework. In certain situations, the President can interfere in the legislative activity, which is the responsibility of Congress. When talking about presidential powers it should be underlined that he/she possesses the de facto authorities, which are not provided for in the Constitution. Many presidents in the American constitutional history have adopted executive orders. This power of the President of the United States is also seen in the recent initiatives of the incumbent President Barack Obama. Namely, on

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[1] On the British cabinet system, the French fragmentary parliamentarism of the III and IV French Republic and the German chancellor system see V. Vasovic, str. 336-405; 456-466 and 577-639.

[2] Articles 55-137, of the Constitution of the Republic of Italy

[3] Article 76 of the Constitution of the Republic of Italy

[4] С. Климовски, В. Митков, Т. Каракамишева и Р. Тренеска, *Уставно право,* Просветно дело, АД. Скопје, 2003, pg.358

[5] С.Шкариќ, Г.Силјановска, *Уставно право,* Скопје, 2009, pg.503.

[6] Sokol-Smerdel, "Organizacija vlasti", Narodne novine, Zagreb, 1988, str.115.

[7] B.Guy Peters, The Separation of Powers in Parliamentary Systems, Chapter III, p. 68, in *Presidential Institutions and Democratic Politics-Comparing Regional and National contexts,* edited by Kurt Von Menheten, London, 1997.

[8] Г. Силјановска-Давкова," Современи "модели" на организација на власта: дилеми и предизвици'', *Zbornik pravnog fakulteta u Zagrebu* br.2, 2011, pg. 365-391

issues that he cannot push through Congress, he invokes the executive orders, which, in turn stimulates debate on the constitutionality of these Presidential acts.[1] In the case of international agreements, which fall under the authority of the President, that should be in turn ratified by the Senate, before entering into force, the practice shows cases in which American presidents sign so-called executive agreements, bypassing international treaties that require ratification.

Different political systems recognize different types of veto: pocket veto, partial veto, package veto.[2] The U.S. Constitution offers a pocket veto, which is often used. Namely, if Congress passed a legislative proposal and submitted this to the President for signing in the last ten working days before the end of session, the President can decide not to respond in any way, because from a formal aspect he is robbed of the possibility to state his position in the ten-day deadline which is provided for in the Constitution. By putting a pocket veto the president feels more comfortable, since it enables him to avoid explicitly explaining his reasons for not signing, the ordinary veto may create certain political problems. Basically, the consequences of pocket veto are that the specific legislative proposals must again go through the whole procedure of adoption, which in any case, creates difficulties for the proposal/bill to become a law. This demonstrates the importance and role of the President in such a system of separation of powers.

In the American political system, the President, as head of the biggest world power, *de facto* elected by the people, freely defines the composition of his "government" that the Congress cannot topple, and armed with the powers and means, he runs the country.[3] Since he/she is elected on direct elections, the President is not accountable to Congress, i.e. has no political responsibility, and remains in his post until the expiry of the four-year term, regardless of his/her policies and regardless of whether Congress or the voters are satisfied or not with his work. Accordingly, the only sanction which the U.S. President is subject to is him not getting re-elected on the following elections. In the U.S., in addition to the President, the President's aides and associates, as well as the members of his cabinet have no responsibility before Congress. They are appointed and replaced depending on the will of the President. Therefore, the principle of separation of powers in this regard is very consistently applied: independent in relation to the legislative, the executive does not bear political responsibility before the legislative branch.[4]

The President can only answer to impeachment charges[5]. In such circumstances, the procedure for liability begins in the House of Representatives, where the impeachment charges are raised with a 2/3 majority vote. Then, it goes to the Senate, which, in this case, is not chaired by the Vice President of the United States, who usually chairs the Senate, but the Chief Justice. In 1868, the Senate was one vote away from impeaching former President Andrew Johnson. In August 1974, the U.S. President Richard Nixon resigned to avoid impeachment on the Watergate Affair. In January 1998, impeachment was also raised against President Bill Clinton, but it failed because the Senate did not provide two-thirds of the vote required for his impeachment.

4. Mixed model of organization of power

The combined or mixed system is a form of state government, which is a combination of principles and decisions taken from the parliamentary and presidential system. This system appears as a way out of the difficult dichotomy presidential - parliamentary system. The theoretical literature devoted to this system is relatively poor. Sartori is one of the few proponents of the mixed system which gives an advantage over the extreme parliamentarism and the extreme presidentialism.

Robert Elgie distinguishes three kinds of definitions for determining its main features. The first is governed by the real power of political institutions. As a semi-presidential system, this type of definition gives the double-hated executive power to the president who has pronounced powers.[6] In order to determine the existence of this system, it is sufficient to determine the greater power of the President in comparison to that of the prime ministers and cabinet. This definition, as a reflection

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[1] Available in www.usnews.com/debate-club/is-obamas-immigration-executive-order-legal

[2] Б. Ванковска, *Политички систем*, Скопје, 2007, pg.122.

[3] O. Диамел, *Уставно право-Демократиите,* Скопје, 2004, pg.122.

[4] M. Jovicic, "Parlamentarni sistem nasuprot predsednickom i skupstinskom sistemu", Arhiv za pravne i drustvene nauke, 1992. Beograd, pg. 43-64.

[5] The U.S. President can be impeached in cases of treason, bribery and other high crimes and misdemeanors.

[6] Г. Силјановска-Давкова," Современи "модели" на организација на власта: дилеми и предизвици'', *Zbornik pravnog fakulteta u Zagrebu* no.2, 2011, pg. 369

of the semi-presidential system refers to most countries from Central and Eastern Europe, including the countries that emerged from the Soviet Union.

The second type of definition, combines constitutional decisions to the current power of the holders of executive power. According to Maurice Duverger, the first theorist who used the term mixed system, the semi-presidential political system is one in which the constitution contains the following elements: the President of the Republic is elected in direct elections based on the universal suffrage; he/she has greater powers; and opposite him/her, the President has the Prime Minister and the Ministers who have executive and administrative powers and can retain the position as long as they have the support of Parliament.[1] According to this definition, the semi-presidential system refers only to France and Portugal.

The third approach focuses on the institutional model, regardless of the actual relationship. Accordingly, there is a mixed system where the directly elected president, with a fixed term, exists side by side with the Prime Minister and Cabinet, which are accountable to Parliament for their work.[2]

The French Constitution of 1958 contains a model of a combined system. In this document, the most dominant and key figure in the constitutional system is the President of the Republic.

The President of the Republic appoints the Prime Minister. When the Government of the Prime Minister resigns, the President of the Republic dismisses him/her from office[3], adopts laws, opens and closes sessions of the French Parliament by decree. The French model of state power also has characteristics of a parliamentary system: the political responsibility of the Government to the Parliament; the legislative initiative of the Government; the great influence of the Government in drawing up the agenda of the parliamentary sessions.

Although previously, the combined system was defined as a way out of the dichotomy of the presidential - parliamentary system, this model itself is somewhat contradictory and confrontational, especially when the President and the parliamentary majority are not from the same political camp. The result of this relationship is an increase in the risks of possible conflicts and freezes of the institutions.

5. Macedonian model of organization of power

The European political space is a world of hybrid models of organization of power.[4] The Macedonian model of organization of state power belongs to the group of combined systems. Although it is dominated by elements of the parliamentary system, it has elements of the presidential system as well.

The parliamentary characteristics of the Macedonian model of organization of power are: the double-hated executive power; Government derives from the parliamentary majority, and is accountable to the Assembly; the Government is an (un)stable element of the executive power. However, some standard elements of a parliamentary system are lacking, such as: the compatibility of the MP and the ministerial position[5]; there is no possibility for dissolution of the Assembly by the President, at the request of the Government.

The elements of the presidential system can be identified in: the direct election of the head of state; the right of suspension veto; the responsibility of the head of state for violating the Constitution and laws (impeachment). Therefore, it is clear that this is neither a "clean" parliamentary nor a presidential system. This is a combined model of governance, in which there are relicts of the parliamentary system, or, as Professor Gordana Siljanovska refers to it, "Macedonian constitutional cocktail of the organization of power".[6]

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[1] M. Duverger, " A new Political System Model: Semi-Presidential Goverment" , *European Journal of Political Research,* 1980, no.8, pg. 166, as found in Б. Ванковска, *Политички систем,* Скопје, 2007, pg.144.

[2] E. Robert(ed.), *Semi-Presidentialism in Europe,* Oxford: Oxford University Press, 1999, p.146.

[3] Article 8 of the Constitution of the Republic of France

[4] Г.Силјановска, "За македонскиот модел на организација на власта" , *во Реформата на институциите и нејзиното значење за развојот на Република Македонија* , Скопје, pg. 371.

[5] Similar in the French model, institute vigorously support by De Gaulle

[6] Г. Силјановска, За македонскиот модел на организација на власта, во *Реформата на институциите и нејзиното значење за развојот на Република Македонија* , Скопје, pg. 347.

Academician Evgeni Dimitrov[1] has an original view of the organization of state power in the Republic of Macedonia. He believes that the Macedonian model of organization of power has combined the parliamentary model with certain elements of the assembly system. "Regardless of whether this will be a temporary or a lasting phenomenon, in addition to the existing basic forms of organization of the state, the current theory of constitutional law and political systems should define another new model, which could be labeled as a parliamentary system with elements of the assembly system. A system to which the Macedonian model of organization of state power would most certainly belong.[2]

The impact of Government (executive) on the Assembly (legislative)

The legislative and executive powers are two wheels of the same machine, if their movements are not harmonized, the machine will not function properly.[3] The relationship between the legislative and executive authorities is not one-sided, on one hand, the legislature affects the executive, and on the other, the executive has tools to influence legislative. To assess the impact of the legislative power over the executive, the following issues are important: first, the method of determining the holder of executive power, second, the political control over the work of the executive power, i.e. the political accountability of the executive power and third, the change of the holders of the executive power.[4]

The general tendency in the parliamentary system is also present in the Republic of Macedonia, i.e. the imbalance in the separation of powers in favor of the Government, which becomes much more than the executive power. The Government of the Republic of Macedonia is deeply involved in the legislative authority through: the actual status of dominant proponent of the laws; proponent of the budget and other regulations; stating their opinion on the proposed laws and other regulations proposed by other authorized bodies; participation in the work of the Assembly and its working bodies and the right to request convening a sessions of the Assembly. Here, it is worth noting that over 95 percent of the adopted laws have been proposed by the Government and passed by the MPs, as they have been proposed, sometimes even without any discussion, in the style of the subject political culture and party obedience.

By the adoption of the Rules of Procedure in 2008, the Government had the right as the proponent to submit amendments right until the end of the debate. The practice shows that the government often abused this right. Sometimes, at the last minute, it proposed amendments that actually changed the previous content of a certain provision of the proposed law.[5]

The so-called "aggressive" government policy that literally models the parliamentary (dis)satisfaction depending on their needs[6] is constantly present in the current parliamentary life in the Republic of Macedonia.

Conclusion

Constitutional norms and guarantees have proven to be insufficient for the democratic political system based on the principle of separation of powers. The lack of a longer democratic tradition, the (un)democratic political culture, with strong elements of patriarchalism and servitude not only in the interparty relations, but also in the work of the Assembly and the Government, as well as in their inter-relations stimulates undemocratic tendencies and distortions in the political system of the Republic of Macedonia, which has inevitably led to lagging behind in the European integration processes.

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[1] PhD Evgenij Dimitrov, the first professor of Constitutional Law in the Republic of Macedonia

[2] Е. Димитров, "Специфичностите на Парламентаризмот во Република Македонија според Уставот од 1991", во *Пет години од Уставот на Република Македонија,* Здружение за уставното право на Македонија, Скопје, 1998, pg.208

[3] Е.Жиро, *Извршната власт во демократскиите на Европа и Америка,* Париз, 1938,pg.19, преземено од М. Ристовска, Односи меѓу законодавната и извршната власт во Република Македонија, *Пет години од Уставот на Република Македонија*, Здружение за Уставно право на Македонија, Скопје,1998, pg.230

[4] Ibid, pg. 230

[5] С.Гушева, *Законодавната дејност на Собранието на Република Македонија,* Скопје, 2009.

[6] Т. Каракамишева, "Основни забелешки за системите на организација на власта и за потребата од реформирање на политичките институции во Република Македонија", во *Реформата на институциите и нејзиното значење за развојот во Република Македонија ,* Скопје, 2009, pg. 393-405.

Bibliography

[1]   Ванковска Билјана, Политички систем, Скопје, 2007.

[2]   Vučina Vasovič, Savremene Demokratije I, Beograd, 2006

[3]   Ginsburg,Thomas and Rosalind Dixon(eds),Comparative Constitutional law, Cheltenham:Edward Elgar Publishing, 2011.

[4]   Гушева Снежана, Политичката контрола над Владата на Република Македонија, Скопје, 2008

[5]   Гушева Снежана, Законодавната дејност на Собранието на Република Македонија, Скопје, 2009

[6]   Гушева Снежана, Политичката контрола на Собранието врз Владата на

[7]   Република Македонија,(LLM work), Правен факултет во Скопје.

[8]   Jennings John, Parliament, Cambridge, 1957

[9]   Jovicic Miodrag, Parlamentarni system nasuprot predsednickom i skupstinskom sistemu, Arhiv za pravne i drustvene nauke, 1992

[10]   Каракамишева Тања, Основни забелешки за системите на организација на власта и за потребата од реформирање на политичките институции во Република Македонија, Реформата на институциите и нејзиното значење во Република Македонија, Скопје, 2009

[11]   Китановски Лазар, Поделба на власта, Скопје, 1995

[12]   Malnes Raino, Midgaaed Knut, Politisk tenkning, Oslo, 2007

[13]   Ристовска Марика, Организација на власта во уставните системи, Скопје, 2014

[14]   Ристовска Марика, Теорија за поделба на власта и нејзината примена во уставниот поредок на Република Македонија (магистерски труд), Скопје, 1996

[15]   Sargentich, Thomas, O. "The limits of the Parliamentary Critique of the Separation of Powers", 34 Wm. & Mary L,. Rev, 1993.

[16]   Силјановска Гордана, За македонскиот модел на организација на власта, МАНУ, Скопје, 2009

[17]   Siljanovska-Davkova Gordana, Treneska Deskoska Renata, MAKEDONSKA(NE)DEMOKRATSKA SAGA: DAVID (SKUPŠTINA) PROTIV GOLIJATA (VLADA)?, u "Iskuśenja parlamentarizma" (ed) Slavisha Orlović), FPN i Fridrih Ebert , Beograd, 2013

[18]   Siljanovska – Davkova, Gordana. "Parliamentarism and/or Presidentialism: Dilemmas and Challenges": www.juridicas.unam.mx/wccl/ponencias/14/266/pdf, Mexico City, World Congress of IACL, 2010

[19]   Sokol Smerdel, Organizacija vlasti, Narodne novine, Zagreb, 1988.

[20]   Тренеска Рената, Извршната власт во демократските системи, Матица македонска, Скопје, 1999

[21]   Тренеска Рената, Типови на извршна власт (магистерски труд), Скопје, 1997

[22]   Heywood Andrew, Politika, përkthyer nga Sonila Danaj, Botimi i dytë,Tiranë, 2002

Шкариќ Светомир, Силјановска-Давкова Гордана, Уставно право, Култура, Скопје, 2009

eParticipation Issues in Contemporary Europe

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Abstract:

Today, Information and Communication Technologies have developed to the extent of amplifying political procedures that are central to the contemporary civic society, such as political participation and citizen engagement. eParticipation is a multidisciplinary field of study, which is particularly relevant in several contexts and environments, e.g. digital democracy, public services, open government, popular social media etc. This paper addresses the eParticipation framework in the European context, during the last 10 years. Our research will explore theoretically and empirically how citizen participation is achieved through social media and digital public services. The article explores both the cultural and political environments that favor the development of eParticipation initiatives, with the study of networking interactions based on social and public policy initiatives. We are particularly interested in the public policy formulations that embrace eParticipation and most importantly the recent developments in the field, which include a number of eConsultation, ePolling, eLegislation, eElectioneering, eVoting etc. A review of the good practice examples in eParticipation policy development will help us identify the strengths and weaknesses of the digital framework. Within the context of social value, we want to explore the aspect of eParticipation in the broader political scene, by examining the role of digital participation in political crises. By drawing examples based on case studies of public policy formulation in European countries, the research suggests a correlation between digital innovation and challenging politics. The framework is originally designed to be sustainable for the European societies and it places citizens in the center of its conception. It is, however, argued that the interaction between public policy innovation and citizen engagement needs continuous scholarly attention and study.

Keywords: eParticipation, innovation, eGovernment, social media, citizen engagement

I. Introduction

The potential for Information and Communication Technologies (ICTs) to increase political participation and address the growing democratic deficit across Europe and elsewhere has been the subject of many discussions. However, only recently a sufficient application of ICTs for the support of democracy has put this 'potential' in a real-world context. Past scholar work (Macintosh et al, 2003) considered two components to eDemocracy, one including eVoting as a part of the electoral process, and the other including eParticipation as a part of democratic decision-making. This article concerns the use of Information and Communication Technologies as a process that reinforces democratic participation and focuses on the value and use of ICTs in participatory democracy, while special attention is paid with regards to European democracies. The review of the eParticipation practice aims to clarify some possible prospects and limitations offered by ICTs in the participatory process. An important part of research on digital democracy in the last decade highlights the political advantages deriving from the use of the internet (Delli-Carpini, 2000; Coleman & Gøtze, 2004; Stanley & Weare, 2004). Given that citizen participation in technological resources is becoming increasingly common in Europe, learning from the recent experiences should be of particular interest to scholars and practitioners working in the field of eParticipation. The article builds on these earlier relevant studies and uses the definition of eParticipation as the use of ICTs to support information provision and 'top-down' engagement or 'ground-up' efforts to empower citizens, civil society organisations and other democratically constituted groups in order to gain the support of their elected representatives. Effective information provision is often seen as the conclusion of effective engagement and empowerment (Macintosh & Whyte, 2008).

As eParticipation applications gradually multiply both in the European Union and internationally, new systemic challenges emerge. Design of evolved services, new political initiatives and technological developments have to be examined under the light of a maturing domain. Within this context, the article will bring together a review of programs that are currently being implemented with the theoretical base founded upon, in order to discuss issues of both ideological and practical nature, so that a real exchange of knowledge and experience can be achieved. Specific attention will be paid, apart from

policy and technology issues, to implementation-related issues, such as good practice examples. Among other findings, this paper discusses the political value of the initiative for the contemporary European societies, as well as its role in political crisis. It is expected that the outcome of this research will contribute to the literature on electronic and participatory democracy, as well as provide a policy evaluation of the use of ICTs in a large-scale participatory initiative. The article will highlight four main challenges for eParticipation. The first will focus on the dual perspective; from the citizen's point of view how can technology enable an individual's voice to be heard and not be lost in the mass debate? There is a great need for technology and supporting measures to enable virtual public spaces such that an individual's voice develops into a community voice. From a government's perspective, there is the challenge of how to listen to and respond to each individual. Fostering online communities and developing e-engagement tools to support such communities could enable a more collective approach. The second challenge is how to build capacity and active citizenship by controlling ICTs power to encourage involvement of more citizens on public issues. This creates the requirement for accessible and comprehensible information and the opportunity to debate on important social issues. The third challenge concerns coherence. New information and communication technologies can be used to support the information, consultation, participation and analysis, as well as evaluation. Finally, consideration should be given to knowledge management methods and approaches so that they can support policy-making. It is expected that the outcome of this research will contribute to the literature on electronic and participatory democracy, as well as provide a policy evaluation of the use of ICTs in a large-scale participatory initiative.

II.   Understanding eParticipation

Online political participation is a challenging topic and object of research. In the literature, it is frequently found under eDemocracy, since both eParticipation and eDemocracy are conceptional compounds of the use of Information and Communication Technologies that link citizens with one another and with their elected government (Gadras & Geffet, 2013). This normative assumption is based on the conception of digital technologies that is supported by political actors and interest groups promoting eDemocracy. In this perspective, technologies are concerned to be a modern way to the re-invention of political networking and re-establishment of citizen-centred systems (Rosanvallon, 2008). The 'digital agenda for Europe', the initiative of the European Commission as a part of the *Europe 2020* programme, reflects and puts these concerns into perspective and terms of public policies (Chrisaffis & Rohen, 2010). The phenomenon of eParticipation has received increased attention during the last ten years, due to late technological advancements, experiments, policy reports and research implementations. Understanding this emerging field of politics is not easy as there is no approved definition of the field, no specific overview of the research disciplines or methods and because the boundaries of the field are undecided (Sæbø et al, 2008). Traditional literature will help us to identify scientific considerations important for the field's theoretical development. The theories used for this chapter provide the starting point for a grounded analysis that leads to the deployment of a general model: the eParticipation seen from a researcher's point of view. The theories provide structure for understanding the developing field, as well as an initial suggestion of its content. It also provides the basis for developing research guides for the future. eParticipation involves a technology-based interaction between citizens and the political sphere and between citizens and administration (Porwol, 2013).

The utilisation of information and communication technology in political participation enables public participation and interactiveness through simultaneous feedback and opens up a new channel for political participation while strengthening existing citizen engagement (Dijk, 2000). These notions of eParticipation as a consultative, democratic process which involves citizens in policy-making does not consider communication among citizens on informal channels such as social media. This chapter is a first step towards the understanding of citizen-focused eParticipation. We aim to develop an analytical framework for the understanding of government and citizen-led eParticipation; defining the conditions under which the integration of the two types of eParticipation produce the best outcome; and determining the potential of government and citizens to embrace eParticipation. To attempt a first approach of the concept of eParticipation, we need to analyse the term: 'e' and 'participation'. Participation is generally understood as 'joining' in the sense of taking part in some communal form of action, or in the sense of undertaking a role in decision-making (Sæbø et al, 2008). Though participation is the subject of many theoretical discussions (e.g. participatory management, community participation, participatory research), eParticipation is usually associated with some form of political initiative or decision-making. Participation is an integral part of the democratic political system (e.g. voting or activism). This literature research focuses on political participation in the decision-making sense and covers participation within and outside the formal political system. The 'e(lectronic)' in eParticipation has a direct association with recent 'e' disciplines (e.g. eBusiness, eGovernment) and

refers to the leverage of information and communication technologies (mainly, the internet) for the transformation of citizen involvement in decision-making processes.

eParticipation is largely understood as the technology-moderated interaction between the social and political spheres and between civil society and administration (Porwol, 2013). The focal point of eParticipation is the citizen, i.e., the target of eParticipation is to increase citizens' participatory power through digital governance. A number or other social initiatives, such as voluntary organizations and businesses, are also relevant in this context, but they are not the principal focus of eParticipation. Technology-based interaction between the political sphere and the administration sphere, which does not involve citizens, is thus less in focus in eParticipation (Sæbø et al, 2008). As a research area, eParticipation is related to other research areas. eParticipation is a subarea of eDemocracy (Macintosh et al, 2003). If eDemocracy is concerned with the mechanisms that strengthen democratic decision-making through technology, then eVoting and eParticipation focus on the means to achieve this. The main differences between the three: eDemocracy concerns itself with the structural democratic relationships in a society. eParticipation better defines a set of technology-mediated participatory processes, while eVoting focuses on one particular participatory process common to all representative democracies, the way that technology helps to enact the process (Sæbø et al, 2008).

The disciplines that are most usually connected to eParticipation is political science, political and social theory, public administration and sociology. A smaller number of contributions comes from other disciplines such as information systems, computer science, communications and science and technology studies. Models of democracy are frequently used for characteristic forms of participation (DiMaggio et al, 2001; Lourenco & Costa, 2006), while Habermas (1996) offers a more philosophical background for studying social participation (DiMaggio et al, 2001). A number of theories have been considered relevant, but only appeared inconsistently. DiMaggio et al. (2001) refer to innovation diffusion theories (Rogers, 1995), the network society (Dijk, 1999), and social capital (Putnam, 2000), among others. There is little common theoretical background on eParticipation, with an exception of theories from political science and political philosophy. Theories are used for a particular purpose by some researchers, linked to a particular theory or a particular research task (Sæbø et al, 2008). It is to be expected in a very young research area, there is little consistency or continuity in the choice of theories or research methods. There is no evidence of the emergence of a theory, or theories of eParticipation, whereas there is a considerable focus on the empirical examples.

eParticipation should be reviewed in the context of participatory culture. Contemporary eParticipation 'seeks to empower people with the help of Information and Communication Technologies, enable them to integrate in bottom-up decision-making processes, and to develop social and political responsibility' (Maier-Rabler & Huber, 2010). Modern ICTs offer more possibilities to citizens with regards to their political choices. The means to achieve participation in society and politics have been simplified. However, instead of making things easier for citizens with a variety of participatory means at their disposal, it poses greater challenges to them. If people want to move from occasional eParticipation to sustainable eParticipation, they need to learn how to make informed choices among the available ICTs and adequately use them. Acquiring capabilities for the informed usage of social media is therefore at the heart of modern participatory society (Maier-Rabler & Huber, 2010). A participatory society is featured by its participatory culture. "A participatory culture is a culture with relatively low barriers to artistic expression and civic engagement, strong support for creating and sharing one's creations, and some type of informal mentorship whereby what is known by the most experienced is passed along to novices. A participatory culture is also one in which members believe their contributions matter, and feel some degree of social connection with one another" (Jenkins et al, 2006, p. 3). The classifications of participatory activities individuals are engaged in reflect different perspectives from the different bodies of literature, ranging from the institutional to the individual. These classifications can include different forms of public participation which connect the individuals and the State, as well as social participation or individual acts of engagement, and this has led to our three-fold classification of public, social and individual participation (Brodie et al, 2009).

More specifically, public participation is the engagement of individuals in the various structures and institutions of democracy. This form of participation is often referred to as *political participation*. A good example to understand political participation is the act of engaging people to make their voices heard and giving them the right to influence these decisions that affect them, as well as enhancing the delivery of services (Cornwall, 2008; Involve, 2005). These meanings of public participation often privilege an institutional perspective and focus on the engagement of individuals in decision-making processes within existing political structures. *Social participation* refers to collective activities that individuals may elaborate as part of their daily routines. It is associated with an individual's associational activities in both formal and informal contexts (Jochum et al, 2005), and include cultural or voluntary and community engagement (Jochum et a., 2005). People often

choose to participate in associational life for a range of reasons that may have little to do with the State or the institutions of governance. People also engage on an individual basis. In this category, participation is based on an individual's personal values and worldviews as much as on personal experiences. Individual participation covers the choices that individuals make as part of their everyday lives, and reflects on the kind of society they wish to create and live in (Brodie et al, 2009). Within each of these three broad forms of participation there is a great number of individual participation activities, which can overlap between public, social and individual participation.

III. The Potential of Social Media

Participation is a key feature of a democratic nation, despite the varied forms of democracy existing. The liberal democratic approach considers elections as the central element of a democracy, while the deliberative theory of democracy includes public discussion and consultation of the citizens during the legislative process (Maier-Rabler & Neumayer, 2008). Therefore, societal and civic dialogue is an important part of political participation. The vision that new Information and Communication Technologies (ICTs) would increase citizen participation and especially among youth, has always followed the introduction of new media. The internet due to its interactivity and its nature as the promoter of user-generated content was perceived as a technology that would encourage democracy and participation. Nowadays, the internet and internet-based technologies are in the centre of communication infrastructure for developed economies. The use of positive potential of ICTs is a new challenge for both politics and society. ICTs can help to actively engage more citizens and - especially - youth into politics.

According to Fuchs (2008), communication and cooperation can be ameliorated by Web 2.0-technologies due to their new 'architecture of participation' (O'Reilly, 2005). The collaboration, decentralization and universality of the user-centered applications supports the transformation of the user into a producer and thus a more active aspect of the process (Birdsall, 2007).More importantly, for those who are skeptical about traditional forms of participation, the internet and Web 2.0 applications can serve as a channel for political engagement. Meaningful preconditions for eParticipation to ensure the democratic and political potential of ICTs are necessary, as well as the commitment of the existing political system for their protection (Maier-Rabler & Neumayer, 2008). These assumptions are in line with a participatory perception of democracy that merges eParticipation into the process of civic engagement.

Social media represents today a too high share of internet traffic[1], as people spend more and more time on social media sites, such as Facebook, YouTube and Twitter. The internet is a vital part of modern generations' lifestyle and especially appealing to the youth. With the turn of the millennium, the character of the internet changed rapidly by Web 2.0 applications such as MySpace, Facebook or Wikipedia (O'Reilly, 2005). These types of online activities are perceived by most people as trendy, easy and appealing, leading us to note that the strengths of social media are the alleged weaknesses of the pioneering eParticipation projects (Sæbø et al, 2008). Social media platforms are lowering obstacles to access and participation in conversation compared to governmental services. Participation is made easy in numerous ways, as for example, through national and local government adopting social media channels for citizen communication; or community groups using social media to engender community action. More importantly, this participatory culture creates the perception that developments can help modern democracies to include their citizens in the political process. Therefore, the use of social media can be considered as an effective way for filling in the gaps that prevent eParticipation from becoming part of people's lives.

The features of Web 2.0-based democracies extend the capabilities citizens have, in order to participate actively in democratic processes. Allegedly, the use of social media can: a) raise general awareness of important issues, b) make eParticipation platforms more accessible to audiences that are not involved in political discussions and c) utilise the newest trends in online communications to its advantage, making users' participation easier and more intuitive (Lacigova et al, 2012). Additionally, to address the political participation gap by the means of the internet and social web, closing the digital divide between the social media literate and illiterate must be set as an equally important goal. If eDemocracy policies aim to enhance and support civic participation, then the average individual citizen has to be empowered to the maximum in his

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[1] More than half of the world internet user have a social media account on the most popular sites, i.e. Facebook, Twitter and Pinterest, according to Internet Live Stats, http://www.internetlivestats.com/.

ability to participate in the democratic procedures (Maier-Rabler & Hubler, 2010). The social web is not simply a solution to the democratic question, rather than a challenge to its improvement.

Access to information is the main argument for complimenting new information and communication technologies as an enabler for citizen participation and thus more democracy in the society. Moreover, it is understandable that access alone is not enough and that people need to develop skills and literacy to acquire the desired information. Hardly ever this missing link between access and literacy, which is motivation and interest for political engagement receives enough attention (Maier-Rabler & Hubler, 2010). In ICT-favoured circles, people learn to handle new technologies and social media at ease, but this is not the case for most average citizens. To actually encourage people to use the newly acquired skills for participatory purposes, further motivation and guidance is needed. The integration of the two separate spheres of formal education in school and informal ICT learning in computer-based spaced would be vital to the support of development of civic and political engagement.

In order to illustrate the importance of using social media as an enabler for eParticipation, the validity of the above claims has been proven by demonstrating the utilization of social media by currently running eParticipation projects. OurSpace[1] sets the perfect example: an open-source social networking, designed to provide a forum for large groups of young people, regardless of nationality or language. The OurSpace project was an initiative of nine organisations from six European countries (Austria, Belgium, Greece, UK, France and Czech Republic) and was funded by the European Commission under the ICT Policy Support Programme in 2013. OurSpace included the commonly used features, such as user's profile, invitations, recommendations, rating and statistics, in a more appealing to young audiences way. Additionally, is had reached out to wide audiences by its own Android App, iGoogle gadget and a Facebook app, enabling mobile access to the platform and adjusting to the current trend that an increasing number of people use their mobile phones rather than their laptops to engage in online activities (Lacigova et al, 2012). The promotion of OurSpace on popular social networking sites, such as Facebook and Twitter, generates daily a wide user base from young audiences. In conclusion, the use of social media for increasing eParticipation can be a valid, cost-effective way to establish participation in policy projects, by promoting them as part of people's everyday lives.

IV. The value of eParticipation in modern democracies

Participation has become a motto in modern societies. Not only frequently used by policy-makers, it is also seen as a synonym of engagement, involvement and empowerment, in a context that involves 'public' or 'community'. Generally, the advantages of participation relate to service effectiveness and efficiency, decision-making quality and legitimacy and active citizenship (Smith & Dalakiouridou, 2009). In this chapter, we will examine the terms and social value of eParticipation, and summarise the current state of research in this field. Our analysis is focused on whether Information and Communications Technologies or electronic forms of participation enhance democratization and how.

The use of ICTs in the interim of democratic participation has made public participation more engaging to more target users, including citizens living abroad, younger generations, companies and organizations that had limited access to participation before. Medimorec, Parycek and Schossböck studied the influence of the ICT penetration on participatory democracy, in the Eastern Europe and Austria, and they observed a parallel shift of democratic mindset alongside internet penetration (2011). One of the many advantages of eParticipation was linked to the flexibility it offers in terms of time and location. Another one is the variety of choices offered to its participants. One sense of flexibility can be geographical, but flexibility can also define adjustable timing. Online services can be set up quickly and easily be adapted to different needs and are more up to date than offline tool (Medimorec et al., 2011). Additionally, eParticipation offers different forms of information, giving users the possibility to decide which services they need to use, how to access them and what kind of information they wish to have. It should, however, be noted that despite the length of opportunities provided are readily available, not all governmental sites take advantage of the possibilities on offer. A past review of state and federal government websites in the US revealed that key features that would facilitate connections or interactivity between government and citizens, such as email, comments or complaints, chat rooms, search features, broadcasting of government events, and website personalization were readily available for use. However, most governmental sites have not made enough progress at incorporating these democracy-enhancing features (West, 2004).

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[1]OurSpace, https://www.joinourspace.eu/

Personalisation allows users to customise and personalise their profiles, therefore increasing the usability of online services and applications. Interactivity is another major advantage. Today there are a number of ways users can provide feedback using a range of aspects, such as maps, construction documents, Web 2.0 modules or other interactive means (Medimorec et al., 2011). Interactivity improves the services offered by public administration, especially because it allows prompt reactions and the ability to provide more information when needed, thus improving relationships with users. Most US governmental websites reviewed between 2000 and 2001 increased their potential of communication because they included features of two-way interaction (West, 2004). Modern and interactive ICTs offer numerous opportunities to the user, to communicate simultaneously and non-simultaneously at the individual or collective level. According to producers of civic websites for youth, many young people are frequently contributing to websites, creatively engaging in invitations to join, to have their say and to represent themselves. The research project *UK Children Go Online* (UKCGO) investigated 9-19 year old users of the internet in the United Kingdom to find an increasing virtual engagement on behalf of the youth (Livingstone, 2010). The role of the youth and essentially the hope that ICTs can lead to more participation of youth, to more political awareness and increased engagement is evident in the eParticipation efforts, regardless of the fact that many initiatives fail to achieve that through implementation. A number of youth-targeted surveys were conducted in Austria to record the preferences of youth in political participation, the internet and Web 2.0 technologies. The results highlighted a reverse ration of interest between traditional politics and Web technologies: the more increased interest for Web 2.0 technologies one had, the more decreased an interest in traditional politics was expressed. (Maier-Rabler & Neumayer, 2008). It was, hence, assumed that Web 2.0 technologies can play an important role in the revitalization of political participation.

Other social utilities of eParticipation (and eGovernment, in general) include the ability to envisage policy, to offer to citizens the means to control the government and its policies, to balance the power of lobbies, to avoid corruption and to foster active citizenship, all with the long-term objective of strengthening representative democracy. Therefore, according to an OECD (Organisation for Economic Cooperation and Development) report, the objective of technology-enabled information dissemination, consultation and participation is to improve the policy-making process through a range of mechanisms designed for (2003):

- Engaging with a wider audience through counsel and participation technologies, which are adjusted to broader participation.
- Providing relevant information, in an accessible and comprehensive format, to the target audience in order to enable more informed participation.
- Enabling in-depth consultation and supporting online advisory debate.
- Encouraging the analysis of contributions to improve policy.
- Providing relevant feedback to citizens to ensure transparency in the policy-making process.
- Monitoring and evaluating the process to ensure continuous improvement.
- Therefore, it is important to distinguish the level of participation, the technology used, the level of the policy-making process and various other issues, which include the benefits that online participation potentially offers (Macintosh, 2004).

Based on data provided by the European Commission, many people today are losing interest and trust in the way their governments proceed with policy-making (Gatautis, 2010). There are issues of trust, openness and transparency, which remain the main concern, as the public lacks of confidence in governmental institutions (Panopoulou et al, 2009). In the meanwhile, public indifference and dissatisfaction is massively expressed through low turnout rates at elections, which further lead to representatives elected by a minority of the electorate. In this context, citizens increasingly demand greater transparency and accountability from the government, and favour public participation in the shaping of policies that they become the subject of (Gatautis, 2010). For these reasons, participation is gradually gaining vital importance in modern societies. The pursuit of governmental goals involves an effort to mobilise individuals, groups and communities, through perceiving active citizenship both as a responsibility as well as a right. Thus, participation starts develop in a moralising rhetoric, a functional condition of the state and a regulating discourse (Smith & Dalakiouridou, 2009). Empowering people and inviting them to 'cooperate' and get involved with the government is a key strategy to achieve the welfare state they demand.

eParticipation has become a key strategy with regards to the democratic deficit that Europe is facing. The term *democratic deficit* has appeared in connection with the EU, above all to indicate the opaqueness of decision-making (Smith &

Dalakiouridou, 2009). Great effort has been put into the upgrade of transparency and accountability in public power in the EU and the enhancement of its legitimacy. "Transparency is perceived as a necessary condition for democracy, as it ensures that citizens obtain all the information they need to call public authorities to account. Legitimacy demonstrates the capacity of European institutions to provide a system of good governance and fulfil their functions in an impartial manner. Citizens and other actors reflexively assess both the processes and the outputs of governance in terms of their legitimacy" (Smith & Dalakiouridou, 2009, p. 4). A number of initiatives promoting transparency and accountability have already been initiated by EU institutions, to evidently provide citizens with more opportunities for information, but in reality citizens feel insecure in front of increasing amount of information and remain reluctant to form their future as Europeans, an insecurity which results in a passive expression of citizenship (EACEA, 2013). The following good governance principles were formulated as an answer to the perceived mistrust of European citizens in the European structure. From 2000 onwards, the policy documents adopted by the European Commission make a clear reference to the transparency and accountability needed, while from 2002, consultations are given more importance as a citizen contribution to the policy-making.

The EU Research Framework Programmes 5, 6 and 7, following the logic of the first four framework programmes (1984-1998) for the support of the community research and technological development,have addressed various technological issues and tested a range of eParticipation services. More specifically, Framework Programme 5 launched an important number of projects to enable the online participation of all stakeholders in decision-making, in topics such as the improvement of interaction between citizens and public administrations, on-line mediation systems for citizens and their representatives, the enhancement of the former's participation etc (Chrisaffis & Rohen, 2010). The current framework programme (2014-2020), ambitious *Horizon2020*, continues to direct policy-making in Research and Technological Development, under the auspices of the European Commission.

V. Design of digital participatory public services

eGovernment development is based on strategic planning, usually under the responsibility of national governments, which defines the common targets set for public administration: modernised services, with low cost and time minimization for public service execution and the development of improved, citizen-centered practice. A number of tools, which are used to increase eParticipation, have been identified, also referred to as *eMethods* and includes many of the functionalities that we are already aware of, such webcasts, FAQs, blogs, chat rooms or discussion forums. These web-based tools cover many areas of participation, such as legislation, policy-making or social action.

Generally, the development of eGovernment strategic plans is a *top-down* procedure, which means that central governments supervise the design and execution of national eGovernment initiatives. The *top-down* procedure is defined with means of educational methods, as a scheme where the instructor presents the general conception of a system and then proceeds to its subsystems (Jorgensen, 2005). In eGovernment initiatives, the instructor is the central government, who plans and monitors multiple projects. *Top-down* eGovernment plans contain policies and project goals, but not methods and principles. Information and Telecommunication Technology vendors provide mainly eCommerce-based applications as solutions for eGovernment and for digital service execution, after being transformed and adapted to public administration methodologies (Lowry et al, 2002). Another approach to eGovernment design is the *bottom-up* procedure. A *bottom-up* approach, in contrast to *top-down*, refers to a decentralised procedure of eParticipation, which allows for individual research to design and drive their own projects in a controlled environment, while targeting and prioritizing specific problems and then expanding to a wider system architecture (Zissis et al, 2009). Interestingly enough, surveys on eGovernment show that although a number of eGovernment initiatives achieved their goals in time and cost savings for both citizens and public administration, the design procedure of national governmental planning creates problems to eGovernment reception by both citizens and public administration (Anthopoulos et al, 2007). Skepticism incommodes governmental planning, with regards to the success and development of eGovernment.

Each one of the eMethods used to support eGovernment projects are accompanied by a SWOT analysis. SWOT, which stands for 'Strengths, Weaknesses, Opportunities and Threats' analysis is a descriptive method used to identify and list positive or negative factors about an issue, in a more consolidated way. In the final stage, all the data from the SWOT models are combined in one form, in order to make a comparison between eParticipation tools. The first step for the SWOT analysis is to establish a series of criteria. These criteria are thoughtfully selected in order for the balance to be maintained after technical and social requirements (Anthopoulos et al, 2007). There is a number of technical requirements to enable the effective implementation of eParticipation tools. The first and foremost prerequisite is related to security and privacy in

the eParticipation context. eParticipation services need to be user-friendly, as simple as possible and time-effective, in order to ensure the participation of users. The value of security and privacy measures is high, not only to ensure that users will use but to trust the system, as well. A lack of trust on the security variables of the system will result in low participation rates and thus an ineffective system. Thus, the proper balance of between security, usability and openness is highlighted as vital in the effort to implement effective eParticipation services (Fraser et al., 2006). Anthopoulos *et al.* identify a number of technical requirements to facilitate this implementation (2007), such as: a) deployment complexity (i.e. how difficult the deployment of an eParticipation tool is), b) Information richness (i.e. the amount of information the specific eMethod is able to contain) c) Security (e.g. in the case of a user's navigation), d) Interactivity (i.e.g. to what degree are the communication channels interactive), e) Scalability (i.e. how effectively can the application scale up to a broader public).

The variation of necessary parameters to be taken into account show that, thanks to design choices and software features that promote participatory behavior and trusted consultation, citizen-oriented services are more than an online area where citizens can only report problems for their local government. Much more importantly, they create an environment where, due to changing political circumstances, the social actors can undertake a variety of actions to cope with actual problems (De Cindio, 2012). Research suggests that this variety of design choices and software features enhance engagement around open data, as they enable conversations around them and promote people's collaboration on issues that involve data. From a technical point of view, the tools that support data analysis are absolutely necessary, but there is also an increasing demand to explore tools that support social communication and interaction, as well (Davies, 2012). Undoubtedly, more research interventions will add value and increase the understanding of data use and support the development of improved strategies for data engagement. However, when studying a policy initiative depending of technology, one should always anticipate that emerging technologies will eventually challenge the framework and its ability to deal with new concepts, tools or applications. At the same time, it will be tested by the success, failure, results and difficulties of each specific case based on the rule that all successful models evolve through exploration (De Cindio, 2012).

VI. Developments in eParticipation

Recent initiatives based on the analysis and assessment of democratic systems offer theoretical and empirical insights towards the development of eDemocracy frameworks. From a theoretical point of view, those initiatives support developments in the democratic process; while from an empirical point of view, they contribute in identifying formulas and criteria for the evaluation of practices, which can be relevant for offline and online modes. Here, we consider tools and methods that directly promote citizen participation in policy-making rather than the ones that support group discussions only.

eVoting

Electronic voting (eVoting) refers to the ability to vote via the internet. eVoting refers to both the electronic means of casting a vote and the electronic means of arranging votes. In some countries, punch cards (e.g. USA) and optical scan cards (e.g. Germany and Scotland) are tabulated using electronic means, and they have been in use for decades. Electronic voting in polling stations is being used in some of the world's largest democracies, such as France, Italy, Netherlands, and Norway etc. A number of EU member-states, including Czech Republic, Finland, Greece, Latvia, Lithuania, Romania and other, are currently developing pilot programmes of eVoting systems to improve various aspects of the electoral process (Ace, 2010). eVoting is often seen as a tool that helps to advance democracy, to build trust in electoral management and add credibility to the electoral process. The technology is rapidly evolving to invite election managers, international organizations, vendors and authorities to continuously update their methodologies and approaches(IDEA, 2011). In recent elections, internet voting has attracted wide interest, creating hopes that communications technologies may lead to increased voter turnout, and the inclusion of voting groups that had abstained from elections. Estonia was the first country in the world that allowed internet voting in the 2007 national parliamentary elections, and has thereafter served as an important case for studying the state of eDemocracy (Bochsler, 2010).

Specialized techniques used in other domains have been proposed to contribute to the development of eVoting systems. These techniques aim to bring a higher level of competitiveness in the design and implementation of voting systems.Helios is the first web-based cryptographic eVoting system.It has a single component and uses a public bulletin board (Adida, 2008).A. F. N. Al-Shammani, A. Villafioritat and K. Weldemariam describe the consecutive phases of voting (2012). In

registration phase, voters first obtain their password via email. Helios separates the process of voting in preparation from casting. Anyone using the system can check the authentication of the ballot, since every user is given only at ballot casting time. After the ballot has been completed from the user side, the voting system proceeds with the encrypted vote by displaying a sign of the ciphertext. The preparation of the ballot can either be audited, or the ballot can be cast after the voter has been authenticated. In the case the vote decides to audit the ballot, the ciphertext and the randomness used for encryption is displayed, which allows the user to check that the vote was properly transformed into the ballot. As soon as the ballot is cast, the voter receives a hash for the encrypted vote, which is also posted on the BB next to his name. In tallying phase, the ballots are mixed and decrypted, providing proofs of correctness for both steps.

During the past two decades, researchers have been developing verifiable eVoting systems, however only few of the developed systems have been used in real-world elections. The eVoting systems that have been used in large countries, such as India, Brazil and the US are unverifiable and there have been concerns about security implications. The biggest problem with developing verifiable eVoting technologies seems to be the public distrust on responsible authorities. Since 2013, Dr. Feng Hao's has been developing a project that aims to devise a secure eVoting system: "We aim to provide a means whereby voters can independently verify that their votes are accurately captured and tallied by the system; ensuring that the integrity of their vote is maintained. In the process, we eliminate reliance on authorities who tally the cast votes, so the election is self-tallying" (Hao, 2014). In the EU the eVoting initiative is still in the beginning. Estonia was the first country to start an actual eVoting project in 2003, which has been used in the 2005 local government council elections for the first time, to continue its success with the national elections in 2007 and every 4 years ever since. Germany and Netherlands that were using electronic voting machines since 1998, stopped their eVoting projects in 2009 and 2008 respectively, until further testing is completed (Ace, 2010). In the case of Germany, it was suggested that the use of voting machines was "unconstitutional", while the Dutch government decided to address security concerns and other issues emerged by returning to paper voting (NDI, 2014; NDI, 2014a).

eConsultation

eConsultation designates interactive online platforms where citizens, civic actors, experts, and politicians gather to provide input, consider, inform and influence policy and decision-making. Introduced by political institutions or non-state actors, eConsultation can take different forms, target on different groups or issue areas, in the use of technical tools at which they are launched (Coleman & Gøtze, 2004). Sometimes, they incorporate spaces for citizen-to-government as well as citizen-to-citizen interactions. What makes eConsultation unique in comparison to other spaces of the virtual public sphere, is the ability to cause influence on the policy-making process. Informal electronic spaces such as virtual communities, local forums, chat rooms and participants interact in a way that allows them to exercise political influence (Tomkova, 2009). The goal of eConsultations is to affect formal political and decision-making processes. Additionally, the purpose of eConsultation has been to enable citizens with relevant experience and expertise to inform and advise legislators on specific areas of policy (Coleman & Gøtze, 2004). eConsultations is a more formal and organised form of eSpace compared to other forums or digital attempts in the virtual public sphere. They tend to have a set duration, agenda and pre-defined topics for discussion by the host. Given that it is government agencies that usually start eConsultations and not individuals, the difference in level between the actors involves variation in levels of authority, expertise and access to decision-making processes (Tomkova, 2009). *Your Voice in Europe*[1] is the European Commission's 'access point' to a number of consultations, discussions and other tools allowing citizens to play an active role in the European policy-making process. It is argued that eConsultations provide functional and deliberative communication benefits, enhance social inclusion and citizen-government interactivity and make public policy making processes more transparent and legitimate.

ePolling

Online polls are another type of eConsultations offering snapshots of civic temperature on a specific public issue. As a quick web-based survey, ePolling allows participants to select one answer from a list of alternatives in response to a simple statement or question. Once an answer has been submitted, current poll results are usually displayed along with relevant numbers or percentages. Typically there is no collection of personal or demographic information. Therefore, unless users'

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[1]*Your Voice in Europe*, http://ec.europa.eu/yourvoice/.

Internet Protocol (IP) addresses are logged in, it can be difficult to stop participants responding more than once. Quick polls are generally employed as light-weight, fun e-tools, rather than contributing to any weighty policy debate (Macintosh et al, 2005). Examples of more elaborate ePolls or eSurveys include the ones utilised by the EU Commission, as part of the *Your Voice eInitiative*, while the simpler one-shot polls appear as a sub-feature on government websites.

eDeliberative polling combines online deliberation in small group discussions with random sampling to facilitate public engagement on specific issues. A variety of these surveys and discussion forums support such this eDeliberative polling. Directly addressing the issues raised by traditional offline engagement techniques for policy development, ePolling has a major advantage: it involves the public in all key issues. The concept of deliberative engagement address the problem by prompting the gathering of public views by a process of deliberation. Although the potential for eDeliberative polling has been recognised by a number of well-respected organisations, such as the Internet Corporation for Assigned Names and Numbers (ICANN), it yet lacks to be its wide application in the local government context (Macintosh et al, 2005).

ePetitioning

The so-called web-based system hosts online petitions and allows third parties to be signed up to by addition of their name and address online. ePetitions are another form of eConsultation which enable citizens to enlist issues, complaints or requests directly to the government. Usually, the names and addresses need previous verification, but as ePetitions are only informing the local councils about an issue, and not presenting it (which will lead to legal enforcement), the level of control does not need to be the same as for eVoting. Additional features can enhance the quality of ePetitions and the transparency of the process (Macintosh et al, 2005). In some cases, an integrated discussion forum can be incorporated in order to offer the users the possibility to argue about their support on certain petitions. The format and procedure followed in ePetitions varies from local government to local government. In modern democracies, this form of participation is legally integrated. In the EU member-states, for example, the right to petition is protected by national constitutions and in some cases European regulations (Riehm et al, 2011).They are mainly intended to serve as a bottom-up participatory tool, but they have also been hosted by governments (Tomkova, 2009). UK government's popular 10 Downing Street and the European Parliament's petitions initiative set a good example of such online spaces (Tomkova, 2009).

Generally, the right to petition ensures access to all institutions of the political–administrative system at all levels (state, regional, local). However, in some cases specific institutions are established to act as responsible for the processing of petitions. These institutions play the role of mediator between citizen and executive power and maybe even an advocate of the petitioner (Böhle & Riehm, 2013). From a study conducted in 29 countries (EU member-states and Switzerland), a total of 59 national state–level parliamentary petition bodies and ombudsman institutions were identified (see table below). In the majority of these countries, there is a pattern where both a parliamentary petition body and an ombudsman institution processes petitions to the parliament (Böhle & Riehm, 2013). Seven countries do not support the possibility of petitions to parliament (Cyprus, Denmark, Estonia, Finland, Ireland, Latvia, and Sweden), while only three of the 29 countries (Germany, Italy and Switzerland) have no parliamentary ombudsman institution at all.

Table 2: Possibilities for petitioning national parliaments. Note: ● Petition system provided; ○ No petition system; — No upper house.			
Country	**Petition body/institution**		**Ombudsman–Institution**
	Lower house	**Upper house**	
Austria	●	●	●
Belgium	●	●	●
Bulgaria	●	—	●
Cyprus	○	—	●
Czech Republic	●	●	●
Denmark	○	—	●
Germany	●	●	○
Estonia	○	—	●
Finland	○	—	●
France	●	●	●
Greece	●	—	●
Hungary	●	—	●
Ireland	○	○	●
Italy	●	●	○
Latvia	○	—	●
Lithuania	●	—	●
Luxembourg	●	—	●
Malta	●	—	●
Netherlands	●	●	●
Norway	●	—	●
Poland	○	●	●
Portugal	●	—	●
Romania	●	●	●
Slovakia	●	—	●
Slovenia	●	○	●
Spain	●	●	●
Sweden	○	—	●
Switzerland	●	●	○
United Kingdom	●	●	●
Total	21	12	26

Source: Böhle & Riehm, 2013

The most important contribution of the petition systems, which is greatly enhanced by the help of the Internet, is the strengthening of the public participation. This is gradually coming into realisation, firstly, by designing ePetitioning systems in a direction that enhance democracy and secondly by ameliorating the democratic system itself as to be more open to dialogue and citizen participation.

eLegislating

When it comes to legislation, the question that arises as a result of the synchronisation of the field by computing trends, is not only how it is possible to make digital laws, but also whether digital media will change the forms of law-making. The success of user-friendly software and websites has developed a great sense of convenience, which has become one of the major features and thus norms of online communication. The interactive, informative and engaging nature of the internet is what makes it popular to users, alongside with the simplicity of using its online libraries. Users that become familiar with informal, user-friendly cyber-formats may even come to reject the stiffness of conventional legal texts compared to the ones they access online (Howes, 2001). eLaw is a new concept, which is used in Europe since 2004. It refers to electronic legislation and to the different aspects of electronic publishing of legislation. eJustice is a similar concept, including the use of electronic technologies in the field of justice (European eJustice portals etc.). The EU Council has an eLaw and eJustice working group, exchanging information on the practices of EU Member-States and developing policies at the EU level. The European Commission has created EUR-Lex as a one-stop shop to European legislation (EUR-Lex which includes N-Lex, a portal of national legislation in EU Member-States) (Hietanen, 2012). EUR-Lex is estimated number of 13 million visits per month (Trafficestimate, 2015). European legislation today is made available in most of the European member-states free of charge. However, there are differences in the way legislation is made available. There are types of legislation varying from limited period legislation to legislation of the last century, consolidated or unconsolidated form with amendments etc. In some countries, the original versions of legal acts are available, while in others the consolidated versions of legal acts are also available. An eLegislation portal has a number of features that can either support the top-down flow of knowledge from the government to citizens. Based on a DMS (Document Management System) that is used to track and store electronic documents, eLegislation is capable of storing any type of legal document (Ona, 2013). It appears, thus, that eLegislation portals increase the volume of information that becomes available to the larger audience, making citizen participation more expansive. The main challenge, however, is the need to ensure that this increase in volume of information does not affect the role of such portals being meaningful and actionable.

eCampaigning

eCampaigning defines the use of 'new' communication technology, such as the internet and mobile telephones, in campaigning. eCampaigning can be a quick, cost-effective and efficient way of contacting, informing and mobilizing large numbers of people in contexts where electronic tools are easily accessible and widely used. World-wide data show that average internet use tends to increase more rapidly than gross national product (Rosling, 2006). eCampaigning involves both passive and active tools, often combined. Passive tools use a one-way communication: users receive information via email or by reading a website. During the last years, emailing, comment and posting functions on websites and blogs, social networks and other new technologies enabled two-way conversation, sometimes in real time, elevating the internet into an active tool (UN Women, 2012). Campaign messages can spread through social networks only with a mouse click, on a spontaneous, unregulated way that never could before.

Studies on the implementation of eCampaigns and eVoting in different European countries, show that the Internet is often associated with the professionalization of the voting process as well as the electoral campaigns (Norris, 2004; Norris, 2002). However, new concerns have arisen that relate to trustworthiness and identity in campaign management, and involve issues of targeting, personalization, complexity and negative campaigning. While, though, networked technologies promote public participation and engagement on a way not possible in the pre-digital era, they are as well source of tensions and conflicts which are posing new questions to traditional models of power and control, creating new balances (Marcheva, 2010). Therefore, the same technologies that could create spaces for public and networked engagement, may as well allow citizens to organize other than social gatherings or political protests, such as terrorist attacks.

The first tangible example of the use of ICT technologies in electoral campaigning comes from Spain, which went through a so-called "Americanization" of politics, following the successful pattern of the Obama social media campaign, in 2008. In the aftermath of 2008, Spain and Catalonia have embraced new technologies by opening up online channels for disseminating electoral content (Xifra, 2011). Three years later, the Finnish national elections showcased an extensive use of social media in the electoral campaign. Despite the fact that citizens' participation in eCampaigns was limited, there were indications of mobilization and 'potential of change' regarding the citizen activity (Strandberg, 2013). The 2009 European Parliament elections represent the first eCampaigning effort on a pan-European level, where many different online applications (Facebook, YouTube, Twitter, MySpace and Flickr) were used systematically (Vesnic-Alujevic, 2011).

Participatory Budgeting

Participatory budgeting (PB) is the online process that allows citizens to participate in the decision-making process of budget allocation and it has been considered as one of the main innovations that aim to reinforce accountability on a governmental level. Thus, it belongs to the online public practices that reinforce democracy at both local and regional levels. It provides citizens with the opportunity to approach governmental operations and to participate, discuss and control the allocation of resources. "The enhanced transparency and accountability that participatory budgeting creates can help reduce government inefficiency and curb clientelism, patronage, and corruption. Participatory budgeting also strengthens inclusive governance by giving marginalized and excluded groups the opportunity to have their voices heard and to influence public decision-making vital to their interests" (Shah, 2007). Provided that it is administered properly, participatory budgeting can elevate governmental services and strengthen the quality of democratic participation.

Thus, it is not a coincidence that the inclusion of participatory budget practices in European states has increased. In the UK, the government expected to have PBs implemented at all administrations supporting local governments by 2012. Local authorities from Barnet, Northamptonshire and Maidstone used an online budget simulator to consult citizens on their preferences, regarding to the allocation of the budget (Daventry District Council, 2009). In Germany, after a pilot project in 2005 in Berlin, where the local council received budget proposals from citizens online, the city has repeated the operation. Since then innovative initiatives have been conducted in the cities of Cologne, Hamburg, Freiburg and Leipzig (Luehrs, 2009). Combining online and offline methods, in 2006 the city of Modena in Italy set an experiment in which citizens could send email suggestions while they were watching live video streaming of the meeting. The use of SMS in order to reach a broader and younger audience has been used in more Italian public budgeting processes, such as those of Rome, Bergamo and Reggio Emilia (Peixoto, 2009). According to Peixoto, the budgetary allocations were increased based on large citizen demand, and the amount of proposed workings was larger than the original planning provided (2009). Therefore, the participation altered the original budgetary planning both quantitatively and qualitatively.

VII.   eParticipation and European Good Practice

The potential for ICT to alter the negative democratic balances across Europe and increase the level of political participation has been the subject of academic discourse. However, only relatively recently there has been adequate practical design and application of eParticipation to consider this potential in a real-world context. The development of such advanced information systems has enforced a growing community of research and practice which analyzes eParticipation. Current analysis includes understanding the role of technology in public participation and learning from the experience of European countries. The achievement of eParticipation initiatives is the relationship created between citizens and government assumed as one of a partnership. Since the promise of eParticipation is the ability to deploy ICTs to establish a partnership between governed and governing, as to neutralise the declining public confidence in democratic institutions and meet new expectations of increased popular participation in governance (Schmitter and Trechsel, 2004). eParticipation is, therefore, one of the reforms that representative democracies are currently experimenting with in the hope that participation counteracts public discontent. Estonia and Sweden have provided us with invaluable case studies from the study and practical application of eParticipation projects, in their democratic efforts to increase citizen participation.

Estonia, an EU member-state of 1.3 million inhabitants, has established a successful record of pioneering eParticipation projects, also known as the first country to introduce eVoting for the national elections of 2007 (Charles, 2009). One of the projects worth examining, both in terms of citizen mobilization and government response, was the eParticipation application known as TOM, which stands for "Today I decide" in Estonian (Glencross, 2009) kicking off in 2001. This was a pioneering move since it enabled Estonian citizens to participate in the national legislative process; other eParticipation initiatives around the world have been restricted to the local or regional level (Carman, 2007). Starting in 2001, the Estonian TOM platform provides until today a valuable model for understanding the dynamics of eParticipation. This Estonian case provides lessons for eParticipation in practice so that the expectations of users and government officials both benefit from such initiatives.

According to the OECD theoretical framework for categories of citizen engagement, the TOM platform fits the model for using Information and Communication Technologies to promote active citizen participation rather than providing information or as a consultation mechanism (OECD, 2001). At first, the TOM project was more ambitious than similar projects. Rather

than being a simple medium for collecting signatures, the TOM tool became a forum for citizens to discuss legislative proposals, within a ten-day period following submission, and to vote upon them. After an idea been proposed by a user the system functions first allow for discussion between TOM users (participating citizens), then authors of legislative proposals have three days to amend them before they are voted by users. Once a proposal is voted by a majority, it is forwarded to the relevant government department, which then has a month to respond to the proposal explaining the argumentation behind an action. This formal government response is then posted on TOM (Glencross, 2009). The experience gained from launching and developing TOM and the central participation tool was further used as a model for international product such as TID+ ('Today I Decide' International[1]), an open-source software that can be used for the collection of public proposals (Åström et al, 2013). A number of legislative ideas were discussed and gained momentum on TOM, such as traffic policy, taxes, constitutional affairs, crime and alcohol policies (Glencross, 2009).

The Interregional Cooperation Programme INTERREG IVC, which is financed by the European Union's Regional Development Fund since 2010, records successful eGovernment programmes throughout the European Union (Lukka, 2010). The city of Tartu in Estonia has followed a successful pattern to update the electronic profile of the city. The local authorities decided to involve the Tartu residents in this process from the beginning. At first, the city residents contributed with their opinion on the new website's schemes, and in the second phase, the website architecture was built. A number of methods were used to engage citizens; from public polling to testing of navigation, the needs and wishes of the ordinary people were taken into consideration about the new website. The goal of the project, which was to create a standard methodology and a working prototype with maximum involvement of the city residents, was achieved. The project, also, has been a huge success because the city residents participated actively and expressed interest, the methods produced results and the project was completed in a timely manner. The most important thing was the chance that the city residents were given to express their opinions and the subsequent efforts have relied on those opinions. Social media proved extremely helpful as well; Facebook was used to achieve communication with the city residents, including posts inviting all to take part in the public poll and share their ideas about the website. During the second phase, at the creation of the website prototype, fewer participants were considered which, however, secured a high quality of results, because the ones involved were motivated and competitive enough to ensure effectiveness.

In Sweden, at the local level, eParticipation initiatives are only a few. However, they offer important examples of eParticipation practices run by Swedish local authorities. A number of online 'deliberative referendums' were undertaken in small cities such as Malmö, Vara and Sigtuna. In the city of Sigtuna, ten online referendums were conducted in one year and the results were promising: a relatively high percentage of citizens took part in these online referendums (30-60%) and the contributions made by participants did have an impact on final policy decisions (Åström et al, 2011). Other initiatives include the Gothenburg Online Forum and the Malmö Initiative. In 2004, the city of Gothenburg launched an online forum with regards to a redevelopment project, in their effort to create new structures for policy-making and planning (Benesch and Ullmark, 2008). The redevelopment of the city Södra Älvstranden included two challenging tasks: a) the planning and development of the municipal area with the minimum financial impact on the taxpayers and b) and the broadening of citizens' participation.

To achieve the attraction of investors in the area and enhance citizen participation, the municipality contracted a company named Älvstranden Utvecklings AB (ÄUAB), which was responsible for both urban planning for the indirect dialogue with citizen (Åström et al, 2013). The following dialogue with citizens was conducted in two ways: an online forum and an exhibition at the City museum. By November 2006, 980 posts had been registered on the forum. Many contributions were direct proposals and opinions focusing on the city life, housing, transport, environment and the new city look. In the end, the impact of citizen participation was valued as limited and it was noted that citizens and decision-makers had different perceptions about the development of the process. Citizens taking part in the online debate expressed expectations about an open process where participation would directly influence the process, while representatives of ÄUAB and the planning department supported the view that 'online deliberations' preceded formal planning, in any case (Åström et al, 2013). Despite the subsequent dissent, the Gothenburg Online Forum serves as model of citizen participation in terms of sharing problems rather that sharing power.

The first ePetitioning system was launched in 2008 in the city of Malmö. The most defining aspect of ePetitioning systems is the willingness of public authorities to take petitions seriously when preparing an institutional plan. In a similar to the Gothenburg case, broadened participation was achieved in quantitative terms with nearly 200 ePetitions in the first year.

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[1]*'Today I Decide' International*, http://tidplus.net/.

But the political and administrative decision-makers refused to give a formal response to petitioners, which the petitioners themselves had taken for granted. One year and a half afterwards, the actual participation in the Malmö petition system added up to 210 initiatives and 5,500 signatures (SALAR, 2010). On a survey that asked the petitioners what motivated them to participate in the Malmö Initiative, they replied that *simplicity* was crucial. Additionally, the collection of online signatures is important, as well as petitions' ability to generate awareness and publicity in local media (Åström et al, 2013). What is even more crucial, though, is the potential to address democratic concerns in real political issues, the time they arise.

VIII.   Conclusions

Lately electronic participation has evolved enough to start re-engaging citizens with the democratic processes by exploring the potential of ICT in the public sector. At the academic level, a number of frameworks have helped us to understand eParticipation, through the most familiar disciplines and social initiatives that approached contemporary models. At the practical level, a large number of eParticipation initiatives have been launched at all levels, some with larger success than others. In this article, we examined the use of ICTs and the main aspects of eParticipation initiatives from a social and political perspective. Additionally, we provided an understanding of the progress and current trends of eParticipation. For that purpose, we summarised the European experience with eParticipation and analysed information gathered from the relevant literature and the implementation of political initiatives.

In general, it can be concluded from the research that there is increasing activity in the field of eParticipation in Europe, as well as there is a number of exceptional initiatives already implemented and fully operational. However, there are still many opportunities to be explored and a lot to be achieved with the cooperation and sharing of good practice between countries and regions, but also across the different levels of participation (Panopoulou et al, 2009). Furthermore, practical implementation of eParticipation initiatives suggests that the scope of eParticipation initiatives narrows the potential outcome, allowing more active participation and more specific outcomes. This empirical conclusion could be the basis for further consideration of the prospects and restrains of eParticipation. It should be further examined whether eParticipation can indeed essentially involve the public and in what ways this could be achieved. Hopefully, the research presented in this article will contribute to the future work and research of eParticipation developments and will facilitate the transfer of eParticipation good practice.

Yet, one of the greatest challenges to eParticipation is the fear of unfulfilled expectations. Based on Hirschman's model it appears that eParticipation models alone are no solution for the problem of public distrust of political institutions. Citizen participation may be successful in the promotion of loyalty only if the use of the participation leads to reform; when participation seems pointless, the result is simply disengagement (Hirschman, 1994). From this perspective, governments seeking to implement eParticipation will be successful only if citizens' willingness to trust the eParticipation process can be sustained, and if the system has notable effects on the legislative decision-making process. Thus, the government's willingness to take eParticipation initiatives to the next level should be evaluated not only on the basis of planning and implementing such opportunities, but indeed taking into consideration the outcome of citizen participation. In that matter, citizens are concerned by the extent to which their participation counts as important.

BIBLIOGRAPHY

[1]   Ace (2010) The Electoral Knowledge Network, Aceproject.org. Available from: http://aceproject.org/ace-en/focus/e-voting/countries

[2]   Adida, B. (2008) "Helios: web-based open-audit voting", *Proceeding of the 17th Conference on Security Symposium*, USENIX Association: Berkeley, CA, p. 335-348.

[3]   Al-Shammani, A. F. N., Villafioritat, A. and Weldemariam, K. (2012) "Understanding the Development Trends of Electronic Voting Systems", *Paper of the Seventh International Conference on Availability, Reliability and Security (ARES), August 20-24th, Prague.*

[4]   Anthopoulos, L.G., Siozos, P. & Tsoukalas, I. A. (2007) "Applying participatory design and collaboration in digital public services for discovering and re-designing eGovernment services", *Government Information Quarterly*, Vol. 24, Issue 2, pp. 353-376.

[5] Åström, J., Granberg, M., Khakee, A. (2011) "Apple Pie–Spinach Metaphor: Shall eDemocracy make Participatory Planning More Wholesome?", *Planning Practice & Research*, Vol. 26, No. 5, pp. 571-586.

[6] Åström, J., Jonsson, M., Hinsberg, H. & Karlsson, M. (2013) "Case studies on eParticipation policy: Sweden, Estonia and Iceland", Tallinn: Praxis Policy Center.

[7] Benesch, H. & Ullmark, P. (2008) "The Experimental Start of the Planning of Södra Älvstranden in Gothenburg", *ArtMonitor*, Vol. 5, pp. 28-33.

[8] Birdsall, W. F. (2007) "Web 2.0 as a Social Movement", *Webology*, Vol. 4, No. 2. Available from: http://www.webology.org/2007/v4n2/a40.html

[9] Böhle, K. & Riehm, U. (2013) "ePetition systems and political participation: About institutional challenges and democratic opportunities", *First Monday*, Vol. 18, No. 7. Available from: http://firstmonday.org/ojs/index.php/fm/article/view/4220

[10] Bochsler, D. (2010) "Can Internet Voting Increase Political Participation? Remote Electronic Voting and Turnout in the 2007 Parliamentary Elections", *Paper presented at the 'Internet and Voting' Conference, June 3-4, Fiesole, Italy.*

[11] Brodie, E., Cowling, E., Nissen, N., Paine, A. E., Jochum, V., Warburton, D. (2009) "Understanding participation: A Literature Review", Involve. Available from: http://www.involve.org.uk/assets/Uploads/Pathways-literature-review-final-version.pdf

[12] Carman, C. (2007) "The Process is the Reality: Perceptions of Procedural Fairness and Participatory Democracy post", *Political Studies*, Vol. 58, pp. 731–751.

[13] Charles, A. (2009) "The Electronic State: Estonia's New Media Revolution", *Journal of Contemporary European Research*, Vol. 5, No. 1, pp. 97-113.

[14] Coleman, S. & Gøtze, J. (2004) *Bowling Together: Online Public Engagement in Policy Deliberation*, Hansard Society: London.

[15] Cornwall, A. (2008) "Unpacking 'Participation': models, meanings and practices", *Oxford University Press and Community Development Journal,* Vol. 43, No. 3, pp. 269–283.

[16] Chrisaffis, T. & Rohen, M. (2010) "European eParticipation Developments", *JeDEM*, Vol. 2, No. 2, pp. 89-98.

[17] Daventry District Council (2009) Report on Engagement of the Public in Budget Setting & Service Planning, Daventry District Council: England.

[18] Davies, J. (2012) "Supporting Open Data through use through active engagement", *Position paper from Workshop on using Open Data(W3C),June 2012, Brussels*.

[19] De Cindio, F. (2012) "Guidelines for Designing Deliberative Digital Habitats: Learning from e-Participation for Open Data Initiatives", *The Journal of Community Informatics*, Vol. 8, No. 2. Available from: http://ci-journal.net/index.php/ciej/article/view/918/910

[20] Delli Carpini, M. X. (2000) "Youth, Civic Engagement, and the New Information Environment", *Political Communication*, Vol. 17, No. 4, pp. 341-349.

[21] Dijk, J.A.G.M. (1999) "The One-dimensional Network Society of Manuel Castells", *New media and society*, Vol. 1, No. 1, pp. 127-138.

[22] Dijk, J.A.G.M. (2000) "Models of Democracy and Concepts of Communication" in Hacker, K. L. & van Dijk, J. A. G. M. (Eds), *Digital Democracy: Issues of Theory and Practice*, Sage Publications: London.

[23] DiMaggio, P.D.M., Hargittai, E., Russell Neuman, W., Robinson, J. P., (2001) "Social Implications of the Internet", *Annual Review of Sociology*, Vol. 27, pp. 307-336.

[24] EACEA (2013) Youth Participation in Democratic Life, Final Report, LSE Entreprise, LSE: London.

[25] Fraser, C., Liota, N., Lippa, B., Mach, M., Macintosh, A., Marzano, F., Mentzas, G., Rosendahl, A., Sabol, T., Tambouris, K., Tarabanis, A., Thorleifsdottir, Westhoml, H., Wimmer, M. (2006) "DEMO-net: Deliverable 5.1", Report on current ICTs to enable Participation. DEMO-net. Available from:

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http://www.academia.edu/2737661/DEMO_net_Deliverable_5.1_Report_on_current_ICTs_to_enable_Particip ation?login=olga.marinea@gmail.com&email_was_taken=true

[26] Fuchs, C. (2008) *Internet and Society: Social Theory in the Information Age*, New York: Routledge.

[27] Gadras, S. & Greffet, F. (2013) "Guest Editorial: Towards a comprehensive approach of online political participation", *International Journal of Electronic Governance*, Vol. 6, No. 4, pp. 258-269.

[28] Gatautis, R. (2010) "Creating Public Value through eParticipation: Wave Project", *Economics and Management*, Vol. 15, pp. 483-490.

[29] Glencross, A. (2009) "eParticipation in the Legislative Process: Procedural and Technological Lessons from Estonia", *JEDEM*, Vol. 1, No. 1, pp. 21-29.

[30] Habermas, J. (1996) *Between Facts and Norms Contributions to a Discourse Theory of Law and Democracy*, MIT Press: Massachusetts Institute of Technology.

[31] Hao, F. (2014) "Towards Next Generation's eVoting", *European Research Council*. Available from: http://erc.europa.eu/erc-stories/towards-next-generation-e-voting

[32] Hietanen, A. (2012) "eLaw and Free Access to Legislation in Finland and in Europe", *Presentation made by the Finnish Ministry of Justice, at the IFLA Conference, 14 August, Helsinki.*

[33] Hirschman, A. O. (1994) "Excerpt from Chapter Eight Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations and States", *The Social Contract*, pp. 272-275.

[34] Howes, D. (2001) "eLegislation: Law Making in the Digital Age", *McGiLL Law Journal*, Vol. 47, pp. 39-57.

[35] IDEA (2011) Introducing Electronic Voting: Essential Considerations [Policy Paper], *International Institute for Democracy and Electoral Assistance*, Sweden: Stockholm.

[36] Involve (2005) *People and participation: How to put citizens at the heart of decision-making*, Involve & Together We Can, London.

[37] Jenkins, H. Clinton, Purushotma, R., Weigel, M., Robison, A. J., Clinton, K. (2006) *Confronting the Challenges of Participatory Culture Media Education for the 21st Century,* The MIT Press: Massachusetts.

[38] Jochum, V., Pratten, J., Wilding, K. (2005) *Civil renewal and active citizenship a guide to the debate*, National Council for Voluntary Organisations: London.

[39] Jorgensen, N. (2005) "Design in eGovernment curricula: Bottom-up vs. top-down", *in the proceedings of the 2nd Scandinavian eGovernment Workshop*, February 2005, Denmark.

[40] Lacigova, O., Maizite, A., Cave, B. (2012) "eParticipation and Social Media: a Symbiotic Relationship?", *European Journal of ePractice*, No 16.

[41] Livingstone, S. (2010) "Interactivity and participation on the Internet: young people's response to the civic sphere" in *Dahlgren, P. (Ed.), Young citizens and new media: learning for democratic participation*, Routledge: London, pp. 103-124.

[42] Lowry, P. B., Albrecht, C. C., Nunamaker Jr., J. F., Lee, J. D. (2002) "Evolutionary development and research on Internet-based collaborative writing tools and processes to enhance eWriting in an eGovernment setting", *Decision Support Systems*, Vol. 34, pp. 229–252.

[43] Lourenco, R. P. & Costa, J. P. (2006) "Discursive e-Democracy Support", *in the proceedings of the 39th Hawaii International Conference on System Sciences*, Hawaii.

[44] Luehrs, R. (2009) "Participatory Budgeting in Germany", October, 20th, *Pan-European eParticipation Network*. Available from: http://pep-net.eu/blog/2009/10/20/e-participatory-budgeting-in-germany/

[45] Lukka, L. (2010) Participatory City Website Development, eParticipation.eu [Online]. Available from: http://eparticipation.eu/2013/08/participatory-city-website-development/

[46] Macintosh, A. (2004) "Characterizing eParticipation in Policy-Making" *in the proceedings of the 37th Hawaii International Conference on System Sciences*, Hawaii.

[47] Macintosh, A., Coleman, S., & Lalljee, M. (2005) "eMethods for Public Engagement: Helping Local Authorities communicate with citizens", Bristol City Council for The Local eDemocracy National Project, Bristol.

[48] Macintosh, A., Robson, E., Smith, E. & Whyte, A. (2003) "Electronic Democracy and Young People", *Social Science Computer Review*, Vol. 21, No. 1, pp. 43-54.

[49] Macintosh, A. & Whyte, A. (2008) "Towards an evaluation framework for eParticipation. Transforming Government: People", *Process & Policy*, Vol. 2, No. 1. pp. 16-30.

[50] Maier-Rabler, U. & Huber, S. (2010) "Sustainable E-Participation through participatory experiences in education Participatory Culture, Political Education, ICTs, and New Media Literacy", *Journal of Democracy*, Vol. 2, No. 2, pp. 131-144.

[51] Maier-Rabler, U. & Neumayer, C. (2008) "Youth and eParticipation: Strategies for Innovative Democracy" i*n the proceedings of EDem 2008 eDemocracy Conference, 29-30 September, Krems*, pp. 239-250.

[52] Marcheva, M. (2010) "The Real Political Power of the Internet: Facebook, a Possible New Hub of European Elections?", *Paper at the Symposium International, 18-21 March, Luxembourg,* International Political Science Association (IPSA).

[53] Medimorec, D., Parycek, P. & Schossböck (2011) "Vitalizing Democracy through eParticipation and Open Government: An Austrian and Eastern European Perspective", Bertelsmann Stiftung: Gütersloh.

[54] Norris, P. (2004) "eCampaigning and eDemocracy", *Paper for the conference on Political Communications in the 21st Century*, January 2004, St. Margaret's College, University of Otago, New Zealand.

[55] Norris, P. (2002) "eVoting as the Magic Ballot?" *KSG Faculty Research Working Papers Series RWP02-016, April 2002.*

[56] NDI: National Democratic Institute (2014) Re-evaluation of the Use of Electronic Voting in the Netherlands. Available from:

[57] https://www.ndi.org/e-voting-guide/examples/re-evaluation-of-e-voting-netherlands

[58] NDI: National Democratic Institute (2014a) The Constitutionality of Electronic Voting in Germany. Available from: https://www.ndi.org/e-voting-guide/examples/constitutionality-of-electronic-voting-germany

[59] OECD (2001) "Citizens as Partners in Policy-Making", *Focus Public Management Newsletter*, September Issue, No. 21.

[60] OECD (2003) Promise and Problems of eDemocracy: Challenges of Online Citizen Engagement [Report], Organisation for Economic Cooperation and Development, Paris.

[61] Ona, S. (2013) "Exploring the use of new technologies in participation practices in legislation", *Journal of eGovernance*, Vol. 36, pp. 79–91.

[62] O'Reilly, T. (2005) "What is Web 2.0: Design Patterns and Business Models for the Next Generation of Software", September 9th*, O'Reilly Media*. Available from: http://www.oreilly.com/pub/a/web2/archive/what-is-web-20.html

[63] Panopoulou, E., Tambouris, E. & Tarabanis, K. (2009) "eParticipation initiatives: How is Europe progressing?", *European Journal of ePractice*, No 7, pp. 15-26.

[64] Peixoto, T. (2009) "Beyond Theory: eParticipatory Budgeting and its Promises for eParticipation", *European Journal of ePractice*, No 7, pp. 55-63.

[65] Porwol, L., Ojo, A., Breslin, J. (2013) "On the Duality of E-Participation – Towards a Foundation for Citizen-Led Participation", *Technology-Enabled Innovation for Democracy, Government and Governance*, *Lecture Notes in Computer Science*, Vol. 8061, pp. 211-225.

[66] Putnam,R. D. (2000) *Bowling Alone: The Collapse and Revival of American Community*, Simon and Schuster: New York.

[67] Riehm, U., Böhle, K. Lindner, R. (2011) "Electronic Petitioning and Modernisation of Petitioning Systems in Europe", Books on Demand: Norderstedt.

[68] Rogers, E. M. (1995) *Diffusion of Innovations*, The Free Press: New York.

[69] Rosanvallon, P. (2008) "Counter-Democracy. Politics in an Age of Distrust", Cambridge University Press: Cambridge.

[70] Rosling, H., (2006) "The best Stats you've ever seen", TED Talk [Video], TED. Available from:

[71] https://www.ted.com/talks/hans_rosling_shows_the_best_stats_you_ve_ever_seen

[72] Sæbø, Ø., Rose, J., Flak, L. S. (2008) "The shape of eParticipation: Characterizing an emerging research area", *Government Information Quarterly*, Vol. 25, pp. 400–428.

[73] SALAR: Swedish Association of Local Authorities and Regions (2010) "ePetition", *Factsheet: The 'Citizen Dialogue' Project*, May Issue, No. 7.

[74] Schmitter, P. C. & Trechsel, A. H. (2004) "The Future of Democracy in Europe Trends, Analyses and Reforms", *A Green Paper for the Council of Europe*, Council of Europe Publishing: Strasbourg.

[75] Shah, A. (2007) *Public Sector Governance and Accountability Series: Participatory Budgeting*, The World Bank: Washington, DC.

[76] Smith, S. & Dalakiouridou, E. (2009) "Contextualising Public (e)Participation in the Governance of the European Union", *European Journal of ePractice*, No 7, pp. 4-14.

[77] Stanley, J. W. & Weare, C. (2004) "The Effects of Internet Use on Political Participation", Administration & Society, Vol. 36, No. 5, pp. 503-527.

[78] Strandberg, K. (2013) "A social media revolution or just a case of history repeating itself? The use of social media in the 2011 Finnish parliamentary elections", *New Media & Society,* Vol. 15, No. 8, pp. 1329–1347.

[79] Tomkova, J. (2009) "eConsultations: New tools for civic engagement or facades for political correctness?", *European Journal of ePractice*, No 7, pp. 45-54.

[80] Trafficestimate (2015) Eur-lex.europa.eu Traffic Estimate [Online] Available from: http://www.trafficestimate.com/eur-lex.europa.eu

[81] UN Women (2012) What is eCampaigning, United Nations Entity for Gender Equality and the Empowerment of Women. Available from: http://www.endvawnow.org/en/articles/1271-what-is-e-campaigning.html?next=1272

[82] Vesnic-Alujevic, L. (2011) "Communicating with voters by blogs? Campaigning for the 2009 European Parliament elections", *Discourse & Communication*, VoL. 5, No. 4, pp. 413–428.

[83] West, D. M. (2004) "eGovernment and the Transformation of Service Delivery and Citizen Attitudes", *Public Administration Review*, Vol. 64, No. 1.

[84] Xifra, J. (2011) "Americanization, Globalization, or Modernization of Electoral Campaigns? Testing the Situation in Spain", *American Behavioral Scientist*, Vol. 55, No. 5, pp. 667–682.

[85] Zissis, D., Lekkas, D., & Papadopoulou, A.E. (2009) "Competent Electronic Participation Channels in Electronic Democracy", *Electronic Journal of eGovernment*, Vol. 7, Issue 2, pp. 195-208.

The Evaluation of the Drafting Process of Regional's Development Strategies in Albania. the Research on Gjirokastra's Region.

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Abstact

The development strategies have a very important role in the sustainable development of the regions. As documents they should serve to guide public policy at the local level in those areas where regions have competitive advantages and to coordinate all available resources to achieve the ultimate goal, the improvement of the quality of community life. Albania is still considered as a country with a significant difference in the development of the regions. In this context and in the new conditions which are created by the new administrative reorganization, preparation of the regional development strategies, and integrated these national strategies are an immediate request. This paper aims to assess the necessity of drafting development strategies, as basic documents that define a general framework of strategic development for every region. Another purpose of the study is the analysis of the process of drafting regional development strategies in general and the District Development Strategy of Gjirokastra in particular. The aim is to assess how is going this process and if there were any problem that may have affected the quality of the strategy. The study was conducted by using the method of primary research and take place in the South region of Albania, in local governments of the district of Gjirokastra, in public institutions and non-profit organizations and various businesses at the local level.

Keywords: Regional development strategies, sustainable development, Gjirokastra's region.

Introduction

The most important goal for any government is to enable the development of the country and to increase the welfare of its citizens by means of state policies at local and national level (Bejko 2015, p.19). In this context the use of strategic planning concepts in the design of policies is crucial, so as to enable a sustainable economic and social development of the regions and the whole country. Alongside development strategies at the national level developed by the government, central institutions in the sustainable development of the country have an undisputed role in the Regional Development Strategies (RDS). These important documents define the main directions in the development of the regions and the priorities according to each area and sector based on the competitive advantages of each region. For these strategies to reach their goals it is absolutely necessary that they be coordinated and coherent with national and sectional strategies. This is the only way to enable a significant reduction of disparities in the development of regions throughout the country and of course a balanced economic and social development across the country. It is high time that regional development and its policies were seen in a new dimension in Albania based not only on the need for more economically developed regions but on a need to be integrated in the EU structures as well.

Taking into account the indispensable role that RDS's, have in the national development of a country there have been attempts to design RDS in the 12 regions in Albania since 2005. Although there might be discussions on how these

strategies are created and on their quality, it should be noted that it was a brave effort that produced 12 regional development strategies that can and should be improved over time in relation to changing conditions, to better serve the development in specific regions and the country in general.

The District of Gjirokastra was the first in Albania who managed to formulate its strategy of regional development with the assistance of UNDP. The District Council in Gjirokastra as the local government unit of the second level, namely in 2005 approved the Regional Development Strategy of the District of Gjirokastra (DSDGJ) using the Millennium Development Goals (MDGs), as the foundations for domestic policy that would ensure a sustainable regional development. With the passing of years this strategy was due to adapt to reflect the changes in economic and social conditions in the region and to be better adjusted with the policies and strategies of development.

1. The general context of regional development in Albania and the role of RDS-s

Nowadays the concept of development is considered to be multi-dimensional (Civici 2009, p.4). Besides economic growth, it brings social welfare, changes in the quality of the workforce, better organization of society, better functioning of the institutions, namely the evolution of society as a whole. Development means urbanization, industrialization, education, professionalism, knowledge and wealth accumulation so that human needs are better met.

Worldwide central and local governments, the private sector and civil society continuously look for the right way to promote local economic development as a cornerstone for a sustainable development of the country. Many economists try (Stimpson, et al. 2006, p.4) to maximize economic profit, rather than to seek new approaches to achieve sustainable economic development, which will generate more benefits for people and businesses in the community. Temali (2002) links the concept of economic development with the community's economic development, which according to him does not simply mean to put up buildings and businesses, but it also means to develop your talents, skills, improve the lifestyle of people living in these buildings, of the owners of these businesses and of the people who are their customers. Development means helping the community to grow, helping people live better as individuals and as a community (Temali 2002, p.2).

Stimson, et al. (2006) referring to Blakely (1994) defines regional economic development as: a process in which local governments and the community engage in order to promote business activities and employment. The main goal of local economic development is economic development that promotes employment opportunities in sectors which improve the community by using existing human, natural and institutional resources (Stimson, et al. 2006, p.5).

The term region is widely used not only in literature, but also in daily life mainly in the vocabulary of people who deal with drafting policies, or public officials at all levels. Considered at national level the regions of a country are divided in such a way that areas within a region have similar economic, cultural, social and climatic characteristics. EC defines the region as "land surface with more or less defined boundaries, which often serve as an administrative unit of the state" (Cardiff University 2005, p.10). In the Albanian legislation, the term region is generally equivalent to that of the county.

Regional development policies have undergone significant transformations during the last 5 decades. The traditional planning model in many developing countries, considered regional planning as one of the strategic planning components of the state. During the past three decades, the current global situation has caused this concept to be redefined and rebuilt (Mercado 2003).

The Albanian Parliament approved the resolution in support of the Millennium Development Goals (MDG) in July 2003, "... encouraging partners to regularly monitor the progress made in achieving the MDGs, through national systems of evaluation, monitoring and the preparation of annual reports, which encourage public discussion and offer recommendations on ways to improve regional policies and national development. "After setting the MDGs for Albania, objectives and indicators used to measure progress and degradation within regional and local levels of the National Strategy for Economic and Social Development, the process of drafting the RDS's has begun in all Regional Councils since 2003. To assist you in this process, the Ministry of Economy published Manual for the design of RDS's in December 2003.

In each region work began with the drafting of the Regional Reports, in which a full analysis of the current situation in the region was performed and development opportunities for each sector were identified. These regional indicators subsequently served as the basis for drafting the RDS's.

With the help of UNDP, WB, SIDA, and SNV, RDSs were drafted in the 12 regions in Albania in 2005, which had been approved by the respective county councils. These development strategies were conceived as a combination of regional interests on the one hand and of political commitments on the other hand at national and international level. Underlying these strategies are the MDGs and all policies at local level should aim at achieving these objectives. Generally the main objectives of these strategies are sustainable development and improving the quality of life for the communities, poverty alleviation, improving education, improving health care, encouraging the development of small and medium businesses, sustainable environment and better governance. RDS-regional reports in Albania were produced through an interactive and participatory process, which included local institutions, regional and national civil society organizations, international partners, citizens and their communities.

Among the nine MDGs in each of the counties in Albania the objectives selected were those considered as more important given the specifics of particular regions. E.g. the county of Gjirokastra has selected five goals, which have been evaluated as priorities among all the problems the region faces.

Since improving development strategies in relation to changing conditions is very important so as development strategies are coherent, it has been noted that there have been attempts by some counties to update their development strategies e.g. The Regions of Lezha and Shkodra presented new development strategies in 2010, "Regional Development Concept", Lezha region and "Regional Development Strategic Concept" of Shkodra, both with support from the German foundation GTZ and with local and international advice. These documents determine the priorities of development in the District of Lezha and Shkodra and at the same time they determine the action plans, enforcement measures, performance indicators and costs of implementing these strategies.

Even the district of Tirana presented the main directions of its development in 2012 in the act: "Regional Development Concept for the District of Tirana 2012-2017", a document which was drafted with the support of the Albanian Foundation for Local Capacity Development. Although a very good job has been done in this document for the presentation of the current situation regarding the economic and social development in the district of Tirana, we notice that the definition of strategic priorities of development for the District of Tirana, is not accompanied by action plans, by the definition of indicators that will be assessed and not even by a detailed analysis of the costs that will accompany the implementation of this strategy and the planned funding sources.

In a study conducted by UNDP in 2010 related to the regional disparities in Albania it is mentioned that Inter-regional disparities in terms of economic development are still evident. Therefore economic growth calculated by the GDP over the last decade has been unequally distributed in high concentration in the region of Tirana and Durres. Tirana generates about 36% of the total GDP, while it represents only 10% of the active population of the country. GDP differences among regions are very high.

Even in terms of employment figures differentiation between regions has been quite high. Internal migrating movements from the less developed regions to developed ones such as Tirana and Durres has caused deterioration in the employment figures in the eligible counties. Access to water is still a problem: about a quarter of the population has no access to the water supply system. Significant disparities are also noticed among circuits in infrastructure access. Jano (2012) states that Albania does not only have the lowest level of GDP per capita among all member states and candidate countries to the EU, but also its regional disparity has been enhanced by socio-economic structures, inherited infrastructure, the latest developments, massive migration, and by the lack of appropriate, effective development policies to address issues of regional cohesion (Jano 2012, p.5).

Reports between RDS and NSDI sector strategies should be dual. On the one hand NSDI and sector strategies must be appropriately focused on the development of the territory and on the other hand the identified problems and proposed actions on regional strategies should find their position in the action plans according to the sectors. The latter seems not to have really happened. After seeing the development strategies in the 12 regions of the country we notice that the problems identified in these strategies, in very few cases have been given due importance by being included in national and sector development strategies. This has probably happened because it is difficult to regard RDS as a reference point because of the long time that has passed since the moment of their development, during which these strategies must absolutely be improved and adapted, (which in most cases has not happened) in terms of the evolution of society, the new needs, changes in environmental conditions and the generation of new requirements for the integration of the country in the EU.

In the Progress Report on Albania in 2013 it is recommended that in connection to the programming, administrative capacities must be considerably strengthened, so as to be able to develop and implement realistic policies and strategies. The development of priority projects remains an important issue to be addressed, particularly in connection to the future EU assistance within IPA 2 (KE Progress Report Albania 2013, p.46).

In Albania it is difficult to identify a comprehensive policy framework which addresses all priorities: economic ones, social ones, and security ones, those regarding institutional development of regional and European integration of the country. We have a policy framework often characterized by a large number of strategies, priorities, objectives and initiatives, which often overlap or are repeated and most of them are programmed, implemented, monitored and reported separated from each other. Despite the fact that most of these initiatives are successful, it seems that the country lacks a unified vision and a unique national strategic framework, which above all should integrate the process of European integration with priorities of national development (Meksi 2004, p.25).

The results of the study conducted by UNDP regarding regional disparities in Albania showed that: the country has not effectively applied a policy of regional development. Bilateral relations between regional development and decentralization have not been analyzed and assessed, and truly there is no consensus as to which level regional development policies will be implemented. There has been little progress in implementing the RDCS and its prospects are questionable (Girejko 2010, p.26).

2. An evaluation on the process of drafting the Regional Development Strategy in the District of Gjirokastra (RDSGJ)

Despite the positive efforts that have been made in Albania in terms of drafting the Regional Development Strategies, many conducted studies have identified significant problems in the implementation of these strategies. From conversations conducted with focus groups to identify these problems and to find solutions, it was concluded that one reason may have been the poor quality of the strategy that has led precisely to the lack of commitment from public institutions of local government units in terms in its implementation. Namely to assess the RDSGJ drafting process a study was undertaken that basically had to estimate how this process has been going and if there were any problems that may have affected the quality of the strategy.

Methodology of the study

In the second part of this paper some results will be presented in relation to the process of drafting the RDSGJ, results that are part of a full study carried out in connection with the drafting and implementation of RDSGJ and the problems encountered in this process. The main problem mentioned in this study is the analysis of RDSGJ drafting process, identifying the problems that have accompanied this process in order to try and make the necessary improvements to this strategy thus not remain just a document in the archive, but to actually contribute in the develop of the region. So as to get a more complete evaluation of the situation, it was thought that the questionnaire should be used as a research instrument. It was designed to collect the information needed. In order to achieve the objectives of the research the questionnaire was compiled which was conceived in two different sections to be completed by two different groups of interviewees.

• The first section of the questionnaire, from which information could be collected on the process of drafting the RDS, would be filled by people who had participated in this process. Since the number of these people was small 40 people, it was thought that this part of the questionnaire should be distributed to everyone.

• The second section of the questionnaire, aimed at gathering information on the drafting process of the strategy only by the expert group which was a total of 6 people. This group was deliberately considered because it could identify any problem that may have negatively affected the quality of the strategy.

The geographic area where the study was conducted was the county of Gjirokastra, with its three districts of Gjirokastra, Tepelenë and Permet. Questionnaires were distributed via direct contact with people and a very small number of questionnaires were distributed in electronic form. The review, processing and data analysis of the research was conducted using the program *SPSS IBM Statistics* version 21.

Study results

The analysis of demographic indicators for the first section of the questionnaire (Table 1) from a total of 34 interviewees shows that: only one in 34 (2.9% of the interviewees) were aged 25-30 years, which makes the assessment it has provided controversial about the process of drafting the strategy. Taking into account that the other 33 interviewees or 97.8% of the interviewees are over the age of 31 years, it is evaluated that the results of this questionnaire, at least in terms of age criteria will be valid.

Although selective sampling was used in this survey we tried to assess the level of information that respondents had about the process of drafting the strategy. Since it was drafted nine years ago and we are conscious of the personnel changes that have happened in public administration, this information was considered important for us. Calculating the results (chart 1), we note that only 14.7% of the interviewees have average information about this process, while 85.3% of the interviewees have very good information about this process. Thus it is believed that the information gathered will be very useful to us.

Based on the discussions that took place in the focus groups the problem of high impact that UNDP had in the process of initiation and development of the strategy was identified. This influence was reflected in the content of the RDS, the objectives of which were built based on the MDGs. The following question was included in this questionnaire: "Who initiated the process of drafting the regional development strategy?" We have the following results: 44.1% of the interviewees think that the district of Gjirokastra needed a development strategy, 26.5% of the interviewees think that there was a need to improve the old strategy of development and 23.5% think that there was a wish to adapt RDS to NSSED and 8.8% of the interviewees stated that it was UNDP that initiated this process.

Judging that the quality of the strategy is directly related to the quality of the working group dealing with its design, the interviewees were asked about the selection of the members of this group. From the results we notice that: all interviewees had information on the composition of the working group, 15 out of 34 interviewed did not know how the members of the working group were selected, while the answers of the other 19 people who had information regarding the selection of the members of the working group were spread between the Chairman of the County Council and County Council. There were also answers that did not yield any useful information on this question.

At the same time they were asked about the assessment they had on the composition of the working group that dealt with the drafting of the strategy. 23.5% of them felt that the group was completed with specialists from all fields, 38.2% felt that the working group was partially completed with specialists from all fields, 38.2% thought that the working group had a lack of specialists from all fields.

From the evaluation that the interviewees made how positive was the impact of the composition of the working group on the quality of the strategy (see Chart 2), the results show that only 29.3% assess it to be over the average (positive, very positive), while the rest 67.6% rate it as average or low, and 2.9% did not provide any valid response.

Based on these results we can judge that the absence of specialists from all fields in the working group is an indicator that has damaged the quality of the strategy.

Two questions are used to assess the quality of the strategy in the questionnaire: "At what level do you evaluate the quality of the strategy?" and "At what level do you think the priorities set in the strategy reflect the most problematic issues in our region?" This is done in order to assess how careful and considerate are the respondents while filling in the questionnaire. From their answers (Table 2) we see that the average answers are as follows:

It is noted that the evaluations of the quality of RDSGJ are very close to the average assessment. To statistically assess how important these averages are the T-test is used, from which we see that with a 99.9% confidence interval, these estimated averages are important.

Since the evaluation for the first variable "strategy quality " is regarded with a slight positive tendency, and there is a little negative tendency for the second variable in order to give a fairer evaluation, the coefficient of variation is calculated for both variables:

V = (Standart Deviation / Average) x 100

Note that v_1 = 31.3 and v_2 = 29.5, which indicates that the second variable "To what extent do priorities reflect the issues of the region", has a lower coefficient of variation, so the data have a greater homogeneity in relation to the variable "strategy quality ". This argument shows that the priorities defined in the strategy averagely reflect, with a slight negative tendency, the problems in our region. *In conclusion it could be said that this strategy is assessed to be of average quality with a low tendency to negativity.*

In order to gather information about the interviewees' opinion on other problems that exist in our region that should be reflected in the strategy, they have identified as the most important ones: the problems of tourism development, the problems of agriculture and problems of regional economic development (Table 3).

In view of assessing the strategy, information was collected from a group of experts who dealt with the drafting of the strategy.

At first, information was requested in connection to this process from the County Council of Gjirokastra which was the institution responsible for this strategic document. From the information obtained it was confirmed that the process of drafting the strategy had proceeded normally. It began with the appointment of the expert group that would lead the process, then several working groups were created with regional specialists, from the prefecture and public administration that would work to gather the necessary information in order to analyze the current situation (at the time) to identify where the problems were and after that to define the priorities of regional development. After this information was collected and processed, the priorities set in advance were discussed with all interest groups. Their thoughts and suggestions were reflected in the final draft of the strategy which specified the levels of the main objectives that had to be achieved as well as the programs that would be undertaken in order to apply the strategy. According to the regional council the process had been participating, and the priorities set in the strategy were discussed in advance with all interest groups and their consensus was obtained.

Information was taken from the expert group to get a second assessment on the progress of this process. From a total of six members we were able to obtain this information only by four of them. In the information collected we sometimes deal with contradictory answers e.g.: they admit that they had experience in designing strategies, while two experts confess they have not received the necessary training to engage in this process, another expert admits being trained for this . At the same time they accept that the old strategy of the regional council served as a reference document in this process also the UNDP has consistently advised this process.

Question: "Do you think that the working group includes appropriate experts to design a development strategy?" two of them think that the group was partially complete with the appropriate specialists to design a development strategy. They admit having had problems in the process of strategy designation and they list these problems as follows:

• Lack of training or inadequate training

• Great lack of information

• Lack discussions in the interest groups

• Lack of logistical infrastructure

• Lack of support specialists

• The impact of politics on the determination of development priorities

At the same time they believe that their opinions were greatly regarded in the final document.

Based on this information, considering the fact that this part of the questionnaire aims to collect information on a process carried out 9 years ago, and while the focus of this questionnaire is a group of experts, the assessment of the effectiveness of the process of drafting a strategy really does present difficulties. However, we consider that if the effectiveness of this process was high, it would produce a good strategy to implement the requirements of interest groups and would be under continuous pressure from these groups to assess the progress made in achieving the objectives. This was not observed in the years that followed the drafting of the strategy. On this basis we can say that this process has been lukewarm and the strategy has not realized the expectations of the interest groups. This is proved by the results of the first section of the

questionnaire related to the assessment that the interviewees had on the quality of the regional development strategy, where the strategy is estimated at average level.

Conclusions and recommendations

The country's economic development can be achieved by coordinating public policies at the national level with national policies on regional and local level. In this context the role that regional development strategies have in the sustainable development of the country, is very important.

Despite being a condition for the overall development of the country regional development in Albania despite is also a must to integrate into EU structures. In this context, our country still has much to do to bring regions on a uniform development like the EU.

The drafting process of RDSGJ was an inclusive process during which the development priorities of the region were defined in full coherence with the MDGs. The absence in the working group, which dealt with the design of DSDGJ and with the specialists from all areas, is an indicator that has damaged the quality of the strategy.

Analyzing the results, RDSGJ is estimated of average quality with a low tendency to negativity. In this context it could be said that this document does not meet the expectations of interest groups. Therefore under these circumstances it is important to make the necessary changes to the strategy so as to be more coherent and serve the region's development as much as possible. Research showed that 3 important regional problems need to be reflected in this strategy: tourism development problems, the problems of agriculture, and problems of regional economic development.

The study showed that there have been some problems in the process of drafting the DSDGJ, among which we mention: lack of training or insufficient training of the working group, great lack of information, lack of discussions in the interest groups, lack of logistical infrastructure, lack of support specialists, political influence in determining the development priorities etc.

RDSGJ has already lost its value as a strategic document for the development of our region because of the fact that its term is ending, but also because of the fact that the priorities set in this strategy should be reconsidered in relation to economic, social, political and demographic development that have occurred during these eight years since its approval. Under these circumstances based on the previous experience the District of Gjirokastra should definitely start work on drafting the new development strategy in accordance with the requirements of the time.

It should be borne in mind that the process of drafting a new development strategy for the region of Gjirokastra, should be more partaking in order that all interest groups can accomplish their expectations for the new strategy. This will make them more active in the process of implementing the strategy.

References

[1] Bejko, A. (2015), "Çështje të hartimit dhe zbatimit të strategjive të zhvillimit rajonal. Në fokus Qarku i Gjirokastrës", Disertacion doktorature, UBT, Tiranë.

[2] Cardiff University, (2005), "Best Practice Guidelines for Regional Development Strategies".

[3] Civici, A. "Koncepti dhe rebusi i politikave te zhvillimit", ECONOMICUS 3.

[4] Girejko, R. (ed.) (2010) "Regional Disparities in Albania", Integrated Support for Decentralization Project "Working for Regional Development", UNDP, Tirana.

[5] Jano, D., (2012), "Pajtueshmëria me Politikën e Kohezionit të BE-së dhe Kërkesat e IPA-s: Qasja e Qeverisjes Shumë nivelësh", fq.5

[6] K E, Progress Report 2013

[7] Meksi, E. (2004), "Rëndësia e integrimit të procesit të Stabilizim Asocimit me procesin e SKZHES", Konferenca Kombëtare:Drejt Integrimit në BE dhe Objektivave të Zhvillimit të Mijëvjecarit nëpërmjet Strategjisë Kombëtare të Zhvillimit Ekonomik dhe Social, 23-24 Mars 2004

Mercado, R.G. "Regional Development in the Philippines: A review of experience", State of the art and agenda for research and action, Philippine Institute for Development Studies, Discussion Paper Series NO. 2002-03.

Stimson. R, Stough. R, Roberts. B, (2006), "Regional Economic Development, Analysis and Planning Strategy".

Temali, M. (2002), "Community Economic Development Handbook: Strategies and Tools to Revitalize Your Neighborhood".

Tables

Table 1: The distribution of the interviewees by age

Age	Frequency	Percentage
25-30	1	2.9
31-40	12	35.3
41-50	5	14.7
Over 50	16	47.1
Total	34	100.0

Table 2: Calculation of averages for variables that assess the quality of the strategy

Variables	N	Mean	Stand. Deviation
Quality of the strategy	34	2.85	.892
At what level the priorities set in the strategy reflect the most problematic issues in Gjirokastra region	34	3.21	.946

Table 3 Problems that should be reflected in the RDSGJ

Nr	Problems that should be reflected in the RDSGJ	Percentage
1	The problems of tourism development	67.6
2	The problems of agriculture	50.0
3	The problems of regional economic development	47.1
4	Maintaining monuments of culture	38.2
5	The problems of development of mountainous areas	32.4
6	The problems of unemployment	32.4
7	Treatment of urban wastes	32.4

Figures

Chart 1: Level of information about the process of drafting the RDS

1	Average
2	Very good
3	Good
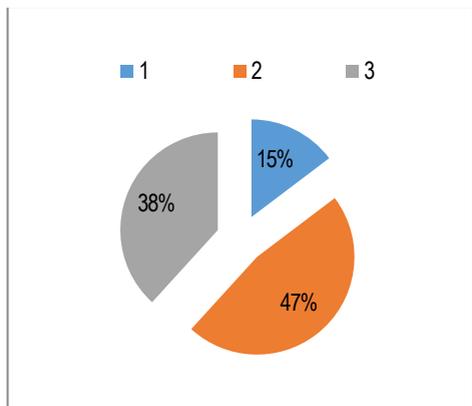
Chart2: How positive was the impact of the composition of the working group on the quality of the strategy
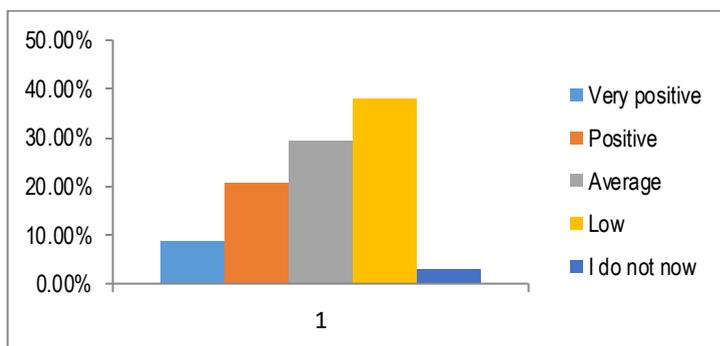
Appendixes

Questionnaire

Section I: The process of drafting a regional development strategy.

This is a questionnaire to be filled in by the County Council clerks or former clerks, and other individuals who have helped in the drafting of RDSGJ.

1. What is your age:

　　1. 30-40 years old　　2. 25-30 years old　　3. 40-50 years old　　4. Over 50 years

2. What is your profession? _____

3. How much information do you have about the process of drafting the regional development strategy for the District of Gjirokastra?

　　1. A lot 2.Enough 3.Average 4.A little 5. Not at all

4. Do you have any information on who initiated the process of drafting the Regional Development Strategy for Gjirokastra:

　　1.　The need there was for a development strategy in Gjirokastra
　　2.　The need for improving the old strategy of development
　　3.　The request to adapt the regional development strategy with the National Strategy for Economic and Social Development.

4. Other_____

5. I do not know

5. Do you have information on the composition of the working group that drafted the District Development Strategy?

1. Yes 2. No

6. Do you have any information on the election of members of the working group? (Specify) _____

7. What is your opinion regarding the working group

1. The group was completed with specialists of all fields

2. The working group was partially completed with specialists of all fields

3. The working group lacked specialists of all fields

4. I do not know

8. Do you think that the composition of the working group has had a positive impact on the design of the strategy?

1. Very positive 2.Positive 3.Average 4.Somewhat positive. 5.I do not know

9. At what level do you evaluate the quality of this strategy?

1. Very good 2. Good 3.Average 4.Poor 5. Very poor

10. At what level do you think the priorities set in the strategy reflect the most problematic issues in our region?

1. Very high 2. High 3. Average 4. Low 5. Very Low

11. In your judgment what other problems should be better reflected in the strategy?

1. Problems of regional economic development

2. Problems of agriculture

3. The problems of development of mountainous areas

4. Problems of transportation

5. Tourism development problems

6. Transnational cooperation

7. The quality of public services

8. Environmental pollution

9. Treatment of urban waste

10. Problems of unemployment

11. The problems of urban planning

12. Food safety problems

13. Social problems

14. The problems in the education sector

15. The problems in the health sector

16. Issues related to business development

17. The preservation of cultural monuments

18. The problems of water supply and sanitation

19. Other _____

Section II: The process of drafting a regional development strategy.

A questionnaire for the group of experts that has been in charge of drafting the Regional Development Strategy for Gjirokastra 2007-2013.

1. What is your age:

> 1. 25-30 years old   2. 30-40 years old   3. 40-50 years old   4. Over 50 years old

2. What is your profession? _____

3. Do you have experience in drafting development strategies?

> 1. A lot 2.Sufficient   3. Average   4 Little   5.Not at all

4. Have you received proper training to engage in this process?

> 1. Yes   2. No

5. If yes, how much did this training help in the drafting of the regional development strategy

1. A lot   2.Sufficient   3.Average   4. Little   5.Not at all

6. Have you had any reference document that served as a basis in this process?

> 1. Yes   2. No

7. If so which one was it?

> 1. National Strategy for Economic and Social Development
>
> 2. Old County Strategy
>
> 3. Strategies developed by other regions in Albania
>
> 4. Other (specify) _____

8. Do you think that the working group was composed of the appropriate experts to design a regional development strategy?

> 1. Totally   2.Partially   3. Not at all

9. What was your motivation in this process?

> 1. The development of new knowledge
>
> 2. Positive contribution to the development of my region
>
> 3. Financial incentives
>
> 4. Exchanging views and experiences
>
> 5. Other (specify) _____

10. How motivated were you in the process?

> 1. Very much   2. Enough 3. Average   4. Little   5. Not at all

11. If you did not feel motivated, what were the reasons for this?

> 1. You were not free to express your professionalism
>
> 2. You did not feel financially motivated
>
> 3. You did not have the right information to design a strategy
>
> 4. Your thoughts were not taken into account

5. You were constantly pressured to make certain choices

6. The work group did not meet your expectations

7. There was not enough time to judge objectively

8. Other _____

12. Did you come across setbacks in the process of drafting the strategy?

    1. Yes   2. No

13. If yes, what were these setbacks?

    1. Lack of training or inadequate training

    2. Poor communication within the working group

    3. Weak support by the regional council

    4. Significant lack of information

    5. Strong reactions from interest groups

    6. Lack of discussions with the interest groups

    7. Lack of seriousness by the members of the working group

    8. Lack of logistical infrastructure

    9. Lack of support specialists

    10. Poor coordination between governments (county, municipal, municipality)

    11. Bureaucratic obstacles in collecting information

    12. Political influences on the presentation of the situation

    13. Political influences on determining the priorities of development

    14. Other (please specify) _____

15. How much were your thoughts reflected in the final document

    1. Very much   2. Enough 3.Average 4. Little   5.Not at all

The Challenges in Building a Legal State in the Republic of Macedonia

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Abstract

The Establishment and the consolidation of the legal state in the Republic of Macedonia still remains the main challenge and a primary issue which comes into view continuously during the functioning and the governance of this country, although we are facing the third decade of democratic transition since the fall of communism in these regions. By a legal state in Macedonia we understand the system in which the state authorities in this country, and in particular the executive and administrative authorities, though restricted to its legal norms (the constitution and the law) which guarantee the inviolability of fundamental human rights and freedoms of its citizens and the democratic functioning of political power, their implementation in practice nevertheless continues to represents a major difficulty that the country faces. The need of a functional legal state in Macedonia is still far from its implementation and in consistency with the theory of Hans Kelsen about the legal state. According to him, in the territorial region of a state there should be a single lawful, legitimate and sovereign order: that of the state: all the legal norms, directly or indirectly, derive from the state and those are valid only when incorporated in its lawful order, by thoroughly respecting their intentions. "The state represents the overall legal order, its law, being the highest, is the single true law".[1] We shall stop and focus on some of the main criteria, principles and pillars on which it relies, respectively on those which condition and enable the functioning of a legal state in Macedonia. These are the criteria and principles which are also accepted by the judicial-constitutional concept in general. Firstly, we will examine the respect of the principle of constitutionality and legality, the respect of the basic human rights and freedoms in this country: the free and democratic elections, independent courts etc.

Keywords: law, judiciary, courts, rule of law, government, human rights and freedoms, free media, elections, constitution, corruption.

Introduction

The respect of the principle of constitutionality and legality is an important element that characterizes Macedonia as a legal state and its functioning according to the laws. We will view the respect of the principle of constitutionality from the angle of all the legal acts issued by Macedonia, and whether these are in accordance with the constitution of this country. In addition, the principle of legality will be analyzed from the aspect of whether all the state government institutions are in accordance with the laws of this country, namely the state administration institutions.

The constitutional restriction of power denotes the power within the limits of the law, respectively the power that is limited by the constitution in its formal or material aspect: "The law which doesn't restrict the actions of the government does not deserve even a minute of commitment towards it".[2]

The violation of the principle of legality represents a frequent practice of the functioning of the state governmental institutions and democracy in Macedonia. Illegality of the work of state institutions often causes incompatibility among legal acts (by-laws) and its implementation in practice in accordance to the law, as a higher legal act. The violation of the principle of legality occurs often in Macedonia, both in a material and a formal sense.

Cases of lawlessness in its material sense, first of all emerge in the work of the administrative institutions of this country. It often occurs that the institutions of the state administration, during their line of work when issuing the by-laws decisive about the rights and obligations of the citizens, issue by-laws which are not in compliance with the law and the pragmatic way of their implementation.

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[1] Hans Kelzen, Theorie pure du droit, Dalloz, 1964
[2] Leon Digi, Traite de droit constitutionnel, tome I, 3 ed, Paris, 1927, pp. 98-99

This method of functioning of the state administration in Macedonia appears mostly as a result of the lack of de-politicization. The political influence continues to be present and this is the main factor which influences the decision-making of administration bodies, as well as its personnel policy. Only a de-politicized administration may exercise its duties properly and consistent to the implementation of the laws in Macedonia and rightful implementation of the rights and obligations of the citizens of this country.

Republic of Macedonia needs to focus more on the quality and respect of the laws than on the quantity. There may be many laws in a country, but no legality. This was nicely emphasized by the theorist Tacit at the beginning of our era "The more corrupt the state, the more numerous the laws" (Corruptissima res publica, plurimae leges).

Another important concern in Macedonia that leads to challenging the legal state is the control on the constitutionality of the laws as one of the issues on which depends the implementation of the constitutional principle in practice. The control on the constitutionality of the laws in this country needs to include more control on the compliance of the laws with the Constitution of Macedonia, both in the material and formal aspect. In other words, the Constitution of Macedonia can be implemented in practice only under conditions where it is fully protected by unconstitutional acts and in particular by unconstitutional laws in this country. Unfortunately, we have often faced cases where laws heavily infringe the basic principles and provisions of this state.

Freedoms and rights represent the basic criteria on the citizen's position and role in the Republic of Macedonia. They are an integral part of the political history of this country, because they are the best indicator on the nature of the rapport between the state and the citizens, on one hand, and the state and other entities on the other hand. Precisely for this, human rights and freedoms of the citizens are an object of examination in this paper. Then again, the challenge of freedoms and rights has been a continuous demand of democratic forces, throughout the history of the existence of this country of over seventy years, including this day.

The present government yet continues to violate some of the freedoms and human rights in this country, and in this occasion we will focus on some of these violations which are most present in the country, like the right to anti-discrimination, presumption of innocence and the freedom of media.

Although the Republic of Macedonia within its 1991 Constitution has accepted the anti-discrimination clause foreseen under the Universal Declaration of Human Rights of 1948, it still fails to do much in respecting it entirely.

The anti-discrimination law in Macedonia is mostly expressed in the interethnic relations between Macedonians and Albanians, or specifically between the Macedonian Government and the Albanian people, as well as towards other ethnicities not belonging to the majority of people who live in the country. Often, the Albanians in this country have been subjected to discrimination in their fundamental rights by state authorities of this country. Therefore, the Republic of Macedonia, in order to build mutual multiethnic country needs to take measures towards the mitigation of differences in terms of the implementation of human freedom and rights.The presumption (assumption) of innocence of the citizen is an expression of respect towards the citizen, which often is brutally violated in this country. Many persons suspected and accused of various criminal offenses in Macedonia, during their deprivation of freedom, have been treated as guilty, whereas their guilt has not been established with a final court decision. The presumption of innocence in this country has been violated even in cases when persons who were illegally deprived of their freedom, arrested or tried not according to law, have not used their right to compensation for damage or other rights established by law.

Freedom of media and other forms of information represent another form of freedoms and rights which is also seriously violated in the Republic of Macedonia. We face violation of the right to expression and display of different opinions, views and stances, as well as violation to the right to democratic communication of the citizens with the authorities and vice versa.

The information media in Macedonia often misuse the freedom of information. The most usual cases of infringement to this freedom include: filtering of news in accordance with the needs of the existing government; commercialization of the information means and violation of the truth and the sound political judgment; silence the truth and manipulating public opinion; establishing a monopoly in the field of information, and finally, inducing hostility between the nations in Macedonia and planting hatred among them.

Despite the constitutional restrictions, even today there exists censorship in Macedonia, especially in the pro-government media or in the "independent" media, who adjust their editorial policy to the government's policy goals.

Today in Macedonia in both local and national level, the media financed by the government and many other private media, through political marketing and the financial aids that they receive which aiming at their control, have been fully subjected to the present policy of the government. This absolute dependence has led to the lack of trust in the media by the majority of the citizens.

The bad rates of the media position in Macedonia from the legal practice perspective was also confirmed by a group of French and local experts during a debate organized in Skopje. In this occasion the French experts from *Reporters without Borders* presented their most recent index about the freedom of press for the year 2014. According to these results, Macedonia was ranked 123rd, thus marking a major drop of 84 places compared to their ranking from 4 years ago. During this debate it was concluded that the journalists in Macedonia are being faced with arrests, higher punishments against them, self-censorship, political pressures, etc. According to the French experts, Macedonia is in any case quite far from a kind of freedom of expression which would be acceptable in a European society.[1]

The European Court of Human Rights considers that the freedom of information is a basic element of democracy. Through its judgments, the European Court largely upheld the belief of Thomas Jefferson, a renowned former US President, in relation to the newspapers and the state government at the time in the United States of America, who emphasized that, "Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.[2]

In the Republic of Macedonia occurs the very opposite because the courts in this country have held a rather restrictive stand towards the journalists. This was seen during the trials against journalists accused of treason in 2005 and 2006, in which cases they all lost their court disputes against the President of the country, President of the Parliament of Republic of Macedonia, Prime Minister of Republic of Macedonia and against certain ministers. Despite the fact the trials in the Republic Macedonia are in general being processed very slowly, in these case the same were done in no time and with considerable penalties in cash to be paid by the journalists.[3]

LLLIn regard to theviolation of human rights in Macedonia, also spoke the Ombudsman through the presentation of his report in front of the members of parliament in June, 2015. Through this report he revealed many violations of human freedoms and rights in many of the segments of the country.[4]

In order to ensure full independence of the courts for Macedonia to function as a democratic state, it needs to fulfill some conditions:

- Firstly, emphasize the independence of the courts and the legislation, independence of the judiciary and legislation form the executive branch. This principle consists of independence of the courts from the parliament and the Government of Macedonia in particular, as well as eliminating the practice of political control over their work;

- Secondly, further depolarization of the courts in the country, hence forbidding any kind of political activity within the judicial organization, be it on party bases or other forms of political organization;

Thirdly, respecting the independent financing of the courts, meaning that the courts in the country, though financed through their independent budget, they keep being under permanent control of the government;

-Fourthly,thehigher respect for the judicial procedures is another condition in building independent judiciary and the legal state, in general;

- Fifth, the impartiality of judges, meaning that the judges need to be very impartial when bringing their decisions and this can be achieved only when they get elected based on merits which will make them dignified judges.

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[1] Debate organized in Skopje February 26th. 2014, joint organization between the French Embassy in Macedonia, the International Institute for Human Rights and Peace in Cahn, and the Faculty of Law, "Justiniani I"

[2] Thomas Jefferson, Writings, The Library of America, New York, 1984, p.117

[3] Svetomir Shkaric, Gordana Siljanovska-davkova, Ustavno pravo, Skopje, 2007, p.420

[4] See: The Report of the ombudsman presented in the Parliament of R. Macedonia, June 25th, 2015.

The "Sopot Case," as well as many other court cases in Macedonia, gives a lot of room to doubts about staged political trials, through the public disclosure of the wire taps called the "bombs" revealed by the leader of the opposition Zoran Zaev, during the past few months of 2015.

Another even bigger problem about the functioning of our courts is corruption. Half of the citizens of Macedonia consider that the judiciary is the most corrupted institution in the state. This was indicated in the recent reports of "Transparency International" which carried out surveys in many countries covering thousands of citizens. According to a report titled *The 2009 Global Corruption Barometer*, which was carried out from October 2008 until February 2009 in 69 states and territories, including 73 thousand surveyed people, over 50% of the citizens of Macedonia have picked out the judiciary as the most corrupted institution or field, responding to a question which included the political parties, the parliament, businesses and the public administration employees. For the most corrupted sector, 23% of the surveyed have chosen the public sector, 11% the political parties, 7 % the business, 6% the Parliament and 3% chose the media.[1]

Another more controversial issue in the country which is directly related to the functioning of democracy and the constitutional state, are free and democratic elections.

Elections represent the foundation of the legitimacy of the state government, though often in Republic of Macedonia the same represent a process which is associated with questionable results of the participants in the elections and with major irregularities in the process of holding elections. The importance of elections, lays in the fact of how much indeed through them they express a higher articulation of the will of the citizens, of the political pluralism and of the democracy in Macedonia.

The organization of the several cycles of past elections in Republic of Macedonia has not been quite free and democratic. Through the wire taps known as "bombs" made public by the opposition leader Zoran Zaev, many suspicions have were raised about major manipulations during the election processes in the country. As a result of undemocratic processes of holding elections in the country we could notice the many frailties in the democratic character of the representing institutions in regard to the non-participation of the opposition in the parliament, the democratic way of exercising power, political rights of the citizens and the politics in general in Republic of Macedonia.

Also, as a result of such not very democratic elections in Macedonia, there is a failure in succeeding to exercise the controlling means for the work of the government in power. The importance of this issue is that by failing to have continuous control by the citizens over the people who govern, Macedonia has moved a lot towards an undemocratic system of governing in the last decade. Only through free and democratic elections in Macedonia we can speak of a legitimate government. Otherwise, as stressed by Altius, legitimacy aims at reducing the difficulties of both, those who govern and those being governed, "If consensus and the will of the leaders and the citizens is the same, in such cases the life of the people is rich and fortunate.[2]

Elections are important for Macedonia and every country because they link both the legitimacy and the legality of the state government.

Legality represents a judicial category, whereas legitimacy a politico-logical and sociological category. These two categories have their common and separate grounds among them. They come together when the legal state power is also legitimate. Simply put, the principal of legality or legitimacy means that the behavior of the state institutions during their exercise of power is in accordance with the positive rights, respectively with the law. Because of this, legitimacy is identified with legality.[3]

In these moments, Macedonia is in a very deep crisis of political institutions as a result of failure implementation of the laws, due to the lack of participation by the opposition within the works of the Parliament of Macedonia. In order for Macedonia to move out of this political institutional stalemate, the European Union has undertaken the initiative to resolve this problem through mediating between the parties, both the ruling and the opposition party.

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[1] *The 2009 Transparency International Report on global corruption*

[2] Johanes Althusius, Politica metodicæ digesta, London, 1964, p. 9

[3] Karl Joakim Fridrih, Konstitucionalizam (Ograniçavanje i kontrola vlasti), CIID Podgorica, 1996, str. 173

The absence of rule of law is also one of the main remarks in the part of the report about Macedonia in regard to the current political situation published by the US State Department related to the freedoms and human rights in the world in June 2015. This stressed that, "The most emphasised problems dealing with human rights come as a result of the high level of corruption within the government and the lack to fully respect the rule of law, including here the continuous attempts to limit the freedom of media, interference in the judiciary and the selective punishment", claims the report. In addition, the Department of State notes that the judiciary in Macedonia is characterized by political influence, inefficiency and favouritism of persons already established in society, protracted processes and others. The State Department also notes that the police has used excessive physical violence against detainees and prisoners, as well as the poor conditions in prisons. The Department of State claims that there exists a government pressure over the media, where a number of persons close to the government are the owners of these media.[1]

Another proof about the lack of functionality of the legal state in Macedonia is also based on the reaction of the European Commission through the report presented by Mr. Pribe, over the political crisis in Macedonia during the beginning of 2015, which continues to escalate after the information made public by the opposition leader Zoran Zaev, according to whom the government in Macedonia has wire tapped over twenty thousand citizens, including important political dignitaries. The report reflects the legal violations, abuse of power and bad governance in Macedonia, including the prosecutor, courts, state security, electoral process, public service broadcaster, all the way to identifying the parties with state, reflecting all forms of destruction of fundamental principles of democracy and fundamental freedoms of human rights.Pribe's Report of the European Commission also gives guides on how to move out of the political institutional crisis with the wire tapping which has engrossed Macedonia.[2]

The lack of complete functioning of the legal state in Macedonia entails the lack of implementing the law in all the governmental institutions, both in terms of limiting their power and in terms of the procedures of their functionality. This also includes their responsibility for action or lack of action and illegal behaviors, like abuses, excess of powers etc.

The aim of the rule of law in Macedonia should consist more in the promotion and provision of legal protection of the citizens, their equality in front of the law, effective protection of all their freedoms and rights through independent and impartial courts.Macedonia needs to consider these important goals in its functioning as a legal state, in order to do more to ensure the same in a near future. This is a condition for the existence of political stability and security in this country.

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[1]http://botasot.info/maqedonia/420903/departamenti-amerikan-ne-maqedoni-ka-korrupsion-dhe-nuk-sundon-ligji
[2]http://botasot.info/maqedonia/418334/komisioni-evropian-jep-direktivat-si-te-dilet-nga-kriza

Careers, Identities and Professionalization. a Study on Doctors about Their Social Representations Related to the Labor Market Today and its Foreseeable Future

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Abstract

This study is in line with the analyses of university and working career in their interaction in relation with conditioning factors. It comprises two central issues: the issue of identity bound to the issue of professionalization within the domain of training and employment. Nowadays, professionalization of the individuals, inside a troubled occupational world, demands the implementation of mechanisms favoring the development of both the individuals and the institution in which they work. All this has an impact at the local, regional and even national levels. Three levels of analysis interplay from a sui generis perspective: macro-meso-micro-macro (Aparicio, 2005; 2007a; 2007b, 2013a, 2014, 2015 b, d – See the Three- Dimensional Spiral of Sense Theory). The aim was to be aware of the doctors' representations regarding the value of such degree under the present "degree devaluation", and its impact on the professional future as well as on the core issues of the labor market which need urgent measures with a view to a belter interaction between the two systems. The methodology used was quanti-qualitative (semi-structured questionnaires, interviews, and hierarchical evocations). The population consisted of doctors (2005-2012) from the National University of Cuyo, in Argentina. The results helped us understand the nucleus of such representations and the peripheral aspects by career and institution, thus revealing professional and disciplinary identities. The professional identities show the situated needs in terms of professionalization within the different contexts and, particularly, within the labor market.

Keywords: Careers, Identities, Professionalization, Social Representations, Labor Market

1. Brief Framework: What is the future for PhDs?

This research work is part of the issue of Professionalization, (Lang, 1999; Bourdoncle 1993) associated to the issue of professional, personal, institutional and social identity (See. Part I. Introduction; Aparicio, 2015, in press; 2014b.

This is part of a set of continuous works concerning professional performance of different populations (university graduates, drop-outs, students who take longer to complete their studies, teachers, etc.), covering 20 years of existence of different courses of study at Universidad Nacional de Cuyo (UNCuyo, Argentina).

We have worked on two core issues: identity related to professionalization in the field of formation, and professional insertion.

Professionalization has been source of long debate since the 80s (Lang, 1999). On the one hand, the effects of "overcrowding" in higher education (Bourdoncle & Demailly, 1998) has emphasized the need to consolidate certain competences and sets of knowledge essential for professional practice and its corollary, social recognition of professional groups (Bourdoncle, 1993). The professionalization of individuals (training on an existing field) or of the activities (construction and/or redefinition of new profiles of an existing profession) demands the implementation of new mechanisms. On the other hand, as regards this research, the conditions of professional practice in the working world have changed, and professional insertion as well as duration and promotion represent a complex problem with a variety of variables.

Briefly: the quick changes within the professional world demand innovative transformations in training institutions and consolidation of new competences valued by the market. All that could influence on professional and institutional identity updating.

There are many institutional efforts which have not always been accepted. In the specific field of training, the new professionals encounter various difficulties, in addition to lack of recognition. Some authors even speak of de-professionalization of those graduates on this field, and they are left behind into a process of "proletarianization" (Ozga & Lawn, 1981). There exist other problems: "semi-professional" status in a broad sense (Etzioni, 1969), the devaluation of the graduate's image in the field of education (training) along with an ever growing weakening (burnout) (Tardiff & Lessard 1999; Maroy 2006; Aparicio, 2006a, 2006 b, 2007 a, 2007 b, 2009 a, 2009 b, 2009 c, 2013 a).

In general, considering the existing literature, it can be said that there is a certain tension between the area of work and the area of training, as well as between the expectations at the moment of vocational choice and the actual experience in the professional environment; also, between the "ideal" situation expected by the PhD students and the real one of the PhD graduates; between the representation of the doctors and their world experience. Is there an identity crisis as regards the deep changes in the labor market and as regards expectations? (Goffman, 1963). Is there certain overprescription in the institutions to respond to the changes in the labor market along with underprescription in the means used to such response, as it is usually said? Within this framework, the links between the personal training experience and the professional life become a source of concern in the field of training and, especially, in the studies related to humanities and social sciences.

Besides, this issue involving institutional and even disciplinary identities, as well as the identity reconstruction processes, is accompanied, as it has just been said, by actual insertion conditions, duration and professional mobility; all of them will have an impact on professional performances (Dubar 1991, 2000 a, b and c).

This research develops along two lines: actual insertion (here, effect/variable-dependent)and the conditions (core variables, sociocultural, psychosocial and institutional) associated to professional performance, which favor or prevent achievement within labor organizations (here, independent/intermediate variables): Expectations, Internality, Engagement, Social Representations on the value of education in society and related factors, such as power relationships, stereotypes, prioritized values in each micro-system, frustrations, possibilities of professional success, etc.

These two lines represent the two poles in our theoretical model, which include, at least, the four variable types already mentioned. These variables, according to our sui generis systemic approach, interact within a "self-sustained" movement (feedback) (Aparicio, 2005a, 2012a, 2014c). Analysis shows, on the one hand, the gap between the training provided by educational institutions and that demanded by the market (disarticulation between the education and productive systems). On the other hand, the differentiated conditions of the individuals received by each institution (self- and institutional selection processes): variables which have an influence on the professional achievement levels, as far as the results of our studies are concerned. These studies not only add inputs and outputs but also, and fundamentally, human processes that appear on the base of the figures of the systems, accounting not only for the factors have a significant impact on achievement, but also for the "underlying" reasons that make the figures in the national and, system meaningful and, more broadly, in the international framework. It is actually an integrating and holistic approach that helps analyze the mechanisms and/or factors anticipating achievement at the psycho individual level, and at the same time going through the meso-institutional/organizational level (university, labor market). This achievement, in this study, reminds us of the experience in the labor market of doctors in the framework of degree devaluation (Aparicio, 2005 a, 2007 a and b, Boudon, 1973; Lévy-Garboua, 1976, 1977; Dupray, 2005; Dupray & Moullet, 2004; Calmand & Haller, 2008; Giret, 2003; Giret, Moullet, & Thomas, 2003; Mansuy, 2004; Olivier et al., 2008).We should also add, on the one hand, the market demands new competences and, therefore, new mechanisms from the institutions, as well as the effort of the individuals to support the changes. On the other, this leads to identity transformations and the implementation of identity strategies (Gofmann, 1963) to deal with the difficulties posed by the new contexts and, related to that, there appears the need for professional recognition. This problem does not seem to be different for those who reached the highest academic level (Dubar 1991, 2000 a, b and c).

The original approach joins explanation and comprehension; quantitative and qualitative methodology aiming at explaining and reveal conditions of achievement. As strategies, the macro-meso-micro-macro dimensions are gathered: processes and results; transversal and quasi-longitudinal (personal experiences or life, ...); diachronically and synchronically (Aparicio,2005a, 2007a and b, 2012a).

Several research works done for 30 years have led to the development of the theory, which Dr. Aparicio has called The Three Dimensional Spiral of "Sense" Theory.(2015 a, 2015 b; 2015 In press)

2. Material and Methods

The quantitative-qualitative method was applied. This study refers only to the qualitative method.

Participants: Consisting of doctors in education at Universidad Nacional de Cuyo (National University of Cuyo)(2005-2009) and doctors in social sciences; this study is still in progress),Two research laboratories took part in this work: the Laboratorio de Investigaciones en Educación (Education Research Laboratory - Conicet/UNCuyo, Argentina) and Social Psychology Laboratory - Conicet, UNCuyo). It is expected to find different profiles according to the work/professional disciplinary areas in which they are situated together with the differences of the respective contexts with their strengths and weaknesses.

The samples of the groups included were significant, and also allow for a quantitative treatment of the data.

2.1. Materials

Quantitative and qualitative techniques were applied. We also used the "hierarchical evocation" and the lexicometric analysis techniques. The latter allowed to show which representations are part of the "nucleus" of a doctoral training in each of the groups, and which are their most evident differences and the ways they experience their professional practice according to their expectations.

2.2. Core questions in the researchwork

How and where are the doctors in education positioned within the market? Which professional structures are they inserted in? Which are the aspects defining their actual insertion on terms of positioning achievement – objective/subjective – within the hierarchical scale? What are their expectations regarding their PhD training? Do they regard PhD education as a progress route? Which valued are prioritized? Are they in search for stability, reality or the economic benefits associated to the PhD degree? How do they see their future? How do they see their role? Which are, in their own perspective, the factors prioritized by the market nowadays? Have they experienced any discrepancy between the training they received and the market requirements or not? Does hope or pessimism prevail? Do these doctors share specific "identities" or "interests"? Hoe similar or different are these?

3. Results

They were presented in two sections: quantitative (descriptive plan, correlational and explanatory) and qualitative. As we could observe, differences are noticed between the groups. In fact, there appear PhD training and its impact on labor positioning, professional promotion and mobility known by the individuals, extra-curricular development experiences which contributed to labor insertion and continuity, correspondence (or lack of it) with professional expectations, the gaps between the dream world at the moment of entering a PhD training and actual everyday world, the difficulties at obtaining recognition due to the "plafond" effect, more and more evident in a controversial working world, in which education does not go parallel to the macro social and economic context development. We can also observe an ever changing world which has an impact on identities, thus disrupting individuals and organizations. Therefore, we come across individuals who are fulfilled by their profession, but many others want a change and are even considering quitting and going into a more income-producing career. The level of satisfaction varies with the individuals but also with the careers, as it was already hypothesized. In the end, it all depends on the interplay between personal competences, institutional/organizational conditions, and the possibilities offered by the macro social context in relation with the different disciplinary areas (for example, for those graduated in education, the PhD degree represents a bonus in the labor market). Scrutinizing the shared representations is, thus, a way of going deeper into this issue, as we go beyond statistics and apart from linear analyses. There is no linear professional career. The three levels of Dr. Aparicio's theory (Aparicio 2007 a and b, 2015 a and b, 2015 in press) interplay in every case, and make an impact on the possibilities of fulfillment along with organizational growth.

At the theoretical level, this research allowed: a) to, produce knowledge regarding differences and similarities presented by the doctors recently incorporated into the professional world; b) to test the heuristic value of some explanatory and comprehensive methods; c) to go deeper, from an interdisciplinary perspective, into the higher education/occupational world relationship, as well as into the professional world transformations and their impact on the level of identity. In fact, we discovered more fulfilled "identities"; others which are blocked, and others in search for transformation.

At the applied level, those responsible for the educational and working areas have empirical elements to dispose of which may lead to improve the areas of the system where the breach is wider.

References

[1] Aparicio, M. (2005a). Les facteurs psychosociaux et la réussite universitaire et professionnelle. PhD. 2d. Thesis. Paris, Sorbonne.

[2] Aparicio, M. (2006a). Trayectorias universitarias. Un análisis a la luz de metodologías cuantitativas. Vol I. Mendoza: ZETA, 294 p.

[3] Aparicio, M. (2006b). Trayectorias universitarias: Un análisis a la luz de metodologías cualitativas. Vol II. Mendoza: ZETA, 438 p. Aparicio, M. (2007a). Les facteurs psychosociaux à la base de la réussite universitaire et professionnelle: aspects psychologiques et organisationnels. HDR (Psychologie). Université Lille3.

[4] Aparicio, M. (2007b). Mobilité et réussite universitaires et professionnelles. Du niveau macro au niveau micro. HDR (Education). Université París X, Nanterre.

[5] Aparicio, M. (2009a). La demora en los estudios universitarios. Causas desde una perspectiva cuantitativa. Tomo I. Mendoza: EDIUNC.

[6] Aparicio, M. (2009b). La demora en los estudios universitarios. Causas desde una perspectiva cualitativa. Universidad Nacional de Cuyo, Tomo II. Mendoza: EDIUNC.

[7] Aparicio, M. (2009c). Les facteurs psychosociaux et la réussite universitaire et professionnelle. ANRT. Presses de l'ANRT, Lille, 469 p., 126 p. Appendixes.

[8] Aparicio, M. (2012a). La deserción universitaria y su relación con factores psicosociales. Revista Dialogo, nº20, Canoas: Grafica/Editora.

[9] Aparicio, M. (2014b). Satisfaction, Professional Mobility and Leadership in Academic-Scientific Organizations, Journal of Health Science, Vol 2, 3, 135-145.

[10] Aparicio, M. (2014c). Postgraduate Level and its Impact on Academic Studies and Professional Careers, Social and Job Mobility and Identity. A Study about PhD Graduates and PhD Students at UNCuyo, in the Light of a sui generis Paradigm, Journal of Educational and Social Research, Vol 4, No 2, Special Issue – April. ISSN 240-0524 (online).

[11] Aparicio, M. & Cros, F. (2015 a). Trajectoires et identités. Un avenir incertain pour les docteurs? Paris: L'Harmattan. Collection Education et Sociétés.

[12] Aparicio, M. (2015b). Identity, Weakening and Professionalization: A Study of Graduate and Postgraduate Students (1987-2002) in the Light of the Three-Dimensional Spiral of Sense Theory In A.M. Silva & M. Aparicio, International Handbook of Professional Identities, Scientific and Academic Publishing, 131-156.

[13] Boudon, R. (1973). L'inégalité des chances. La mobilité sociale dans les sociétés industrielles. Paris: PUF.

[14] Bourdoncle, R. (1993). La professionnalisation des enseignants: les limites d'un mythe, Revue française de pédagogie, 105, 83-119.

[15] Bourdoncle, R. & Demailly, L. (1998) (comp.). Les professions de l'éducation et de la formation. Paris: Septentrion.

[16] Calmand J. & Haller P. (2008). Etre diplômé de l'enseignement supérieur, un atout pour entrer dans la vie active, Bref, n° 253.

[17] Dubar, C. (1991). Formation continue et dynamique des identités professionnelles, Formation et Emploi, 34, 87-100.

[18] Dubar, C. (2000a). La socialisation. Paris: Armand Colin.

[19] Dubar, C. (2000b). La formation professionnelle continue. Paris: La Découverte.

[20] Dubar, C. (2000c). La crise des identités. Paris: PUF.

[21] Dupray A. (2005). Les mobilités en début de la vie professionnelle. Externes ou internes aux entreprises, des évolutions aux effets très différents, Bref, n° 216.

[22] Dupray A. & Moullet S. (2004). Femmes à l'entrée dans la vie active: un retard salarial en partie inexpliqué, NEF, n° 12.

[23] Etzioni, A. (1969). The Semi-Professions and Their Organizations. New York: The Free Press.

[24] Giret J.-F, Moullet S. & Thomas G. (2003). De l'enseignement supérieur à l'emploi: les trois premières années de vie active de la Génération 98. Enquête « Génération 98 », NEF, n°4.

[25] Giret J.-F. (2003). Parcours étudiants: de l'enseignement supérieur au marché de travail, Céreq/GTES, Relief, n° 1.

[26] Goffman, E. (1963). Stigmates. Les usages sociaux des handicaps. Paris: Minuit.

[27] Lang, V. (1999). La professionnalisation des enseignants. Paris: PUF.

[28] Lévy-Garboua L. (1977). Les demandes de l'étudiant ou les contradictions de l'Université de masse: réponse aux commentaires, Revue française de sociologie, 19, n° 1, p. 147-156.

[29] Mansuy M. (2004). L'influence du premier emploi sur la trajectoire professionnelle, NEF, n° 10.

[30] Maroy, Ch. (2006). Les évolutions du travail enseignant en France et en Europe: facteurs de changement, incidences et résistances dans l'enseignement secondaire. Revue Française de Pédagogie, 155, 111-142.

[31] Olivier J. et alii (2008). Génération 2004, des jeunes pénalisés par la conjoncture, Bref, n° 248.

[32] Ozga, J. & Lawn, M. (1981). Teachers Professionalism and Class: A Study og Organised Teachers. London Falmer Press.

[33] Tardiff, M. & Lessard, C. (1999). Le travail enseignant au quotidien. Expérience, interactions humaines et dilemmes professionnels. Bruxelles-Paris: De Boeck.

[34] Silva, A.M. & Aparicio, M. (Comp.) (2015 b). International Handbook about Professional Identities. USA: Publishing Editors.

[35] Silva, A.M. & Aparicio, M. (Comp.). (2015a). Introduction. In A.M. Silva & M. Aparicio, (Comp.) International Handbook about Professional Identities. USA: Publishing Editors.

Pedagogical Explanation Methods of Teaching Matrix Programming Operations: Effects on Students' Achievements in IPCs

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Abstract

Despite the fact that introductory programming courses (IPCs) are taught at universities for more than thirty years, students still find computer programming very difficult to learn. Programming pedagogy deals with the methods and principles of teaching and learning computer programming. The programming pedagogical approaches that have been proposed to increase the efficiency of teaching and learning computer programming mostly focus on the tools, paradigms, programming languages and environments used in IPCs. To increase significantly the students' success rates in IPCs, these approaches should be complemented with pedagogical explanation (PE) methods. This research is focused on a PE method of teaching sequential search of a matrix row (SSMR). The research was designed as experimental study with pretest-posttest control group model, involving students of Computer Engineering department Izmir University. While the experimental group was subjected to a pedagogical explanation method, a traditional explanation method was applied in the control group. To collect the research data, an achievement pretest, posttest and a questionnaire were developed and applied. The research findings showed the effectiveness of teaching SSMR by using a PE method. This method positively influenced students' level of topic comprehension, which consequently improved their achievements. In order for students to understand better the other matrix programming operations, similar PE methods should be developed and used in IPCs. On a more general level, the results of this research suggested that PE methods should be developed and used for other topics that students usually find difficult to understand in IPCs. Using these methods can be a very important factor in significantly increasing students' success in IPCs.

Keywords: Programming Pedagogy, Introductory Programming, Pedagogical Explanation Method, Matrix Programming

1. Introduction

Although *introductory programming courses* (IPCs) are taught at universities for more than thirty years, students still find computer programming very difficult to learn. This situation has had negative consequences on Computer Science (CS) education. In many developed countries, even though the demand for CS specialists of different profiles is increasing, the number of students in these study programs is steadily decreasing (Mason, Cooper and de Raad, 2012; Vitkute and Vidžiunas, 2012). Some of the main reasons for this downward trend is curriculum complexity, its insufficient links with practical needs and extremely rapid IT evolution. It has been stated numerous times in various research papers that learning programming is a difficult task to achieve (Brown, 2006; Chetty and Barlow-Jones, 2014; Mason and others 2012; Saeli, Perrenet, Jochems and Zwaneveld, 2011; Vujosevic and Tosic, 2008). Research papers continuously reveal high failure and dropout rates for IPCs (Bennedsen and Caspersen 2007, Chetty and others, 2014; Fares and Fares, 2014; Robins, 2010). This is partially a result of the recent trend of enrollment of non-CS major students in IPCs. The most significant reason for these high failure and dropout rates, yet again is related to the difficulties that students face when exposed to complex programming topics.

Programming pedagogy, as one of the emerging research areas in computer science, deals with the methods and principles of teaching and learning computer programming. A variety of programming pedagogical approaches have been proposed to increase the efficiency of learning computer programming. Mostly, they focus on the tools, paradigms, programming languages and environments used in IPCs (Hadjerrouit, 2008; Meyer, 2003; Porter and Simon, 2013; Stephen, Elizabeth, Ogao, Franklin and Ikoha, 2012; Woszczynski, Haddad and Zgambo, 2005; Zingaro, Bailey Lee, and Porter, 2013). These approaches have had positive effects in IPCs, but unfortunately they did not solve the problem. Introductory programming remained complex and difficult for majority of students to learn.

1.1 Pedagogical Explanation Methods

To increase significantly the students' success rates in IPCs, previously mentioned approaches should be complemented with optimal topic explanation methods. *How* a programming topic is explained is crucial to the level of students' comprehension of the topic. Being an expert in programming doesn't make an instructor a good teacher by default. Unfortunately, a considerable number of instructors explain complex programming topics to students in less understandable ways. Some of the reasons for that, among others, are:

- some instructors do not possess an appropriate programming pedagogy background;
- some instructors are neglecting the fact that majority of students in IPCs have not yet developed the "programming logic" and cannot understand their way of explanation;
- considerable number of textbooks for IPCs used by instructors are not as "good" as they should be − they miss pedagogically based explanations of programming topics;
- some instructors are being focused on research and are not spending enough time on preparing pedagogically based lectures.

Based on our experience in teaching IPCs in C, C++, Java, Scheme and Racket at several universities, explaining programming topics in a step-by-step and understandable way is a very important factor in increasing students' success in IPCs. This way of teaching represents a solid basis for the other student activities in the course: lab exercises, homework, programming projects, solving problems using Online Judges etc. On the other hand, if the topic is explained in less understandable way, it usually frustrates and demotivates students for the required further activities.

A *pedagogical explanation method* is a well planned and structured sequence of steps to present a programming topic in a concise, clear and understandable way. Recursion, matrix programming operations (MPOs) and linked lists are some of the topics that students usually find difficult to understand in IPCs. In this paper we have focused on explanation methods of teaching one fundamental MPO: *sequential search of a matrix row* (SSMR). This operation is easy for experienced programmers, but it is difficult to learn for beginners in programming. The purpose of the research was to investigate the effects of two different explanation methods on students' level of topic comprehension as a result of using a *traditional explanation* (TE) method and a *pedagogical explanation* (PE) method.

2. Method

Research design

In this research, we have used an experimental study with pretest-posttest control group model aimed at measuring the effects of two different explanation methods on students' level of topic comprehension. In accordance with this model, *control group* (CG) and *experimental group* (EG) were created and experimental lectures using two different explanation methods were conducted.

Research sample

Participants in the experiment were 60 students of Computer Engineering department in Izmir University attending the Algorithms and Programming II course, which focuses on procedural programming in C. Both CG and EG were consisted of 30 students. The distribution of students in the groups was done based on their grades in Algorithms and Programming I course[1], insuring that there was no significant difference between the total average grades of students in both groups.

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[1] The course focuses on functional programming in Racket. According to us, functional programming followed by procedural programming is not an optimal approach for IPC. It is quite a rare approach in the world, as well as in Turkey. But, since it is the current curriculum policy in our faculty we have to follow it, despite our believes.

Research instrument and procedure

To collect the data of the study, two tests and one questionnaire were developed. In order to determine the students' previous knowledge of SSMR, a pretest was conducted for both groups. After that, we conducted experimental lectures using two different explanation methods in the spring semester of the 2013-14 academic year. SSMR was taught to students in CG by using a traditional explanation method, while our pedagogical explanation method was used in EG. The survey process was finished by conducting a posttest and a questionnaire to students of both groups.

Data Analysis

Students' level of a programming topic comprehension can be measured in terms of *knowledge* level and *application* level (Davies, 1993). The *achievement pretest* contained one programming problem aimed at determining the students' previous knowledge of SSMR. The *achievement posttest* contained two programming problems aimed at determining students' knowledge and application levels of SSMR, after the experimental lectures were conducted. In addition to the two tests, we prepared an *attitude questionnaire* which contained two multiple-choice questions aimed at collecting students' opinions towards both explanation methods. Students' answers were measured using a five-point Likert scale.

The quantitative data from the achievement pretest and posttest was analyzed using the programming language R (R development core team, 2012). we wrote an R script to read students' scores in R data frames and analyze them. For analysis purposes we used independent variables *t-test* and other tools of the language (built-in functions *qt*, *sd*, *barplot* etc.). The level of statistical significance was taken as 0.05.

3. Explanation Methods of Teaching SSMR

In this section, a traditional and a pedagogical explanation method of teaching SSMR are described. SSMR problem statement: Write a function to find a given number in a specified unsorted row of a matrix of integers. If the number is found in the row, then the function should return the position of its first appearance (col. index). Otherwise, it should return -1.

3.1 Traditional explanation method

TE method of teaching SSMR consists of two steps: writing a function for SSMR and using it in a program.

Step1. Writing a function for SSMR.

The function has four parameters: *matrix* − reference to a matrix, *ncols* − number of columns, *number* – searched number, *row* − index of the row to be searched. It should return the index of the first appearance of the number in the row with index *row*, if it is found. Otherwise, it should return -1. Searching is done by comparing each element of the specified row against the searched number until a match is found or all elements are unsuccessfully compared. If the number is found, the first *return* statement will return the index of the found element and it will exit the function. If the number is not found, then the program will exit the *for* loop. In that case, we need a second *return* statement to return -1 and exit the function.

```
int find_in_row(int matrix[][M], int ncols, int number, int row) {

  int j;

  for(j = 0; j < ncols; j++)

    if(matrix[row][j] == number) return j;

  return -1;

}
```

Step 2. Using the function in a program.

int n = 4, A = {{3,1,7,5}, {8,4,6,2}, {6,9,0,3}};

int num, row, index;

num = 6, row = 1;   index = **find_in_row**(A, n, num, row);

num = 0;   index = **find_in_row**(A, n, num, row);

First, the value of *index* is 2 because 6 is found in column 2 of row 1. After the second function call, it will change its value to -1 because 0 is not found in row 1.

3.2 Pedagogical explanation method

In order for students to understand better the programming solution to SSMR, our pedagogical explanation method is based on two important pedagogical techniques:

- Visual tracing of the matrix operation by using concrete input values and specifying matrix cell references for all possible scenarios.

- Inductive derivation of the matrix function from the corresponding array function.

A row of a matrix is an array. The algorithm to search a matrix row is based on the algorithm to search an array. Consequently, our PE method of teaching SSMR is comprised of the following steps:

1.   Writing a function to search an array.

2.   Visually tracing the SSMR operation.

3.   Deriving the function for SSMR from the function to search an array.
4.   Using the function in a program (identical to step 2 of TE method).

Step 1. Writing a function to search an array.

The function has three parameters: *array* – reference to an array, *N* – number of array elements, *number* – searched number. It returns the index of the first appearance of the number in the array, if it is found. Otherwise, it returns -1.

```
int find_in_array(int array[], int N, int number) {
 int i;
 for(i = 0; i < N; i++)
  if(array[i] == number) return i;
 return -1; }
```

Step 2. Visually tracing the SSMR operation.

In order for students to understand better the SSMR operation, it should be visually presented and traced by using concrete input values and specifying matrix cell references. There are two possible scenarios: finding and not finding the number.
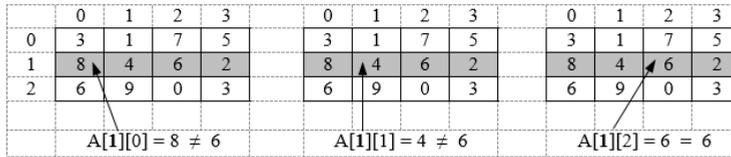
Figure 1. Successful search of the number 6 in row with index 1
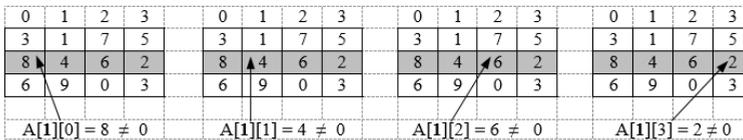
Figure 2. Unsuccessful search of the number 0 in row with index 1

Step 3. Deriving the function to compute SSMR from the function to search an array.

We modify the function *find_array* considering that we have to search a given matrix row. So, we have to select a given row of a matrix and apply the algorithm to search an array elements. To select the index of the row we will use a variable *row*. The variable *array*[i] is modified to *matrix*[row][i] to access the row with index *row* of the matrix. Selecting the elements of the row is accomplished by using the counter *i*.

Searching an array:

```
for(i = 0; i < N; i++)
  if(array[i] == number) return i;
```

Searching a matrix row:

```
for(i = 0;  i < N;  i++)
   if(matrix[row][i] == number) return i;
       fixed            variable (0, 1, ... , N-1)
```

The reference to an array must be replaced with a reference to a matrix in the header of the function and the parameter *row* must be included in the function parameter list. To make the function more understandable to students, we can rename *find_in_array* to *find_in_row*, *N* to *ncols* and *i* to *j* because usually, but not necessarily, *i* is used to select rows and *j* is used to select columns. The final version of the function is identical to the function we wrote using the TE method.

4. Findings and Results

4.1 Achievement Pretest Results and Analysis

To determine students' previous knowledge level of SSMR, they were given the following problem in the achievement pretest: "Write a function to find a given number in a specified unsorted row of a matrix of integers. If the number is found in the row, then the function should return the position of its first appearance (column index). Otherwise, it should return -1". Students' solutions were weighted with maximum 100 points. The obtained findings are given in Table 1.

Table 1

Achievement Pretest Scores of EG and CG Groups

Group	N	$\overline{x}$	sd	t	p
EG	30	9.67	7.98	0.33	0.741
CG	30	10.33	7.54		(p > 0.05)

Table 1 revealed that there was *no significant difference* between the scores of the students of experimental group and control group in the achievement pretest. The mean scores of the students in EG and CG were 9.67 and 10.33, respectively. The obtained t-value was smaller than the critical value (0.332 < 2.001) and the p-value was larger than 0.05 (0.741 > 0.05).

4.2 Achievement Posttest Results and Analysis

To determine students' knowledge and application levels of SSMR after the experimental lectures were conducted, the achievement posttest contained two programming problems. Solutions to each of the problems were weighted with maximum 50% of the total number of points in the test.

Analysis of Scores of EG and CG in the Achievement Posttest Regarding Students' Knowledge Level of SSMR.
To determine students' knowledge level of SSMR, the following problem was given in the achievement posttest: "Write a function to count the number of matrix rows which contain a specified number". The obtained findings are given in Table 2.

Table 2

Achievement Posttest Scores of EG and CG Regarding Students' Knowledge Level of SSMR

Group	N	$\overline{x}$	sd	t	p
EG	30	74.50	18.54	2.67	0.009
CG	30	61.17	20.07		(p < 0.05)

Table 2 shows a significant difference between the scores of the students of EG and CG in the achievement posttest regarding students' knowledge level of SSMR, in favor of the experimental group. The mean score of the students in EG ($\overline{x}$ = 74.50) was 21.79% higher than the mean score of the students in CG ($\overline{x}$ = 61.17). The obtained t-value (2.67) was larger than the critical value (2.001) and the p-value (0.009) was smaller than 0.05.

Analysis of Scores of EG and CG in the Achievement Posttest Regarding Students' Application Level of SSMR.
To determine students' application level of SSMR, the following problem was given in the achievement posttest: "Write a function to sort the numbers of a specified matrix row". The obtained findings are given in Table 3.

Table 3

Achievement Posttest Scores of EG and CG Regarding Students' Application Level of SSMR

Group	N	$\bar{x}$	sd	t	p
EG	30	71.33	17.90	3.30	0.001
CG	30	55.17	19.98		(p < 0.05)

Table 3. shows a significant difference between the scores of the students of EG and CG in the achievement posttest regarding students' application level of SSMR, in favor of the experimental group. The mean score of the students in EG ($\bar{x}$ = 71.33) was 29.29% higher than the mean score of the students in CG ($\bar{x}$ = 55.17). The obtained t-value (3.30) was larger than the critical value and the p-value (0.001) was smaller than 0.05.

Analysis of the Overall Scores of EG and CG in the Achievement Posttest. To determine the overall success of the students in the achievement posttest, we summed the points gained for the solutions to programming problems for each student and computed the mean scores for both EG and CG. The obtained findings are given in Table 4.

Table 4

Achievement Posttest Overall Scores of EG and CG

Group	N	$\bar{x}$	sd	t	p
EG	30	72.92	18.08	3.01	0.003
CG	30	58.17	19.80		(p < 0.05)

Table 4 shows a significant difference between overall mean scores of the students of EG and CG in the achievement posttest, in favor of the experimental group. The mean overall score of students in EG ($\bar{x}$ = 72.92) was 25.36% higher than the mean overall score of the students in CG ($\bar{x}$ = 58.17). The obtained t-value (3.01) was larger than the critical value and the p-value (0.003) was smaller than 0.05.

4.3 Attitude Questionnaire Results and Analysis

Based on the fact that the students in EG obtained higher scores than the students in CG in the achivement posttest, we wanted to determine opinions of both EG and CG students towards both explanation methods. In order to do that it was necessary for the students in each group to be familiar with the explanation method used in the other group. So, we presented the TE method to students in EG and PE method to students in CG. The following two questions were addressed to students in the atitude questionnaire:

1. "Pedagogical explanation method of teaching SSMR is more efficient compared to traditional explanation method in terms of students' level of topic comprehension".

2. "Pedagogical explanation method of teaching SSMR is more understandable to students compared to traditional explanation method".

Students' answers to both questions were measured using a common five-point Likert scale (Strongly Dissagree, Dissagre, Neutral, Agree, Strongly Agree). The obtained findings are given in Table 5.

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Table 5

Questionnaire Results Regarding Students' Attitude Towards Explanation Methods

Strongly disagree		Disagree		Neutral		Agree		Strongly agree	
f	%	f	%	f	%	f	%	f	
Question 1 (EG, CG / N = 60)									
0	0	0	0	11	18.33	29	46.67	20	33.33
Question 2 (EG, CG / N = 60)									
0	0	0	0	9	15.00	31	51.67	20	33.33

In response to the first question 33.33% of the students strongly agreed, 46.67% agreed, 18.33% were neutral and none disagreed. In response to the second question 33.33% of the students strongly agreed, 51.67% agreed, 15.00% were neutral and none disagreed. Based on the answers to the first question, 81.67% of students found PE method more efficient than TE method, in terms of students' level of topic comprehension. The answers to the second question clearly showed that 85% of the students found the PE method more understandable than TE method. None of the 60 students found the TE method more efficient or understandable than PE method.

5. Conclusion and Discussion

The findings presented in Table 1 regarding the students' achievements in the pretest reflected that the students in EG and CG had almost equal levels of knowledge of SSMR before the experimental lectures took place.

Regarding students' knowledge level of SSMR after the experimental lectures, the findings in Table 2 revealed than the mean score of the students in EG was 21.79% higher than the mean score of the students in CG. This significant difference in *favor of the experimental group* showed that the pedagogical explanation method of teaching SSMR was more efficient than the traditional explanation method, in terms of students' knowledge level of SSMR.

The findings in Table 3 regarding the students' application level of SSMR, presented an even higher difference of 29.29% between the mean scores of the students in EG and CG, in *favor of the experimental group*. The students had to solve another similar matrix programming operation – sorting the numbers of a specified matrix row. The students in EG were much more successful than the students in CG in solving this problem because they applied the pedagogical steps similar to the ones they learned for SSMR operation. This significant difference in favor of EG showed that our pedagogical explanation method of teaching SSMR was especially more efficient than the traditional explanation method, in terms of students' application level of SSMR.

As Table 4 indicated, the mean overall score of the students in EG was 25.36% higher the than mean overall score of the students in CG. This significant difference in *favor of the experimental group* showed that our pedagogical explanation method was more efficient than the traditional explanation method in terms of the overall students' achievements in the posttest.
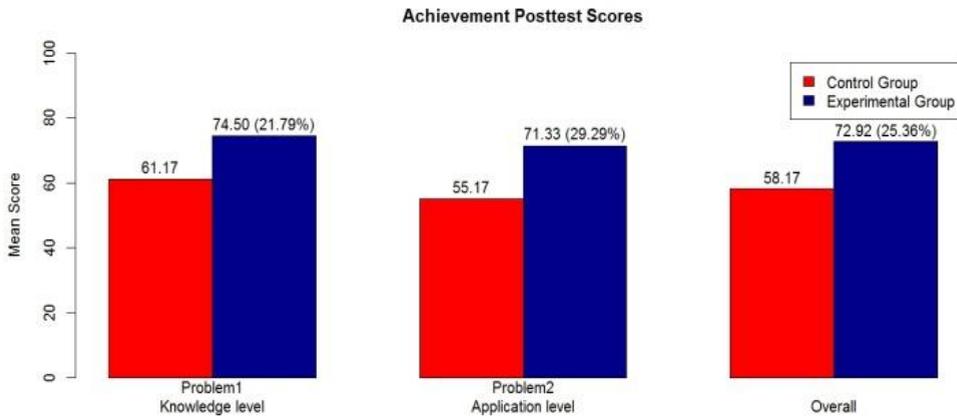
Figure 1. Achievement Posttest Scores

Finally, students' feedback on both explanation methods presented in Table 5, clearly reflected that majority of students (85%) considered the pedagogical explanation method of SSMR more efficient and understandable than the traditional explanation method. None of the students found TE method more efficient or understandable than PE method.

These results showed the effectiveness of teaching SSMR by using a pedagogical explanation method. This method positively influenced students' level of topic comprehension, which consequently improved their achievements. In order for students to understand better the other matrix programming operations, similar pedagogical explanation methods should be developed and used in IPCs. These methods should also be based on two important pedagogical techniques that we used in our PE method of teaching SSMR:

- *Visual tracing of MPOs by using concrete input values and specifiying matrix cell references for all posibble scenarios*. Visualizing the MPO from the pedagogical point of view is mandatory considering the positive effects of visualization in topics comprehension. It can be done by using various software tools ranging from standard office applications (presentation applications, word processors), programming languages to specialized graphics applications.
- *Inductive derivation of matrix functions from the corresponding array functions*. Majority of students in IPCs have not yet developed the "programming logic" to understand the traditional straitforward explanation of matrix programming operations. Consequently, higher level of comprehension can be accomplished by deriving the matrix operations from the corresponding array operations.

On a more general level, the results of this research suggested that pedagogical explanation methods should be developed and used for other topics in IPCs that students usually find difficult to understand, like recursion, linked lists, etc. Using these methods can be a very important factor in significantly increasing students' success in introductory programming courses.

References

[1] Bennedsen, J., & Caspersen, M. E. (2007). Failure Rates in Introductory Programming. *ACM Special Interest Group on Computer Science Education Bulletin*, 39 (2), 32-36.

[2] Brown, C. (2006). An Active Learning Pedagogy in a Programming Course. *Issues in Information Systems*, 2 (1), 124-128.

[3] Chetty J., & Barlow-Jones, G. (2014). Novice Students and Computer Programming: Toward Constructivist Pedagogy. *Mediterranean Journal of Social Sciences*, 5 (14), 240-251.

[4] Fares, S.C., & Fares, M.A. (2014). A Redesigned Pedagogy in Introductory Programming Reduces Failure and Withdrawal Rates by Half. World Academy of Science, Engineering and Technology. *International Journal of Social, Management, Economics and Business Engineering*, 8 (5), 1247-1250.

[5] Hadjerrouit, S. (2008). Towards a Blended Learning Model for Teaching and Learning Computer Programming: A case Study. *Informatics in Education*, 7 (2), 181-210.

[6] Mason, R., Cooper, G., & de Raad, M. (2012). Trends in Introductory Programming Courses in Australian Universities – Languages, Environments and Pedagogy. *Proceedings of the Fourteenth Australasian Computing Education Conference*, Melbourne, Australia, 33-42.

[7] Meyer, B. (2003). The Outside-In Method of Teaching Introductory Programming. *Proceedings of Symposium on Object Orientation* (IPSJ-SIGSE), Tokyo.

[8] Porter, L., & Simon, B. (2013). Retaining Nearly One-Third more Majors with a Trio of Instructional Best Practices in CS1. '*SISCSE 13 Proceeding of the 44th ACM Technical Symposium on Computer Science Education*, 165-170.

[9] R Development Core Team (2012). R: A language and environment for statistical computing. Vienna: R Foundation for Statistical Computing, http://www.R-project.org.

[10] Robins, A. (2010). Learning edge momentum: A new account of outcomes in CS1. *Computer Science Education*, 20 (1), 37-71.

[11] Saeli, M., Perrenet, J., Jochems, Wim M.G., & Zwaneveld, B. (2011). Teaching Programming in Secondary School: A Pedagogical Content Knowledge Perspective. *Informatics in Education*, 10 (1), 73-88.

[12] Stephen, M., Elizabeth, A., Ogao, P., Franklin, W., & Ikoha, A. (2012). Choosing Tools of Pedagogy (Case of Program Visualization). *International Journal of Application or Innovation in Engineering & Management*, 1 (4), 35-40.

[13] Vitkute-Adžgauskiene, D., & Vidžiunas, A. (2012). Problems in Choosing Tools and Methods for Teaching Programming. *Informatics in Education*, 11 (2), 271-282.

[14] Vujosevic-Janicic M., & Tosic, D. (2008). The role of Programming Paradigms in the First Programming Courses. *Teaching of Mathematics*, 11 (2), 63-83.

[15] Woszczynski, A., Haddad, H., & Zgambo, A. (2005). Towards a Model of Student Success in Programming Courses. *ACM-SE Proceedings of the 43rd Annual Southeast Regional Conference*, 1, 301-304.

[16] Zingaro, D., Bailey Lee, C. & Porter, L. (2013). Peer Instruction in Computing: the Role of Reading Quizzes. *SIGCSE '13 Proceeding of the 44th ACM Technical Symposium on Computer Science Education*, 47-52.

Legal Justice and Historical Aspects of the Appearance of Criminality

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Abstract

Criminality as a negative and dangerous social phenomenon presents a social occurrence manifested in different forms during the entire course of human history. Historically, it has been proved that since the ancient times of existence of human society, since primitive community, there have been not only deviations, but also other forms of excessive behavior through breaking the rules, values and social relations of life where they existed. However, the forms of breaking such behavioral rules and the manner of reaction towards these behaviors have changed during the course of development of human communities in accordance to economic ties and as a result also to those cultural. With time passing and the emergence of classes in societies, as well as due to the influence of economic conditions in the life of all members of organized society within a state, crime became a more massive social phenomenon. Thus, in order to successfully develop the fight against it, within class societies emerged a special instrument: the law through which certain behaviors were regulated.

Keywords: Legal Justice, Historical Aspects, Appearance of Criminality

1. The general approach to criminality as a negative and dangerous social phenomenon

Every human society within its positive-legal norms incriminates certain activities, which by "public governance" institutions give them the character of dangerous social activities and foresee sanctions in cases the same are breached. Crime is a social occurrence which in different ways manifests negative activities and in a social context produces consequences. .[1] Such a negative activity is manifested primarily against material goods and values. Despite these material goods, subject to attacks from criminal activities are also the social values in the context of moral perceptions at a given social environment. These also include the different political, cultural and other social values, generated by the society in the process of its development. When all these material goods and values fall under criminal attacks, this activity leaves destructive and negative implications.[2]

2. Being a unique social phenomenon, crime has its roots, reasons, history and manifests certain effects

Being a unique social phenomenon, crime has its roots, reasons, history and manifests certain effects depending on the circumstances and cases, in different fields of life, such as economy, politics, justice, morality, culture etc. Due to its destructive nature, crime has always produced fear, insecurity and horror among citizens, and at the same time increased interest in it. Therefore, in all phases of development of human societies a special interest was shown about the nature, reason and motives of the crime as well as the often tragic consequences and in finding ways for its prevention.[3]

Since the beginning of the 20th century it becomes increasingly clear that crimes committed by adults and juveniles are not only criminal-legal concepts. These two phenomena represent complex social occurrences the fight of which needs comprehensive organization of the society and different sciences; hence the legal-criminal treatment of these phenomena is related to this issue. Criminal and sociological researches have contributed in the opinion that crime is a phenomenon conditioned by the society, whereas the criminal, to a greater or lesser extent, is a result of certain social influences and rapports.[4] Earlier views and opinions on crime encompass its road toward development, beginning from the earlier opinions of philosophical and theological nature on criminality all the way to the opinions of legal-penal schools on criminality. In this

[1] Sahiti Ejup. *E drejta 1/1995*, Prishtina, p. 13-14.
[2] Milutinoviq, Milan. *Kriminologjia*, Rilindja, Prishtina, 1982, p. 297-298.
[3] Halili, Ragip. *Kriminologjia*, Prishtina, 2008, p. 10.
[4] Latifi, Vesel. *E drejta 1/1997*, Prishtina, p. 29.

sense security issues gain another new meaning and importance, essentially in managing and efficient operation of the security system subjects in modern conditions. Only educated and well trained personnel can create transparent, democratic and communicative subsystems with clear objectives and defined strategies for carrying out duties in the process of modernization. [1]

3.   A process needed to be based on theoretical and scientific knowledge as legal justice

This process needs to be based on theoretical and scientific knowledge, whose concrete and practical operability needs to ensure an acceptable role of the system subjects. This is in the reciprocal and mutual interest for solving security issues. Security is not only an issue for the organs of security, but also for all the citizens. For this reason the security mechanisms need to have a respectable place in the society and this can be achieved only through acting based on the scientific and professional knowledge and achievements.

To improve the institutions and its laws, by making them just, society members may freely discuss and present their legitimate requests. Everyone can freely present arguments for their rational positions. Those who are able to think critically always have an opinion on the society, its values and the lack of values, problems and possibilities for rational solution of the same. It would have been ideal if the critical thinking through its views on society and its institutions and laws would have been respected during the course of solving issues that preoccupy the society. Obviously, this is opposed by the policy of pseudo-intellectuals, who prefer to keep their positions, couches, good salaries and other benefits. In the interest of proper functioning of institutions and laws, according to which they function, which is also in the interest of all members of the society, it is necessary to voice a critical opinion. It should always be ready for free discussions on institutions and laws and to present its legitimate demands, aiming at the enhancement of institutions. [2]

4.   The informative revolution, despite the provided benefits, still has its negative aspects

Great and fast changes in the field of information technology of many modern countries and the application of this technology in the automation of work processes in all spheres of economic and social life represent a real phenomenon today. As part of this, the development of information technology and permanent perfection of the computer's operation in different spheres of activities of natural and legal persons, from the production and circulation of goods and services all the way to national defense and security in a broader sense, have caused that a certain category of irresponsible groups and individuals, through their illegal behavior by using their computers and its components, earn illegal profits for themselves or others. At the same time, through their activities, they cause material damage to natural persons, institutions and to the society in general.

The modern society today is using the greatest achievements of technical-technological development, which are followed by the fast expansion of information technology and the automation of working processes in all spheres of economic and social life. This development, in one hand has brought great ease to the modern society, whereas on the other hand, the premeditated misuse of these technological achievements has created a number of problems and risks to the society in general.

Today, the information technology touches every aspect of life regardless of its position in the globe. Despite the benefits provided by the information revolution, it also has its negative aspect.

5.   The educational concept oriented towards the future

The educational concept oriented towards the future is a very strong instrument for adapting the dynamism of organizational security structures towards future challenges. Despite the development of the educational system in accordance with the demands and needs of modern society, the equipment with material and technical means, the use of the scientific

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[1] Dr.Selmani Bashkim, *Krimi i organizuar dhe terrorizmi* - Univeristeti parë privat ,,FON"-Shkup 2010

[2] Dr. Selmani Bashkim *Kriminologjia dhe penologjia* p-12-21. Prishtina, 2014

achievements and the use of information and communication means, of a crucial importance is also the management system, especially in performing actions in complex security situations. Only a managing system based in scientific achievements and in the application of modern concepts, principles, methods, tactics and techniques can bring success to operational strategic duties in achieving specific objectives, which are a target of democratic security forces' vision. [1]

On the other hand, what are the researchers of this scientific field doing to eliminate and alarm that exactly the ignorance towards these criminal action techniques influences the deterioration of public opinion at times when wealth deviates and draws in itself every person. Of same importance today is also to identify crime, because often both us and our children may be a part of a certain crime if we don't study it and educate people and the young generations about the risk threats from the organized crime in the Albanian modern society.

6. The Albanian society is more than ever touched from crime and criminality

The Albanian society is more then ever touched by crime and criminality, and if this is kept silent as it was done until now, crime becomes everyday life to the point where people just by listening to the news know that every sentence starts and ends with crime and criminality. Historical tracking among Albanians has shown that the tendencies and the authors of the crime had usually come from the less educated and less developed people and parts of society. The question that arises is whether today this is still a practice! I can guarantee you that that is not the practice today. Exactly when the psychology of thinking among Albanians have changed a lot, criminality has broken these postulates and we can responsibly conclude that today we have a different momentum, when in particular educated and skilled people commit crimes in different criminal fields, starting form high officials, all the way to their drivers. I stress this because people and officials often, unconsciously **and unwillingly** enter the darkness of the bunker called greed for wealth without knowing what is hidden in that hermetically sealed bunker.

It is also important that leadership is also a profession that, besides knowledge, demands scientific preparation for building interpersonal relations within the state organizational structures in order to familiarize the public with the potential dangers. This occurs in order to adapt to the demands of the society without the use of corruption and the conditional criminal way for performing an administrative-institutional service.

Viewed from this perspective, we can conclude that a precondition to this is the building of such relations within security structures, which will enable their development in accordance with the principles of equity, tolerance, patience and abilities. This implies the respect towards the leadership philosophy which includes political, judicial, strategic, tactical and other components. In the events of drafting the operational global plans, especially in cases of operational measures, that what highlights is the knowledge about the matter at hand by managing structures. In this way we can follow the level of the implementation of objectives and give the necessary counsels for action, which then will help the orientation of the efficient actions. Each security system of a society takes care for the implementation of duties for which is held responsible.

7. Conclusion

The modern management system requires the achievement of determined objectives according to the mutual strategy and the security policy and strategy in the war against criminality. Each death case today would be much more complicated to be solved unless we didn't have sophisticated methods and techniques of forensic expertise. For this reason, the managing services in all hierarchical levels of organization and of authorizations and responsibilities have a crucial role in building and developing relations with the social community in rapport to individual-state and society.

If the relations between elements of the managing system are at a satisfactory level, then also the relations between different levels of forces against the state organized crime would be in accordance with the predetermined objectives from the legal state mechanisms. This can be achieved only within those structures which posses developed organizational and strategic components. Through special methods, expert personnel and higher responsibility they would attempt to eliminate evil thoughts which devour more and more the Albanian society, regardless of the territories they live today. Also the security system, through a series of bearers and entities aims at fulfilling the duty and implementing the duties for achieving,

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[1] Dr.Selmani Bashkim, *Krimi i organizuar dhe terrorizmi*-Univeristeti parë privat ,,FON"-Shkup 2010

defending and advancing the security situation, with an emphasis in the protection of the citizens and their personal safety and property. From what we discussed earlier we can easily conclude that the higher the level of the security situation within the state, the harder the potential for higher criminality and other criminal deviations in the society.

Bibliography

[1] Bashkim Dr Selmani, ,,Krimi i oganizuar dhe Terrorizmi", Shkup, 2009.

[2] Majk Megvaer & Rod Morgan & Robert Rajner ,, Teksti i Oksfordit për Kriminologji" Shkup, Nampres ,2010.Hanson, R.K., Steffy, R.A., & Gauthier, R. (1993) ,,Recedivizmi afatgjatë i ngacmuesve të fëmijëve. Gazeta e Psikologjisë këshilluese dhe klinike" 61,646-652.

[3] Ragip Dr. Halili, ,,Kriminologjia", Prishtinë, 2011.

[4] Raporti mbi gjendjen e krimit të organizuar dhe krimit ekonomik në Europën Juglindore, Aktivitetet Kriminale- Trafikimi i Drogës www.europol.eu.int ,,Europol, Fact sheet on Trafficking in Human Beings", 2005

[5] Edmont Dragoti ,, Psikologjia ligjore e krimit" faq. 76-79 Tiranë,2007

[6] Kodi Penal i Republikës së Kosovës.

[7] Ligji Nr.8610, datës 17.05.2000, "Për parandalimin e pastrimit të parave.

[8] Ligji Nr.9258, datës 15.07.2004, "Për masat kundër financimit të terrorizmit"

[9] Ramadani, Ruzhdi. ,,Guidë për politikën dhe strategjinë e sigurisë kombëtare'', Tiranë, 2009

[10] Selmani, Bashkim. ,,Krimi i Organizuar dhe Terrorizmi Ndërkombëtar" Universiteti i parë prvat "FON" Shkup, 2009

[11] Reinares F., European Democracies against Terrorism, Governmental Policies and Intergovernmental Cooperations, 1999

[12] Sandoz Y., Swinarski C., Zinmiermann B., Commentaire des Protocoles additionnels du 8juin 1977 aux Conventions de Genevre du 12 aout 1949, 1986.

[13] Byroja Federale e Investigimit (FBI) "Rreth krimit të organizuar"

[14] Byroja Federale e Investigimit (FBI) " Krimi i organizuar në Ballkan"

[15] Qendra për Studime Strategjike dhe Ndërkombëtare ,,Duke luftuar rrezikun në rritje të krimit të organizuar ndërkombëtar", 23 prill 2008

[16] Lajmet e trafikut të drogës, 20 prill 2008

[17] Kontrolli i rrezikut të krimit të organizuar në BE, 2008 (OCTA)

[18] Raporti vjetor i Europol-it, 2007

[19] HUMSEC, prezantim nga Dejan Anastasijevic ,,Krimi i organizuar në Ballkanin Perëndimor", nëntor 2006.

[20] Transparency International, Indeksi i Korrupsionit Global, 2007, 2008

[21] Jane's Sentine, "Kontrolli i riskut të vendit për Shqipërinë, Maqedoni, Mal i Zi, Serbi, Rumani, Bullgari, Kroaci".

[22] Kodi Penal i Republikës së Shqipërisë

[23] Kodi penal i Republikës së Maqedonisë

[24] Kodi penal i Kroacisë

The Influence of Social Media on Organizational Communication: Case Study in Republic of Macedonia

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Abstract

Development of the communications technologies introduced the need of new ways of organization of corporate communication processes. Social media play an important role in performing of public and community activities and are more and more used as important communication tool of the employees in sharing of ideas, exchange of mutual experiences, and in all aspects of performing of vertical and horizontal communication. By research conducted with quality methods- observing of different companies and interviews of employees, managers and competent officials for development of organizational communication in the Republic of Macedonia data will be collected for how many employees of organizations in Macedonia use the social networks services and what habits they have during such communication. By that, the research will try with case study to answer the question on the influence of social media to organizational communication. Internet social communication is the addition and an extension of the traditional social behavior. As much the individuals were connected and communicate tête-à-tête, they more use the other media for internal communication. In fact, online communication even upgrades the traditional social behavior, without it to be increased or decreased.

Key words- communication, social media, social networks, corporate climate, informational technology

INTRODUCITON

In past few decades numerous changes happened in the area of informational and communicational technologies, worldwide and in Republic of Macedonia, too. These changed allowed new ways of organization of corporate communication processes.

Having in mind that the communication is one of the most important and dominant activities in an organization, internet communication contributes a lot to the functioning of the organization and helps in determination of the aims, values and management strategies. Functioning of the organizations is based on efficient relations between individuals and groups which coordinate the activities in order reaching determined goals. That is of great importance for the socialization, solving of problems, for the decision, timely reaction and adapting to changes. Through social networks and communication processes, individuals and groups give the meaning to the organization and make her stronger. Even many authors had different definitions and also different understanding of the internet communication, still all agree that strategic management of the interaction within employees is the foundation which provides the stability of one organization and decrease the level of uncertainty and insecurity of the employees.

Target of the internal communication is the identification of the employees with the organization. By this the loyalty is increased, also motivation for work, development of positive interpersonal relations, socialization and development of positive corporate climate. The employees must understand the intention and the goals of the internal communication which match with the culture and the way of organizational management. The awareness and the understanding of the culture brings to the efficient conduction of the strategy in one organization. Well created programme can successfully stop the fall of the motivation of the employees and gives the opportunity for working in accordance to the changes occur in targeted organization. Well leveled communication programme influence on increasing the satisfaction and their status which make in return good influence towards the individual and also to the organization as well.

1.   Theoretical discourse of the communication

Communication is a process in which the individuals who participate create and share information between themselves. Usually, the communication includes the form of *channel* or *medium*, depending on the information, which in form of *concept* transmits from one individual to another. Mass media as channel are more effective in creating innovational knowledge,

and the channels which promote the social engagement are more effective in modeling and change of the states towards the new concept, with the influence in decision to accept or deny the new concept or information.

Good communication is the basis of peoples' understanding in whole, and between colleagues, partners and interlocutors - within this context. Therefore, it is needed in the internal communication the basic rules for successful communication to be included. The aim of the process of communication to inform, pursue, motivate or to get mutual consent.

-In order to be efficient in the process of communication, the basic knowledge of what makes the process of communication and how people get the messages is needed, and how people process the information and change their perception and what kind of media and communication tools are the appropriate the most for some message[1].

The basic and most general form in which the direct and indirect social interaction appears is communication. In every interaction, a kind of communication relation happens between the participants, the most significant forms of the social behavior can presented as communication processes.

In Latin language, the word "communicatio" meant announcement, and the word "communicare" meant to make something in common, together. In contemporary literature, the word "communication" meant announcement but also the flow, the process of announcement. In everyday speech word "communication" may refer to a conversation between two persons, on sending and receiving letters, announcement and publishing of different intellectual materials, etc. Especially often it was used for the announcement of different contents thorough technical appliances, for example radio, television, telephone, telegraph, etc.

Communication systems are many and different exactly because they had appeared in the frames of less or more different kinds of social interaction, and the phenomenon of communication today is a subject of research of many sciences[2].

Several communication models explain how the message travels from the emitter to the receiver. Some of those models are complex and try to include almost indefinite number of events, objects, people who are in interaction between the message, the channel and the receiver. Still, most of the communication models include four basic elements. Such model is for example model of David K. Berlo, which consist of *sender (encoder)*, *message, channel and receiver (decoder)*[3]. Today in modern communication models the fifth element, the feedback from the sender to the receiver is included.

In fact, we can look the feedback like on two way communication. One way communication, from the emitter to the receiver just spread the information. That kind of monologue is less efficient from two way communication, where the dialogue establishes between the sender and receiver of the message. According to Grunig the ideal model for the public relations is two way symmetrical communication, which meant well balanced communication between the sender and receiver. E. g. *…the communication is used in order to negotiate with the publicity to solve the conflict and to promote mutual understanding and respect between the organization and her shareholders*[4].

Apart from this, the two way asymmetrical model is to be used for persuasion and manipulation when publicity must behave in the manner the organization wishes. Grunig said:

-Bln the symmetrical model, the understanding is the main goal for the public relations, not the persuasion. In reality, according to research, most of the organizations had different motifs when the conduct two way communication in the public relations. Even they used dialogue to get the input how to adapt to the needs of the public, in most cases their motif was asymmetrical- to pursue the publicity that their views were right[5].

1.1. Organizational communication

Communication is inevitable part of the working processes. In working place, the employees normally interact formally and informally, but in order communication to contribute to interpersonal relations and increase of motivation, she must be necessary planned, systematical and efficient. Also, lack of communication is one of the most common reasons for the

[1] Wilcox, D.L., Cameron.T.C, Ault.P.H.,et al. (2003), Public Relations Strategies and Tactics 7th edn, Pearson Education, Inc. стр.168

[2] Popovski M., Barakovska A., Stojanovska V.,(2010), Communication and leadership in organization different texts, Page 17

[3] Communication Models, (online).: http://www.shkaminski.com (no date),

[4] James E. Grunig, , (online).: http://en.wikipedia.org/wiki/James_E._Grunig (no date),

[5] James E. Grunig, (online). Available from: http://en.wikipedia.org/wiki/James_E._Grunig (no date),

dissatisfaction of the employees by their job and supervisors. Organizations which communicate efficiently has 4,5 times bigger motivation to the employees, and the satisfaction and the motivation of the employees cannot be overseen because exactly those were the sample of the institution in front of the potential publicity.

-In order the internal communication to be efficient, she must be timely, verified, concise, understandable, unambiguous, and transparent[1].

Organizational communication refers to the fact that in one organization all members send and receives the signals, and simultaneously, in dynamical co-action. In other words, there is a network of communicational experiences, and all which are in or out of that network influences on the organization's processes. The analysis of those processes is especially important for the organization and her employees. Communication happens for different reason and in different ways. Reasons for communicating can be information, explanation, persuasion, reproaching, encouraging, suggesting, consulting, apologizing, thanksgiving, reward, or any else.

The effective communication is important for the success of every organization. For many reasons which emphasize the need of good communication, we can underline the following:

- *She leads to better efficiency.*

- *She keeps the employees on sight,*

- *Includes the people in the organization, increase the motivation for good working, and by that contributes to the sense of belonging to the organization*

- *Helps to the improvement of the relations and better understanding of the superiors and subordinates, colleagues and the people in the organization or out of it.*

- *Helps to people to understand the need of change: how they should manage it and how to decrease the resistance to the changes*[2].

Organizational communication or corporate communication is responsible for all communicational relations of the corporation, and by that for the corporate identity. The aim of the corporate communication is to nurture and increase the reputation of the corporation, because the reputation influences a lot over the success of an organization. The areas covered by the corporate communication were:

- *Media relations- to journalists* (**Media Relations**)

- *Public relations and lobbying- to governmental institutions*(**Public Affairs**)

- *Internal communication- to employees and co-workers* (**Internal Communications, Employee Relations**)

- *Relations with investors- to present and future investors* (**Investor Relations**) [3]

The European Confederation for Public Relations has no doubts on the responsibility of the public relation. „*When someone mentioned public relations, that meant the profession which is using its own methodology and techniques for management with corporate communication, total needs of communication in one company or organization*". [4]

According to Van Riel, corporate communication can be divided in three categories: Според Ван Риел, корпоративната комуникација може да се подели во три категории:

- **Management- communication**, *presents "symbolic role" of all managers in presenting of their organizations.*

- **Marketing- communication**, *there are all activities related to promotion, marketing- related public relations,*

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[1] Good communication increases the sale, 03.05.2011, (online), www.kapital.com.mk,
[2] Petkovski K., Aleksova M., Management of a dynamic school BRO, Skopje 2004
[3] Corporate communication, (online). : http://hr.wikipedia.org/wiki/Korporativna_komunikacija , (no date)
[4] Corporate communication, (online),: http://hr.wikipedia.org/wiki/Korporativna_komunikacija, (no date),

advertising, direct sale and promotion of the sales.

- *Organizational communication, general term which describes all forms of communication used by the organization, different from marketing communication[1].*

Therefore communication as a process is of key importance for the evolution of the social systems. To support this empirical discovery many studies for the internet social communication show that the features of the learning of social systems as network structure and dynamics, can be useful indication for the result of very important social and economic relations. Besides fundamental importance for the understanding of these structures and their temporary influence in lots of social and economic environments, the development of the tools for characterization, basic theoretic models, and also large detailed observational studies and collections of data for social communication are still on the beginning.

1.2 Social internet- communication

Social internet communication has a great influence on the characteristics of the social systems, she accompanies and revolutionizes our meaning and the way of communication. Characteristics of this wide spread change of the communication processes are:

- *Range. Social media provides a big platform of access of information and gives the opportunity every information to get to wider audience.*
- *Availability. Social media communication tool in general are available for all, for little or no price, turning any individual, participant in internet social exchange in publisher, transmitter of own informational content.*
- *Usability. Most social media do not require or only sometimes require skills, so everyone can work with the tools for production of the content and following communication, and thus eliminate the need of expert skills and training.*
- *News. Social media communication have the opportunity for moment virtual reaction; only the participants determine the delay of the response, making the communication processes extremely interactive, with little time of response delay.*
- *Consistency. Unlike industrial media communications, where when something had been made cannot be changed (for example, magazine story once printed cannot be changed), communication over the internet social media is extremely changeable, and therefore can be changed immediately by the comments, voting and by some other changes[2].*

Internet social communication is the addition and an extension of the traditional social behavior. There is a proof that as much the individuals were connected and communicate tête-à-tête, they more use the other media for internal communication. In fact, online communication even upgrade the traditional social behavior, without it to be increased or decreased.

2.   Social media and social network sites/ services

The internet as meta medium, which especially in last two decades had changed the social behavior over the change of habits of ordinary people just because the reality had been moved towards internet medium and daily activities become virtual, made people to connect in many ways and by that erase the existing borders and the speed of availability of information.

Social relations between groups, individuals and organizations become more complex than before, which was due to fast development of social media.

– When we speak of social media we think on mean of interaction between people by which contents with virtual communities and networks had been created, shared, and exchanged. (Ahlqvisit, Toni; Back, A,Halonen,M,Heinonen, S.

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1   Davis, A. Learning Public Relations, 2004, Икона, Page 68

2   B. Furht (ed.), Handbook of Social Network Technologies and Applications,   DOI 10.1007/978-1-4419-7142-5 4, © Springer Science+Business Media, LLC 201

Social media roadmaps exploring the futures triggered by social media. VTT Tiedotteita- Valton Teknillinen Tutkimuskeskus 2008 (2454):p.3).

Interactive use of social media proved significant changes in all kinds of communication- from individual to social communication.

- By social media, and by help of mobile and web-based technologies, the users are free to share, create platforms and to be interactive, and by that they introduce significant changes in the way of communication in organizations, communities, individuals (H.Kietzmann,Jan;Kristopher Hermkens. *Social media? Get serious! Understanding the functional building blocks of social media.* Business Horizons2011)

The most important aspect of the transformation of the people formerly known as publicity into active creators and disseminators of contents is the soothing easiness in creating of content. Therefore, social media, even perhaps still did not reach the full capacity of usage, besides they brought the changes to a macro-level, - …*exactly because the easiness of creating, and especially sharing, significantly change the micro world, i.e., every day of millions of users, everywhere in Earth. (Atanas Vangeli, Social media as enablers of hate speech.*http://mdc.org.mk/index.php?news=67 16 February 2011).

The characteristics of the social media, the possibility of anonymity, easy accessibility, possibility of interaction, all those thing which is possible to share through social media and can be socially connected, according to Atanas Vangeli, are the main components which make the social media foundation of spreading of hate speech. Examples of hate speech spread in Macedonia, are groups and pages as- Clean Macedonia, or Let us collect 10 000 000 people who hate Greece. Vangeli in his essay *Social Media as enablers of hate speech*, emphasizes plenty cheap phrases, low quality contents which do not satisfy the basic requirements of literature. According to him, these events in social media are not possible to be eradicate, but can be decreased with creative and in good will initiatives and actions of behavior of progressive groups.

The biggest research of social media in the world, the Wave, was initiated in 2006 aimed to measure the size and the influence of social media in the world. In 2014 the 7th edition of Wave was conducted. The understanding of the nature of social needs of every user, category and market is the key of creating of the successful experience in social media.

> -   *Wave offers deep understanding of the wishes and motivations of consumers and is a real key of the understanding of social media and their users* (Darko Buldioski, *Wave- The biggest research of social media included Macedonia ,too* http://komunikacii.net/10/06/ 6.10.2011).

As a project of Universal McCan, Macedonia was included in 2012 for the first time. The research came to a result which only confirmed the importance and influence of the social media. Social networking is increasing and also the number of people practice it. According to it, in future the biggest influence will be in increase of the time people spend in social media. In this time, social networks are the most legitimate rival of all forms of media, and they will continue influencing especially on online communication. Last Wave 7 research tried to explore the social habits of the consumers in 72 countries. This research tells about five key elements to be basis of every consumer interaction and who are the motif and main reason of use of social media. That were: relations, redirection learning, progression and identification. According to it, the quick growth of mobile network usage result with the mentality of- all time online- and more and more connected consumers all around the world.

Social network web sites are social media directed to establishing virtual networks, people who share similar interests and ideas over the programme software. These services are located on web sites, providing most different interactions between participators, over transmission of messages, videos, usage of data basis, etc. By text messages a new way of socialization and communication had been created, the availability enlarge the circle of already existing friends and there become the possibility of sharing the personal interests with others. The number and the interest for their usage is growing day by day, even the exact data for number of text messages still do not exist. The biggest protests, as that one in America- Occupy Wall Street, were organized over the social networks, which show the size of involvement of the people, and their influence on the acts and informing of the citizens. Media these days cannot work without their pages in social networks, where their follower quicker than ever get the information presented there.

-*Social networks can give the structure to complex connections between different groups of individuals or organizations and are of great help during analysis of activities of the community and relations of actors, especially when we have great number of actors* (Six degrees of separation (on line): http://en.wikipedia.org/wiki/Six_degrees_of_separation .(no date))

-Social network service is online service, platform or a web site which is focused to facilitation during upgrade of social networks or social relations between people who share interests, activities, or real connections (Social network service (online): http:// en.wikipedia.org/wiki/Social_network_service .(no date)).

The main characteristic of the network is that gives the opportunity to the users to manage their social networks and to make them visible for the others. By this, the users can connect to the other people that in no other case they could have been connected to, meetings who are in common between "latent" relations. Some text messages gives the opportunity to users to leave comments or private messages on their friends' profiles, share photographs and videos, others support technology of instant messaging. As mobile internet and mobile technology develops, more text messaging services support limited mobile interactions. Four things which gives the opportunity to the user to act are:

-Perseverance- content published online, automatically is recorded and archived-

- Repeatability- content made by parts can be duplicated,

- Searching possibility- volume of visibility of published content

- Adaptability- availability of the content through searching

The dynamics of the social networking web sites can be seen in:

-Invisible audience- audience is not always known, thus the users imagine it

- Collapsed context- lack of spiritual social and temporary borders, which make harder to maintain different contexts.

- Mixing of public and private- With no control over the context, public and private has no strict borders, adjusted to the new ways hardly can be seen as different.

2.1. Privacy of text messages

Looking at the way in which the society deal with the social- networking services, we could discover that the information in text messages are public and can be seen from everywhere.

-Today it seems that personal information of the users are revealed and become public data even on the web site who has control over the content and managed searching possibilities (Ralph Gross and Alessandro Acquisti, *Information Relevation and Privacy in Online Social Networks,* Proceedings of WPES'05 Alexandria, VA: Association of Computing Machinery.(Gross& Acquisti),2005).

Many people believe that the content and the information shared over text messaging is between public which are friends, even the audience is even broader. The user creates content for imaginary audience. This combination of the audience imagined by the user and the standards of the forming between peers creates the illusion of privacy. Participation in social media is standard publicly, and privately with an effort. Users easily publish online interaction which can be easily accessed and later they decide what to exempt from them. In everyday communication is the other way around, if you talk to someone privately, you decide whether this conversation is to be published and manage with the revealed content. For example, the user can manage who will see his posts on the status by some settings or even by dividing the friends in some groups and later to appoint what the groups can see from the posts. According to Danah M. Boyd *privacy is implicated into the ability of the users to control the impressions and to manage the interface of the social context*(Boyd Danah M. , Ellison Nicole B, Social Network Sites: Definition, History and Scholarship, Journal of Computer- Mediated Communication,13(1), article 11. http://jcmc.indiana.edu/vol13/issue1/boyd.ellison.html,USA, 2007)

Many people has no knowledge of the privacy of the text messages and in which way the companies and marketing people use their information starting from basic- gender, age, place of live, etc. and all way to information on their interests and pages and likes. In fact, it is not all about the individual privacy of the users, but the privacy of the network, her settings and how the legal regime is to be built to give the users control in privacy, and she could have the control at the same time, too.

2.2. Social networks in Macedonia

In Macedonia, more than one million of adult citizens are users of social networks, the research of the Institute of sociologic-legal researches had shown. Most of them use Facebook for fun and games, but for political activism as well. Students are the biggest population using internet, and lowest are farmers and retired persons.

In in 2005 in Macedonia bloggers could be counted in one hand, today yje biggest number of online contents in Macedonian language comes exactly from the blogs. *Alf in 2006 Facebook was available only to the students of the prestigious American Colleges, today we could not image young person of any province, and especially in Macedonia is not on Facebook*[1].

For every activism conducted over social networks a researching, mobilization, action is needed. Macedonian activists confirmed that they know the schedule, conducted more active movements and citizens' actions over the social networks. For example, Macedonian Twitters had organized through network and made Christmas tree from hundreds of plastic bottles to raise the awareness of the citizens for pollution, donated 9000 Macedonian Denars to help Aunt Svetlana etc. The protest "Stop for Violence", initiated with the death of Martin Neskovski, beaten to death by the Police, were organized over the social networks, and had a big response and lasted for many days in the capital of Macedonia.

3. Analysis of the data of the research

According to the analysis of the data of this research, Macedonian society do not deviate a lot in following the world trends in using of social networks. More precise, in Macedonia, as in the larger part of the world, internet communication conducted by social networks is performed mostly by young people aged 25-40.

Large number of the interviewed belongs to small organizations up to fifty employees. Most of them cooperate with experts out of their organizations. It is important to mention that most of their organizations are on one physical location, where the possibility of need of computer mediated communication is smaller because of possibility of tête-à-tête meeting. Environment and corporate climate of the interviewed representative from governmental sector is different from the others in number of employees and physical locations of where he is, which differs from the rest of the interlocutors. Most of organizations of the interviewees, because small hierarchical structure, has no appointed service for internal communication, or, else, think that such service is needed for their organizations, and because non-cost effectiveness of creating such network for the small number of employees. Unlike the other organizations, governmental sector beside upper mentioned differences possess formal social network, but in conclusion he does not fully manage it. Interviewees had stated that in their organizations prevails excellent organizational climate and interpersonal relations. Because of the type of the organization and the fact they do publishing mostly, and organizations interlocutors belong are consisted of experts where misunderstandings are seen as productive conflicts which are inevitable component for successful working of one organization. Organizations of the interviewees, even their structure number is small, use all forms of communication and do not favorite some special form of communication.

Depending on the situation and the needs, equally practice tête-à-tête, computer, group, or communication in focus groups.

It is necessary to emphasize that besides wide spread of social networks in communication between the employees, especially within an organization, communication face to face is irreplaceable and governs as a dominant way of communication during conduct of key working decisions within organzation.

We can conclude on the given answers that the social network in most of the cases during communication of the employees are used for team building, getting closer of the employees and building of positive working atmosphere. By this, the satisfaction of communication between employees grows bigger and their engagement is encouraged.

All interviewees agree that the internet environment and mobile internet changed a lot the way employees communicate and underline the importance and meaning of new media. As the advantage of new media and their use they underline the change in personal communication, interactivity, speed of sharing of information, the very interlocutors in their everyday life practically try to use the potential of those media.

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[1] *Atanas Vangeli, Social media as enablers of hate speech* http://mdc.org.mk/index.php?news=67 16 February 2011

One more positive reaction was got in view of influence of informal social networks in communication of organizations with external audience, and it was conclude that creation and promotion of some brand are tightly connected with the usage of social networks for promotion and everyday update of the public. From the received answers we conclude that one of the targets of marketing- agencies is to advertise their clients over the social networks. Social networks and its profiles as one of the interviewed said, represent an ideal tool of the companies for communication with the public audience. From finance perspective they represent money worth investment which does not require lots of money only good trained personnel for adequate management.

With the answers the practice of use of social network services from private and state educational institutions had been analyzed, and it was seen that even they have similar statuses, they perform opposite practices. Private institutions are aware of the possibilities of the social networks, they practice it as an internal, and also for communication publicity, on the other hand the state educational institutions, even knowing the possibilities s for usage and the power, still fully do not use them, or they have not engaged adequate personnel which will manage with them. Even the educational institutions has their own internal social networks, employees and students prefer to use the informal like Facebook.

Interlocutors believed that the biggest benefits of social networks are quick sharing of formal and informal information and provide excellent two way communication in organizations. They believe that the employees over participating in text messaging can identify with the organization. It is good the reply of the interlocutor from the governmental sector to be emphasized, who underlined *that the participation and sharing of information by the employees by text messages, saying that this is not a process which can be ordered by decree , and cannot to be ordered to the employees to use the social networks for some reason.* This was mentioned because of the practice of individual employees and members of the parties in Macedonia who felt obliged to share given information even they do not agree with them.

The conclusion which comes as a result from the answers of the interlocutors, that in our organizations the access of the employees to the social networks id not forbidden on the working place, i.e. the employers rely on the good taste of employees that those will never misuse this given right. Governmental sector is different in this question and other than in formal networks, the right of access to informal is forbidden, even a small number of employees manages the profiles of communication with the publicity and because of the nature of their work has full access to them. Non-governmental sector who works on and explore this theme is engaged in protection of human rights on internet and restrictions not to become a rule applicable in our society. Interlocutor who come from the Macedonian Institute for Media thought that restrictions of the organizations for the social network is contra productive and influences on the satisfaction of the employees, Still, there is a consultation that easy access to the Internet and to text messaging over mobile telephones, employees can freely access there no matter on the rules proposed by the organizations.

Interlocutors have knowledge on the influence and the potential which are provided by the social network services, with and emphasize on technological revolution had brought even a cultural revolution in behavior and in space which unfortunately made a freedom which is not proportional with the way of organization of the society. According to them, Macedonia has no social maturity to make a connection to the development, awareness and this which was offered as a freedom over usage of text messages. Furthermore, all interlocutors agreed the usage of text messaging whole corporate climate in organization is improved. If not managed appropriately, in accordance to one of the interviewees, there are situations where social networks can be counterproductive taking off the attention of the employees, and destroying the concentration and we need to be careful during this interaction.

With regards the ethical culture in Macedonia while communicating over social networks, according to the answers of the respondents, we concluded that the most of employees in Macedonia level the culture in general, very little number can be aware that there were some rules while communicating over social networks. Representatives of the Macedonian Institute for Media which is actively involved in this subject tried to inform the public and to target it as a theme within experts' practice- shat ethical culture represents and how to practice it, in concrete example over cooperation with journalists, their training and education. All interviewees agreed that employees in their organizations possess ethical codex which is on very high level when we speak about text messaging.

Conclusion

Social media reaches all parts of the personal and business life. Republic of Macedonia did not stay behind of the world trends in usage of new ways of communication through the social networks. Social networks are free online services which

provide to users mutual communication, and also personal presentation in front of more than billion people. In many case studies in which the companies with quick and fast growth were analyzed, in few past years, was stated that big percent of those companies were active in social networks. Trends in investment in marketing for small and middle companies had shown that the social networks in the future will be even more represented in their communication and marketing activities. Marketing- managers believed that the social media were very important for building of new and maintaining already existing brands, and to have success in toady's "maximally connected" world brands also should develop as "connected brands".

By that is had been thought on the brands which communicate to people when they want to, where they want to and on the way they want to, like the communication through social networks function. Companies explain that lately branded social applications become very popular, who characterize by many advantages over classical advertising on the Internet, as bigger exposition of the brand, stronger emotional effect, bigger efficiency of the investment. In past several years, the social media had grown into powerful and important tool for connection and communication between the employees, and also between the employees and the companies. By conducted research it had been proven that the participation of the employees in companies in Macedonia in formal and informal virtual networks, meaning all computer applications, and also the channels which transmit the communication and interaction of the employees, influences on the satisfaction of the employees in organizations and their influence on the corporate climate. Co-relation between the satisfaction during communication and overall satisfaction during work, productivity and loyalty to the organization is on the high level. High level of satisfaction of the employees during internal communication influences to growth of success of organizational working in Republic of Macedonia.

Electronic communication is not just a form, it is also a waken emotion of the recipient. On the list of positive effects from the social networking is measurability of the internet communication and also the possibility to quantify number of persons who were reached by the message. Social media gives the opportunity for two way communication and bigger interaction and individuality

Most of domestic experts agreed that in the Republic of Macedonia the virtual space is new, exciting and from creative aspect not explored enough, with great potential. Even we cannot not have in mind the faults, like unpleasant, even vulgar and insulting comments on the pages of the companies or on their brands, leading brands openly fought in virtual battle for the best position on search engines, on respectable internet pages or in a social networks.

Public relations can explicitly be understood as communication with the outer public, even though the employees, i.e. internal public in every organization represented the most important audience. The question how to communicate appropriately, efficient, and successful draws big professional and scientific attention and initializes theoretical and experimental analysis and researches. Internet communication plays an important role in the organizations, which can be noted from the examples of organizations which were successful thanks to the efficient strategies of communication, and the others are delayed in optimum results. Without communication there is no motivation, management, productivity, and no satisfaction of the employees. No identification of the employees with the organization brings no long run success in fulfillment of the mission and conduction of the strategy.

Informal communication is the communication which happens between the employees without planning or force. The need for this communication is in the connection with the need of the employees to be included in organizational flows, who can have consequences over them. That is very important for those who in formal hierarchy are not on the desired levels, so informal communication gives them information through informal channels and informal leadership. Because of this, the management considers it as inevitable necessity and believes that it should be limited because not complies with the organizational communication. Still, the informal communication is important aspect of the organizational life, and makes relaxed, pleasant climate and there is no need to be replaced with the efficient formal system.

The efficiency of the internal communication is expressed over the analysis of the communicational structure who includes the way of how the employees see the organizational culture, in the process of their sharing. The strategic planning and management of the communication is similar to the process of the strategic work planning which is performed by exploration of the environment, identification of the goals, definition of the publicity, making of the strategy, selection of the technique and tools for conducting of the strategies and tactics, and evaluation as well. Facing digital evolution, social networks and management with informational overload are supposed to be amongst the main problems and challenged in internal communication.

Team communication gives very important contribution in functioning of the organization, helping determine the goals, values and management strategies. By the intensity of working the need of well-coordinated teams of employees who function well occur, and that cannot be accomplished without informal dialogue and strong integration of the associates. There, social networks help a lot. Trust and in deep knowledge of characteristics of person is crucial in the moment when there is no time for formal communication, during quick exchange of information, role or position in the teams. Organizational culture id the key factor in bringing strategic decisions and she influences a great deal on the design of the organizational structure and the system of reward of the company and on the style of management.

The culture at the same time represents efficient mechanism for controlling and coordination of the employees and to a conflicts reduction. From the technology by who the internal communication is performed we can get relevant information of the socialization of the participants- members of the organization, and that can be used for her improvement. Social media provides global conversation in which anyone can be included, share thoughts, knowledge, ideas without time or geographical limitations. New media encourage the engagement of the employees, availability to relevant and return information. All tis contributes professional communicators to change and adapt the tactics and strategies of internal communication. Qualitative management withy electronic network records doe internal communication presents cost effective investment for the organization and her successful functioning and progress.

Having in mind the use of social media in communication between the employees, inevitable is to state that for that reason the social media in communication are used only in lager organizations. In smaller companies, those who has smaller and limited number of employees, tête-à-tête communication is still primary model of conversation between the employees. Even in those organizations, communication over e – mail is wide and constantly in use. Social network, still, are used in those organizations, but not as a mean of professional communication, but as a medium for team building of the employees.

References

[1] Ahlqvisit, Toni; Back, A,Halonen,M,Heinonen,S. Social media roadmaps exploring the futures triggered by social media. VTT Tiedotteita- Valton Teknillinen Tutkimuskeskus 2008 (2454):p.3.

[2] Atanas Vangeli, Social media as enablers of hate speech http://mdc.org.mk/index.php?news=67 16 February 2011

[3] Atanas Vangeli, Social media as enablers of hate speech http://mdc.org.mk/index.php?news=67 16 February 2011

[4] B. Furht (ed.), Handbook of Social Network Technologies and Applications, DOI 10.1007/978-1-4419-7142-5 4, © Springer Science+Business Media, LLC 201

[5] Boynd Danah M, Ellison Nicole B, Social Network Sites: Definition, History and Scholarship, Journal of Computer-Mediated Communication,13(1), article 11. http://jcmc.indiana.edu/vol13/issue1/boyd.ellison.html,USA, 2007)

[6] Corporate Communication, , (online)http://hr.wikipedia.org/wiki/ Korporativna_komunikacija , (no date)

[7] Darko Buldioski, Wave- The biggest research of social media included Macedonia ,too http://komunikacii.net/10/06/ 6.10.2011 . Six degrees of separation (on line): http://en.wikipedia.org/wiki/Sox degrees of separation.(no date))

[8] Davis, A. Learning Public Relations, 2004, p. 68

[9] H.Kietzmann,Jan;Kristopher Hermkens. Social media? Get serious! Understanding the functional building blocks of social media. Business Horizons2011)

[10] James E. Grunig, , (online).: http://en.wikipedia.org/wiki/James_E._Grunig (no date) Good communication increases the sale, 03. 05.2011, (online), www.kapital.com.mk

[11] Petkovski K., Aleksova M., Management of a dynamic school BRO, Skopje 2004

[12] Popovski M., Barakovska A., Stojanovska V.,(2010), Communication and leadership in organization different texts, Page 17 Communication Models, (online).: http://www.shkaminski.com (no date),

[13] Ralph Gross and Alessandro Acquisti, Information Relevation and Privacy in Online Social Networks, Proceedings of WPES'05 Alexandria, VA: Association of Computing Machinery.(Gross& Acquisti),2005).

[14] Social network service (online): http:// en.wikipedia.org/wiki/Social_network_service.(no date)).

[15] Wilcox,D.L., Cameron.T.C, Ault.P.H.,et al. (2003), Public Relations Strategies and Tactics 7th edn, Pearson Education, Inc. стр.168

Prophetic Leadership Model: Conceptualizing a Prophet's Leadership Behaviour, Leader-Follower Mutuality and Altruism to Decision Making Quality

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Abstract

This article advocates that research is lacking on the connection between leadership theory and social network theory. To date, little empirical research has been conducted on leadership and social networks. Thus, the proposition of this article goes beyond traditional leadership models to advocate for a fuller and more integrative focus that is multilevel, multi-component and interdisciplinary, while recognizing that leadership is a complex function of both the organisational leaders and the followers who perform tasks, all of which subsequently leads to decision making qualities. Indeed, the current leadership model focuses on leadership behaviour and the ability to gain followers mutuality, to achieve decision making quality involving the integration of leadership and social network theories. Given the apparent mutable palette of contemporary leadership theory, this emergent construct of the leadership paradigm can expand the poles of the leadership continuum and contribute to a richer and deeper understanding of the relationships and responsibilities of leaders and followers as they relate to decision making qualities. This new construct, which is termed prophetic leadership, explores the literature of the life experiences of the prophet in the 'Abrahamic Faith' religion. Drawing on a priori links between the personality trait and spiritual leadership that has recently garnered the interest of scholars, the present study asserts a normative leadership theory that links the personal quality of a leader, posture and principal (based on the Prophet's leadership behaviour) to synergy and decision making quality. Altruism is proposed to enhance relationships between leadership behaviour and decision making quality. For future research, much work needs to be done specifically aiming to (a) achieve greater clarity of construct definitions, (b) address measurement issues, and (c) avoid construct redundancy.

Keywords: transcendent leadership, social network theory, prophet's life

1.0 INTRODUCTION

Prophetic leadership rests on the tenets of trait theory, spirituality, Islamic leadership and social network theory. This field of study is still in its infancy, as such theory is marked by differences in definitions and other basic characteristics. Much of what has been written on this subject has appeared to be isolated to a particular religion, is non-academic, lacks sufficient publication, and consequently lacks rigor. This study, therefore, analyses verses in the Qur'an and the *Seerah* to construct a prophetic leadership model and explores the nexus between personal quality, posture and principal of the leader to decision making quality, which is mediated by leader-follower mutuality and altruism as moderating factors.

The proposition in this article goes beyond more traditional leadership models to advocate a fuller and more integrative focus that is multilevel, multi-component, and interdisciplinary, and it recognises leadership as a function of both the leader that leads an organisation and the followers that perform tasks during the time of complexity. Indeed, the present leadership model focuses equally on leadership behaviour and the ability to gain followers to determine decision making quality. The present article also advocates that further research is required on the connections created by leadership; this is the emerging work linking social network theory to leadership theory. To date, "little empirical work has been done on leadership and social networks" (Brass, Galaskiewicz, Greve, & Tsai, 2004). In the model proposed here, there is a full extension of an integrative framework that spans implicit leadership theories to the external structure of social network relationships. It also incorporates how individual actors and their relationships are embedded in a larger social network structure (Klenke, 2007). In line with the proposed integrative framework, Balkundi and Kilduff (2005) concluded, the "network approach locates leadership not in the attributes of individuals but in the relationships connecting individuals."

2.0   PROPHETIC LEADERSHIP

Prophetic leadership theory is rooted in the life experience of the prophets. It encompasses all aspects and elements in the life and leadership of all types of situationi.e., complex or non-complex). This holistic model emphasises the personal qualities, decision making processes and managerial skills of the prophets to construct a prophetic leadership model and to determine its relationship to leader-follower mutuality and decision making quality, which are compelling issues for management practitioners and researchers. Drawing on *a priori* links between trait theory and spiritual leadership that have recently garnered the interest of scholars, the present study asserts a normative leadership theory that links the leader's personal qualities, posture and principals to synergy and decision making quality. Altruism is proposed to enhance the relationships between a leader's personal qualities and decision making quality.

The current prophetic leadership model claims that *seerah* (i.e., the life of the prophet Muhammad, Jesus (Isa). and Moses (Musa) peace be upon them all) in the holy Qur'an and *sunnah* (the character of the prophet), which is narrated in the *hadith*, can be exemplified for effective leadership and decision making quality. Three religions, Islam, Christianity and Judaism, have been intertwined and are considered to be inextricably linked to one another because of a 'family likeness' and a certain commonality in theology. These three religions are called the Abrahamic faiths, Abrahamic traditions, religions of Abraham, Abrahamic monotheistic religions, Semitic religions, Semitic monotheistic religions, or Semitic one god religions (http://abrahamicfaiths.com/).

In the early twenty-first century, there were an estimated 3.8 billion followers of these three Abrahamic religions, it is estimated that 54% of the world's population considers themselves adherents of one of the Abrahamic religions; about 30% follow other religions and 16% are non-religious (Encyclopaedia Britannica, 2010). Islamic researchers believe that the holy Qur'an is a source from which one can learn about effective leadership (e.g., Ahmad, 2006; Ather and Sobhani 2007; Bangash, 2000; Noor 1998). The Qur'an has revealed the stories of prophets as great leaders of their people and the advice within the Qur'an should be followed. Across the ages, many people of Muslim, Christian and Jewish faiths have turned to the Qur'an, the Bible and the Torah, respectively, for their role models, examples and metaphors. Furthermore, many researchers have discussed the Biblical examples of prophets in leadership and management studies (e.g., Weber 1978, Friedman and Langbert, 2000). Hence, the proposed "Prophetic Leadership" model is necessary as a holistic leadership model because Biblical role models and the characteristics of a Biblical individual make these Prophets arguably the most successful transformational (Friedman and Langbert, 2000), consultative, distributed, situational, emotional and spiritual leaders in history (Noor, 1998). Furthermore, religious believers all over the world have grown up perpetuating and sharing their narrative visions (Fry, 2005) and relying on their good examples being followed.

3.0   THEORETICAL FOUNDATION

In Muslim teaching, the precepts laid down in the Qur'an and the examples of the Prophet (pbuh) (*seerah*) are to be exemplified. What the Prophets did in concrete situations is an essential part of Islamic teaching. By studying the life of the Prophet (pbuh), one may derive important principles to be followed. Allah says twice in the noble Qur'an: "*He it is who has sent the Prophet with guidance and the Deen of Truth so that it may become dominant over all other systems, however much the mushrikeen may be averse to it" (Al-Qur'an 9:33, 61:09)*. The *Seerah*, therefore, offers an important lessons in leadership, serving as an essential prerequisite for the transformation of any society into an Islamic state. This process of transformation is a quintessential model for all Muslims, as they struggle to transform their organisations and societies (Bangash, 2000).

3.1   Al-Qur'an and *Sunnah*

On earth, Man is Allah's *khalifah* (vicegerent or representative or leader) (Al-Qur'an 2:30; 6:166; 38:26) and acts only to implement Allah's laws. A khalifah (leader) is not free to act as he chooses or to submit to the wishes of any group. This is therefore a fundamental difference between Islamic leadership and that of other systems, where aspirants to high office

often say and do what the people want regardless of the merits of these actions (Bangash, 2000). Thus, Al-Qur'an and *Sunnah* discuss the leadership qualities of the Prophets that should be followed by *khalifah* on earth; such qualities include the leadership behaviours of the Prophet, including personal qualities, religious spirituality, principals and posture.

3.1.1   Leadership Behaviour

Prophet Ibrahim- peace be upon him (pbuh)- was appointed as *Imam* (leader) due to leadership qualities he possessed. After successfully completing a number of tests, Prophet Ibrahim was appointed *Imam* (leader) of all people. The Qur'an says: "*And (remember) when his Lord tried Ibrahim with His Commands, and he fulfilled them, He said: Surely I have appointed you an Imam for mankind. Ibrahim said: 'And of my offspring' (will there be Imams)? He said: 'My covenant includes not the wrongdoers*" (Surah al-Baqarah, 2:124). An important point emerges from this dialogue, in that an oppressor is not fit to be leader of Muslims, regardless of what other qualities he may possess. Implicit in this *ayat* are two other points about leadership: 1) to be legitimate, it must involve divine sanction and, 2) because Islam rejects the concept of hereditary leadership, each person must qualify for it by merit (Bangash, 2000). Prophet Ibrahim (pbuh) fulfilled the mission of leadership for which Allah *Subhanawataala (SWT)* chose him. This example indicates that leaders must have vision, courage, the ability to articulate their vision and a willingness to make sacrifices on behalf of an organisation (Black and Porter 2000). Moreover, leaders motivate followers to sacrifice their own self-interests for the greater good (Northouse 1997). Prophet Ibrahim (pbuh) was a person who was willing to make a great sacrifice for the good of others, an example of a transformational leader (Friedman and Langbert, 2000).

The Qur'an highlights an important aspect of Islam's concept of leadership that contains the prophetic leadership model. Thus, the authors examined the leadership qualities and personal attributes exemplified from the messenger of Allah (Musa, Isa and Muhammad, peace be upon them all) enumerated in the holy Qur'an and the *Sunnah* to propose in the model. Personal qualities, religious spirituality, posture and principals of the Prophets were scrutinised to construct a model that can influence a follower's mind and can achieve quality decision making. Altruism thus will enhance decision making quality.

3.1.2   Personal Quality

Courage

Showing courage and the ability to take calculated risks are essential attributes of a leader. To inspire others to perform great feats, a leader must be seen as someone who is not afraid to face danger. The unyielding courage shown by Prophet Musa (Moses) under the most stringent circumstances to deliver *tauhid* and establish *Shari'ah* among the Israelites is an example of a courageous leader. Additionally, Koenig (2007) and Neyrey (1998), in their study of the Gospel, describe Isa (Jesus) as having boldness, courage and confidence. According to Neyrey (1998), evidence from Matthew 22 in the Bible describes Isa's (pbuh) courage to stand, despite facing suffering and rejection in both his work and mission.

In the battle of Badr, Prophet Muhammad (pbuh) was clearly taking a great risk to defend Medina with only 330 Muslims as compared to 3,000 Quraish; he won a battle that an ordinary leader may have avoided. Badr highlighted the Prophet's courage, as well as the commitment of the Muslims fighting under him. Similarly, the expedition to Tabuk (9AH) was fraught with just as great a risk, as only 30,000 Muslims marched across the desert in scorching heat to confront a Roman army of 100,000. It was these examples of courage and bravery that established a pattern for future generations of leaders to be emulated. Courageous leaders will result in increased leader-follower mutuality and subsequent high quality decision making. Thus, the following is proposed:

Proposition 1: *Courageous leaders have a significant influence on leader-follower mutuality and subsequent decision making quality.*

Eloquence

A leader must be eloquent and articulate. These characteristics are required to communicate the purpose of the mission clearly and to inspire people to follow it. The Qur'an itself is the most eloquent document; it appeals to both the mind and the heart. Prophet Ibrahim (pbuh) was recognised, since childhood, for his ability to have great eloquence. This was proven by his victory in his debate with the Babylonian King, Nimrod. Nimrod asked Ibrahim: *What can your god do that I cannot? Ibrahim said, "My Lord is He Who gives life and death. Namrud said "I give life and death. I can bring a person from the street and have him executed, and I can grant my pardon to a person who was sentenced to death and save his life." Ibrahim added "Well my Lord Allah makes the sun rise from the East. Can you make it rise from the West?"* (Qur'an 2:258). The king was confounded, and Prophet Ibrahim (pbuh) left him speechless. Eloquence was also stressed in the verses in which Allah commands Musa (pbuh) to speak to Fir'awn (Qur'an 20:43-44), Allah urged Musa (pbuh) to use gracious language, as it is a highly effective approach that should always be adopted when communicating with people. In many verses of the Qur'an, the importance of choosing kind words is stressed. In fact, Allah commands man to speak gently, even when conversing with one who is arrogant. These verses are evidence of the importance of using such a manner in communication, and they show that communication skill is important in leadership. According to Keller (1998), the Bible portrays Isa as having strong characteristics of a "teacher," both intelligent and eloquent.

Prophet Muhammad (pbuh) articulated the message of Islam in such a way that it was immediately accepted by a small group of people in Makkah. In an attempt to dissuade the Prophet (pbuh) from his mission, Utbah ibn Rabi'ah offered him money, beautiful women and a position in the Meccan hierarchy; however, the Prophet (pbuh) recited *Surah Ha-Mim Sajda* (41:20-30). The recitation of the *Surah* had such an effect on Utbah that he returned to his fellow chiefs in utter humiliation, telling them to leave the Prophet alone (www.islamicthought.org.pb-zb-leader.html). Thus, eloquence is significant to both leader-follower mutuality and decision making quality.

Proposition 2: *Eloquence has significant influence on leader-follower mutuality and subsequent decision-making quality*

Sabr (patience) and forgiveness

In the face of immense persecution in Mecca, Prophet Muhammad (pbuh) not only showed great patience, he also counselled his followers to do likewise. At that time, a guiding verse in the Qur'an was revealed, which states *"With every hardship there is ease, with every hardship there is ease" (94:5-6).* This verse means that problems are always associated with opportunities. Thus, another quality essential for a leader is *Sabr* (patience), as a lack of patience will simply drive away followers.

Prophets Ayub, Yaqub and Yusuf (pbuh) also experienced persecution but endured their trials and tribulations with great patience. However, there is a distinction between the trials one is put through directly by Allah and those that are faced at the hands of other human beings. Prophet Ayub's trial was not caused by human beings; however, in the case of the Prophets Yaqub, Yusuf, Musa, Isa and Muhammad - may peace be upon them all - it was the people who tormented them. Most critical is the case of the noble messenger, Prophet Muhammad (pbuh), because he not only had to endure such suffering himself but also counselled *sabr* to his companions who were being persecuted. An outstanding example of the Prophet's *sabr* was demonstrated following his suffering at the hands of the people of Ta'if, in the tenth year of his mission in Makkah. When the chiefs of Ta'if set the thugs of the town upon him, instead of seeking revenge, the Prophet prayed for their guidance (Bangash, 2000).

Muhammad (pbuh) was also seen as a lenient and forgiving leader, and the following Qur'anic verse explicitly shows the active and reformative leadership of the Holy Prophet of Islam. Allah says: *"It was by the Mercy of Allah that you were lenient with them, for if you had been stern and fierce of heart, they would have dispersed from you. So pardon them and seek forgiveness for them and consult with them upon the conduct of affairs. And when you are resolved, then put your*

trust in Allah. Surely Allah loves those who put their trust in Him" (Surah Ale Imran, 3:159). This proves that patience and forgiveness will lead to leader-follower mutuality and subsequent decision making quality.

Proposition 3*: Sabr (patience) and forgiveness have significant influence on leader-follower mutuality and decision making quality*. **3.1.3   Religious Spirituality**

Knowledge and Wisdom

Knowledge can be acquired through study and hard work. Wisdom (*hikmah),* on the other hand, is the ability to apply knowledge to a particular situation to bring about the most desirable outcome. Almost everyone can acquire knowledge, but *wisdom* comes only through an inner enlightenment and by seeking sincere guidance from Allah (Bangash, 2000). Allah says, in Qur'an 2:129, that the Prophets (pbuh) were given both knowledge and *hikmah* (wisdom). Al-Qur'an 3:45-46 also indicates that Prophet Isa (pbuh) was honoured with articulateness and intelligence, and Isa tells his people that he brought them *Hikmah* (wisdom) (Qur'an 43:63). In Qur'an ayat 17:39, God Almighty explains what the word *hikmah* (wisdom) means, *"You shall not accept any information, unless you verify it for yourself. I have given you the hearing, the eyesight, and the brain, and you are responsible for using them. You shall not walk proudly on earth-you cannot bore through the earth, nor can you be as tall as the mountains. All bad behaviour is condemned by your Lord. This is some of the wisdom inspired to you by your Lord. You shall not set up another god beside God, lest you end up in Gehena, blamed and defeated."* Here, God is telling us that wisdom is in the Quran. It is wisdom that comes from Him and not from other men.

There are many instances from the Prophet's *Seerah* where his *hikmah* achieved results that his followers were unable to see. The most striking example of Prophet Muhammad's wisdom is the 'Treaty of Hudaibiyya' in the sixth year of the *hijrah*. The Hudaibiya treaty showed the Prophet's wisdom in accepting some terms of the treaty that his companion Omar ibn al Khatab had refused. It was later proven that these terms were for the benefit of Islam by the Qur'anic sura "Al-Fath" (The Victory) (Qur'an 48:1-29). These benefits, according to Welch (1992), included 1) inducing the Meccans to recognise Muhammad (pbuh) as an equal; 2) the cessation of military activity, which posed well for the future; and 3) gaining the admiration of Meccans, who were impressed by the incorporation of the pilgrimage rituals. Thus, the following is proposed:

Proposition 4*: Knowledge and wisdom have significant influence on leader-follower mutuality and subsequent decision-making quality.*

Taqwa (humility, moral conduct)

Taqwa is humility, where one is humble, conscious of Allah's presence and fearful of Him at all times. Not seeking a leadership position is part of *taqwa,* as portrayed by Prophet Musa (pbuh) when he answered the revelations from Allah. He sincerely admitted his inability to do it alone and requested for the Prophet Harun (pbuh), his brother who was fluent and better at speaking, to assist him. The verses in Qur'an Surah al-Qasas/28: 33-34 reads: *He said, "My Lord, I killed one of them, and I am afraid they will kill me; and my brother Aaron is more eloquent than me so send him with me to support me and back me up. I am afraid they will call me a liar."* Similarly, when Prophet Muhammad (pbuh) received his revelation, he was full of fear for the responsibility that God had decided to place on his shoulders. Any other person in his place would have been filled with pride, as he would have felt that he had become great. However, the Prophet was different; he could achieve great things but could take no pride in his achievements (Hidrat Mirza, 2005).

The *Seerah* of Prophet Muhammad (pbuh) also shows his personal honesty and integrity. Thus, he gained considerable popularity among the people and became known as "Muhammad al-Amin." The Arabs often entrusted him with their belongings and talked about his honesty and efficiency even before being commissioned as a Prophet. As a result of Muhammad's (pbuh) integrity, truthfulness, honesty, wisdom and efficiency in commercial trade, he also earned a great deal of profit and attracted Khadijah, a rich widow, to marry him. Thus, taqwa is an important leadership quality because

the power and authority that leaders acquire can easily make them arrogant, leading to hatred among followers. thus the following, then, is proposed:

Proposition 5: *Taqwa has significant influence on leader-follower mutuality and subsequent decision-making quality*.

Spirit of sacrifice

Simplicity and self-sacrifice are other qualities that Islam urges, especially for leaders. A leader is a role model, and his behaviour has direct bearing on the conduct of others. If the leader is seen to be making personal sacrifices, then the followers will make even greater sacrifices. Similarly, leaders must have no personal or class interests. The Prophets never did anything to benefit themselves or their families. In fact, throughout their lives, they made great personal sacrifices for Allah and their companions. Prophet Ibrahim (pbuh), for instance, received communication from God to sacrifice his son Ismail, whom he loved so much (Qur'an surah As-Saafat 37:102-108). Prophet Ibrahim was willing to make a personal sacrifice for God and was honoured for his faithfulness to God. Prophet Muhammad (pbuh) denied himself even the smallest comforts of life while the rulers of Persia and Rome enjoyed great luxury (Bangash, 2000). The Prophet regarded such comforts as elements for people who wish to cling to this *dunya* (worldly life).

A spirit of sacrifice is another area in which the Islamic order is fundamentally different from today's predominantly secular Western systems. An Islamic leader and those in positions of authority make sacrifices so that the downtrodden will have more; ostentatious living is specifically discouraged. Islam encourages its adherents *to "Eat and drink [of what Allah has provided you] but do not be extravagant" (Al-Qur'an 7:31)*. Similarly, it rejects gross inequalities in society that ultimately lead to conflict and violence. Thus, the following is proposed:

Proposition 6: *The spirit of sacrifice has significant influence on leader-follower mutuality and subsequent decision making quality.*

3.1.4 Principal

The prophet's character features not only "leadership as a personal quality" but also "leadership as an organisational function." The first connotes an extraordinary mix of personal traits, whilst the second pertains to the managerial propensity to marshal resources for effective decision-making within the organisation (Noor, 1998). Leadership as an organisational function consists of three principles: attunement, alignment and empowerment.

The three-loop orientation that combines alignment, attunement and empowerment in nation-building and organisational development is an approach advocated by some leading management gurus.

Alignment (Articulation of Vision)

Alignment is the direction-setting aspect of leadership. It is an inductive process that engenders a vision of greatness and fosters a sense of mission among an organisation's people (Noor 1998). Clear articulation of the vision and firm conviction of the leader are the primary requirements for any movement to bring about change. Those who are invited to join must know the ultimate objective.

For example, Prophet Ibrahim's (pbuh) vision was to spread monotheism and build a new nation where his descendents would live as a unified people with a belief in monotheism, concern for the helpless, and justice for all. Prophet Ibrahim (pbuh) emigrated, as related in the Qur'an surah Al-'Ankabut 29:26: *"And Lot believed him, and said: Lo! I am a fugitive unto my Lord. Lo! He, only He, is the Mighty, the Wise."* In another verse (As-Saffat **37**: 99), Allah Almighty says: "*And he said: Lo! I am going unto my Lord Who will guide me."* So, Prophet Ibrahim (pbuh) travelled from place to place to spread the name of Allah. Another vision of Ibrahim (pbuh) involved a place where people would be in peace, able to concentrate solely for the worship of Allah. Ibrahim's (pbuh) wish was answered when Allah ordered him to build the Sacred House, the Ka'bah. He had his vision fulfilled before settled in a town in Palestine, where he died and was buried. That town, Al-Khalil Ibrahim, (Hebron), is now named after him (Al-Qaradawi). Ibrahim (pbuh) not only had a vision but was also able to communicate this vision to descendents living hundreds of generations later, via the "Abrahamic Religion."

When Prophet Muhammad (pbuh) started to deliver the message of Islam, it was clear and concise; there was no ambiguity about the worship of the One and only God, who has no partners, and Muhammad – peace be upon him - was the messenger of Allah. The vision was articulated in such a way that tribal and family affiliations were not only loosened but also broken. Those who wanted to carry on the old tradition because they would be its principal beneficiaries became its greatest opponents. This situation became evident in Makkah, where members of many leading families joined the new faith by braving the wrath of their kindred. Rejection of the existing order was an important part of the vision. The Prophet also made clear, through his own example, that there could be no cooperation with the existing *jahili* system. Thus, the goal was articulated in such a way that its recipients understood it clearly and were prepared to face any challenge, including separation from their families, to defend it (www.islamicthought.org/pp-zb.leader.html).

In the Prophet of Islam's leadership model, alignment refers to the *tawhid*, or the Paradigm of the Oneness of God, and this alignment is tempered by *Iman* (faith). Fully subscribing to *tawhid* implies that one truly believes in Allah SWT, has faith in Him and fears Him. The leader or manager who is spiritually aligned will always remember that he is vertically accountable to God Almighty for all of his actions. As such, he will continuously be mindful of the need to please the Creator and not do things that are construed to be negative; he will always seek to enjoin good and forbid evil (*'amr maleruf, nah'i munkar*). Thus, the following is proposed:

Proposition 7: *Alignment has significant influence on leader-follower relationship and subsequent decision-making quality*

Attunement

Together with the clear articulation of the vision, the leader must inspire and motivate people. The leader must attune people's indifference to interest and turn their pessimism into optimism, while motivating them to action for the realisation of the goal. Attunement is the *esprit d'corps*, the will, the emotion, the passion and the compassion that together fire the process of goal attainment (Noor, 1998). Attunement garners the spirit of teamwork to prevail, with everyone contributing towards a meaningful level of performance. It enhances the communication process and enjoins all the members of the organisation to move forward in unison. The noble messenger of Allah was able to motivate people who not only accepted the message but were also prepared to sacrifice their lives for it. This level of commitment was not inspired by any enticements to worldly gains; their only reward, they were told, was in the Hereafter (Banggash, 2000). The Qur'an narrates the stories of many Prophets who delivered the message, though their people did not accept it. When Prophet Lut (pbuh) urged his people to abandon their abominable ways, there was nothing wrong with the message or with his articulation of it, but his people rejected it nevertheless. Thus, acceptance of the message is an important part of the mission. If the message is not accepted, the mission remains unfulfilled (www.islamicthought.org/pp-zb-leaders.html).

In the Prophetic leadership model, attunement refers to *ibadah* or daily acts of faith. By committing oneself to daily actions that enjoin good and forbid evil, the managerial leader will help foster a human environment of understanding and caring for each other's well-being. In time, when the daily acts of faith are done in unison as a *jama'ah* (congregation), the acts will constitute the team's "shared values in action" (Noor, 1998). Therefore, attunement will influence followers to achieve organisational goals. Therefore, the following is proposed:

Proposition 8: *Attunement has significant influence on leader-follower mutuality and subsequent decision making quality.*

Empowerment

Empowerment is the willingness to enable people with skills and knowledge to use their talents and energies to become increasingly effective. When people are empowered, they are able to solve work-related problems and make decisions, preferably as a team unit.

A successful leader is able to empower, guide and control change to achieve the stated objectives. Prophet Musa (pbuh) empowered his brother, Prophet Harun (pbuh), who was in charge of the flock (Al-Qur'an 2:92-93) during his absence, to receive the *Tawrat* and establish the *Shari'ah* for the Israelites. However, Prophet Musa's mission was temporarily sabotaged by a Samaritan; as the Qur'an says, *After he left, Moses' people adopted a calf made from their ornaments, a form which made a lowing sound… (Surat al-A'raf/7: 148).*

Often, organisations and nations falter in the face of stiff competition and while undergoing adjustments in response to new technology because they do not believe enough in the ability of their people to act independently for the good of their employers or leaders. Such people feel powerless and unmotivated when their initiatives are not appreciated. But when empowerment is employed, people feel wanted and appreciated. People appreciate being given the opportunity to decide and the freedom to act; under these conditions, they will usually tend to do their utmost to achieve the declared mission. Thus, the following is proposed:

Proposition 9: *Empowerment has significant influence on leader-follower mutuality and subsequent decision making quality.*

3.1.5   Posture

In the process of decision making, the Prophets of Islam adopted the three basic postures of Islamic leadership: *syura* (mutual consultation), *adl bil-qist* (justice with equity) and *decisiveness*, in all of their dealings with his ummah and in the decision making process.

Shura and Hurriyyah al-qalam (Freedom of Expression)

Shura is a process involving mutual consultation that must be adhered to by those in positions of authority so as to ensure a sense of participation and fairness in problem-solving and decision-making. The Qur'an calls upon all Muslim leaders to consult those who are affected or are more knowledgeable and better informed about the issue at hand (Qur'an 3:159; 42:38). Allah says: "*And, those who answer the Call of their Lord' [i.e., to believe that He is the only One Lord, (Allah), and to worship none but Him Alone], and perform As -Salat (Iqamat -ai -Salat), and who (conduct) their affair by mutual consultation, and who spend of what We have bestowed on them*" (Ash-Shura, 42:38).

The most outstanding example of the Prophet Muhammad's (pbuh) *Shura* occurred on the eve of the Battle of Uhud (3AH). The Prophet accepted that the majority wanted to go out and fight, although he was of the opinion that the city should be defended from within. He did not impose his own opinion, as the Prophet felt that the followers' trust and confidence would be gained if their opinions were respected. The revelation by God Almighty serves as a strong reminder to all that consultation with others is obligatory. In the Battle of Ditch/Kandaq (5AH), the suggestion of the companion (Salman) to dig a trench as a defence mechanism worked well for the Muslims. This situation shows the spirit of *shura* was in evidence during the prophet Muhammad's (pbuh) time. Similarly, during the battle of Badr, Prophet Muhammad (pbuh) gave His companions *hurriyah al-qalam,* the freedom to express their opinions, and thus, they won the battle. It was narrated that Hubab ibn Mundhir, who was not a leading personality among the Companions, stood up and gave this opinion: *"O God's Messenger! If you were not ordered by God to be positioned here, let us be positioned around the wells and close up all but one of them in order to prevent the supply of water to the enemy. You set up your camp at the side of that one well (from which we will take water), and we will encircle you."* Muhammad accepted his view.

The story of Prophet Moses (pbuh) also teaches us that cooperation, compromise and encouragement are essential in warding off heedlessness. This can be seen from Prophet Musa's request for a companion to help him be better and to glorify Allah more. Thus, in many verses of the Qur'an, Allah admonishes His *um'mah* to remain together. Hence, is the following is proposed:

Proposition 10: *Syura and Huriyyah Al-Kalam have positive relationships with decision making quality.*

'Adl and Rahmah

'Adl (justice and equity) and Rahmah (compassion) are two other essential characteristics a leader must possess. Justice without compassion leads to tyranny, and compassion without justice creates anarchy (Bangash, 2000). The Muslim leader has to lead with a sense of justice and fairness to all of his followers regardless of their race, nationality or faith. The Qur'an commands all Muslims to be just and equitable, even when it involves those opposed to them (Al-Qur'an 5:08; 4:135; 7:29). Allah says: "*o you who believe! stand out firmly for justice, as witness lest o Allah, even against yourselves, or your parents or your kin, be he rich or poor; for Allah can protect both so follow not the lusts (of your hearts), lest you may avoid, justice, and if you distort your witness or refuse to give it, verily, Allah is ever well-acquainted with what you do*" (An-Nisaa. 4:135).

Al-Nawwas ibn Sam'an reported that the Prophet said, "*Righteousness is good character, and sin is what rankles in your heart about which you do not want people to know.*" Additionally, Wabisah ibn Ma'bad said: "*I came to the Messenger of Allah (saw) who said, 'You have come to ask about righteousness?' 'Yes," I answered. He said, 'Ask your own heart for a fatwa. Righteousness is when the soul feels peace and the heart feels peace, and sin is what creates restlessness in the soul, and rumbles in the bosom, even though people give their opinion (in your favour) and continue to do so.*"

When the Prophet consolidated the position of the Muslims in Madinah, he concluded a treaty (Al-Dhimmah) with neighbouring Jewish tribes for the defence of the city. Muhammad (pbuh) was recognised as the undisputed leader, judge and supreme Governor of the citizens of Madinah: "*Give (thy) judgement in accordance with what Allah has revealed, Be not influenced by their wishes ;and beware of them lest they make thee depart from some injunction given thee by Allah*" (Al-Maidah , 5:49). Thus, the following is proposed:

Proposition 11: *'Adl and Rahmah have positive relationships with decision-making quality*

Decisiveness and Resolution

A leader must be decisive and resolute. He must demonstrate such qualities at all times because a decision delayed may be an opportunity lost. The Prophet himself showed great decisiveness at many critical moments in life, such as when dealing with the Jewish tribes in Madinah (the Banu Qaiynuqa', Banu Nadhir and Banu Quraidha) after their treachery was exposed. The Banu Qaiynuqa' were expelled from Madinah following the Battle of Badr because of their scandalous behaviour towards a Muslim woman in public. The Banu Nadhir was the next to violate the terms of the treaty during the Battle of Uhud, followed by Banu Quraidha that broke their treaty obligations by conspiring with the Quraish to undermine Muslims during the Battle of Ahzab (5AH). Thus, the Jewish menace in Madinah was eliminated. Only a leader with firmness and conviction could implement such a policy (www.islamicthought.org/pp-zb-leader.html).

Further, Prophet Muhamad, upon whom be peace, advised Abu Dharr, a very close companion who was weak in physique, not to seek a leadership position because such a task was not for the weak. Those who are given such responsibility must live up to its obligations (Bangash 2000). If they fail, they violate a great trust and are answerable for it on the day of Judgement. It is clear from the Prophet's *Sunnah* that decisiveness and firmness are important considerations for leadership; those who are weak are not fit for it (Noor, 1998). Thus, the following is proposed:

Proposition 12: *Decisiveness and resolution have positive relationships with decision-making quality.*

3.1.6   *Synergy (leader-follower mutuality)*

The fusion of these four elements of personal qualities, religious spirituality, posture and principals will produce the synergy of a leader-follower mutuality, one of the essential qualities of a leader. Prophet Muhammad (pbuh) achieved this both in Makkah and in Madinah. In Makkah, the people were persecuted, yet their loyalty was retained. In Madinah, the hosts

(*Ansar*) were motivated to make great sacrifices by accommodating and caring for newcomers (*Muhajiroun*), as well as by offering protection for the Prophet. An additional challenge was to prevent any misunderstandings arising between the host and newcomers as a result of the sudden influx of such a large number of people in Madinah. There were troublemakers trying to create dissension in the Muslim ranks. The Quraish of Makkah regularly sent emissaries to the notables of Madinah, urging them to eliminate the Muslims. There were those, like Abdullah ibn Ubayy', who viewed the arrival of the Muslims as undermining their own leadership ambitions. The same was true of the Jews, who viewed the Muslims as undermining their monopoly on religious matters. Group solidarity was, therefore, extremely important for Muslims in the face of these challenges, though it was based on *iman* rather than on blood ties or tribal and ethnic identity. Similarly, mobilising resources to sustain the movement is another important task a leader must perform. (www.islamicthought.org/pp-zb-leader.html).

Leader-follower mutuality is important because it provides some degree of quality decision making. The higher the level of the leader-follower mutuality, the greater the willingness of the people to identify with the mission and their readiness to make sacrifices for it; this situation leads to a higher degree of quality of the decision made to achieve organisational goals. Leader-follower mutuality is, therefore, an important consideration in the decision making quality.

Proposition 13*: The higher the level of synergy (leader-follower mutuality), the higher the quality of the decision made.*

3.1.7   Altruism

Altruism connotes the principle of living while having regards for, and acting for the good of, others, always showing compassion and concern (Webster's Dictionary). Altruistic behaviour conveys an attitude of caring and sharing, an unselfish concern for the continued well-being of others, a state of being mindful of the feelings of people around us while being considerate to their needs, and always striving towards a win-win outcome in whatever we do together (Fry 2003).

A good leader encourages his followers to serve others to get ahead in life. As a leader, one is bound by a position of divine trust to be responsible and accountable for executing justice, equity and consensus in all affairs of life. A leader may be a father, an *imam*, an administrator, a manager, a supervisor, or even an influential employee. Prophet Muhammad (pbuh) pointed out that everyone is entrusted by God Almighty to be a khalifah or a shepherd:

"Everyone of you is a shepherd, and' everyone is responsible for what he is shepherd of," (Sahih al Bulehari; and Muslim)

Prophet Muhammad (pbuh) was a proactive pioneer in getting things done for the cause of Allah SWT. To infuse iman or belief in his followers, he was forthright in his pronouncements about what was legitimate and what was forbidden of them. Additionally, he modelled himself through leadership by example, always setting the pace for others to follow. He always acted without displaying arrogance, but subjugated himself to the best interests of his *ummah* (community), remaining continually courageous but humble. In the process, Prophet Muhammad (pbuh) was regarded as a man of considerable integrity, with a passion to fulfil his mission and the compassion to help lead his people to the straight path.

As for Prophet Isa/Jesus (pbuh), he was a humble servant of the word of Allah. His truthfulness, love, justice and humbleness have been demonstrated in his model conduct of living. His peaceful disposition and gentleness had a great effect on the people while spreading peace, harmony, and blessings throughout the community. His goal was the well-being of the people. A study by Winston (2004) offers early and potential insights into Jesus' (Isa) decision making. According to Winston, although many of the decisions made by Isa were completed at levels directed by rules and laws or through a rational process, the decisions were made based on '*agapao*,' an inherent love of others. Koenig (2007) also asserts Mark 10:42-52 in the Bible also addressed Jesus (Isa) as a humble and servant-like leader who was never boastful or arrogant. Al-Qur'an; *Surah* Maryam: 19/32 reveals the following: *"Jesus said, "He has made me obedient to my mother, and He has not made me arrogant and unblessed."*

Thus, leadership involves the process of influencing people to transform their way of life, at times through affirmative action, to achieve betterment. A change for the better could be achieved through modifying one's behaviour, one's circumstance, or one's environment (or any combination together) such that the outcome would benefit mankind in particular. Such a process signifies the basis of altruistic leadership (Noor 1998), which will enhance decision making quality. Thus, the following is proposed:

Proposition 14: *Altruism (altruistic leadership) will enhance the relationship between leadership behaviour and decision making quality.*

4.0   PROPOSED THEORETICAL FRAMEWORK

The Prophetic leadership model is developed from the great examples of 'Abrahamic faith' prophets (i.e., Ibrahim; Musa; Isa; and Muhammad- may peace be upon them all) and their leadership behaviours. It integrates the leadership of the Prophets, which comprises their personal qualities, decision making processes (posture) and managerial skills (principal). The model is expressed in Figure 1 below:

Figure 1: This framework presents the full version of the model that includes leadership behavioural theory, social network theory and the outcome.

PROPHETIC LEADERSHIP BEHAVIOUR   SOCIAL NETWORK THEORY
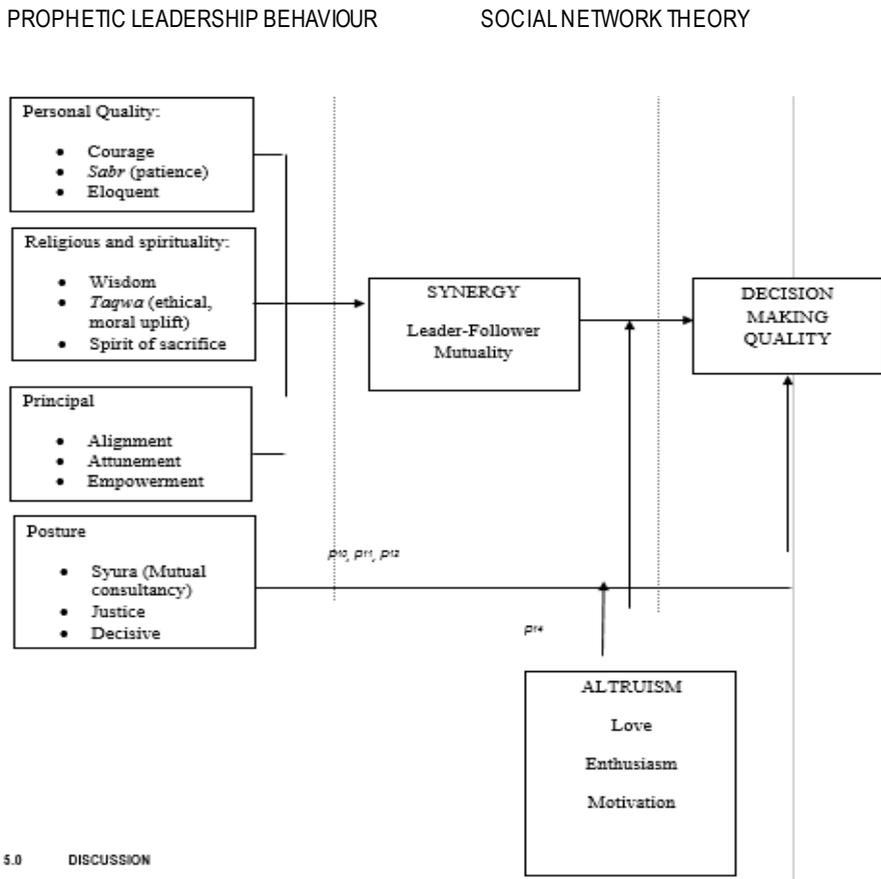
5.0   DISCUSSION

5.0   DISCUSSION

The evolution of leadership theory and practice has come to a point at which more integrative views are branching out, such as trait, transformational, spiritual, Islamic, and transcendental theories. The fundamental premise of this paper is to propose a normative integrated leadership theory called the prophetic leadership model. The starting point for exploring

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this idea comes from Noor (1998) and Bangash (2000), who proposed a model that described the Prophets' leadership behaviours to influence leadership effectiveness. The present authors extend the model by integrating the social network theory into leadership theory (i.e., the Prophet's leadership behaviour to the followers' minds), which influences leader-follower mutuality and the actual social network structures and relationships that are established. These social networks ultimately facilitate decision making quality, where the leader's ability to influence others will depend, in part, on the social network in which that leader is embedded, as well as on how positive the network is regarding the leader's personal qualities and managerial skill.

Another rationale behind the concept of a social network is altruistic management. When we are good to other people, when we respect others, and when we are mindful of their needs and concerns, we are most likely to receive similar, mutual responses from them in our interactions with them. "Others" in this context includes our followers, as well as both the internal and external social networks. To attain and enhance decision making quality, the authors propose that altruism as a moderating factor in the decision making process (e.g., leader's posture) and decision making quality.

To achieve something worthwhile, as in attaining a quality decision, a leader has to grapple with a number of forces in a three-step approach. Firstly, he has to contend with himself and his followers. He has to determine his team's competency to handle the issues at hand, so as to ensure that the team's mission is accomplished. In the process, he has to inculcate love among the followers, to work with sincerity without prematurely anticipating the rewards as they are only administered thereafter (*akhirah*). Second, he needs to assess the motivation levels of his team members to keep their commitments alive. Thirdly, he has to make certain that each member of the team contributes in terms of functions and roles, to keep everyone enthused and focused. The altruistic leader has to continually keep in focus the super ordinate task at hand, while at the same time being truly mindful of the specific needs and expectations of his people. In doing so, he has to rise to the level of his true potential. This is where personal quality, posture and principals all prevail.

While much work remains to be done in terms of sharpening the construct definitions of prophetic leadership and operationalising it, in the opinion of the authors, prophetic leadership is an important and provocative concept that holds promise for multi-paradigmatic and multi-methodological theoretical and empirical research.

6.0   DIRECTION TO FUTURE RESEARCH

As the study of prophetic leadership is in the nascent stages of development, many avenues to refine the construct and move from the conceptual phase to empirical, theory building, and testing phases await leadership researchers. Development and validation of a measure of prophetic leadership that allows researchers to distinguish the construct from similar constructs empirically are needed (Cooper et al., 2005). In addition, studies are needed that relate prophetic leadership and followership development to other fields, such as finance, politics, and organisational behaviour. Qualitative studies, such as retrospective cases of prophetic leaders employing phenomenon analysis may be particularly useful in identifying the construct dimensions of prophetic leadership. In addition, Eisenhardt (1989) made a persuasive case for building a theory from the case study research by including either single or multiple cases. Continued development of the theory is a central activity when building a new construct.

Another avenue for future research involves the use of critical incidents of prophetic and un-prophetic leader behaviours to produce typologies of such behaviours, which may be instrumental in defining the nomological network of the construct domain more precisely. Qualitative interviewing lends itself to the elicitation of significant life stories that have served as trigger events. These events can be followed by an examination of the transformative effects by portraying personal quality, posture and principles, which are hypothesised here to be dimensions of prophetic leader that will influence a follower's mind, motivation and enthusiasm for higher qualities in decision making.

Although much work remains to be done, the prophetic leadership construct is important and promising. The inner lives of the Prophets and their followers show different situation guides and motivates scholars' to scrutinise the leadership behaviours and styles of the prophet. They also propose a model at multiple levels of analysis, while also enhancing the organisational effectiveness and performance. Religious and spiritual identity is posited to be at the core of prophetic leadership, presupposing that both the leader and the followers exhibit positive selves and leader identities that are shared. Duchon and Plowman (2005) did indeed report a positive relationship between scores on a spiritual measure and work unit performance. Prophetic leaders enhance performance and motivation and a highly developed sense of how their roles as

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leaders carry the responsibility to act morally and in the best interest of others (May et al., 2003); they also enhance and deepen other followers' spiritual identities by creating conditions at work that nurture the human spirit.

7.0   CONCLUSION

Based on the above discussion, prophetic leadership development is the process by which personal quality, religious spirituality, decision making process (posture) and managerial skill (principal) converge and become unified in the prophetic leadership behaviour, which, in turn, is related to synergy (i.e., leaders-followers mutuality). Altruism as a moderating factor works toward the optimisation of performance and the establishment of an organisational climate that nurtures the human spirit at work, as well as positive and strength-based organisational cultures. In sum, religion and spirituality in prophetic leaders are drawn from the selfless ground of the human experience. Religion and spirituality recognise the emotional labour involved in the tasks and responsibilities of leadership, as well as the suffering and sacrifice that are integral components of prophetic leadership. The question of whether prophetic leadership leads to greater synergy between the leaders and the followers is yet to be tested for different organisational cultures.

The model of prophetic leadership introduced in this article includes leadership behaviour, synergy, altruism and decision making quality. The leadership behaviour encompasses personal quality, religious spirituality, posture and principle of a leader. Personal quality and religious spirituality are self defined as having courage, patience, eloquence, wisdom, taqwa and spirit of sacrifice. Posture reflects the decision making process as conceptualised by mutual consultancy, justice, equity and decisiveness. Principal is conceptualised by managerial skills, such as the dimensions of alignment, attunement and empowerment. Synergy serves as a bridge between leadership behaviour and decision making quality, while altruism will enhance the relationships. Both synergy and altruism are embedded in the social network theory. The model proposes that prophetic leaders are based on spiritual, transcendental and Islamic behaviours and values that view their responsibility as *ibadah*. Their leadership behaviour, taken from the prophets, will lead to better decision making.

Much work needs to be done, particularly with regards to (a) achieving a greater clarity of construct definitions, (b) addressing measurement issues, and (c) avoiding construct redundancy. With respect to construct clarity, the key dimensions of prophetic leadership have been defined in the present study to create a theoretically based definition. However, the current definition of prophetic leaders is based on the Qur'anic verse and *seerah* of the prophet, unaware of the context in which the current situation operates. As according to Avolio et al. (2004), it is very broad and contains many diverse elements from diverse domains (e.g., traits, states, behaviours, contexts) that pose serious measurement challenges.

At the present time, the study of prophetic leadership is hampered by both a lack of construct clarity and the absence of reliable and valid instruments of prophetic leadership. Achieving construct clarity involves identifying the relevant construct dimensions, specifying the interrelationships among construct dimensions, and identifying the boundaries within which the construct elements are interrelated in a lawful manner (Dubin, 1978). The social sciences have a strange inability to recognise that a theoretical model must have boundaries, even if the boundaries are overlapping. Finally, the issue of construct redundancy involves the need to avoid overlaps between construct dimension of prophetic leadership and other values-based theories such as spiritual, transcendent or Islamic leadership. One of the important research challenges ahead is establishing the discriminant validity of the prophetic leadership construct. If discriminant validity cannot be established, then the question raised by Cooper et al. (2005) regarding the need for creating other leadership constructs becomes highly relevant. If the prophetic leadership construct is not unique (i.e., fails to demonstrate discriminant validity), time and effort may be more effectively spent using existing theories to address questions generated by prophetic leadership.

REFERENCES

[1]   Al Qur'an

[2]   Al Hadith

[3]   Al-Qaradawi, Y.: qaradawi.net

[4]   Ahmad, A.B. Rafique (2006), Leaders-Followers' Relation In Organizations: An Islamic Perspective, *Iiuc Business Review*, Vol. 1, 6-7

ISSN 2411-958X (Print)
ISSN 2411-4138 (Online)

European Journal of
Interdisciplinary Studies

September-December 2015
Volume 1, Issue 3

[5]   Ather, S. M and Sobhani, F. A (2007), Managerial Leadership: An Islamic Perspective, *Iiuc Studies*, 4, 7-24

[6]   Avolio, B. J., Kahai, S., & Dodge, G. E. (2000). E-leadership: Implications for theory, research, and practice. *The Leadership Quarterly*, 11(4), 615–668.

[7]   Avolio, B. J., and Locke, E. E. 2002. Contrasting different philosophies of leader motivation: Altruism versus egoism. *The Leadership Quarterly*, 13:169–191.

[8]   Balkundi, P., and Kilduff, M. 2005. The ties that lead: A social network approach to leadership. *Leadership Quarterly* , 16: 941-961

[9]   Bangash, Z. (2000); *The concepts of leader and leadership in Islam, The Institute of Contemporary Islamic Thought an intellectual centre of the global Islamic movement ICIT Papers on Muslim political thought*, Colombo, Sri Langka.

[10]   Black, J. S. and L. W. Porter (2000), *Management: Meeting New Challenges*. Upper Saddle River, NJ: Prentice Hall.

[11]   Brass, S,J., Galaskiewicz,J.,Greve, H.R., and Tsai,W. (2004), Taking Stock Of Networks And Organizations: A Multilevel Perspective *Academy Of Management Journal* 47(6), 795–817.

[12]   Cooper, T., Scandura, T., & Schriesheim, C. (2005). Looking forward but learning from our past: Potential challenges to developing authentic leadership. *Leadership Quarterly, 16(3),* 475-493.

[13]   Duchon, S and Plowman, P. (2005) Impact on work unit performance. *Leadership Quarterly, 16(5),* 807-833.

[14]   Dubin, R. (1978). *Theory building.* New York: Free Press.

[15]   Eisenhardt, K. (1989). Building theory from case study research. *Academy of Management Review, 14*(4), 532-550.

[16]   Encyclopaedia Britannica, 2010

[17]   Friedman, Hershey H. and Mitchell Langbert. (2000). "Abraham as a Transformational Leader." *The Journal of Leadership Studies, Vol. 7, No. 2, 88-95.*

[18]   Fry, L.W. (2003). Toward a theory of spiritual leadership. *The Leadership Quarterly***,** *14: 693–727.*

[19]   Fry, L. (2005). Toward a theory of ethical and spiritual well-being and corporate social responsibility through spiritual leadership in R. Giacalone, C. Jurkiewisz, & C. Dunn (Eds.), *Positive psychology in business ethics and corporate social responsibility* (47-84). Greenwich, CT: Information Age.

[20]   http://abrahamicfaiths.com/

[21]   Hidrat Mirza, B.M.A (2005); Life Of Muhammad, Islam *International Publication Limited*

[22]   Keller, M. N. (1998). Jesus the Teacher. *Currents in Theology and Mission* (25), pp. 450-460.

[23]   Klenke, K., (2007), Authentic Leadership: A Self, Leader, and Spiritual Identity Perspective *International Journal of Leadership Studies*, 3 (1), 69-97.

[24]   Koenig, J. (2007). Hierarchy transfigured: Perspectives on leadership in the New Testament. *Word & World, 13*(1), 26-33.

[25]   Neyrey, J. H. (1998). *Honor and Shame in the Gospel of Matthew*. Louisville, KY: Westminster John Knox Pres;

[26]   Noor, I. (1998); Prophet Muhammad's Leadership The Paragon Of Excellence Altruistic Management, *Training Module, Dewan Bahasa Dan Pustaka.*

[27]   Northouse, P. G. (2004). *Leadership Theory and Practice* (3rd Ed.). Thousand Oaks, CA: Sage.Winston

[28]   Weber, M. (1978), Model of Transaction and Transformation Leadership Authority, *Prentice Hall.*

[29]   Welch (1992), He emptied himself. *Journal of the Evangelical Theological Society, 19*.

[30]   www.islamicthought.org.pb-zb-leader.html

Miskawayh's Apologia for Greek Philosophy

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Abstract

In the East, Greek philosophy was studied as early as the fourth century, not however, by the Muslims but by the Arab Syrian Christians. It was Syrian Christians who brought wine, silk and other precious items to the West, but it was the Syrians also who cultivated Greek sciences for many centuries before they eventually transmitted them to the Muslim philosophers, especially in the tenth and eleventh century Baghdad. Miskawayh (d.1030), a great Muslim moralist, was among the philosophers who flourished in Baghdad at such times. He was well educated in Islamic studies as well as in philosophy, especially Greek philosophy. The many quotations from Greek sources which are found in Miskawayh's works, especially in his major work on ethics, Tahdhib al-Akhlaq (The Refinement of Character), provide important evidence for this study to argue that they also have contributed to the formation of his moral philosophy. This paper thus, seeks to investigate Miskawayh's own attraction to Greek ideas, which eventually led him towards the acceptance of Greek thought and also towards the need for an apologetic on behalf of philosophical study and on the relations between philosophy and the divine revelation.

Keywords: Miskawayh, Greek philosophy, apologia, Shari'a (Islamic law)

Introduction

Miskawayh did not write books or fragments on the question of the harmony between religion and philosophy. Nevertheless, the numerous references to Greek scholars and Greek books in his writings may suggest that Miskawayh basically shared the positive attitude towards Greek philosophy as held by the majority of the philosophers. The precise reason for his refusal to write on the subject is unknown. On the other hand, perhaps it was due to the very positive policy of most of the Buwayhid rulers (945 A.D. to 1055 A.D.) towards learning, who patronised numerous groups of scholars of the time especially the philosophers, including Miskawayh.

The existence of a few works on the subject, though mostly very brief, such as those by his predecessor al-Kindi, *Fi'l-Falsafah al-Ula* (On First Philosophy, 1968), and his contemporaries, Ibn al-Khammar, *Kitab al-Wifaq bayn Ra'y al-Falasifah wa'l-Nasara* (Treatise on the Agreement of the Opinions of the Philosophers and the Christians, Ibn al-Nadim 1871-1872:265), and Ibn Zur'a, *Treatise on the Innocence of Those who Inquire into Logic* (1963) on the other hand, may have caused Miskawayh to feel at home with philosophy, and hence, to leave this debatable subject undeveloped, but instead to devote himself actively to the study of the essence and history of philosophy. We are convinced, however, that Miskawayh was first of all a Muslim philosopher, and if a priority must be established between Greek philosophy and his religious beliefs, the supremacy always belongs to the latter, though he appeared to have accepted the general view that religion and philosophy or revelation and reason are complementary.

Baghdad in Miskawayh's time stands out among the most eminent intellectual centres of the world. Its rulers, the Buwayhids and their viziers, who maintained their supremacy over Baghdad for more than 100 years, from 945 A.D. to 1055 A.D., were not only famous as patrons of art and culture but, in many cases, were themselves scholars in their own right. They extended patronage to scholars of the time, accommodated their learned associates in their *majalis* (circles), and often made them their courtiers, secretaries, advisors, historians, physicians, astronomers and the like (Kabir 1964: 168-185).

When one of the Buwayhids' viziers, Sahib Ibn 'Abbad (d. 995), who was himself a celebrated scholar, was once asked about the centre he replied: "Baghdad among towns is like *ustadh* (a professor) among men" (Al-Tawhidi 1965:445). A

mediaeval Muslim historian, Khatib al-Baghdadi (Lassner 1970:108-109), the younger contemporary of Miskawayh, took almost the same view, depicting Baghdad as follows:

"In the entire world, there has not been a city which could compare with Baghdad in size and splendour, or in the number of scholars and great personalities. The distinction of the notable and general populace serves to distinguish Baghdad from other cities, as does the vastness of its districts, the extent of its borders, and the great number of residences and palaces".

Hence, Miskawayh was extremely fortunate to have been well placed in the heart of Islamic civilisation which provided him with the opportunity to develop his own respective skills and interests as well as to participate in contemporary events, both political and intellectual, and then to make his contribution in his own right and his own way.

Miskawayh's Reaction

Miskawayh (1966: 35, 91-94,117,129) identifies the aim of the Islamic law *(shari'a)* and philosophy *(hikma)* as one and the same. They both lead man towards the achievement of the end for the sake of which he was brought into existence, that is happiness. However, in order to guarantee this ultimate aim, man should firstly believe in the Law and observe its duties, for it prescribes all virtues and forbids all vices. It reforms man, accustoms him to good deeds, and prepares his soul to receive wisdom, seek virtues and finally to attain happiness. He may then undertake the study of philosophy so as to perceive more deeply God's will for human salvation through His revelation embodied in the *Shari'a*. Hence, the agreement between philosophy and *Shari'a* is, according to Miskawayh, absolute. Here are his words:

"It has become clear that man is in need, at the beginning of his life, first of his parent's guidance (*siyasa al-walidayn*), then of the divine *law* (*al-shari'a al-Ilahiyya*) and the right religion (*wa'l-din al-qayyim*) to reform him and set him straight, and then to consummate wisdom (*hikma*) to assume his direction to the end of his life" (Miskawayh 1968:90).

Miskawayh (1900:66) further claims that the Prophets were sent by God to instruct both speculative and practical philosophy so that they might cure the people's diseases of ignorance and refine their bad morals. God is the prescriber of the law (*musharri' al-shari'a*); the prophet is its custodian (*sahib al-shari'a*); while the philosopher is the one who confirms the words of God, the words of the prophets and he who obeys that law (Miskawayh 1966:146). Hence, "both the sages and philosophers are the first of all creatures to confirm the prophets, for both agree in the perception of those matters of reality". While the difference between them, argues Miskawayh (1900: 103), "is only that the philosopher comes to his contemplation by advancing from the lower to the higher and the prophet has descended from the higher to the lower to apprehend reality".

Miskawayh, like other Muslim philosophers, also considered all the scriptures revealed to earlier prophets, primarily those of the Christians and Jews, as holy and authentic, for all of them came from the same God. Yet, the Qur'an which was revealed to the last prophet, Muhammad, is the mother of scriptures that consummates all truth-giving revelations based on the same way of faith as was commended to earlier apostles. It is beyond doubt that these ideas were derived by Miskawayh from the verses of the Qur'an (42:13-15), which he quoted in succession (1963:199). Those verses read:

"The same Religion has He established for you as that which He enjoined on Noah - the which we have sent by inspiration to Thee - and that which we enjoined on Abraham, Moses, and Jesus: Namely, that ye should remain steadfast in religion, and make no divisions therein: to those who worship other things than Allah, hard is the (way) to which Thou callest them. Allah chooses to Himself those whom He pleases, and guides to Himself those who turn (to Him). And They became divided only after knowledge reached them,- through selfish envy as between themselves. had it not been for a word that went forth before from Thy Lord, (tending) to a term appointed, the matter would have been settled between them: but truly those who have inherited the Book after them are in suspicious (disquieting) doubt concerning it. Now then, for that (reason), call (them to the faith), and stand steadfast as Thou art commanded, nor follow Thou their vain desires; but say: "I believe In the Book which Allah has sent down; and I am commanded to judge justly between you. Allah is our Lord and your Lord: for us (Is the responsibility for) our deeds, and for you for your deeds, there is no contention between us and you. Allah will bring us together, and to Him is (our) final Goal".

Another verse reads:

"We did send apostles before thee, and appointed for them wives and children: and it was never the part of an apostle to bring a sign (*ayat*) except as God permitted (or commanded). For each period is a Book (revealed). God doth blot out or confirm what He pleaseth: with Him is the Mother of the Book" (al-Qur'an, 13:18-19).

The basic difference between the *Islam* that God has revealed to earlier prophets and that of Muhammad, is that the former is designated to a particular group of peoples for certain periods of times, like Moses and Jesus for the children of Israel (al-Qur'an 5:22, 61:6); whereas the latter is for the whole world and for all time to come. God says: "We have not sent thee but as a universal (messenger) to men" (al-Qur'an, 34:28. See also verses, 4:79, 7:158 and 21:107). That is why every Muslim is obliged to believe and to say:

"Say: we believe in God, and in what has been revealed to us and what was revealed to Abraham, Isma'il, Isaac, Jacob, and the Tribes, and in (the Books) given to Moses, Jesus, and the prophets, from their Lord: we make no distinction between one and another among them, and to God do we bow our will (in Islam)" (al-Qur'an 3:84).

Miskawayh (1983:285) also holds that God alone is the giver of the real wisdom. He gives wisdom to whomever He pleased and he who is granted wisdom is indeed granted great good. This idea is again derived from the Qur'an (2:269), in which God says: "He (God) granted wisdom to whom he pleaseth; and he to whom wisdom is granted receiveth indeed a benefit overflowing; but none will grasp the message but men of understanding".

Accordingly, Miskawayh leaves no room for doubt about studying philosophy from those who have it or who have been granted it. It made no difference whether they are Persians, Indians, Arabs or Greeks. In his *Jawidan Khirad* (The Everlasting Wisdom), which he wrote towards the end of his life, he put this ideal into practice where he gathered together the wise sayings of the sages of these communities, and consequently concluded that they, regardless of the divergences of their religious convictions, geographical backgrounds and times, yet, they treaded the same path towards the truth (Miskawayh 1983:25,375-376). It was also due to such a personal conviction, that Miskawayh (1917: 49,58) esteems the individual Greek philosophers - for example Aristotle - primarily as eminent compilers of philosophy who first discovered the ultimate end for the sake of which man is created, that is happiness. Thus, he affirms:

"Prior to this sage (*hakim* i.e., Aristotle) philosophy (or: wisdom: *hikma*) was dispersed just like other useful things created by God, Who entrusted to the natural disposition of human beings and to the strength He gave them for this purpose the charge of utilising these (things): (such things), for instance as medicaments, dispersed in the country-side and in the mountains, when these are put together and combined, a useful medicine is the result. In a similar manner Aristotle put together the dispersed (parts) of philosophy and combined every (part) with that which was consonant with it and placed it in the appropriate place, so that he produced from them a perfect healing, which cures the souls of the diseases of ignorance" (Miskawayh 1917:58. English translation by Pines 1972:123-124).

Miskawayh (1966: 131-132), likewise maintains that the *Shari'a* prescribes virtues (*al-fada'il*) in rather a general way and does not get down to every particular. It is, then, left to man to interpret it, the *Shari'a,* into the multiplicity of which man is made up. The *Shari'a* is viewed in this context as providing the essential groundwork for all aspects of life as well as for reasoning and philosophical reflection. Man should, therefore, follow all the obligations laid down by the *Shari'a,* while at the same time exercising his reason (*'aql*) in order to comprehend more deeply its meanings. Reason, Miskawayh (1966: 13,47,132) continues, is God's deputy in man that distinguishes him from animals. So, he who does not use his reason diminishes his human status to that of the beast. In order to strengthen this view, Miskawayh (1964:83) accordingly quotes the verse of the Qur'an (7:179), which reads:

"Many are the jinns and men We (God) have made for hell: they have hearts wherewith they understand not, eyes wherewith they see not, and ears wherewith they hear not. They are like cattle - nay more misguided: for they are heedless (of warning)".

That is why Miskawayh (1966:140-142) interprets some tenets of the *Shari'a* by means of philosophical arguments. For instance, he insists that the name "man" (*insan*) is derived from the root word *uns* (fellowship) not from *nisyan* (forgetfulness) as some people would think. Every man, he says, is endowed with this quality of fellowship. Then the *Shari'a* develops it and makes it obligatory upon people by means of religious duties such as prayer (*salat*) and pilgrimage to the Holy Place at Mecca (*hajj*). Through daily prayers, especially communal prayers, the members of small communities and of households come together five times every day; through Friday prayer the inhabitants of the city gather together once every week; while

through the *hajj* people from all over the world meet one another. In this way, that is to say, by observing the *Shari'a*, man may, at the outset, experience this inborn fellowship which exists in him in potency, and thereafter, realise it in actuality which is the origin of all love that binds them together.

Conclusion

Miskawayh, to sum up, was never servile imitator or blind follower of the Greeks but always kept his independent and critical attitude towards them. He did not leave Greek ideas raw or unmodified but very often impressed his personal stamp on what he received. This attitude is best illustrated by many of his extant writings where he freely adapted and even rejected several philosophical arguments set forth by his predecessors. The fact that Miskawayh was well-grounded in his own traditional learning as well as in Greek philosophy, is likewise no less evident. Miskawayh was also strongly convinced Muslim prior to his acceptance of Greek thought. Hence, the latter is used basically as an instrument to express his personal convictions, clearly the case for him. This would also imply that "philosophy" to him, does not appear to contradict with his faith, but rather to confirm and supplement it. Consequently, the "philosopher" is seen as neither God nor a prophet but rather the true scholar who confirms the words of both.

Thus, in Miskawayh's vision, the great Aristotle is viewed primarily as a philosopher who gathered together the dispersed parts of philosophy belonging to many previous nations. Therefore, the study of ancient sciences and philosophy was regarded by him, both as a renovation and as an innovation of such an important heritage. It appears to us that the study on the empirical circumstances of Miskawayh's life show him to have been well placed in the heart of Islamic civilization which provided him with the opportunity to develop his own respective skills and interests, and to participate in his contemporary events, both political and intellectual. Miskawayh seem to us to represent an excellent example of the creative interaction, we may say "dialogue", between Greek thought on the one hand, and Islamic terms and concepts on the other. His world, medieval Islamic Baghdad, appears to be comparable with the Western world of today. In the one, the westerners from various parts of that world came to Baghdad to pursue their academic interests and specialities. In the other, the Muslims of today go to the West for very much the same purposes.

References

[1] Ibn al-Nadim. (1871-1872). *Kitab al-Fihrist*. Edited by G. Flugel, J. Rodiger, A. Muller, 2 vols., Leipzig: Verlag Von F.C.W. Voger.

[2] Ibn Zur'a. (1963). *Treatise on the Innocence of Those who Inquire into Logic*. Edited and translated by Nicholas Rescher, *Islamic Studies*, 2 (1963): 1-16.

[3] Kabir, M. (1964). *The Buwayhid Dynasty of Baghdad* Calcutta: Iran Society.

[4] Al-Kindi. (1986). *Fi'l-Falsafa al-Ula*. Edited by A.F. al-Ahwani. Beirut: Dar al-Taqaddum al-'Arabi.

[5] Lassner. J. (1970). *The Topography of Baghdad in the Early Middle Ages*. Detroit: Wayne State University Press.

[6] Miskawayh. (1900). *al-Fawz al-Asghar*. Edited by Tahir Efendi. Beirut.

[7] Miskawayh. (1917). *Kitab al-Sa'ada*. Edited by 'Ali al-Tubiji. Egypt: al-Madrasa al-Sina'iyyah al-Ilahiyyah.

[8] Miskawayh. (1963). *Kitab al-'Aql wa'l-Ma'qul*. Edited by Muhammad Arkoun. "Textes Inedits de Miskawayh (M. 421)". *Annales Islamologiques*, 5:181-205.

[9] Miskawayh. (1964). *Kitab fi'l-'Aql wa'l-Ma'qul*. Edited by Muhammad Arkoun. *Arabica*, II: 80-87.

[10] Miskawayh. (1966). *Tahdhib al-Akhlaq*. Edited by C.K. Zurayk. Beirut: American University of Beirut.

[11] Miskawayh. (1968). *Tahdhib al-Akhlaq*. Edited by C.K. Zurayk. Beirut: American University of Beirut.

[12] Miskawayh. (1983). *Jawidan Khirad*. Edited by 'Abd al-Rahman Badawi, Beirut: Dar al-Andalus.

[13] Pines, S. (1972). "Ahmad Miskawayh and Paul the Persian". *Iran Shinasi*, 2: 121-129.

[14] Al-Tawhidi. (1965). *Akhlaq al-Wazirayn*. Edited by M. al-Tanji. Damascus.

Slum Kampong Tourism "Jakarta Hidden Tour": Designing Eco-Cultural Based Pro-Poor Tourism

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Abstract

Forecasts of high tourism development in Jakarta, Indonesia, where massive poverty cases also exist, has directed tourism as a way of alleviating poverty; this is usually termed "pro-poor tourism" which involves multi variant stakeholders and interests. Jakarta has widespread poor areas called "slum Kampongs", where government and business sectors are supported by international development agencies have tried to tackle down poverty by economy-community (eco-community) based development programs. However, distinguished from those programs, slum kampong development based pro-poor tourism is yet unsupported by bureaucracy agencies. "Jakarta Hidden Tour" (see "Jakarta Hidden Tour" in Trip Advisor): a "wild" tour activity which is promoted by community movement led by Ronny Poluan indicates a term of economy and cultural (eco-cultural) based slum kampong tourism that basically can pursue a better community development and economy condition through a unique culture and real life portrait experience. This paper analyses the dilemma of "Jakarta Hidden Tour" which is claimed as a poor exhibition while in another hand tries to offer a new design and approach of pro-poor tourism by utilizing thematic Kampong development with local culture excellences: as such "Green Slum Kampong in Ciliwung river", or "Sailor Slum Kampong in North Jakarta". Key learn from Brazil with slum kampong tourism in Santa Marta is a motivation for government to live a recognition, that like any other global/industrial policies, tourism is highly driven by political interest. By conducting a system thinking perspective base, this paper analyses how "Jakarta Hidden Tour" and government's supporting policy will ensure eco-cultural pro-poor tourism development and how stakeholders as a system's element need to uphold poverty alleviation towards sustainability.

Keywords Pro-poor tourism, *Jakarta Hidden Tour*, Thematic based Kampong, Development, Slum Kampong tourism, Sustainability.

A. Introduction

Jakarta is a melting pot for its unique and dynamic life pattern. However, the economic growth, which it was recognized to increase rapidly, has been driving

overwhelming impacts on socio-culture and environmental sectors for over last decades. In the midst of such a promising future of economic development, gaps between rich and poor are often wider; uncontrolled urbanization has directed the emergence of slum settlements where poor people have no choice but to live in less accessible areas with dirty environmental condition.

Slum area; which it was claimed as such an ironic fact, has become a major priority of urban development agenda in Jakarta. Many policies to relocate slum settlement have been approaching to be succeed includes pro-poor apartment project, "Kampung Deret" or cluster based Kampong are parts of revitalization policies done by governor of Jakarta. In another side, the spirit of *Bhinneka Tunggal Ika* (unity in diversity) has led local government, donor agencies, business player and civil society to jointly work and balance the synergy between economy, socio-culture, and environment as main parts of sustainable development and poverty eradication goals.

This practice of Good Governance has also directed local community movement in which, poverty eradication does not merely rely on government's responsibility but also local community's. The trend of community empowerment based development is recently becoming a massive approach includes slum settlement development. In this case, in order to support the structurally weak categories (class, gender, race) (Ife and Tesoriero, 2006: p.149), local community put active roles in managing slum areas and assisting help for poor people by developing pro-poor tourism or slum tourism namely *Jakarta Hidden Tour*.

Jakarta Hidden Tour, a "wild" tour activity which is promoted by community movement led by Ronny Poluan indicates a term of economy and cultural (eco-cultural) based slum Kampong tourism that basically can pursue a better community development and economy condition through a unique culture and real life portrait experience. This type of slum tourism in an extent of pro-poor tourism which offers tourism benefits for the goodness of the poor. From São Paulo, Brazil to Mumbai, India, and Jakarta, Indonesia, urban slumming tour has

become a global reality, a tool for certain people to unite tourists as well as for some non-profit aid and community groups to earn donors and give feedbacks to the poor. Meanwhile, a lively debate comes from many perspectives arguing about the ethics of what promoters call "slum tourism: the hidden reality" as a way of dehumanization and poor exploitation.

In the other side, *Jakarta Hidden Tour*, even though this debatable tourism earned many protests, it did put harmless impacts for the poor. There, in some slum areas of tour destinations, financial assistance, public facility development, and shared knowledge are given by tourist communities. Despite its less support, the authenticity of *Jakarta Hidden Tour* successfully attracts tourists to see and feel the real life experiences of being poor and let them be care of other people's life. Some benefits may be built informally by those communities on how they actually assist the poor financially and physically through some aids to build schools, public toilets, and also to serve education.

Local government may take some success clues from São Paulo, Brazil, where local government had turned slum city to be a famous tourism site with local culture attraction. This case tells that eco-culture is meant to be well developed by local government of Jakarta through the concept of thematic Kampong project development. This project is used to revitalize slum areas and improvise *Jakarta Hidden Tour* to be a top tour of Jakarta. Slum tourism is also a way of community movement to criticize local governments for their corrupt behavior and ignorance, meanwhile, at the same time, tries to grab aids and concerns from international networks.

The global debate over slum tourisms may be not just an intellectual conversation to the donor agencies and academia, but, some questions and issues are about to arise as public discourses. This research means to analyze *Jakarta Hidden Tour* as a promising tool of tourism development uses perspective of community empowerment, public-private partnership and eco-culture based thematic Kampong development to enhance tourism potential in Jakarta.

B. Problem Statements

Jakarta Hidden Tour is not yet clear to get its social acceptance; as its debatable perspective, academic and practitioners assume that *Jakarta Hidden Tour* is fragile. It needs a strong political commitment towards sustainable development and empowerment. Analyses of questions and debates are attempted to solve this situation include consideration of appropriate system/policy scenario in the framework of eco-culture based pro-poor tourism development.

C. Pro-poor Tourism and Community Empowerment

1. Understanding Pro-poor Tourism (PPT)

Pro-poor tourism is meant to be one of tools of alleviating poverty since the end of the 1990s, it's due to largely, discourses about tourism studies has successfully refocused attention in some considerations on the need to confirm tourism as a means of poverty eradication, especially in developing countries.

Pro-poor tourism strategies are concerned specifically with impacts on poor people, though the non-poor may also benefit. Strategies focus less on expanding the overall size of tourism, and more on unlocking opportunities for specific groups within it (on tilting the cake, not expanding it). However, these strategies have to be integrated within general tourism development for two reasons: mainstream activities (such as tourism planning) need to be influenced by pro-poor perspectives; and pro-poor tourism cannot succeed without successful development of the whole tourism destination (DFID in Harrison, 2008: 854).

Characteristics of pro-poor tourism are complex; those are briefly explained in the table below:

Table 1. Characteristics of Pro-poor Tourism

Pro-poor Tourism DOES NOT	Pro-poor Tourism DOES
anti-capitalist	focus on incorporating the poor into capitalist markets by increasing job and entrepreneurial opportunities and collective benefits. Like fair trade, it is a form of market intervention, which relies heavily on the private sector
separate from wider tourism systems	depend on existing tourism structures and markets
a theory or model	orientates research to the net benefits from tourism that can or could accrue to the poor
a niche type of tourism	apply to any kind or type of tourism, including large and small-scale tourism, even if the non- poor also benefit. Can be from regional or national policies or private sector involvement
specific method	use numerous methods, none of which are specific to PPT, including value chain analysis, to collect data and show how the poor are and can be further involved in tourism
only about the poor	recognize that the non-poor may also benefit from tourism, even disproportionately. It is less concerned with the relative than the absolute (net) benefits received by the poor
just about hunger and no/ inadequate incomes	have a broad definition of poverty, including lack of freedom, opportunity, power, skills, and education. It is about development.
only about individual benefits	focus on community benefits; water, sanitation, health, education, infrastructure, etc.
only for those occupying the "moral high ground"	require wide stakeholder cooperation and commitment, including national and local authorities, planners, the private sectors, etc, ideally combining to ensure the poor benefit from tourism

Source: (Harrison, 2008: 856)

As explained in the table above that pro-poor tourism is not anti-capitalist, some practitioners have different quotes; some believe in capitalization, others reject it. In Indonesia, various religion and cultures decide different ideology. Some anti-capitalist groups believe that pro-poor tourism is a form of imperialism and dehumanization, moreover, when the poor becomes an object of tourism. But, democracy and globalization have successfully opened a wider opportunity for international relation practices and international transaction/commodity including

tourism. In this case, pro-poor tourism is defined as a strategy to incorporate the poor into capitalist markets by enhancing job opportunity and public private partnership benefits which provide services and goods to the poor through development.

As a system, tourism has many elements, and pro-poor tourism is only one element. It needs an interaction and feedback as well as support from all stakeholders. Pro-poor tourism needs markets to be its association in holding promotion and re-innovation. Crucially, it needs whole support from local government to deliver access and legality, or, since slum areas are 20% -30% of total areas of Jakarta and more than 30% of population are poor, local government needs to open

more access towards pro-poor/slum tour mechanism by formulating a certain local regulation. In Jakarta, support from local government is formed by a policy of *One Village One Product*, where each Kampong will have different local brand and commodity, unfortunately, this policy is far away to succeed because coordination of stakeholders is not yet acclaimed in a clear regulation.

Pro-poor tourism is better understood as an approach or strategy, not a theory; model; or paradigm of development. It is indeed, a way or tool of netting the poor into benefits from tourism activities, of course, uses a bottom up approach which put community participation in the first level. However, community based tourism is not pro-poor tourism. Pro-poor tourism uses community empowerment strategy on how the poor can actively involve, but, the benefit will not be given to all level of community, thus, this type of tourism in community empowerment based pro-poor tourism.

2. Pro-poor Tourism and Sustainable Development

From its modern beginnings till this last decade, pro-poor tourism has been viewed as an agent of development and modernization in the Third World countries, largely because of its purported economic benefits for the poor. It was common for general assumption that adventurous tourists from develop countries, not surprisingly, began to seek an interest in more exotic Third World destinations; places where economic options were often limited as a result of poor communications, low commodity prices and/or lack of a modern manufacturing base; tourism became a seemingly obvious choice as a

tool for development (Brown & Hall, 2008: 840).

For some reasons, international world debates and argues the essence of pro- poor tourism and its sustainable impacts towards development. It is claimed, as many people believe, to be more problematic for particular reasons as such capitalization (result from foreign/outside control of the industry); environmental degradation; and an immorality amusement. Somehow, these debates are still running under new paradigm of sustainable tourism as a response of sustainable development goals (SDGs) that actually give more supports to the practice of pro- poor tourism as an element of development.

Pro-poor tourism, in the globalizing world acclaims many ways to achieve balance of development between the rich and the poor. The dynamic changing of pro-poor tourism considers tourism may now be being viewed in a more positive term; pro-poor tourism can be accepted to contribute in attaining sustainable development's goals: economic, socio-culture, environment. It is stated that pro- poor tourism delivers income not only from tourists but also international aid assistance. It may be no longer become a commodity of private sector to raise capital, or, a concern of community movement, but it may become a development agenda of governmental institution.

3. Slum Tourism: Its Development and Debate

Slum tours have existed in some form for a long time. Nineteenth-century New Yorkers toured the Bowery to satisfy their curiosity, and perhaps to stimulate their charitable instincts. Today, however, the Internet has helped expand and popularize the concept as never before, so that travelers to almost any major city can find or arrange a tour of the urban underbelly. A 2009 article in *National Geographic Traveler* called this brand of reality tourism "the latest frontier in travel," and credited its growth to tourists' eschewing "indulgent vacations in favor of more meaningful travel experiences." (Dufresne, 2010: 10).

Ronny Poluan, a founder and creator of *Jakarta Hidden Tour*, has chosen to portray slum Kampongs in Jakarta as an opportunity to make changes by

conducting slum tourism. Mumbai, Manila, Rio, and Jakarta have similar realities, however in different ways. Critics were coming about the practice of globalizing the abject poverty of the slums and making them look physically exotic under a Western gaze. As is to be expected, discourses of slum tourism mean more to appeal for global readership, which is understood by Danny Boyle's *Slumdog Millionaire* as a message to worldwide societies and concerns that have become commodities in a global market through global media (Hanrahan, 2015:101).

In worldwide dimension, media gives tremendous impacts on the tourism growth, international actor, as its role in

Sound Governance's dimension, it has big role to affect development includes tourism development (Farazmand, 2004). In particular, there are some major films about slum tourism; for Kibera, it was *The Constant Gardener* (2005), for Rio, *City of God* (2002), and for Mumbai, *Slumdog Millionaire* (2008), and a novel titled *The Solemn Lantern Maker* (2008) for Philippines (Dufresne, 2010:10, Hanrahan, 2015:103). These movies and novel have helped to spread the reality about the slums, it might tell that in a positive way, the media has led tourist and travelers to share charitable impulses and help slum dwellers.

In Jakarta, a tour to experience The Hidden Jakarta (*Jakarta Hidden Tour*) costs US$25, this is the average price that provides tours to some Kampongs in several hours and includes interaction with residents. There is no private tours offered, one package is all included in one group of tourists. The interview notes informed by Ronny Poluan indicates that one group of tourists in *Jakarta Hidden Tour* consists of 4 people, but it can be 30 tourists per day, so that, I have to recruit additional tour guides. Residents in slum Kampong are very interested, it is due to half of tour cost (50%) goes to them, while at the same time, tourists often give helps directly to the slum dwellers, where most people live on less than $3 a day.

With each visit to The Hidden Jakarta, the residents seemed happy and thankful. It is a difficult matter for most tourists that usually come from America,

Australia, and European Countries. The place, as it is seen, full of dirt and improperly built, but it does more a matter of a social and cultural interaction, the way how tourists could begin to see The Hidden Jakarta as a community, not just a slum. The interaction is a good socio-cultural exchange that brings economic support, however, it does need time and process. *Jakarta Hidden Tour*, as it named, is an activity which explores a hidden poverty story of modern city; a capital of country, it matters because in a poverty zone, a real tourism will get hard to develop, or may be, will lead a false interpretation. Thus, *Jakarta Hidden Tour* cannot only sell its slum; it must lead the tourism development to be a more socio-culture tourism with economic advance given to the people.

4. *Jakarta Hidden Tour*: Slum Needs Community Empowerment Project

Jakarta's tourism potentials are immense-with a large variety ranging from rich cultural diversity, modern-historical buildings, heritage and architectural monuments, and also festivals, to a wild and exotic tourism activity in *Jakarta Hidden Tour*. Indeed, Jakarta is not a specific tourism place for its role as a capital of Indonesia; however, its tourism attraction makes it different from many tourism sites in Indonesia. The uniqueness is its authenticity as a metropolitan city where problems are found everywhere. *Jakarta Hidden Tour* offers a reality of life in the Third World country as well as how the culture, environment, and community welfare show the dignity of a country.

Community empowerment based tourism development run by national and local government is part of national development/policy agendas named NAWACITA; nine ideas/priorities of Indonesian government directed by President of Indonesia Joko Widodo. The spirit of NAWACITA has enlivened local values and commodities to be the foundation of tourism development, particularly in Jakarta. However, it has never been as beautiful as preached in the theory; the development of local based tourism needs more supports and improvements. Uniformity of artificial structures in tourism areas does not blend with the natural diversity of undisturbed areas. Inter-

governmental linkages and complexity with several missed coordination and communication make cooperation and community participation difficult.

Research on *Jakarta Hidden Tour* especially on policy and development planning project gives high priority on the system or linkages of community empowerment as an approach of development and NAWACITA based tourism development that uses local values as tourism products. The term of community empowerment is crucial for its important role in educating and empowering people. It is because *Jakarta Hidden Tour* has never been and will never be a common tourism activity; it tells more about morality and reality than amusement.

Debates over *Jakarta Hidden Tour*, particularly - as a result, it is poorly studied and understood as wild and unacceptable tourism activities that no government's effort is involved. However, tourism, as well as any other business activities, needs social and political supports both from government and civil society. Indeed, like it was said in many critical reviews about poor bureaucracy in developing countries, Jakarta has confronted with fragmented and poorly coordinated policies; the

agenda of community based long term sustainable development often get crashed by political interest of certain parties in the parliament.

Governor of Jakarta had planned his tourism Kampong to be an authentic Kampong development which multiplier effects are prominent – can enhance poverty alleviation and alternative livelihoods; even though it is rarely understood by the implementing agencies. Jakarta really needs to re-develop its spatial and temporal dimensions - implications for physical planning. An integrated community empowerment program - *PNPM (Mandiri) - A national Program of Community Empowerment* - is a massive effort of central and local governments to reform *Jakarta Hidden Tour* and empower community especially the structurally weak category includes the poor, low-cost labor, and women.

Most people in slum Kampongs; Kampong Luar Batang (sailor Kampong), Kampung Pulo and Kampung Melayu (Ciliwung river Kampongs), Kampung

Bandan (the Old Colonial City) work as low-cost labors and street vendors. Some priority programs for the poor in slum Kampong are *Bank Sampah* or *Waste Bank* that is run by women to help government preserving environmental sector. *Waste Bank* improves traditional solid waste management into economic based solid waste management; it empowers women to do recycle-reuse-reduce activities and to gain economic benefits from waste. Another program is *Kampong Deret* or *Line in Line Kampong* (slum houses are rebuilt more modern and cleaner line in line each other, they are built with the same design/homogeneous houses), however this program raised many critics; it was claimed to be an obviously expensive project and less effective in empowering people.

Community empowerment project in *Jakarta Hidden Tour* must involve the processes of possibility; reinforcement; protection; support; maintenance. It means that the program must sustain in a long term period. The strategies built vary; Indonesian people have suffered from tight economic competition for several decades, but core problem tends more to the political leader commitment. Strategy of community empowerment needs high political will from local government; it can be formed as;

- **Micro Strategy**

Guidance, counseling, stress management, and crisis intervention. This strategy can be effective to small group of the poor with small impacts to the whole level of community.

- **Mezzo Strategy**

Education, training, and dynamic group consultation can offer effective solutions to community group that affects greater scope of community member. Education and training are major to raise community encouragement to be more independent.

- **Macro Strategy**

Policy development, social planning, campaign, social action, lobbying, community organization, and conflict management are main strategies to develop a better *Jakarta Hidden Tour*. Central government needs to uphold national policy development to make an integrated slum Kampong development and tourism enhancement.

The resume of community empowerment model can be seen below:

Table 2. Community Empowerment Model

Purpose: To increase the authority or ability	Structurally Weak Category	CLASS The poor, unemployment, and low cost labor. GENDER Female RACE/ETNIC Local community and minority group.
	Special Weak Category	Old people, children and teenager, physic and mental defect, gay and lesbian, isolated people (geographically or socially)

	Personally Weak Category	Troubled people in individual, family, grief, and Loss
Authority type has ability upon:	Personal choice and life opportunity; basic assessment; idea; institution; sources; activity; economy; reproduction	
Process	Possibility; reinforcement; protection; support; maintenance	
Strategy	Micro Guidance, counseling, stress management, crisis intervention Mezzo Education, training, group dynamic Macro Policy development, social planning, campaign, social action, lobbying, community organization, and conflict management	
Principles	Building aids relation; building the communication; Involved in solving problem; Reflecting social work profession attitude and value	

Source: Ife and Tesoriero (2006: 149)

5. Thematic Kampong Scenario System in *Jakarta Hidden Tour*: Eco- Cultural based Pro-Poor Tourism

In 2014, thematic Kampong development was highly concerned by central

and local government to be a new project to maintain culture, enhance economic sector, and create a unique tourism destination. In slum tourism context, thematic Kampong is designed to support *Jakarta Hidden Tour* that requires the engaged sustainable development sectors to control its negative impacts, because if it is not, it will cause, on a cumulative basis, a decline of the resource base with significant effects on the natural, cultural, social interaction, heritage attractions,

and the unpopularity of tourism trends.

Thematic Kampong is a Kampong development which government and community partnership can uphold sustainable development within tourism activities that maintains the originality of social interaction, authentic cultural diversity, and local economic resources. Key lessons from Brazilian people have led global discourses into a deep understanding of slum tourism with traditional and heritage art excellences.

Brazil has developed its slum tourism with "Rio Top Tour: Rio de Janeiro in a Different Perspective," through which the government partners with slum residents to promote tours celebrating local arts and culture. It is shrewd politics in advance of hosting the 2016 Summer Olympics, but it also shows how slum tours could evolve into something genuinely beneficial to residents. If slum residents from Rio can start marketing something other than their poverty to tourists, poverty is more likely to disappear. (Dufresne, 2010:11).

Jakarta Hidden Tour is never meant to be dismissed; this authenticity must be supported by the project of thematic Kampong development. A *creative Kampong* can be managed to serve tourism attraction in *Visit Jakarta*'s leading programs. Foreign tourists can have experiences of a wide range of cultural and traditional art, especially Betawi and Javanese cultures. Most of them also come as a backpacker who can plunge directly knowing the social and cultural life of traditional Betawi and Javanese people who are really original and diverse.

Thematic Kampong development is also a strategy to make tourists get easier in enjoying the life of the indigenous people of Betawi ethnics. Further, local economic development will help people to promote and provide one packaged tourism accommodation includes local culinary, souvenirs, traditional art show, and homestay in the homes of residents who meet the requirements of the specific standards. This thematic Kampong will give more references toward global readership on the discourses of pro-poor tourism development, which is, pro-poor or slum tourism not a matter of poverty exhibition, slum tourism or *Jakarta Hidden Tour* only need more role of local government, thus, in the future, this slum tourism will not only merely be judged by its slum but more about its cultural life that is economically beneficial for its people.

Figure 1. *Batik* Graffiti in Slum Kampong: Local Culture *Arts*

Figure 2. Graffiti in Slum Kampong: "Green and Clean in *Frame*"

A creative art such as graffiti is often missed claimed as vandalism, and somehow, if it is managed well by government it will be a tourism attraction. In Yogyakarta, another province in Indonesia, a thematic Kampong which offers local graffiti has become a unique interest for foreign tourists; somewhere in Brazil, graffiti and traditional dance are perfect attractions fill in the colorful slum city; meanwhile, in Jakarta, slum Kampong can be reincarnated into something more artistic than slum by designing local graffiti art.

Community participation is part of successful keys in managing thematic Kampong development. The persistence of Good Governance has gained public private partnership that puts citizen control and independence as main indicators to achieve sustainable development goals (Arnstein, 1971:70). The role of stakeholders in thematic Kampong development varies; those are explained in table below:

Table 3. Role of Stakeholders in Thematic Kampong Development

Government	Donor	Jakarta Hidden Tour Activists	Community
Funding	Funding	Consultation	Local Economic Developer
Regulation	Facility Provider	Assistance	Tourist Guide
Facility Provider	Conflict Mediator	Tourist Guide	Environmental Cadre
Conflict Mediator	Assessment	Assessment	Heritages Arts Provider
	Facilitator	Facilitator	
		Executor	
		Marketing and Networking	

Slum tourism is a dynamic, complex, and systemic problem; force field analysis defines driving and restraining factors in developing scenario design of thematic Kampong development.

Table 4. Driving and Restraining Forces: Force Field Analysis

Driving Forces	Score	Restraining Forces	Score
Cultural and	5 (most significant	Political Will	3 (average)

Local Economic	3 (average)	Bureaucracy	4 (significant
Indigenous Local	4 (significant	Property Management	2 (sufficient)
		Poverty	5 (most significant

In systems thinking perspective, the whole process or transformational process is seen as a system with input-process-output diagram (Senge, 1994). The systemic input-output diagram explains the relationship among elements in system as figured below:
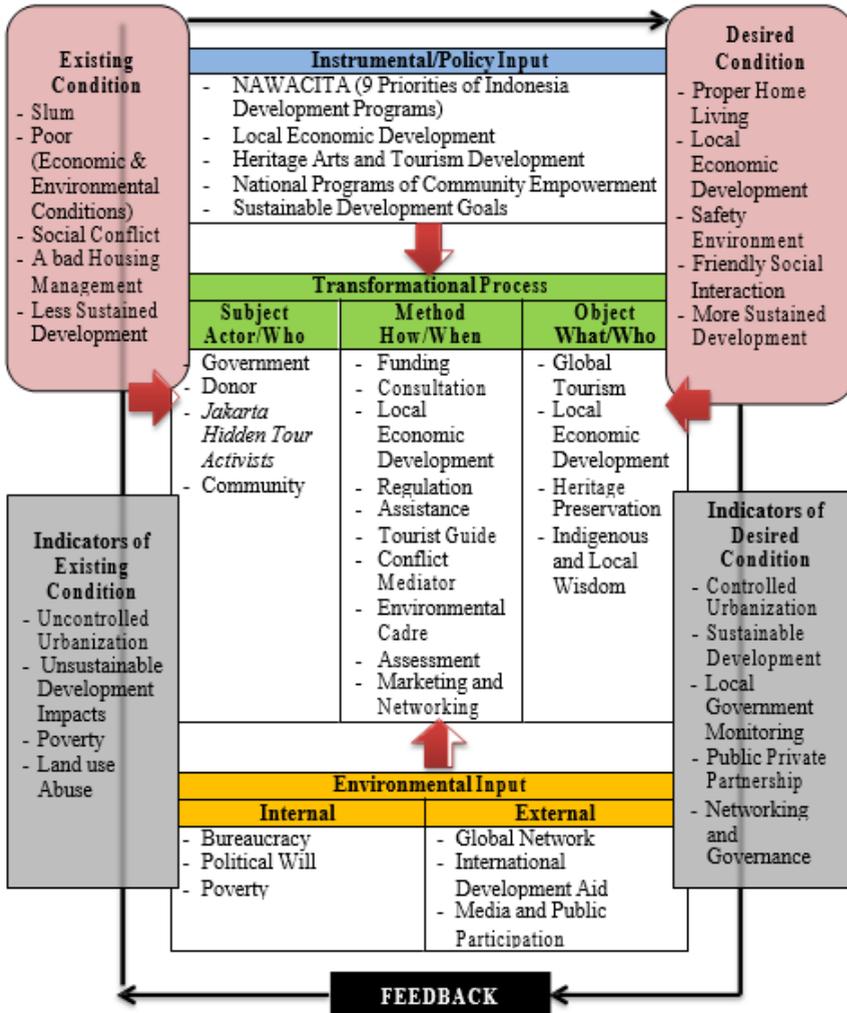
Figure 3. Input Output Diagram: Transformational System

Poverty, economic growth, sustainable development, and thematic Kampong development give significant impacts on *Jakarta Hidden Tour* as a system. The networks among those elements can be seen in Causal Loop Diagram (see

below), which gives a clear understanding of each element's sub-systems and relation (Coyle, 1996). Solutions can be taken by maintaining the performance sustainable development; it may put the biggest role and impact on the sustainability of the economic sector, poverty eradication, socio-culture interaction, environmental preservation, and surely slum tourism.
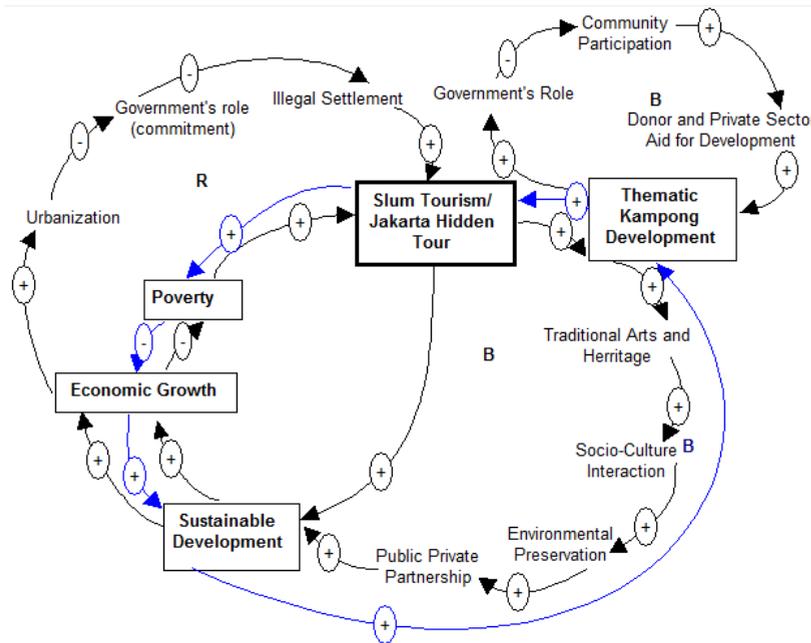
Figure 4. Systems Thinking Analysis: Causal Loop Diagram

D. Conclusion

More than 14 decades, since 2000, development is meant to seek its ability to net the poor into a better quality of life. In Indonesia, especially Jakarta, where every day biggest problem happens, a massive urban empowerment program has been implementing for several years. Economic development has tried to never merely count on global market and capital; it found more cultural spirits in the development process which also has a close relation to its local community. Tourism development is searching for means that will enable the poor to take economic benefits for their basic needs through pro-poor tourism.

As it is debated and argued in a global world, slum tourism still becomes a controversy for its acceptance as a continued development of pro-poor tourism. From Brazil, Mumbai, Philippines, Africa to Jakarta, slum tourisms have its dilemma, somehow, perspectives cannot be reasons to tackle down development process. *Jakarta Hidden Tour* must not be illegalized; political commitment on thematic Kampong development may become more effective to support *Jakarta Hidden Tour*. In this paper, the concluding remark states that slum needs to be fixed not erased, because slum and the poor are not problems, the real problem is development. A community empowerment program must base on local economic sector and never leave socio-culture connection; no matter how global dimension will always grow.

REFERENCES

[1]   Arnstein, Sherry R., Eight Rungs on the Ladder of Citizen Participation in Edgar S.

[2] Cahn and Barry A. Passet, Citizen Participation: Affecting Community Change, New York: Praeger Publishers, 1971.

[3] Brown, Frances and Hall, Derek, Tourism and Development in the Global South: the

[4] Issues, Journal of Roudledge; Taylor and Francis Group, Third World Quarterly, Vol.

[5] 29, No. 5, 2008, pg. 840.

[6] Coyle, R.G. (1996) System Dynamics Modeling: A Practical Approach. London, Chapman & Hall.

[7] Department for International Development (DFID), Tourism and Poverty Elimination: Untapped Potential, London: DFID, 1999, in Harrison, David. Pro-poor Tourism: a Critique, Journal of Roudledge; Taylor and Francis Group, Third World Quarterly, Vol. 29, No. 5, 2008, pg. 854.

[8] Dufresne, Bethe, Gullible Travels: The Ethics & Economics of Slum Tours, Commonweal, 2010.

[9] Farazmand, A., Sound Governance: Policy and Administrative Innovations, Westport, CT, Praeger, 2004.

[10] Hanrahan, Feidhlim, The Poverty Tour: Life in the Slums of Mumbai and Manila as Seen in Danny Boyle's Slumdog Millionaire and Merlinda Bobis's The Solemn Lantern Maker, ATLANTIS: Journal of the Spanish Association of Anglo- American Studies, 37.1, 2015, pg. 101.

[11] Harrison, David. Pro-poor Tourism: a Critique, Journal of Roudledge; Taylor and

[12] Francis Group, Third World Quarterly, Vol. 29, No. 5, 2008, pg. 856.

[13] Ife, J. and Tesoriero, F., Community Based Alternatives in an Age of Globalization, Australia: Pearson Education, 2006.

[14] Senge, Peter M., The Fifth Discipline: The Art and Practice of The Learning

[15] Organization, Paperback Edition, New York: Currency Doubleday, 1994.

Collective Identity, Anglo-Saxon Bond and the Persistence of the Anglo-American Special Relationship

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Abstract

There have been many "end of affair" comments on the Anglo-American special relationship (AASR) in the post-Cold War era. Notwithstanding this, the AASR has managed to persist without losing its vitality up to the present. This article seeks to explain the persistence of the AASR from the perspective of collective identity. It argues that a strong Anglo-American collective identity has been an indispensable positive contributor to the persistence of the AASR after the end of the Cold War. The strong Anglo-American collective identity facilitates Anglo-American common threat perceptions, solidifies embedded trust between the UK and the USA, and prescribes norms of appropriate behaviour for these two countries.

Keywords: collective identity, the UK, the USA, special relationship, trust

Introduction

Identity is socially constructed, allowing actors to be "recognized as something particular vis-à-vis others" (Eder, 2009, p. 428). It impacts how actors view the world and define their interests. Policymakers of states are not purely rational in the realist sense. They are not robots programmed to act purely rational in world affairs in pursuit of their cold-hearted national interests. In fact, their worldview and perception of national interests are unavoidably shaped by their own identity. The identity of a policymaker is reflected by the values he or she adheres to. It turns out to be rather difficult for policymakers in any country "to step outside of themselves when judging others. And they have rarely realized how much their own values unconsciously smudged the lenses through which they viewed the world" (Stuart, 1988, p. xiii).

Collective identity establishes a demarcation between friends and foes. It creates affinity and similarity among its in-group members, and strangeness and difference between itself and out-group outsiders (Eisenstadt and Giesen, 1995, p. 74). Collective identity not only defines who we are, but also delineates the boundaries against the others (Risse-Kappen, 1996, pp. 366-367). Collective identity is important, because it is "the sense of us" that enables states to define their common interests in a particular manner (Gibbins, 2014, p. 4).

This article explores the strength of Anglo-American collective identity and what role it plays in strengthening the persistence of the AASR. In order to fully analyse the influence of collective identity on the persistence of the AASR, this article unfolds in the following sections. First, it illuminates contributors to Anglo-American collective identity. Second, it measures the strength of Anglo-American collective identity by drawing on public opinion polls and discourse analysis of speeches of the Presidents and the Prime Ministers since 1991. Third, it elucidates how Anglo-American collective identity facilitates the persistence of the AASR in the post-Cold War era. The conclusion follows in the last section.

Contributors to Anglo-American Collective Identity

Common sentiments are an indispensable contributor to Anglo-American collective identity. Anglo-American common sentiments refer mainly to common language, common historical heritage, common values, and common popular culture. English is the common language for the UK and the USA, despite that the American English and British English have some subtle differences. The UK is not the only country who shares a common language with the USA. Canada, Australia, Ireland, New Zealand, Jamaica, Guyana, Barbados, Saint Vincent and the Grenadines, Grenada, Dominica and Palau are also English-speaking countries (Crystal, 2003, p. 109). However, among these English-speaking countries the UK is the most important ally of the USA.

Common language facilitates mutual understanding, and enables the UK and the USA to have "more extensive and more intensive communication than would otherwise have been possible" (Reynolds, 1986, p. 6). Even though common language cannot always guarantee an easy-going relationship, it makes Anglo-American relationship "easier to make up, mend fences and carry on" (Parsons, 2002, p. 461).

Apart from facilitation of communication and mutual understanding, common language also cultivates common values. According to Reynolds (1989, p. 100), "Through that common language a common liberal inheritance was transmitted and then transformed". The UK and the USA are two liberal democracies, sharing similar political values. In fact, American democracy emanates from British traditions (Churchill, 1946).

Due to their shared historical heritage, the UK and the USA enjoy common values, such as democracy, freedom, rule of law and human rights up to the present. Both of them are active upholders of these common values. However, these Anglo-American common values should not be taken for granted. As a matter of fact, before the late 19th century, it was hard to identity their common values.

Before the late 19th century, the USA constantly identified Britain as a "significant other", associating the British with aristocracy, tyranny, monarchy and empire, which are characteristics inimical to American democracy and liberty. To the Americans at that time, the British values were alien to their values. What was prevalent in that period was "a historical hostility to the British oppression which had provoked so many American symbols of patriotic pride from the Declaration of Independence to the Star Spangled Banner" (Strout, 1963, p. 134). The anti-British nationalism was prevalent in the USA (Crapol, 1973, p. 4).

For the British during that period, they regarded the American way of lifestyle as vulgar and less civilized, and viewed slavery in the American society with disdain (Burk, 2007, p. 278). The mutually unfavourable feelings between the UK and the USA made the already tense relationship more likely to slip into conflicts, since both of them tended to think the worst of each other when they disputed.

Values are not static. Rather, they are socially constructed and can be changed by society. Due to the social changes occurred in the USA and the UK in the second half of the 19th century, the Americans and the British started to share more common values. On the one hand, the Americans ended slavery in the Civil War and hence ameliorated the negative attitudes of the British towards the Americans. On the other hand, there were more Americans showing favourable feelings to the British due to the gradual democratization of the British society since the implementation of the 1832 Reform Bill (Campbell, 1974, p. 203).

The changed attitudes between these two countries gave rise to a new sense of Anglo-Saxonism, "a discourse of racialized identity that obliged the British and American elites to think of themselves as the twin vanguards of modernity" (Vucetic, 2009, p. 24). To some extent, the emergence of Anglo-Saxonism helped pave the way for "the Great Rapprochement" (Perkins, 1968). However, British colonialism was still hated by most Americans when the British maintained their empire. As Moser (1999, p. 2) puts it, "If colonialism and wars of conquest were institutions which Americans claimed to despise, the British were unquestionably closely wedded to both". The gradual dissolution of the British Empire after the Second World War removed the last heavy stumbling block which jeopardized the further solidification of Anglo-American collective identity. After the British relinquished their empire, Anglophobia has been no longer powerful enough to drift apart Anglo-American solidarity.

The Americans and the British have a lot in common in the popular culture. Literature is transferred across the Atlantic Ocean, as evidenced by the appeal of British authors such as William Shakespeare, Charles Dickens, J. R. R. Tolkien, Jackie Collins, and J.K. Rowling in the USA, and American authors such as Harriet Beecher Stowe, Mark Twain, Ernest Hemingway and Dan Brown in the UK. Any frequent traveller will have noticed the striking overlap of bestsellers on offer at airport bookstores, whether in London or Washington or New York. Many formats for new TV programmes shown across the USA originate in the UK while American popular culture from TV, music, film and fashion permeates British cultural life imperceptibly due to the common language and shared cultural heritage (House of Commons Foreign Affairs Committee, 2010, p. Ev129). The level of shared popular culture is huge. The fact that governments and publics of the UK and the USA can understand each other with minimal explanation results in a huge level of shared culture (House of Commons Foreign Affairs Committee, 2010, p. Ev115).

Apart from common sentiments, the other contributor of Anglo-American collective identity is the repeated cooperative acts. Common sentiments do not guarantee the formation of a strong collective identity. Only by repeated cooperative acts could

common sentiments be positively constructed in contributing to a strong collective identity. There have been abundant cases of cooperative acts in Anglo-American relations in the realm of intelligence, nuclear and military affairs.

Common sentiments and repeated cooperative acts mutually reinforce each other. Common sentiments facilitate implementation of cooperative acts and repeated cooperative acts in turn strengthen the positive representation of common sentiments. Both are indispensable contributors to Anglo-American collective identity. On the one hand, without common sentiments, it is hard for states to constantly engage in cooperative acts over a long period of time. Stark circumstances like the Second World War could push Britain and the Soviet Union to put aside their sentimental differences. However, such stark circumstances are rare in international relations. In most cases, sentiments greatly matter. Sentimental commonality cannot always guarantee intimate cooperation. But sentimental differences could prevent states from engaging in long-term robust cooperation.

On the other hand, without repeated cooperative acts, the positive representation of common sentiments may fade into insignificance in the preservation of a strong collective identity. On account of repeated cooperative acts which had occurred over the better part of the 20th century, President Clinton pointed out in November 1995 that, "We (the USA and the UK) overcame the legacy of our differences. We discovered our common heritage again, and even more important, we rediscovered our shared values" (Clinton, 1995). Cooperative acts between the UK and the USA enhance their favourable feelings to each other and hence strengthen the positive representation of common sentiments.

Strength of Anglo-American Collective Identity

This section seeks to measure the strength of Anglo-American collective identity in the perception of both the public and political elites. Collective identity is nebulous and inherently difficult to measure. But its strength can be assessed by making use of public opinion polls which investigate people's opinion towards other countries and political speeches delivered by leaders of the UK and the USA.

Public Perception of Anglo-American Collective Identity

People in countries which share strong collective identity tend to have more favourable feelings toward each other. They are more likely to trust each other and consequently regard each other as their reliable ally. The more mutually favourable feeling they have, the stronger their collective identity is. This subsection utilizes public opinion polls conducted by widely respected polling organizations, such as the Chicago Council on Global Affairs, Gallup, Pew Research Centre. The purpose of drawing on polling data from more than one organization is to minimise anomaly and possible inaccuracy in the public opinion polls as much as possible. By using different public opinion polls conducted by different organizations from different time periods, dangers of distortion in the public opinion polls could be significantly decreased.

Public Opinion Polls of the Chicago Council on Global Affairs

In public opinion polls of the Chicago Council on Global Affairs, the mean score is on a scale of 0 to 100, with 100 meaning a very warm, favourable feeling, 0 meaning a very cold, unfavourable feeling, and 50 meaning not particularly warm or cold. From 1978 to 2002, the UK had been the Americans' second most favourable country following Canada. Since 2004, Canada has not been included in the sample of surveys. As a result, the UK has been the most favourable country for the Americans among the surveyed countries (see Figure 1).

The above graph shows clearly that the Americans had comparatively more favourable feelings to the UK than to France, Germany and Israel from 1990 to 2010. During this period, the mean temperature of warmth of the American people on the UK was roughly 72 ℃ in comparison with 59℃ of Germany and 52.8℃ of France. From the survey data prepared by the Chicago Council on Global Affairs, the UK has been the most trustworthy European power of the USA in the post-Cold War era. It is widely argued that Israeli-American special relationship is the strongest competitor of the Anglo-American special relationship. Between 1990 and 2010, the mean temperature of warmth of the Americans on Israel was 54.8℃, far lower than that of the UK. Countries hostile to the USA tended to get low "temperature of warmth" of the American people. For instance, the "temperature of warmth" of the American people on Iran and North Korea were 27℃ respectively, the lowest among the surveyed states in 2010.

The Gallup Public Opinion Polls

Gallup has conducted annual public opinion polls on how the American people view other countries for the past decades. There are four options available for interviewees to choose regarding a particular country: very favourable, mostly favourable, mostly unfavourable and very unfavourable. Between 2003 and 2013, the UK was viewed as one of the top two favourable countries for the American people (see Figure 2).

According to the above graph, the UK was the second most favourable countries surpassed only by Canada in the period 2003-2013. The mean percentages of the American people's favourability of these mentioned countries in the graph were as follows: Canada, 90.4%; the UK, 88.3%; Germany, 78.6%; Israel, 66.5%; France, 62%. Such results are in concordance with the surveys conducted by the Chicago Council on Global Affairs. The UK was the most favourable state among the big powers of Europe between 2003 and 2013. In addition, it seems that the American people showed more favourable feelings towards the Anglo-American special relationship than towards the Israeli-American special relationship.

The Pew Research Centre Public Opinion Polls

Since its inception in 2001, the Pew Global Attitudes Project has conducted surveys across the world on people's opinion on the USA and the American people. The interviewees choose their own options from the following four options: very favourable, somewhat favourable, somewhat unfavourable and very unfavourable. Favourable combines "very favourable" and "somewhat favourable" while unfavourable combines "very unfavourable" and "somewhat unfavourable". On average, the British showed the most favourable feelings to the USA among the three big European powers in the period 2001-2012 (see Figure 3).

According to Figure 3, the mean percentages of these three countries' favourable feelings towards the USA from 2002 to 2012 were the following: the UK, 61.2%; France, 53.8%; Germany, 46.7%. The first outstanding feature in this graph is that the Bush administration's Iraqi policy was rather unpopular in these three countries, especially in France and Germany. After President Obama took office in 2009, these three countries had become significantly more pro-USA. The French people had more favourable feelings towards the USA under the Obama administration than the British, which in some degree demonstrated the high unpopularity the Bush administration in the eyes of the French. The second outstanding feature of this graph is that the British's favourable feelings to the USA were more stable over the 2002 through 2012 timeframe than that of the French and Germans. Attitudes of the French and Germans towards the USA fluctuated dramatically between 2002 and 2012.

By analysing the aforementioned four graphs, it is evident that people in the UK and the USA hold highly favourable feelings toward each other in the post-Cold War era, indicating that a strong "we-feeling" rooted in the collective identity exists between these two societies. Such a strong "we-feeling" provides the solid bedrock on which to base the special relationship between the UK and the USA (Rasmussen and McCormick, 1993, p. 518).

More importantly, these graphs demonstrate the stability and durability of favourable feelings between these two societies over an extended period of time, which to a large extent testifies to a stable and durable Anglo-American collective identity. Compared with France and Germany, the British favourable feelings fluctuated far less. Such stable and durable affinity between societies of the UK and the USA helps to keep the special relationship strong in the long run. The stable and durable mass sentiments between these two societies also serve as a cushion to alleviate the severity of Anglo-American discords, enabling the UK and the USA to heal wounds and recover from the damage quickly.

Elite Perception of Anglo-American Collective Identity

Political elites play a much larger role than the general public in shaping the destiny of the AASR. Their perception of Anglo-American collective identity therefore deserves particular attention. As Hendershot (2008, p. 3) argues, "Sentimentality, or elite perception of cultural affinity, has been key to the durability of the special relationship".

Since Presidents and Prime Ministers play more crucial roles than other political elites in Anglo-American relations, it is more plausible to focus on how Presidents and Prime Ministers in the post-Cold War era think about the special relationship. This subsection makes use of speeches of four American Presidents and four British Prime Ministers in the post-Cold War era. Their speeches are analysed based on three criteria, including what words they use to describe the special relationship,

what factors contribute to the special relationship from their viewpoints, and how they perceive the importance of the special relationship in the world (see Figure 4, Figure 5 and Figure 6).

By comparing what these four Presidents and four Prime Ministers said in their respective speeches, it is possible to recognize the tremendous similarity of their views on the special relationship. As the above tables show, there has been a bipartisan consensus on the special relationship both in the USA and in the UK since 1991. Even the hardened critics of the AASR could not deny the fact that the Presidents and the Prime Ministers in the post-Cold War era hold extraordinarily similar outlooks on the special relationship.

It is noteworthy to point out that by focusing on the speeches of Presidents and Prime Ministers, this section tries to illuminate to what extent a similar perception of the special relationship has been shared by leaders of the UK and the USA. It does not deal with the question that how personal relations of Presidents and Prime Ministers shape the special relationship. Personal chemistry between Prime Ministers and Presidents facilitates, to some extent, Anglo-American intimate cooperation, but cannot decide the destiny of the special relationship.

The special relationship has apparently outlived personal relationships between the two countries' political leaders. Prime Ministers and Presidents come and go, but the special relationship remains in place. Its longevity turns out not to be decisively influenced by personal relationships between political leaders. The special relationship has the ability to "transcend high-level differences of opinion and conflicting leader personalities" (Dumbrell, 2012, p. 307).

Notwithstanding the short time span of any given Prime Minister's or Presidency's term, by means of textual analysis of a host of speeches by Presidents and Prime Ministers on the special relationship, an enduring and consistent feature is revealed. A positive representation of the special relationship is pervasive in the speeches of Presidents and Prime Ministers. In terms of description of the special relationship, these Presidents and Prime Ministers held a positive view of the special relationship by using words such as "enduring", "unique", "extraordinary", "essential" and "vital", demonstrating their confidence in the persistence of the special relationship. In terms of the importance of the special relationship, all Presidents and Prime Ministers in the post-Cold War era considered the special relationship as a force for good in the world. In terms of the contributors to the special relationship, all of them highlighted Anglo-American shared culture and values.

The American presidents' regular and consistent rhetoric on the AASR are not "cheap talk". Rather, it reveals the genuine perceptions of the unparalleled intimacy between the UK and the USA. That all Presidents and Prime Ministers in the post-Cold War era have placed a high priority on common values reveals their shared sense of a strong collective identity. Given that speeches delivered by these Presidents and Prime Ministers also reflect, to the large extent, the general beliefs of the overall political elites, it could be safely concluded that the political elites of the UK and the USA also share a strong Anglo-American collective identity especially in terms of shared values. Undeniably, the elite perception of the special relationship matters significantly. As Edwards and Sanders (1989, pp. 1-2) argue, "The attitudes of the elite, after all, represent a perceptual filter which conditions the way in which the behaviour of other states is interpreted: they constitute an important part of the make-up part of the key decision-makers".

In addition, the speeches delivered by two countries' leaders help consolidate Anglo-American collective identity by consistently emphasizing their collective memories about their joint sacrifice of blood and treasure in hard times (Digeser, 2009, p. 339). Such collective memories shared by two countries' political elites engender a strong sense of "we feeling" and togetherness. Prime Minister Cameron emphasized Anglo-American joint sacrifice of blood and treasure in the Second World War and the Korean War in a joint news conference with Obama on 25 May 2011. As he put it, "Barack and I know well the shared history of our countries. From the beaches of Normandy to the Imjin River, our soldiers have fought together" (Obama, 2011). Prime Minister Cameron's remarks resonated with what President Obama said in a welcoming ceremony for Cameron in the White House on 14 March 2012. When explaining the reasons why the rock-solid alliance of the USA and the UK became the constant feature of world affairs, he said that "the reason is simple. We stand together, and we work together, and we bleed together, and we build together, in good times and in bad" (Obama, 2012).

Impact of Collective Identity on the Persistence of the AASR

First, a strong collective identity contributes to US-UK common threat perceptions, thereby consolidating their highly compatible national interests. A strong collective identity cannot guarantee that the UK and the USA will act in concert for

the sake of their common interests all the time. Occasionally, they disagree with each other. Their relationship reached a low point in the Bosnian War due to their disagreements over how to respond to the humanitarian disasters there. Notwithstanding this, the UK and the USA incline to see eye to eye on most international threats due to their strong collective identity. They are more often than not working together in harmony in the face of the international threats which put their interests and values in danger. Both the UK and the USA are the outward-looking countries, with global outlook and global interests in a plethora of areas. They share highly compatible security interests. When facing the out-group challengers, they tend to unite together and put aside their disputes if there are any, as indicated in the two World Wars and the Cold War (Bell, 1972, p. 106).

After 9/11, Islamist terrorism epitomized by Al Qaeda has become the most prominent threat for both the UK and the USA. Islamist terrorism not only threatens Anglo-American interests, but also poses a challenge to Western values and Western way of life. As Gove (2006, p. viii) argues, "Islamism poses a challenge to Western values, indeed to universal human values of freedom, dignity and equality, just as potent as past totalitarianisms". Hence, both the USA and UK feel threatened by Islamist terrorism and they have worked in tandem in dealing with such a serious threat since 9/11.

The UK and USA's shared concern about the proliferation of WMD amongst rouge and despotic states, as well as terrorist non-state actors, also has its roots in their collective identity. Both worry about a nuclear Iran and a nuclear North Korea, and have made efforts to prevent them from developing nuclear weapons, albeit with limited success. They were so worried about the potential threat of Saddam's Iraq armed with the purported WMD that they rushed to launch a preventive war with the aim of regime change in Iraq, creating a big foreign policy blunder after 9/11.

By contrast, the UK and the USA do not worry about each other's nuclear weapons. Both even enjoy the second-to-none nuclear cooperation. They also do not have a parallel fear of Israel's or India's nuclear weapons. It is not because nuclear weapons of North Korea or Iran (if it succeeds) are more powerful than those of Israel or India. Rather, it is because the UK and the USA have engrained distrust of the North Korea and Iran whose political values are alien to Western values. For the UK and the USA, North Korea and Iran are "out-group" strangers which cannot be trusted while Israel and India are "in-group" friends that can be trusted. Therefore, the UK and the USA are inclined to assume the worst scenario about the despotic states' nuclear weapons.

Second, a strong collective identity solidifies embedded trust between the UK and the USA, helping to sustain the longevity of the special relationship. Basically, there are two types of trust. The first type is trust-as-predictability, which refers to the scenario that "A trusts B when A predicts that B will at least do no harm in a circumstance in which A's interests depend on B's behaviour" (Hoffman, 2002, p. 379; Booth and Wheeler, 2008, p. 229). This type of trust is borne out of rational calculation.

The second type is trust-as-bond, which refers to the scenario that the trustor is confident that the trustee has moral obligation to fulfil the trust placed in it even if it means sacrificing some of their own interests (Hoffman, 2002, p. 379; Booth and Wheeler, 2008, p. 229). This type of trust is borne out of affinity and positive emotion rather than rational calculation. The trust-as-bond not only involves predictability, but also involves moral obligation and responsibility. The embedded trust between the UK and the USA is more analogous to trust-as-bond. Therefore, the AASR exemplifies normative international friendship, which "assumes that international friendship exists for normative and moral reasons as opposed to strategic calculations (Oelsner and Koschut, 2014, p. 14).

Due to the positive relationships between political leaders of these two countries and highly favourable feelings between these two societies, there exists embedded trust between the UK and the USA. Embedded trust extends beyond the intimate relationship at the elite level. It exists at the inter-societal level (Booth and Wheeler, 2008, p. 230). The strong collective identity gives rise to embedded trust between the UK and the USA. Embedded trust is more endurable and persistent than personal trust between political leaders. It is crucial to sustain the AASR in the changing world.

Embedded trust makes it easier for the UK and the USA to engage in long-term security cooperation. The AASR is a relationship "built on a long-lasting friendship between the two nations, involving cultural affinities and shared values, not just a marriage of convenience between states which happen to find their current interests aligned on the international stage" (Hawley, 2012, p. 107). Trust minimizes uncertainty, enabling the UK and the USA to keep their long-standing close cooperation against all the odds. Because of embedded trust, the UK and the USA are willing to "tolerate mutual vulnerability despite irreducible uncertainty about the other's motivations" (Kupchan, 2010, p. 49-50).

States cannot escape from uncertainty. In the 1990s, the UK and the USA did not expect that they would unite together in the War on Terror after 9/11. Likewise, they do not know what will happen to them in decades ahead. On account of embedded trust, the UK and the USA can move rapidly to unite together against any challenges in the foreseeable future. Thus, they are highly likely to keep engaged in long-term security cooperation.

Apart from facilitating their long-term security cooperation, the presence of embedded trust also enables the UK and the USA to swiftly overcome their occasional disagreements. The AASR is not perfect. A strong collective identity cannot prevent discords from occurring between these two countries. Like any other relationships, the AASR also experiences ebb and flow. What makes the AASR exceptional is that all Anglo-American squabbles are temporary. A strong collective identity can prevent Anglo-American disputes from escalating into unrepairable crises. There has been no entrenched enmity between the UK and the USA. Embedded trust creates strong bonds between the UK and the USA, enabling them to empathize with each other. As a result, they consider their occasional disagreements as "family spats" between brothers (Hendershot, 2008). Family spats do not last long. Since both the UK and the USA regard each other as their trustworthy partner, they do not allow the occasional unhappy event to jeopardize their long-standing partnership.

Embedded distrust engenders an "inherent bad faith model" of an adversary (Holsti, 1967, p. 26). Relationship between the USA and Russia has been influenced by the "inherent bad faith model", preventing them from building trusting relationship after the end of the Cold War. Even though there has been no overt hostility to each other militarily, mutual distrust between the USA and Russia has apparently become more serious in recent years. By contrast, embedded trust gives rise to an "inherent good faith model" of a friend. In the post-Cold War era, the UK and the USA have constantly regarded each other as close friends.

Third, a strong collective identity prescribes norms of appropriate behaviour for the UK and the USA, pushing them to act in accordance with their collective identity. Both the UK and the USA believe that the AASR should be a force for good in the world. As liberal democracies, they should abide by international norms and uphold international law when engaging in military actions.

In reality, however, the UK and the USA acted in violation of what their collective identity required them to do under certain circumstances. They sometimes have to compromise their appropriate norms in pursuit of their so-called national interests. Whenever their actions violated their collective identity, the strong domestic pressure would push them to reorient their inappropriate policies. There were some cases in which the UK and the USA acted in contravention of their collective identity after 9/11, with Anglo-American collusion on torture as the most prominent example.

There have been allegations that the UK and the USA were complicit in the torture of suspected terrorists during the War on Terror. It remains unclear to what extent the UK was involved in torture. However, some evidence shows that the UK colluded with the USA on torture in some cases. The UK government publicly admitted for the first time that it had been involved in extraordinary rendition in February 2009 (BBC News, 2009). Moreover, the British intelligence agencies also "had directly colluded in the torture of various British suspects at interrogation centres in Egypt, Bangladesh and Pakistan" (Self, 2010, p. 222).

Anglo-American collusion on torture of suspected terrorists in the name of counter-terrorism tarnished the reputation of both the UK and the USA and squarely defied their collective identity. Due to the overt defiance of international law and human rights, it weakened the soft power of these two countries as a result. Because of the UK's complicity in torture, Prime Minister Cameron admitted that "our reputation as a country that believes in human rights, justice, fairness and the rule of law risks being tarnished" (The Detainee Inquiry, 2013, p. 2). Due to strong allegations from the public, both the UK and the USA eventually took measures to correct their errors with regard to torture. President Obama signed an executive order to outlaw torture in 2009.

The ethical aspect of the AASR should not be omitted. Both the UK and the USA have asserted that their special relationship is for the good of the world, contributing to the peace and justice of the international community. However, Anglo-American collusion on torture has eroded the special relationship's moral ground. A special relationship without solid moral footing will become weakened in the world.

Conclusion

There exists a strong collective identity between the UK and the USA, which has played a unique role in helping sustain the AASR in the post-Cold War era. The strong Anglo-American collective identity facilitates the persistence of the special relationship by forging sustainable common threat perceptions, solidifying embedded trust and prescribing norms of appropriate behaviour.

The positive influence of Anglo-American collective identity, however, should not be exaggerated. A strong collective identity cannot guarantee a harmonious relationship between the UK and the USA all the time. After all, national identity remains stronger than transnational collective identity in either the UK or the USA. Thus, national interests of the UK and the USA cannot be perfectly aligned all the time.

Even though their national interests are aligned in certain cases, the strong collective identity cannot make sure that the UK and the USA have harmonious working relationships in dealing with their common concerns. On balance, a strong collective identity is a positive contributor to the AASR. It makes the UK and the USA only experience a rather small proportion of difficult times over the past decades, and in the meantime helps to avoid crises.

References

[1] Bartlett C.J. (1992). 'The Special Relationship': A Political History of Anglo-American Relations since 1945. London: Longman.

[2] Baylis, John (1984). Anglo-American Defence Relations 1939-1984: The Special Relationship. London: Macmilian.

[3] BBC News (2009, 26 February) Minister Admits Terror Transfer. Retrieved from http://news.bbc.co.uk/1/hi/7912656.stm

[4] Bell, Coral (1972). The 'Special Relationship'. In Michael Leifer (Ed.), Constraints and Adjustments in British Foreign Policy (pp. 103-119). London: Allen & Unwin.

[5] Booth, Ken and Wheeler, Nicholas (2008). The Security Dilemma: Fear, Cooperation and Trust in World Politics. Basingstoke: Palgrave Macmillan.

[6] Burk, Kathleen (2007). Old World, New World: Great Britain and America from the Beginning. London: Little Brown.

[7] Campbell, Charles S. (1974). From Revolution to Rapprochement: The United States and Great Britain, 1783-1900. New York: John Wiley & Sons.

[8] Chicago Council on Global Affairs (2010). American Public Opinion and United States Foreign Policy Series. Retrieved from http://www.icpsr.umich.edu/icpsrweb/RCMD/series/00004

[9] Churchill, Winston (1946, 5 March). The Sinews of Peace. Retrieved from http://www.winstonchurchill.org/learn/speeches/speeches-of-winston-churchill/120-the-sinews-of-peace

[10] Clinton, William (1995, 29 November). Speech to the House of Parliament. Retrieved from http://www.johnmajor.co.uk/page1367.html

[11] Crapol, Edward P. (1973). America for Americans: Economic Nationalism and Anglophobia in the Late Nineteenth Century. Westport: Greenwood Press.

[12] Crystal, David (2003). English as a Global Language. Cambridge: Cambridge University Press.

[13] Digeser, P.E. (2009). Friendship between States. British Journal of Political Science, 39 (2), 323-344.

[14] Dobson, Alan (1995). Anglo-American Relations in the Twentieth Century: Of Friendship, Conflict and the Rise and Decline of Superpowers. London: Routledge.

[15] Dobson, Alan and Marsh, Steve (2014). Anglo-American Relations: End of a Special Relationship. The International History Review, 36 (4), 673-697.

[16] Dumbrell, John (2009). Hating Bush, Supporting Washington: George W. Bush, Anti-Americanism and the US-UK Special Relationship. In John Dumbrell and Alex R. Schäfer (Ed.), America's "Special Relationships": Foreign and Domestic Aspects of the Politics of Alliance (pp. 45-59). Abingdon: Taylor & Francis.

[17] Dumbrell, John (2012). Ambassadors Crowe and Lader, 1994-2001. In Alison R. Holmes and J. Simon Rofe (Ed.), The Embassy in Grosvenor Square: American Ambassadors to the United Kingdom, 1938-2008 (pp. 302-315). Basingstoke: Palgrave Macmillan.

[18] Eder, Klaus (2009). A Theory of Collective Identity: Making Sense of the Debate on a 'European Identity'. European Journal of Social Theory, 12(4), 427-447.

[19] Edwards, Geoffrey and Sanders, David (1989). British Elite Attitudes and the US: Continuity and Change. London: The Royal Institute of International Affairs.

[20] Eisenstadt, Shmuel Noah, and Giesen, Bernhard (1995). The Construction of Collective Identity. European Journal of Sociology, 36 (1), 72-102.

[21] Gallup Brain (2013). Gallup Poll Social Series: World Affairs, 2003-2013. Retrieved from https://institution.gallup.com/sorry/AccessDeniedInstitution.aspx?r=/Brain/QuestionSearchResults.aspx

[22] Gibbins, Justin (2014). Britain, Europe and National Identity: Self and Other in International Relations. Houndmills: Palgrave Macmillan.

[23] Gove, Michael (2006). Celsius 7/7. London: Phoenix.

[24] Hawley, Katherine (2012). Trust: A Very Short Introduction. Oxford: Oxford University Press.

[25] Hendershot, Robert M. (2008). Family Spats: Perception, Illusion and Sentimentality in the Anglo-American Special Relationship, 1950-1976. Dudweiler Landstr: VDM Verlag Dr. Muller.

[26] Hoffman, Aaron (2002). A Conceptualization of Trust in International Relations. European Journal of International Relations, 8(3), 375-401.

[27] Holsti, Ole (1967). Cognitive Dynamics and Images of the Enemy: Dulles and Russia. In David Finlay, Ole Holsti and Richard Fagen (Ed.), Enemies in Politics (pp. 25-96). Chicago: Rand McNally.

[28] House of Commons Foreign Affairs Committee (2010). Global Security: UK –US Relations. London: The Stationery Office Limited.

[29] Intelligence and Security Committee (2007). Rendition. Retrieved from http://isc.independent.gov.uk/committee-reports/special-reports

[30] John Major website. Retrieved from http://www.johnmajor.co.uk/speeches.html

[31] Kupchan, Charles A. (2010). How Enemies Become Friends: The Sources of Stable Peace. Princeton: Princeton University Press.

[32] Mercer, Jonathan (2005). Rationality and Psychology in International Politics. International Organization, 59 (1), 77-106.

[33] Moser, John E. (1999). Twisting the Lion's Tail: American Anglophobia between the World Wars. New York: New York University Press.

[34] Obama, Barack (2011, 25 May). The President's News Conference with Prime Minister David Cameron of the United Kingdom in London, England. The American Presidency Project. Retrieved from http://www.presidency.ucsb.edu/ws/index.php?pid=90445&st=Obama&st1=Cameron

[35] Obama, Barack (2012, 14 March). Remarks at a Welcoming Ceremony for Prime Minister David Cameron of the United Kingdom. The American Presidency Project. Retrieved from http://www.presidency.ucsb.edu/ws/index.php?pid=100034&st=Obama&st1=Cameron

[36] Oelsner, Andrea and Koschut, Simon (2014). Introduction. In Andrea Oelsner and Simon Koschut (Ed.). Friendship and International Relations (pp. 3-34). Basingstoke: Palgrave Macmillan.

[37] Parsons, Michael (2002). The Special Relationship 1945-1990: Myth or Reality. Études anglaises, 55, 456-471.

[38] Perkins, Bradford (1968). The Great Rapprochement: England and the United States, 1895-1914. New York: Atheneum.

[39] Pew Research Global Attitudes Project (2012) Opinion of the United States. Global Indicators Database. Retrieved from http://www.pewglobal.org/database/indicator/1/survey/1/

[40] Rasmussen, Jorgen and McCormick, James M. (1993) British Mass Perceptions of the Anglo-American Special Relationship. Political Science Quarterly, 108 (3), 515-541.

[41] Reynolds, David (1986). A 'Special Relationship'? America, Britain and the International Order since the Second World War. International Affairs, 62 (1), 1-20.

[42] Reynolds, David (1989). 'Rethinking Anglo-American Relations', International Affairs, 65 (1), 89-111.

[43] Risse-Kappen, Thomas (1996) Collective Identity in a Democratic Community: The Case of NATO. In Peter J. Katzenstein (Ed.), The Culture of National Security: Norms and Identity in World Politics (pp. 357-399). New York: Columbia University Press.

[44] Self, Robert (2010). British Foreign & Defence Policy since 1945: Challenges & Dilemmas in a Changing World. London: Palgrave Macmillan.

[45] Strout, Cushing (1963). The American Image of the Old World. New York: Harper & Row Publishers.

[46] The American Presidency Project. The Public Papers of the Presidents. Retrieved from http://www.presidency.ucsb.edu/ws/

[47] The Detainee Inquiry (2013) The Report of the Detainee Inquiry. Retrieved from http://isc.independent.gov.uk/committee-reports/special-reports

[48] Vucetic, Srdjan (2011). The Anglosphere: A Genealogy of a Racialized Identity in International Relations. Palo Alto: Stanford University Press.

[49] White House (2011, 25 May). Remarks by the President to Parliament in London, United Kingdom. Retrieved from http://www.whitehouse.gov/the-press-office/2011/05/25/remarks-president-parliament-london-united-kingdom

[50] White House (2012, 14 March). Remarks by President Obama and Prime Minister Cameron of the United Kingdom at Arrival Ceremony. Retrieved from http://www.whitehouse.gov/the-press-office/2012/03/14/remarks-president-obama-and-prime-minister-cameron-united-kingdom-arriva

Figure 1 Percentages of the USA's Favourable Feelings towards Its Four Allies, 1990-2010
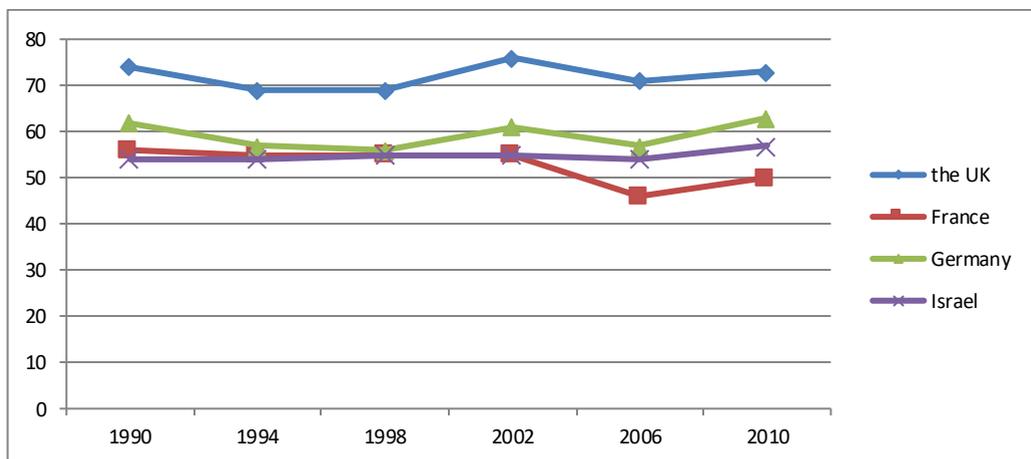
Source: Chicago Council on Global Affairs (2010). American Public Opinion and United States Foreign Policy Series. Retrieved from http://www.icpsr.umich.edu/icpsrweb/RCMD/series/00004

Figure 2 Percentages of American People's Very/Mostly Favourable Foreign Countries, 2003-2013
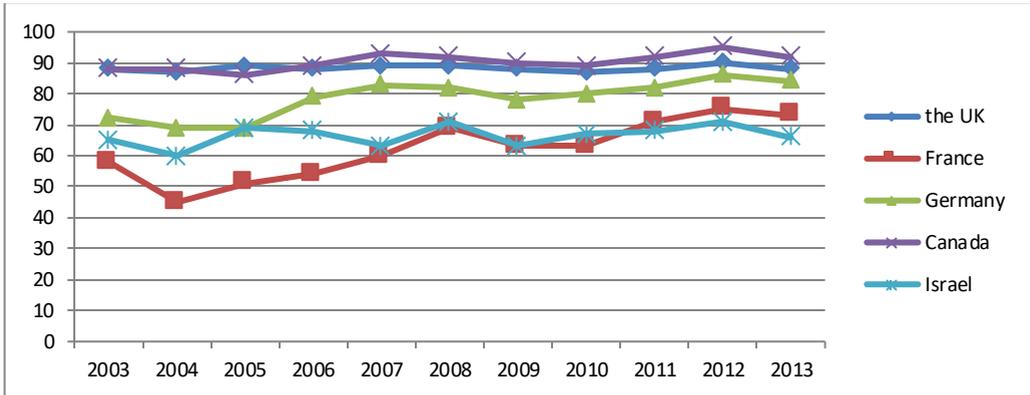
Source: Gallup Brain (2013). Gallup Poll Social Series: World Affairs, 2003-2013. Retrieved from https://institution.gallup.com/sorry/AccessDeniedInstitution.aspx?r=/Brain/QuestionSearchResults.aspx

Figure 3 Percentages of the Favourable Feelings on the USA, 2002-2012
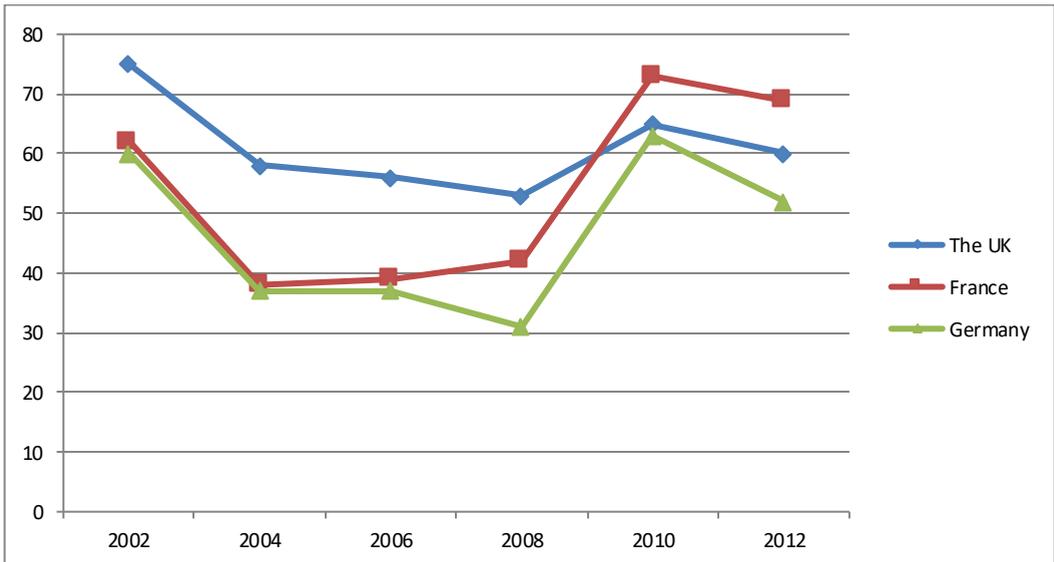
Source: Pew Research Global Attitudes Project (2012). Opinion of the United States. *Global Indicators Database*. Retrieved from http://www.pewglobal.org/database/indicator/1/survey/1/

Figure 4 Words Used by Presidents and Prime Ministers to Describe the AASR

	Words used to describe the special relationship
President George H.W. Bush (1989-1993)	a very, very special relationship
	enduring special relationship
President Bill Clinton (1993-2001)	enduring partnership
	a unique and enduring relationship
	an extraordinary relationship that unites us in a way never before seen in the ties between two such great nations
	an enduring alliance and a genuine friendship
	the unique partnership
President George W. Bush (2001-2009)	the uniquely close relationship
	a special and unique relationship
	the unique alliance of values and common purpose
President Barack Obama (2009-)	an extraordinarily special relationship
	a truly special relationship
	a unique relationship
Prime Minister John Major (1990-1997)	the vital relationship
	the longstanding relationship between my nation and your nation
	a very close relationship, a very hard-edged relationship
Prime Minister Tony Blair (1997-2007)	the great comradeship and partnership
	It is a very strong relationship, a very special one
	Ours is, indeed, a special and unique relationship
	It's an alliance of values. It's an alliance of common interests; It's an alliance of common convictions and beliefs
Prime Minister Gordon Brown (2007-2010)	the historic partnership of shared purpose between our countries
	Britain's single most important bilateral relationship
	a partnership of purpose that is borne out of shared values
Prime Minister David Cameron (2010-)	This relationship isn't just an extraordinary special relationship. It is also an absolutely essential relationship
	there are some countries whose alliance is a matter of convenience, but ours is a matter of conviction

Source: Speeches of George H.W. Bush, Bill Clinton, George W. Bush, Barack Obama, John Major, Tony Blair, Gordon Brown and David Cameron, the Public Papers of the Presidents in the American Presidency Project, Retrieved from http://www.presidency.ucsb.edu/ws/; John Major website. Retrieved from http://www.johnmajor.co.uk/speeches.html

Figure 5 Contributors to the AASR from the Perspective of Presidents and Prime Ministers

	Contributors to the AASR
President George H.W. Bush	common culture and civilization; rule of law; belief in the sanctity of the individual; common values
President Bill Clinton	common heritage; shared values; common aspirations; common vision
President George W. Bush	common history; common values; common interests around the globe; common language; common beliefs including open societies ordered by moral conviction and private markets humanized by compassionate government
President Barack Obama	common language; common culture; common legal system; common heritage; common values; common interests; common adherence to the rule of law; shared ideals and shared values
Prime Minister John Major	ties of kinship, language and shared values; shared interests; strong cultural ties; Anglo-Saxon sensibilities including respect

	for the individual, the rule of law, the virtues of prosperity and the liberty of progress for all
Prime Minister Tony Blair	shared language; shared outlook; the same values; the same interests; common history
Prime Minister Gordon Brown	common interests; shared history; enduring values; the joint inheritance of liberty
Prime Minister David Cameron	ties of culture and history and emotion; sentiment; shared language; kindred spirits; shared interests; values

Source: Speeches of George H.W. Bush, Bill Clinton, George W. Bush, Barack Obama, John Major, Tony Blair, Gordon Brown and David Cameron, the Public Papers of the Presidents in the American Presidency Project. Retrieved from http://www.presidency.ucsb.edu/ws/; John Major website. Retrieved from http://www.johnmajor.co.uk/speeches.html

Figure 6 The Importance of the AASR in the Eyes of Presidents and Prime Ministers

	The importance of the AASR
President George H.W. Bush	"Our desire never deeper to build a free and peaceful world"
President Bill Clinton	"We live in a time of remarkable opportunity for peace and prosperity, for open markets and open societies, for human dignity and human decency. Together the United States and the United Kingdom have helped to shape this hopeful moment in our history"
President George W. Bush	"The United States and United Kingdom are acting together in a noble cause. We're working together to make the world more peaceful"
	"The close partnership between the United States and Great Britain has been and remains essential to the peace and security of all nations"
President George W. Bush	The special relationship "is essential to the security and prosperity of our two countries and the world"
	"Our alliance is essential to the security and prosperity that we seek not only for our own citizens, but for people around the world"
	"Our alliance will remain indispensable to the goal of a century that is more peaceful, more prosperous, and more just"
Prime Minister John Major	"There is a great deal that we will wish to talk about that will affect our future, your future and the future of people in other countries around the world"
Prime Minister Tony Blair	"the relationship between the United States of America and Britain is a relationship that is in the interests of our two countries and in the interests of peace and stability of the wider world"
	"It's a good alliance and a good partnership for our two countries, and I believe, for the wider world"
Prime Minister Gordon Brown	"no international partnership has served the world better than the special relationship between our two nations"
Prime Minister David Cameron	"And together, I'm confident that we can help secure the future of our nations and the world for generations to come"

Source: Speeches of George H.W. Bush, Bill Clinton, George W. Bush, Barack Obama, John Major, Tony Blair, Gordon Brown and David Cameron, the Public Papers of the Presidents in the American Presidency Project. Retrieved from http://www.presidency.ucsb.edu/ws/; John Major website. Retrieved from http://www.johnmajor.co.uk/speeches.html

Development of Social Security in the Czech Republic in the Context of Current International Treaties

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Abstract

The aim of the paper is to evaluate the state-of-play of social security with a focus on pension insurance in the Czech Republic and this due to the potential use of international agreements with individual countries of the European region. The contracts are divided in terms of whether the state is a part of the European Union, or remains outside that integration. The use of international agreements in the field of social security currently appears to be important for a number of reasons such as tourism, openness of the labour market, economic dependence on international trade and various kinds of migration. The issue is covered by interdisciplinary studies, where the knowledge of the humanities and economic fields mingles. Overall, the work provides a comprehensive overview of international agreements in the territory of the Czech Republic, not only in the period of the capitalism, but also captures the recent history, the period from the 1960s up to now, when the Czech Republic used to be a part of the socialist bloc, At that time most important become agreements and contracts with the former USSR.

Keywords: international agreements on social security, documents, papers, pension insurance, economic and social area of a state, benefits/allowances in the international insurance

1. Introduction

Given the fact that the Czech Republic used to be for many years part of other government departments and different political establishments, its social system was affected by that situation. The development of social insurance in our country since the beginning of the last century up to the present is the one of the goals of this article, another partial goal is the establishment of international agreements on social security that affect the Czech Republic.

Today, almost all countries of the European region modernize and reform their social security system, while the largest reform recently took place mainly in the field of pension and retirement systems. The reason for that is the increase in average life expectancy and the growth of the post-productive age group of the population at the expense of people of the working age. Any reform is a process of long-term nature, where the depth of changes varies from country to country and is influenced by social values and system costs. Individual differences result from historical development and the embedment of the individual systems.

Davidová (2013) works with the fact that „Pension schemes are influenced by historical traditions and social factors of the countries concerned, which translates into a great variety of different systems. The most advanced countries then undertake changes of their pension systems very carefully and rather significant changes appear in the new EU countries."

The overall system of social security is defined in developmental studies and treaties such as the Paris and the Rome Treaty. Among basic pillars of social policy also belongs the Treaty of Nice, which made the Union capable of helping new

candidate countries effectively. The level of development as well as the social situation in the European Union is constantly building up and the EU is trying to adapt flexibly to current problems.

2. Social security law in the Czech Republic

Since May 1, 2004 the Czech Republic has been a Member State of the European Union and one of the fundamental principles of the EU social system is a free movement of people which means a right of each EU citizen to move freely. For this reason, the migration in some way increased together with the obligation of Member States to treat migrant citizens of the European Union so as not to limit their ability to work within this area.

A basic purpose of this regulation is to ensure that the migrant employed in multiple states does not lose his entitlement to social benefits because of another citizenship or a permanent residence.

Regulations of the European Community are restricted to the coordination of existing national social systems, without interfering in their deeper nature. Similar procedures and regulations were in the form of multilateral international conventions adopted also within other organizations such as the Council of Europe or in the International Labour Organisation. Provided, that sometimes the provisions are based only on some fundamental coordination principles which are very similar in terms of the content. The regulations of the European Union are characterized by their direct applicability and a priority application compared to other regulations across the entire EU.

The provisions of the European Communities on social security concern all the Member States and at the same time they are binding for each state on its national level. They cover:

- pre-retirement benefits,
- benefits subject to accidents at work and occupational diseases,
- family benefits,
- sickness benefits,
- benefits subject to disability,
- maternity and equivalent paternity benefits,
- inheritance benefits,
- age benefits,
- funeral allowances,
- unemployment benefits.

According to the Department of the European Union and International Cooperation MLSA (2009) it pays that despite some successes in unifying the conditions contained in the various national social security systems their full harmonization has been and still is a question of a distant future. However, their mutual interconnection, and in this case we are talking about coordination, has become a reality, the origins of which date back many decades ago. The initial coordination between the two states on the basis of individual bilateral agreements was soon added and promoted by multilateral coordination among several countries which reached its summit on the European continent within the Framework of the European Union.

Shall a coordination mechanism apply in a given country of the European Union; the regulation represents a crucial issue for decision making. For this reason, the protection stemming from regulations apply to:

- stateless persons and refugees, if they live in EU Member State,
- citizens of a Member State of the European Union (i.e. The EEA and Switzerland),
- family members and surviving dependant of the above persons regardless of their nationality.

3. Development of social security system in the Czech Republic

The economic situation of the given period always had a major influence on the development of the social sector. The first transformation of the state occurred in the 19th century when a care for slum community was transferred to municipalities.

At the beginning of the 20th century, a so called pension's standard improvement for civil servants is introduced. Factory owners had only one goal and that was making employees dependent on the company and driving a wedge between officials and workers.

In the period after the first World War, with newly independent Czechoslovakia, social problems of that time were getting sharper. Many families lost their men as breadwinners, bad hygiene conditions lead to the spread of disease and depending huge unemployment and food shortages. Social policy sought to address that situation by a means of cash benefits for widows, orphans, by adapting working conditions and care for the unemployed. However, due to the economic crisis at the turn of the 1920s and 1930s, the payment of benefits got complicated.

In 1925 Gallas defined the social insurance system as a set of public facilities built on the principle of equivalence (balance) between revenues and expenditures, providing a legal entitlement to certain, mainly cash benefits and preventing an economic catastrophe.

In 1945, the Central Council of Trade Unions established a national pension and health insurance. This law, however, due to the post-war situation in the Czech Republic, came into force and began to implement only in 1948.

Due to the establishment of a new political system, in 1951 there was taken over a Soviet model, under which the Central National Insurance Company was cancelled, and the state took a care for payments. Its funding was realized from taxes. In this period, the most important law was the act on pension insurance of miners.

According to Vrba (1948), the oldest branch of the social insurance is mining insurance policy. Tough and dangerous work of miners demanded special protection against illness, disability, injury and death. Already in the early medieval mining orders we can find notes about brotherhood and fraternal offices.

In the totalitarian regime, the social system followed to a large extent the social system of the former USSR. In 1957 there was a reform of the system of national insurance. This law was based on the fact that the amount of benefit was derived from salary, length of service and a final factor to calculate the amount of benefits represented also the differentiation by occupational category. The law was modernized in the early 1970s, where the original regulation was complemented by support for families with dependent children.

The change of both the economic system and political ideology after 1989 led to a necessary transformation in the social system. From the ideological point of view during the time before 1989 social problems did not exist. After the onset of the capitalist economic system, great changes occurred in society, social certainties, demography as well as the economy.

In 1993 began the process of separating the financing of social insurance policy from the state budget via paying the insurance outside the tax system. However, insurance still remained the revenue of the state budget, which resulted in depletion of reserves for completely different purposes than for which they had been originally created. A separate account emerged only in 1996; however there was no excess on the insurance revenues any more.

Brejcha and Voříšek (1996) stated that by a security principle in retirement security is meant the application of such legal principles defining the scope of the security policy (of the system of benefits), when the substantive conditions of benefit claims and the method of financing, in which the definition of basic legal institutions depend on the mandatory criteria enshrined in law regulation.

In 2008 occurred the main innovation of the Pension Insurance Act of 1995, and this law came into effect in 2010. The amendment to the Act brought about a gradual increase in the retirement age to 65 years, an extension of the insurance period required for the entitlement to retirement pension from 25 to 35 years, the introduction of three-tiered disability and in terms of education there emerged a change when the duration of study obtained after December 31, 2009 will not count as an income replacement insurance period. There was also an increase in penalties for early retirement and the increase in the age limit for permanent entitlement to widow's or widower's pension.

Currently in the Czech Republic there is a share of 1.8 contributors to social insurance per one pensioner, and unless there will be any demographic and social changes by 2050 the number of contributors per pensioner will go down to the level of 1.2. Hence it follows that future generations will face lowering of the replacement rate or providing pension payments at a

later age or a growth of the taxation of economically active generations. Owing to a huge redistribution between generations and people with different income levels, there is only a weak link between the amount of contributions paid and the amount of pension paid. The current pension system is financed from the current yield premiums that people pay from their wages and entrepreneurs from their profits.

The pension system in the current legal regulation of the Czech Republic is financed from the current yield premiums. This notice applies to employees through their wages and entrepreneurs through their profit. Due to changes in the age structure of the population (the increase in the post-productive population at the expense of the productive one), there is only a weak link between the amount of the contributions paid and the amount of the pension paid.

One of the most important parts of social security in the current social policy is the pension scheme. In the Czech Republic it is divided into three basic parts:

- mandatory pension insurance,
- pension scheme with state contribution,
- retirement saving.

Mandatory pension insurance covers all economically active persons. These are so called state pensions and are defined in terms of the benefit and continuously funded. Since January 1, 2013 it is represented by the first pillar of the pension insurance. Against the previous period, there were several changes and the most important is that due to the gradually increasing life expectancy there will continue the increase in the retirement age of men at the current pace which is by about 2 months per year, even after the age of 65. The second factor is that it will accelerate the pace of increase in the retirement age for women with the year of birth in 1956 and later by six months (from the current four months) a year. The complete unification of the retirement age for men and women will take place in the year 2041.

A supplementary pension scheme with state contribution is funded through the contributions from the participants of this scheme and though creating savings via pension funds by December 31, 2012. Since January 1, 2013 it creates the third pillar of the pension insurance and is called an additional pension saving scheme. Via the transformation of this scheme emerged the so called participating funds.

Compared to the previous period, significant changes occurred, specifically that the condition of participation is bounded by at least 18 years of age, new participating funds will differ from pension scheme funds in a way that their participants will not be eligible for an early retirement pension and the law will not guarantee a non-negative evaluation. Money in the pension funds is not insured and in case of death it becomes part of the heritage. There also emerge the so called pre-pensions which qualify for saving the people who are in a period of up to five years before retirement age, the entitlement is drawn from funds in the account in the system of supplementary pension savings and one needs to have at disposal such a sum, which will allow to pay a monthly benefit of at least 30% of the average wage and the minimum saving period is five years.

The retirement saving is the last part of the pension scheme, which was established on January 1, 2013 as the second pillar. The entry into this pillar is voluntary, any natural person aged from 18 to 35 years may join and the participation in the second pillar does not affect the amount of the widow's or widower's pension. In case of death of the participant in the pay-out phase the balance on the retirement saving becomes the subject to inheritance (this is valid for the choice of the old pension for twenty years or orphan's pension for five years). In case of a lifetime pension payment the money is not a subject to inheritance.

Currently, there is a discussion about the abolition of the second pillar either on January 1, 2016 or 2017 on the ground that it is not suitable for most people and creates financial benefits only for wealthier residents of the Czech Republic.

According to Hamalčíková (2014) about 83 000 people that have since January 1, 2013 entered the second pillar will have to decide what to do with the money from the cancelled part. They can have the money sent on their accounts or may have inserted it into the first pillar or the third pillar. They will have to notify the pension companies until September 2016 about their decision of how to treat the money loaded in the second pillar.

The other basic benefits provided by the state social insurance system are:

- a child benefit: this benefit is eligible for dependent child if the decisive family income does not exceed the amount of the determined subsistence income of the family and the contribution is divided depending on the age of a dependent child and a specified period,
- a social allowance: the purpose of this benefit is to help low-income families to cover the costs of covering their needs. The amount of the benefit is variable, with higher family income the supplement decreases. The entitlement for this supplement is bound to a dependent child and the family income limit,
- a housing allowance: the aim of this benefit is to contribute to the cost of housing to families and individuals with low incomes,
- a foster care benefit: the state contributes to the needs associated with caring for a child placed in a foster care. Among the benefits of a foster care is for example foster parent remuneration; a contribution when receiving a child or a contribution to the child's needs,
- a funeral allowance: this benefit is entitled to a person who arranged for the funeral of a dependent child, or the person who was the parent of a dependent child under the condition that the deceased person had on the date of death of a permanent residence in the Czech Republic.

4. International agreements on social insurance in the European area

The basic sense of international agreements is to ensure the rights of people who migrate between two or more contracting States. In the current social security system there are commonly used means of the coordination in the field of social security.

International treaties or agreements can be divided into three categories according to their nature:

- proportional agreements,
- territorial agreements,
- combined agreements.

The rules for determining the competence of the social security legislation serve to ensure the application of the principle of legal regulations of one country. The application of the relevant provisions of international agreements on social security cannot be used in a situation when a person covered by the agreements is insured in both States or vice versa in none of them.

A lex loci laboris principle - is the basic rule for determining the jurisdiction for social security legislation. A person who is employed or self-employed person is a subject to the legislation of the Contracting State in whose territory is gainfully employed, regardless of place of residence (rule of lex loci laboris).

Proportional agreements are based on the principle of equal treatment, a single insurance, an aggregation of the covered periods and the payment of benefits in the other Contracting State. The principle of equal treatment anchored in the agreements stipulates that via the application of the legislation of one Contracting State the citizens of the second Contracting State, to which the relevant agreement refers, are equal in terms of rights to the citizens of the first Contracting State; this equality applies not only for rights but also for obligations.

For assessing the entitlement to pension benefits it pays that each of the Contracting State grants and pays a pension equivalent only to the insurance period itself.

These agreements were concluded by the Czech Republic (Czechoslovakia) with Australia, Bulgaria, France, Chile, Croatia, India, Israel, Japan, the former Yugoslavia (in relation to Macedonia, Slovenia, Bosnia and Herzegovina, Serbia and Montenegro), Canada, Korea, Cyprus, Lithuania, Luxembourg, Hungary, Moldova, Poland, Germany, the Quebec, Austria, Romania, Russia, Spain, Switzerland, Turkey and USA.

Territorial agreements are based on the principle of the residence of the insured person (lex loci domicilii principle). It means that the benefit is conferred by the State in which the applicant is on the day of the claim for residency. For instance in case of pensions, the state pays a pension even for a period of the employment (insurance) obtained in the other Contracting State. If there is a change of the residence of the pensioner to the other Contracting State, this State takes over the obligations of the first Contracting State

On a territorial principle only the agreement with the former USSR was established. In terms of the history as well as the substance, this agreement is already outdated and inadequate to common standards on social security coordination. As for the validity, the agreement was in relation to the Russian Federation terminated on December 31, 2008 and in relation to the other successor states of the former Soviet Union (Armenia, Azerbaijan, Belarus, Georgia, Moldova, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan) on September 22, 2009. Regarding the Ukraine and Moldova there were negotiated new agreements, which entered into force on April 1, 2003 (Ukraine) and on October 1, 2012 (Moldova). On December 8, 2012 a new, modern type of proportional treaty was signed with the Russian Federation, which entered into force October 1, 2014.

Combined agreements represent the ones concluded with Slovakia and the Ukraine. The territorial element is contained in the provisions relating to the assessment of the insurance periods acquired by a certain date (in the case of the Czech-Slovak agreement upon a termination of the Czechoslovak federation; as for the agreement with the Ukraine on the date of the entry of the agreement into force). These periods of insurance are assessed only by one Contracting State, irrespective of in which Contracting State the periods were completed. As for the terms of the insurance periods after that date, these are already assessed under the principle of proportionality that is by the State on the territory of which they were actually recovered.

Not all bilateral agreements relate to the whole area of social security. Such specific agreements are:

- Intergovernmental Agreement on the Settlement of Pension Claims between Czechoslovakia and Greece of 1985; this agreement addresses pension entitlements of the so-called Greek re-emigrants,
- Agreement with the Netherlands of 2001, which governs only the export of social insurance benefits,
- Governmental agreement between Czechoslovakia and the USA of 1968, which only provides for mutual payment of pensions between the Czech Republic and the USA.

5. Conclusions

The economic, political, and social situation of the given state affected the type, amount and conditions of the eligibility for retirement benefits in the periods examined by the authors. The situation also had an impact on the extent of the benefits provided. Initially workers were compulsorily insured only for sickness benefits and for the events of an accident, then gradually the insurance for the events of sickness, disability and old age were added and finally inheritance pensions have been derived.

We can say that the conditions for the entitlement to a pension have been from their inception until today basically the same, but they are mainly influenced by economic, political and social problems of the state. Each era brought along its own specific problems, which had to be dealt by the state. Also due to the increase in the economic system of the country, we can say that social insurance is so complex that it will never be possible for anyone to establish such conditions that cover all the needs of the country's population to general satisfaction. Although there are a large number of publications, studies and articles dealing with issues of social security, it cannot be said that a universal key has been found solving problems, which are based on the current social situation in the state and the region.

Today we can confirm the fear that the introduction of pension saving in the second pillar does not, in view of the current government, contribute to the effect expected. On the contrary, it is noted that this pillar is inefficient, inconvenient for most people and generates profits only for wealthier citizens. The estimated date of the scheme withdrawal is January 1, 2016 or a year later. The issues of the current retirement saving plans and supplementary pension schemes are in the hands of the Ministry of Finance.

The basic compulsory pension insurance is defined in terms of benefits and is continuously funded. It is a universal one and covers all persons in the economically productive age. The law regulation is uniform for all the insured, there are no special sectorial or occupational schemes. Only from organizational and administrative point of view there are certain derogations for people in special professional groups such as the so called hard power departments (e.g. soldiers, firemen, policemen, customs officers).

Less than one percent of the population gets the old pension, which is deducted from the basic pension scheme.

In case of moving a pensioner when he obtains a new residence, the state has to grant the pension in the amount according to its regulations. At the same time the state of the original residence terminates the payment of the pension. The pension shall be granted under an international agreement for the duration of the employment completed in the original state without compensation from this country, despite the fact that a citizen did not contribute at all to the welfare system of a new residence.

Thus it can be stated that the setting of a fair pension scheme is an issue in many European countries. The efforts to eliminate the negative impact of migration of population from one country to another in the area of social security represent the coordination regulations that affect various international agreements in the sense that they are directly binding and are supranational legislation based Community law and coordinate social security schemes in all Member States.

In conclusion we can say that when determining the eligibility for pension benefits individual states decide, on the basis of bilateral agreements, in a similar way.

References

[1] Čajka, P. Current Demographic Problems. in: Research of Non-Military Aspects of Security. Faculty of Political Sciences and Interantional Relations, Matej Bel University, Banská Bystrica, 2011, P. 34-67, Isbn 978-80557-0290-2

[2] Gallas, J. Výklad K Zákonu O Pojištění Zaměstnanců Pro Případ Nemoci, Invalidity a Stáří. Praha: Lidové Knihtiskárny a. Němec a Spol., 1925. S. 15.

[3] Citterbart, K., Schrutz, J., Vrba, V. Hornické Pensijní Pojištění. Praha: Orbis, 1948.

[4] Kocourek, a., Laboutková, Š., Bednářová, P. Vazby Lidského Rozvoje Na Ekonomickou, Sociální a Politickou Dimenzi Globalizace. E+M Ekonomie a Management. 1. Vyd. Liberec: Technická Univerzita V Liberci, 2013, Roč. 16, Č. 2. S. 10 – 21. Issn 1212-3609.

[5] Rimševičs, I. Lessons from Latvias Internal Adjustment´S. Bank of Latvia. 2012.

[6] Ušiak, J. 2013. Security and Strategic Culture of the Visegrad Group Countries. Banská Bystrica: Matej Bel University, 2013. 200 S. Isbn 978-80-557-0515-6

[7] Hamalčíková, K. Druhý Pilíř Důchodového Pojištění Bude Zrušen: Druhý Důchodový Pilíř Skončí. Jak Můžete Naložit S Penězi? Online 6. 8. 2014 Cit. 2015-04-1. Dostupné Z: Http://Www.Usetreno.Cz/Druhy-Pilir-Duchodoveho-Pojisteni-Zrusen/

[8] Bureš, J. Ekonomické Souvislosti Dosavadního Managementu Euro-Krize. Acta Universitatis Carolinae – Iuridica 1/2012. Praha: Univerzita Karlova.

[9] Davidová, R. Systémy Zdravotního a Sociálního Pojištění U Nás a V Zahraničí (Diplomová Práce). Online. 2013 Cit. 2015-04-1. Dostupné Z: Http://is.Bivs.Cz/Th/20844/Bivs_M/Finalni_Verze.Pdf

[10] 0 Husenicová, L. 2013. Liberálne Hodnoty V Kontexte Globálnej Bezpečnosti. in Národná a Medzinárodná Bezpečnosť 2013 : 4. Medzinárodná Vedecká Konferencia. Liptovský Mikuláš : Akadémia Ozbrojených Síl Generála Milana Rastislava Štefánika, 2013. Isbn 978-80-8040-475-8, S. 226-235.

[11] Mudrych, K., Mudrychová. J. Maturitní Otázky - Ekologie. Brno: Radek Veselý. 1. Vydání. 1999. 136 S. Isbn-10: 80-902473-8-2.

[12] Hosťovecký, M., Zaťková, T. Supporting the Development of Digital Competences of Pupils and Teachers. in: Iceta 2011 : 9th Ieee International Conference on Emerging Elearning Technologies and Applications, October 27. - 28. 2011, Stará Lesná, the High Tatras, Slovakia: Proceedings / Cd Proceedings Editor: Anikó Szakál. - . Vyd.. - Budapest, Hungary: Óbuda University, 2011. - Isbn 978-1-4577-0050-7. Pp. 75-78.

[13] Odbor Evropské Unie a Mezinárodní Spolupráce Mpsv. Sociální Zabezpečení Osob Migrujících V Rámci Evropské Unie. Praha: Ministerstvo Práce a Sociálních Věcí, 2009. Str. 6. Isbn 978-80-7421-009-9.

[14] Bureš, J., Charvát, J., Just, P., Štefek, M. Česká Demokracie Po Roce 1989. Institucionální Základy Českého Politického Systému. Grada, Praha, 2012, 526 Stran Isbn 978-80-247-4283-0

[15] Rubáček Filip. Přístupnost Webových Prezentací Středních Škol V České Republice - Metody Testování a Základní Výsledky Provedeného Výzkumu. Media4u. 2011. Issn 1214-918.

New Perspectives on Contractual Law in the Context of Real Contracts in the Systems of International Contemporary (Roman) Law

Bashkim SELMANI, Ph.D.

Abstract

This scientific paper aims at exploring and establishing whether national legal gaps or possible issues within the differences in the international contractual law of the European Union's member countries and non-EU member countries can result in possible difficulties. In case there are legal problems and difficulties or practical concerns in this field, should the functioning of the internal trade and legal function through its interpretation hinder the process between the contracting parties in the event of entering a contract of international and interstate character within the law of obligations, and in cases of entering a contract, during its interpretation, while determining the rights and obligations or during other legal issues which have to do with the implementation of international private law and European international private law. Viewed from this angle, we need to consider the national and international private contractual law in the aspect of harmonization of the contractual law which may result in inconsistencies on a European level and broader. This would present an obstacle which restricts the fundamental legal-private rights of citizens as an advantage of individuals. They consist of three parts: personal relations between citizens, property relations between persons entitled as property trustees, as well as the procedural law which regulates the protection of subjective rights of personal and ownership nature. In practice, these face more difficulties in the private international law and European private international law, for example in: rules on property, ownership, real rights on other people's belongings, liabilities and heritage in international character and elements.

Keywords: common international market, law, European Union, contract, unification, contractual character of loans -*mutuum,* use of loan - *comomdatum,* mortgages - *pignus,* the position of the parties in private international law.

1. The Roman real contracts and their influence in the legal system from the international viewpoint

The regulations of the law and those of the private law were kept and protected for a long period as one of the essential principles on the issue of the emergence of obligations and duties arising from real contracts and their influence in the private law within the system of the national and international law. The Law of Obligations is a set of legal rules which regulate the obligatory relations, respectively the relations in which one party, *the creditor* is authorized to request from the other party, the *debtor* to carry out any action which should be fulfilled by the other party. The main characteristics of the Law of Obligations are: the relativity of obligatory relations, the disposition of the obligatory relations and the action as an object of obligatory relations. The relativity of obligatory relations means that the relations of obligations act on its own between the parties which are in concrete obligatory relations and in reality these duties are also included in the content of the Real Contract.

2. Roman Law or *Ius romanus*

Roman law or *Ius romanus* otherwise known in the Roman Empire did not stop here, but the need of judicial and economical communication also demanded new paths which would mean more than duties and obligations being created only through written contract because every written document may be best protected in a legal or procedural aspect.[1] Relying also in the contemporary laws of Republic of Macedonia, we may say that the *private law – or Ius privatum* includes personal rights, property rights and procedural rights. Viewed from in this context, the private law and the contracts in our country, which are in general protected by the laws of the state and international laws, are of consensual character, which means that nobody can force someone to make a contractual agreement without the will of both parties. Hence, we can say that Republic of Macedonia and its legislation practices Consensual Contracts. Whereas, when we discuss real contracts we

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[1] Bashkim Selmani, Ph. D., *E Drejta Romake dhe Ndikmi i Saj në Sistemet e së Drejtës Bashkëkohore* p. 467-493. Publisher: State University of Tetovo. Tetovo, 2013.

can conclude that these types of contracts appear mostly in the banking systems, where a number of citizens hold creditor obligations, and as a guarantee to the banks they apply the practice of putting the estate to Mortgage.[1]

3. The emergence of real contracts in the system of contemporary banking Law

The *Roman* real contracts and their influence in the system of the national and international law, tends to learn which are the factors that influence when entering a real contract, such as; *mortgage, deposits, pledge, hand pledge, loan, use of the loans* as well as duties arising from the contracting between parties in the private law of the Legal System of Republic of Macedonia, of the international private law and of the European international law. In this context, from this scientific paper which discusses the real contracts we can conclude that these types of contracts appear mostly within the banking systems, where a number of citizens have creditor obligations, and as a guarantee towards the bank they apply the practice of putting the estate to Mortgage. We intend to ascertain the actual situation of the position of contracting parties in a state and in an international level in order to research the real rights between the contracting parties and the legal sources which regulate the contractual rights within the private law. In this Master of Laws thesis we will also turn to the topic of private law and in general to the civil law, because from these study subjects derive all aspects of the contractual law from ancient times until today. We can also mention here the modern societies in which in general the Roman law has had its effect and the same is being used by the largest legal systems of the modern Law. In this aspect we can mention: The role of the obligatory subjects in a judicial relation of obligations, as well as the legal-civil rights based on the real contracts. For example: loan-mutuum, use of loan-comodatum, mortgage-pignus and the position of the parties in a national level, international level and in the EU international private law. Real contracts and the contractual law will be treated as a special part of the national civil law, international civil law and the EU international private law. We will also include the Law of Obligations and the civil and legal law by means of mortgage, as well as the role of the parties within national civil and legal position, the international private law and the EU international law.

4. Freedom of regulation of contractual relations has enabled the creation of international contracts

- The evaluation of specific features of the rights of contractual obligations as well as the position of the real situation in legal defense in case of lack of fulfillment of the obligations between the contractual parties in real law, internationally. –
- The role of the obligatory subjects in a legal relation of obligation, as well as the legal-civil rights in a legal dispute of international nature.
- A reflection through an analytical approach and a scientific research foreseen in the role of real contracts-*reals contract* as well as the invalidity role and the position from the difference consequences; *persons who may act even when the contract is banned* in a national level, international level and the EU international private law.

The freedom of regulating the contractual relations has enabled the creation of numerous and various contracts in the historical-legal aspect in many large legal systems in the past and the same will continue to be as valuable in the future in the system of the private law and real law in general. By using the examples of the so-called "good practices", appear also some of the latest recommendations of the European Council which deal with the international private law that also include the real contracts, legal-civil procedures on the contractual and procedural law on which this scientific master thesis is also based.

5. The role and the position of real contracts - loans-*mutuum,* use of loans-c*omomdatum,* mortgage- *pignus*

Real contracts **– this cathegory** includes four contracts: *mutuum-loans, commodatum- loan use, depositum-deposits* and *pignus - mortgages.* Their common feature was that the obligations under these contracts emerged from submitting of something corporal, and exactly from this derives the word contract - *re,* meaning, from a delivered certain item.[2] The real form of entering a contract was through delivering an item which was the only sign that the contractors agree to enter a contract. Hence, *obligatio re contracta* introduced the obligation which derived from delivering

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[1] Endru Borkovski & Pol du Plesis *Textbook on Roman Law* p. 4-11. – Third Edition. Publisher: Prosvetno dello Ad, Skopje, 2009.
[2] Refer to, Metzger, Componion, 182-9

an item - *res,* which than produced the obligation to return the same. In the institutes of *Gaius* a real contract was considered exclusively the *loan*, which was being carried out through the transfer of the item's ownership in order to determine obtaining *tantendum* (the same amount of identical items). Though it was bringing or *causing* the emergence of a new *obligatio re contracta,* the case of *solutio indebiti* by *Gaius* was not considered as *obligatio ex contractu,* from the moment when, according to this jurisprudent, he who was paying more than it was decided within the contract, aimed at quenching such an existing bind. The delivery was a form of binding through a real contract when it was done on the basis of loans, use of loans, deposits and mortgages. At the time of Justinian ruled the regulation that the delivery in whatever legal basis served as a form of entering a contract. Through the introduction of the use of loans, deposits and mortgages as real contracts - *obligation re*, which before meant bringing an item to ownership, it took a different meaning according to the type of a real contract. Thus, for example, in the case of the mortgage it only caused the transfer of ownership, whereas in the case of the contract for use of loans and of deposits it generated the right to hold possession of the item. The loan contract demands the return of the same amount of the same items, whereas other real contracts demanded the return of the very same item.[1]

The loan -*mutuum*i presented a one party contract and *stricti iuris,* which in essence consisted of a complimentary *loan* for the consumption of things which were measurable and which were consumable through their use, meaning *fungible* or usable, replaceable often with an amount of money. The real contract is the most ancient and most important. It was a one party strict contract created by delivering substitute items owned by the debtor, who was obliging that on the request of the creditor or on the predetermined time frame to pay the same amount of replaceable items. For the loan to occur it was demanded to: deliver an item; the item to be replaceable; the item to pass into debtor's ownership. The delivery of the item was possible to be executed in any possible way. This contract was concluded through the transfer of ownership of a certain amount of money or a certain amount of other replaceable items from one subject *the debtor* to another subject, *the creditor,* implying the obligation for the receiver of the loan to return to the lender a certain amount of items of the same type and quality *tandundem eiusdem generis.* There exists a delegation or an authorization of the debtor to borrow the object from a certain person who was obliged to implement the delegation. Whereas, the promise for giving only held legal effects if the same was conducted in the form of *stipulatio.* The loan was conducted only through *datio rei of giving the item*, or delivering the item, which consisted of a *traditio* of the ownership.[2] Only replaceable items were allowed to be borrowing objects. The debtor, borrower, was compelled to return, not the same item, but the same quantity of identical items. For as long as the delivery of items was passed to the borrower's ownership, only the owner of the object of the loan was authorized to bind a contract. The delivery by the non-owner did not include the establishment of the property of the debtor over the obtained object. The creditor, in situations when the borrower lacked fulfilling the obligation, had the right to be protected through the following indictments: a. *actio certae creditae pecunia,* if the loan consisted of a sum of money, b. *condictio certae rei* (which in Justinian law was known as *conditio triticaria,* if the loan object was any other replaceable item.[3] The loan contract was protected through severe lawsuits. Those could be refused when the creditor would require more, when his request was done ahead of time or not at the place designated in the contract. Being a one side contract the loan was tailored to give rights to the creditor and obligations to the debtor only. The creditor had the right of requesting the return of the same amount of the identical items. He had no other right, no option of requesting any type of reimbursement or interest. The debtor's basic obligation was to pay the creditor the same amount of identical items. No more, no less. This occurred since the contract in essence was done for free. This obligation was carried out by the debtor, be it within the determined time frame or upon request by the creditor when there was no determined time frame. During the Vespasan principality, in 1st century AD, a special rule, filed through a *senatusconsultum Macedonianum,* determined the ban of lending money to family children *filii familias.* From the Greek law, the Roman law borrowed a particular piece related to the lending contract. This is the so-called *fenus nauticum.* With *fenus nauticum* we understand the case of money borrowing which was supposed to be transported through see by the borrower and to be used for buying merchandise at the destination point, or to be used for buying merchandise meant to be shipped by sea.[4]

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[1]　Mandro Arta, Ph.D. ,,E drejta Romake" pag. 356-357.

[2] Paul, *Edkt, book 28:* The word loan for a consumer, *mutuum,* is formed from *meum* and *tuum, since what is mine becomes yours* (D.12.1.2.2).

[3] Endru Borkovski & Pol du Plesis *Textbook on Roman Law* p. 4-11. – Third Edition. Publisher: Prosvetno dello Ad, Skopje, 2009.

[4] The most frequent use of *mutuum* was related with money, it became a standard of the Republic's contract for borrowing money. Joining of suplementary terms through stipulations was common, for example, related to the interest needed to be payed or the date of repayment, since *mutuum* was completely free (Metzger, *Compan-iort,* 129).

Use of loan *commodatum*-was a real, two party contract, non-equal, which was established through delivery of a certain irreplaceable item in use, free of charge, to a provisional borrower, who then would pledge that he would keep the item, will use it properly and according to the contracted use, will return the item to the lender. Subject to contract of the loan use contract could have been only irreplaceable items and in order for the contract to emerge, the item, subject to contract, was supposed to be returned back. At the moment of closing the contract for the giver of the loan use emerged only rights, and for the taker only obligations. The basic right of the lender of the use of loan was the right to require from the borrower to keep the object of the loan, to use it according to the agreement and, at the determined place and time, return the same undamaged. The obligations of the borrower of the use of loan were in correlation with the rights of lender. The borrower was responsible for all his obligations; furthermore also for the damage to the lent object from action of force majeure in cases this action could have been foreseen and avoided. In seldom cases, according to the contract of the loan use, the borrower may also enjoy certain rights. For example when the borrower had suffered certain damage due to the lenders irresponsible attitude, as well as when due to the damages within the object he was forced to spend a certain sum of money for its maintenance.

Commodatum consisted of a cost free loan for something physical to use, which was supposed to be returned in the end of the loan term. Unlike *mutuum*, the ownership of the object remained to the lender. This was a two party contract and a *bonae fidei*, the development of which was mostly influenced by the praetorian intervention. The borrowing was supposed to be free. If money were included, the contract would have been *locatio conductio*, and not *commodatum*. The borrowing was usually issued for one purpose and for a settled duration, and if the duration was not set, the borrower was able to keep the object for a reasonable time considering the goal of the borrowing.

Land may be subject to *commodatum*, although this was doubtful before the classical era the food that could be spoiled could not be a subject to it. However, there were minor exceptions, for example, when things where given for exhibition purposes.[1] Unlike the borrower's case, here one could not claim ownership. One could not even claim the ownership of the object, but only the physical control. This way, there could be a valuable *commodatum* even in cases when the lender was not the owner. [2]

***The obligations of the borrower –** He* was supposed to use the property for purposes agreed, otherwise he was responsible for theft, and unless he honestly believed that the lender would approve the same. However, even if the borrower would believe this, it is normal that he would have been responsible for any type of damage caused to the property during its unauthorized use, though deliberately, even for damage through *vis maior*. Furthermore, the borrower was responsible for any type of damage, regardless of the way it could have occurred, whether in cases under *mora*, for example, when one would delay in returning the property. [3]The basic standard of care needed to be applied towards the objects borrowed for use, is the care which would have been given by every *head of family who is considerate* about his private businesses which means that the borrower is excluded from his responsibility only in cases of events he is not able to prevent**, such as the death of slaves, not being his responsibility, such as unexpected robbery or hostility from pirates, ship flooding, fire and escape of the slaves who usually were kept untied.** [4]

*The duties of the lender – H***e was supposed to allow the borrower to use the object during the agreed period, but if the borrower would misuse the property, the lender needed to get compensation or return of the property, immediately. The lender needed to compensate the borrower for all kinds of irregular expenses emerged during the use of the object and legally the borrower was allowed to keep the object until these expenses were cleared. Apparently, the lender was not responsible for the negligence, but only for the *dolus*. Therefore, he was responsible for the damage caused from an object, in cases he was aware for the defects and had not informed about them.[5]**

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[1] Refer to: (D.13.6.3.6.).

[2] In fact a thief was able to be a lender, with the right to a law suit as regards the contract.

[3] Gaius, *Provincial Edict, book 9:* (D.13.6.18pr)..

[4] Ulpian, *Edict, book28:* If the item borrowed is returned damaged, it was considered as not being returned at all, except in cases this was in the interest of the lender (D.13.6.3.1).

[5] Gaius, *ProvindalEdict, book 9:* Again, someone who intentionally lends a damaged container should be punished if the wine or the oil in it gets polluted or spilled (D.13.6.18.3).

Common benefit- In cases when the borrowing would serve both parties, then it turns out that the borrower was prone to the host standard, expected from him for his own work matters *diligentia quam suis rebus*. If the borrowing was only benefiting the lender, the borrower was only responsible for *dolus*.[1] The deposit was the unequal two-party contract established by the delivery of an irreplaceable deposit to the taker who pledged to take care of the item for free and upon request from the deposit-giver or after the predetermined contracted time frame would return it without any damage. Hence, object of deposit contracts were irreplaceable items. The deposit-giver had the right to demand from the deposit-taker to look after the trusted items and return them undamaged. Obligations of the deposit-taker were in correlation with the rights of the depositor. For his obligations, the deposit taker would only be held responsible when the damage of the item or the lack of fulfilling the obligation occurs due to his culpability; otherwise he was freed from any kind of responsibility.

The deposit taker, according to the deposit contract - The deposit taker, according to the deposit contract did not gain the right to use the item or the right to seek compensation for looking after the item. Since the deposit contract was a two party and not equal, the deposit-taker earned the right to seeking his assets when the item had been damaged or when looking after the item included expenses. The Roman law recognized three cases of exceptional deposits:

1. When the deposit-giver, due to unexpected circumstances like fire, earthquake, war, etc., was not able to choose the persons to whom he would entrust the preservation of the item.

2. The court deposit was a contract through which the opposing party would deliver the item to a third person, by obliging him that after the end of the court procedure to return the item to that party that had won the trial. In such cases the deposit-taker earned the intermediary possession which could protect him in all the interdicted *possessions.*

3. The irregular deposit was a deposit over replaceable items. The deposit-taker would become the owner of the entrusted items and by the request of the deposit-giver or within the contracted time frame was obliged to return the same amount of items of the same type. This type of a deposit resembles immensely the loan contract. The difference between them is that the loan contract dealt with the debtor's interests, whereas the deposit with the interests of the deposit-giver.[2]

The pledge- *pignus- Pignus, a pledge* meant a contract *bonae fidei* and a two-party contract, which consisted in transferring the property from the borrower as insurance for the lender in the form of a mortgage. The lender would hold legal possession of the property, be it land or movable property.

Development of Pignus - the pledge was developed from its original form of a real guarantee, *fiducia*, according to which the borrower transferred the property ownership which implied the pledge to the lender as a form of insurance. The transfer in *fiducia* needed to become valid through formal delivery, thus *mancipatio* or *cession in iure.* The lender bound to return the property after the debt was fully returned. However, being the owner, the lender could sell the land if the borrower did not pay. Besides the fact that it was inconvenient, *fiducia* had the disadvantage which deprived the borrower from the right of ownership over the object that was put as a pledge, until the debt was paid. *Pignus did not* face such disadvantages, if the transfer was able to be effective through *traditio* and the borrower kept the ownership, only by giving up from possession. However *fiducia did* not disappear until the late Empire, when the formal ways of transfer became obsolete. Its long survival happened due to the relative popularity of the lenders. They had more rights over the property compared to *pignus.*

Fiducia **and** *pignus* **coexisted together for many centuries**

Therefore *fiducia* and *pignus* coexisted alongside for many centuries, although the second became the most usual form of a guarantee for immovable property. However, we need to emphasize that the difference between *fiducia-s* and *pignus* lied in the fact that the first was done free of charge and based on good trust, *pignus, and* the pledge was a form of a credit similar to the pledge that exists today in modern law. It was a real contract, accessory, two party, unequal which was done through the delivery of an irreplaceable item, to the creditor, who was authorized to posses the item, to sell it and from the price to retrieve the primary debt of the debtor in case of lack of fulfillment by the latter.

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[1] Ulpian, *Edict, book 28:*

[2] Mandro Arta, Ph.D. ,,E drejta Romake" pag.359-356.

Based on this contract the creditor was obliged to protect the pledge object and return it undamaged, when the debtor would orderly fulfill his primary debt.

The pledge contract introduced two different groups of rights – From the pledge contract emerged two different groups of rights and obligations: The real right of the creditor to posses the pledged object. This right was conditioned since it was valid until the predetermined moment for fulfilling the primary obligation. When the debtor would fail to fulfill the obligation the creditor earned the right to sell the item, while making the debtor to provide the difference between the price and the value of the primary obligation. The second group of rights and obligations had an obligatory nature. The debtor had the right to demand the the protection of the item by the creditor, as well as its return if the primary obligation was paid on due time and regularly. Since the contract was a two-party, the creditor in certain cases was able to demand payment of claims that had appeared due to shortcomings of the pledged object and due to expenses for its maintenance.

The position of the parties in pignus – *Within the position in pignus the borrower* was responsible for the caused damage emerged from the defects in the transferred property as insurance, according to the standard of care *bonus paterfamilias.*[1] The lender took possession of the object, although in practice sometimes the borrower was allowed to have physical control. If the lender had the actual control in a random case, he was supposed to protect the property, thus apply the standard *bonus pater familias.* If the lender would misuse the property, the contract was disrupted. *If the creditor* would abuse the pledged property, this resulted with a lawsuit on the pledge. Hence, if he would force a slave into prostitution or forces her to commit *indecent* acts, *the pignus representing her* was abrogated immediately.[2] Namely, the pledge over a slave forced into prostitution ended. The lender had the right to get reimbursement of expenses for the time while taking care of the property. Any benefit he could get from the property was considered as compensation, discount for the loan. [3]

Lawsuits – The obligations of the lender were able to be imposed only if the borrower had paid its debt, when he was ready to carry out the payment, or when he would specifically prove its repayment.[4] However, if the borrower was not able to repay the debt, the primary position was that the lender could keep possession of the property as a guarantee until the debt was not paid, but he could not become its owner and he also could not sell or liquidate it in any way. In short, his position was not quite favorable. For this reason, it was common that the parties agree the lender to have the right of selling; in cases the debt was not returned. If the lender would sell the property for a higher price than the debt, he needed to account for any surplus since he had deducted the debt, the interests and the expenses for organizing the sales. The practice of allowing the lender to sell the property became so widespread that during the classical period it was understood in all types off contracts, except in cases when it was clearly excluded. Another bargain, usually conducted in practice was in cases when parties would agree the lender to gain ownership of the property if the debt was not paid on the determined date, meaning automatic deprivation of the right to property. However, such agreements were banned from Constantine. Nonetheless, a delayed form of deprivation from the right to property was possible according to a procedure dated from Middle Empire, through which the lender was able to make a request to the court in order to gain ownership after the due period of *usucapio,* except in cases when the borrower would pay the debt in the interim period.[5]

The mortgage - Regardless that *pignus* had more advantages for the borrower than *fiducia,* it however demanded the transfer of possession of the pledged item from the lender *pledge-taker.* The borrower would lose the benefits from the property, but he could now use this property to secure only one loan for a certain period. As a respond to the need for a more elastic way of a pledge contract, in the late Republic appeared a modified form *epignus* mortgage, based on which the lender was promised right over the property of the borrower in cases when the debt was not paid, while the borrower was holding ownership and possession rights.[6] The mortgage was maybe created from the practice through which the leaseholders would agree for the owner of the land to be able to seize

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[1] Refer to, cf Inst. 3.14.4.

[2] Refer to, Ulpian, *Edict, book3,* (D. 13.7.24.3.).

[3] If the debt was returned, the lender should have returned the object, together with a supplement, for example when a race mare had given birth, if the mare was put as a pledge.

[4] *Fiducia*-an agreement *pactum fiduciae,* in order to transfer a property through a *mancipatio* or *in iurecessio,* by which the transfer-receiver undertook some obligations after the property transfer.

[5] Ulpian, *Edikt, book* 2S;

[6] Ulpian, *Edict, book 28,* Upian, *Edict, book 30, and* (D.16.3.1.8), cf Inst. 3.14.3.

goods or crops, if the lease was not paid. The mortgage began to be applied in land pledging, but could be also applied for personal estates. According to a mortgage, the borrower was able to secure more than one loan over the same property deposited as a mortgage, meaning he could deposit the property as a mortgage more than once. This possibility demanded the development of regulations which had to do with the priority of liabilities. The basic regulation was that the priority was determined according to the order of the establishment of liabilities, meaning that the first pledge would prevail.[1] Since the priority of paying the debt, depended from the time of the establishment of the obligation, the borrower was obliged to inform a *new potential borrower*, about every existing liability in relation to the property. Failure to declare a prior liability was a criminal violation. In the Late Empire, the rules of the priority were substantially amended. Priority was given to the obligations that were formally registered or for which there was a witness, for example, the default mortgage of a wife over the property of her husband, as insurance for her rights over dowry.[2]

6.   The modern use of contracts from a contemporary viewpoint

The modern use –The Roman contracts have undergone a great influence within the modern law. For example, the differences between the different types of borrowings have been kept, as in part 598-610 BGB and Articles 1874-1914 of the French *Civil Code*, as well as certain changes within the regulations on the standards for caretaking. Hence, the case of borrowing for use, part 599 BGB foresees that the borrower is responsible only for stubbornness and immense negligence, whereas Article 1880 of the *Civil Code* applies the test *bon pere de famille* for the duties of the borrower in taking care about the property. The Albanian legislation also is influenced by the Roman contracts. There are some exact special legal provisions foreseen in the private law which regulate the rights and obligations between the lender and the borrower or the relations between them. [3]

7.   The objective of international cooperation

The objective of international cooperation of the European Union, through the Agreement of Rome dated March 25th, 1957 was the foundation for the international common market aiming at the stimulation and political alignment between member countries of the European Union and beyond to enhance the judicial cooperation between states and to facilitate the contractual judicial cooperation of a commercial character for free transportation of goods between countries through the harmonization of the contractual right for balanced development as insurance for the contractual rights and obligations between countries regulated by the public law. This also included the judicial regulation between natural persons and legal entities in interstate and international relations, as well as the unification of many civil codes related to common standards of the rights and obligations of civil justice of private-property and commercial nature.

The Republic of Albania has regulated this matter with its civil code, whereas the Republic of Kosovo and the Republic of Macedonia have regulated it through specific legal-civic provisions. [4] The British Law is also influenced by the Roman contracts, especially by *commo -ndatum, depositum and pignus.*[5] Hoping this paper will attract immensily the attention of lawyers, as well as by trying to eliminate some inaccuracies arising from this contract, I wish to have somewhat achieved the final objective: working on thesis in a worthy topic which will be useful for the future researchers in this field of civil-justice law related to loan contracts **-***mutuum,* **use of loans -** *comomdatum,* **pledges-** *pignus* and the position of the parties in the private law. I welcome all the recommendation and potential interventions in order to complement and advance the national private law, the international private law and the European international private law.

[1] Gaius, *Action on Mortgage, sole booc.* The creditor who firstly gave money and taken a mortgage is preferred, even if the debtor had agreed previously to put the property to pledge to someone else, again as a mortgage if he gets the credit, regardless that the credit was given in a later time. (D.20.4.11.).

[2] Borkowski Andrew & Plessis Du Paul *E Roman Law,* including an introduction and scientific editing by Spartak Ngjela pag.400-402

[3] Thorough analysis of the pledge by Holt CJKB në *Coggs v. Bernard* (1703) 2 Ld Ryan 909, 92, ER 107, mostly inspired by Roman regulations.

[4] Endru Borkovski & Pol du Plesis *Textbook on Roman Law* p. 4-11. – Third Edition. Publisher: Prosvetno dello Ad, Skopje, 2009.

[5] Refer to, Zimmermann, *Obligationa, p. 203*

Conclusion and suggestive recommendations

In concluding all the theoretical and practical data of this international scientific paper related to the international private law or *ius privatum*, and the European international private law, which includes almost the majority of states in the international systems, we may also conclude that this category incorporated four types of contracts: *mutuum*-loan, *commodatum*-use of loan, *depositum*-deposit and *pignus* – pledge, and a common feature of these was that the obligations under these contracts emerged form the delivery of something corporate. Exactly from this derives the name contract or *re,* meaning a delivered item. The real form of signing a contract was through the delivery of an item which was the only indicator that the contractors agree to make the contract. Therefore, *obligatio re contracta* brought around the obligation deriving from the delivered item *res, which then resulted in the obligation to return it to Roman law.*

According to the research of this scientific paper, we can state that the real contracts in national net-legislation were not so much applied as in the past, or they don't have the same legal-civil weight as before in the system of the Roman law. This paper was written through a scientific, empirical and investigative commitment, with which we reach the confirmation of presented hypothesis in the introductory part of the scientific paper. It discusses the role of the Roman real contracts and their influence in the system of national and international private law and on a European international private law.

Relying on the contemporary legislations of many countries we can conclude, according to the empirical data from the scientific research and to those surveyed; parties, contractual parties, judges, notaries, judicial and legal experts, pedagogues, as well as bailiffs, the contracts in our country, are in general protected through positive laws of the country and of those international. When referring to Macedonia, these are in fact of consensual nature by function. While when we discuss the real contracts in the private law within our legal system we can conclude that these types of contracts mostly appear in banking systems where a part of citizens or creditors who had loans, in the majority of cases up to 49 % , had put their real estates under mortgage. From what we could conclude through the survey with people from this category, the majority had put under mortgage their apartments, houses, as well as different real estates. Also, something worth pointing out is some features that emerged from the surveyors among whom the majority thought that every agreement should be made in a written form or a contractual form. 61% of the surveyors believed this, whereas a part of the surveyors of around 29% declared that there is no need for every agreement to be made in a written form because the given word should be kept. On the other hand, 10 % of the surveyors did not hold an opinion on how should it be acted or what the best form of action in such agreement cases should be, but their expression was refrained and a part of them believed that the majority of problems that appear is related to the visa issue in the Balkan countries and this constitutes an essential injustice which is in contradiction with the basic international legal-civil rights. It is important to unify private law and contractual law which is a basic right of the international civil law. We need to achieve a harmonization and modernization of the national, international and European international private law. The European Commission is aware of this issue, but the Balkan countries still don't enjoy this right in the proper point and level of the contracting parties in an international level because they face many administrative and bureaucratic difficulties. The European Union, being aware for these problematic issues accepted the intervention of academic and scientific circles who did foresee the unification of the private and the contractual law, as was the case with the ratification of the agreement adopted by the European Commission, dated May 19th, 2003, - 68 def. This approved the action plan for the implementation of the contractual rights into a new European discipline. This action plan is in function even today as a "special frame" (CFR Common FRAME of Reference) of the terms, terminology, and specific principles of international character.

Viewed in this light, this is a relatively new process to us and to other Balkan countries, but the recent free movement of people has stirred even more this inter personal *ius quod ad personas pertinet,* inter item *ius quod ad res pertinet,* and inter procedural *ius quod ad actiones pertinet,* with foreign elements. It surely needs to undergo a more in-depth study and an in-depth research to these three basic elements at an international level which would be in the mutual inter-institutional and inter-personal interest related to the international private law and the European international private law of a legal-civil contractual character.

REFERENCES:

[1] Aliqivadh Lamani, "Procedura Civile e shqipërisë", 1962,

[2] Alpa, Branca , Europian Community Result and the Codification of ,,Private Law", Eur. Rev of Priv. Law, 2000.

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[3] Ardian Nuni "E Drejte e Pronësisë" Tiran,

[4] Avni Shehu; ,,Pronësia" Shtëpia botuese e Librit Universitar, Tirane 1998

[5] Bashkim Dr Selmani & Bekim Mr. Rexhepi ,, E drejta familjare dhe trashëgimore (romake) dhe ndikmi isaj në të drejtën bashkëkohore shqiptare"-Ferizaj, 2014.

[6] Bashkim Dr. Selmani ,,E DREJTA ROMAKE dhe ndikmi i saj në sistemet e së drejtës bashkëkohore" Botues: Universiteti Shtetëror i Tetovës. Tetovë, 2013.

[7] Endru Borkovski & Pol du Plesis ,,Teksti së drejtës romake " - Botimi i III-të. Shtëpia Botuese: Prosvetno dello Ad, Shkup, 2009.

[8] Galgano, Francesco. E Drejta private. Tiranë: Luarasi, 2006.

[9] J. Latifi " E Drejte Civile" Tirane

[10] Kodi Civil Shqiptar; Shtëpia botuese "ALBAL", Tirane 1997 Kodi Civil i vitit 1929 Kodi Civil i vitit 1981.

[11] Ligji Nr.10 031, datë 11.12.2008"Për shërbimin Përmbarimor Gjyqësor Privat".

[12] Ligji Nr.8730, datë 18.1.2001"Për organizimin dhe funksionimin e shërbimit të përmbarimit gjyqësor",Ligji për procedurën Kontestimore,

[13] Ligji për procedurë Përmbarimore,

[14] M. Semini; "E Drejta e Detyrimeve dhe e Kontratave" volumi I dhe II. Shtëpia botuese "Afërdita, Tirane 1988, Shtëpia botuese " Scanderbeg book" Tiranë 2007.

[15] Maho, B. (2011). "Profesionet e lira" (Cikel leksionesh). Tirane: UET Press.

[16] Malindi, Y. Ceco, S, Hasani, S. (1986). "E Drejta Procedurale Civile RPSSH". Tirane: Shtepia botuese e Librit Universitar.

[17] Mandro Dr. Arta ,, E drejta romake" Emal , Tiranë, 2011.

[18] Mariana Dr. Tutlani-Semini ,,E drejta e detyrimeve dhe e kontratave" tiranë, 2006

[19] Mariana Semini; "E Drejtë Civile. Pjesa e Përgjithshme. Subjektet" Fakulteti i Drejtësisë "Justicia" Tirane 2004

[20] Mehedi J.Hetemi; Detyrimet dhe kontratat", Shtëpia botuese "Luarasi" 1998 ,,Obligimet dhe kontratat e përgjithshme", Shtëpia botuese " Luarasi" Botuar sipas origjinalit 1932.

[21] Nazmi Bicoku; ,,E Drejta e Trashëgimisë ne Republikën e Shqipërisë" Tiranë 1998

[22] Nerxhivane Dr. Dauti ,,E Drejta e Detyrimeve" Prishtinë 2004

[23] Nuni, Ardian. Mustafa, Ilir. E drejta e detyrimeve Vol. I e II. Tiranë: SHBLU, 2008.

[24] Pasuritë e paluajtshme" Vol.1 dhe II, Shtëpia botuese " ALBAL" Tirane 1996

[25] Tutulani-Semini, Mariana ,,E drejta e detyrimeve dhe e kontratave pjesa e përgjith -shme dhe e posaçme". Tiranë: Skanderbeg Books, 2006.

[26] Valentina Kondili ,,E Drejte Civile. Pjesa e përgjithshme" Tiranë, 2007

[27] Valentina Kondili " E Drejte e Pronësisë" Tiranë, 2007

CIVIL CODES OF A NUMBER OF STATES

Civil Code of Republic of Albania

Civil Procedure Code of Republic of Albania

Civil Code of Republic of Turkey

Civil Procedure Code of Republic of Turkey

Civil Code of Republic of Austria

Civil Code of Germany

Civil Code of Croatia

Civil Code of Slovenia

Civil Code of Macedonia

Importance of Video Aids' Usage in Teaching and Learning Process of English Language Classes

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Abstract

This study aims to explore the use of video in English language teaching (ELT) elementary school (grades 8 to 9)... In addition, the thesis aims to find out how videos in English lessons helped to achieve the goals of English curriculum. The main hypothesis was that teaching with video would develop pupils' communicative skills and, therefore, was appropriate for the communicative approach to ELT. The study addressed five research questions regarding the use of videos in English lessons in the case study school: why the teachers used videos in ELT, what kinds of videos were used in English lessons, how and how often videos were used, what was taught and learned through the use of videos and, finally, what the teachers' and pupils' attitudes to lessons with videos were. The research was performed as a case study at an Elbasan elementary school. The data for the research was obtained through the use of mixed methods: qualitative, in the form of interviews with four English teachers and observations of three of the interviewed teachers' lessons with videos, and quantitative, in the form of a pupil questionnaire answered by 105 pupils from two 8th grade and two 9th grade classes.

Key words: _video-aids, English language, teachers, pupils, teaching_

Introduction

Topic, scope and background of the thesis

The thesis is based on a case study of the use of video in English language teaching (ELT) in An Elbasan elementary school (grades 8 and 9). Videos are defined as texts combining different modalities, such as words, images, sounds, and/or music. Thus, videos are multimodal texts. Videos are represented by feature films, cartoons, YouTube clips, documentaries, commercials, TV shows, sitcoms (situational comedies), and shorts (films that combine both images and sounds and last between thirty seconds and fifteen minutes (Massi and Blazquez 2012:63)).

The research is mixed methods: it is based on interviews with four English teachers from an Elbasan elementary school, observations of three of the interviewed teachers' English lessons with videos, and a questionnaire answered by 105 pupils from two 8th grade and two 9th grade classes. The four classes participating in the questionnaire were taught by the four interviewed English teachers.

The choice of the topic was inspired by my personal interest in how teaching with video fits in with the communicative approach and most importantly, how it is exercised in English classrooms in Elbasan. Albania, as a post-communist country and the transition period has influenced on teaching ways and methods. The use of video in education used to be extremely limited due to a number of reasons, such as the long domination of the grammar-translation method of teaching foreign languages and poor quality teaching resources, equipment and opportunities for teaching with video. On the other hand, in our days it seems to be a country where teaching with video in ELT is being adopted. Therefore, this research was a unique chance for the researcher to explore why and how the method is used in English classrooms.

The life of 21st century pupils in Albania, similar to many other countries, both inside and outside the classroom, is saturated with technology. Therefore, it seems important that contemporary teachers know how to use digital tools in education. One of the media that foreign language teachers are more likely to turn to is videos, because they are such a common feature of pupils' everyday lives.

Lately, Albanian Ministry of Education and Sports revised a general low which represents a strategy for promoting foreign languages in primary and secondary education by including foreign languages as a compulsory exam at the end of each cycle of education, at the end of the 9th grade and 3d grade to secondary education cycle. Country needs people with good linguistic skills, and hence every effort should be made to reinforce the position of languages in schools and make pupils at all levels become as proficient as possible in English. The Ministry aims to increase their insight into the strategies used when learning languages. Therefore, they are interested in how activities are planned and presented to the pupils and how much the latter learn. This means that language material can be presented electronically and include text, sound and film. Thus, this thesis on the use of video in ELT will provide insight into both how English teaching is organized and practiced in an Albanian (Elbasan) school, and, which is more important, how digital media are introduced and exploited in these Albanian classrooms.

It is also important to take into account the English subject curriculum in the current national curriculum. The English curriculum is divided into three main areas: (1) Language learning, (2) Communication, and (3) Culture, society and literature. Thus, one of the main objectives of the curriculum is to enable pupils to communicate in English. New media play a significant role in achieving the communicative goals in the curriculum by providing learners with linguistic situations that are suitable for training communicative skills.

The English subject curriculum presupposes five basic skills to be developed in English: being able to express oneself in writing and orally, being able to read, numeracy, and being able to use digital tools. According to the authors of the curriculum, using digital tools may help the development of English linguistic competence by promoting the authentic use of the language (The Knowledge Promotion Curriculum) 2006).

Research questions and expectations

This thesis thus aims to shed light on ELT through videos by discovering how the process of teaching with video is practiced by English teachers in an Albanian school.

The thesis addresses the following research questions:

- Why do the teachers use videos in ELT?
- What kinds of videos are used in English lessons?
- How and how often are videos used?
- What is taught and learned through the use of videos?
- What are the teachers' and pupils' attitudes to lessons with videos?

One of the main expectations is that teaching with video aims at the development of the pupils' communicative skills and, therefore, fits in well with the communicative approach to language teaching. Consequently, it will be seek to find out whether teaching with video is primarily a meaning-based or form-based approach to ELT in the case study school. Another hypothesis is that the teachers from the case study school prefer short videos to long videos due to lack of class time, namely forty-five-minute lessons in comparison with two-hour-long feature films, as well as the limited number of teaching hours of English (two to three hours a week).

In addition, it is aimed to find out how the teachers and their pupils perceive the results, benefits and drawbacks of lessons with videos, as well as the pupils' attitudes to such lessons. It may be expected that, on the whole, the pupils regard such lessons as entertaining and have positive experiences. On the other hand, it would also be interesting to discover if this assumption reflects the reality and if some pupils may have negative experiences. If so, it is important to find out what makes such lessons unattractive to them. The teachers' attitudes will also be explored, as well as the issues that may prevent them from using videos in class, such as if teaching with video is extremely time-consuming and it costs.

METHODOLOGY

The research was based on a case study of the use of video in ELT in an Elbasan school "Ptoleme Xhuvani" (grades 8 to 9). The case study school was located in an urban area and had 3 parallel classes in each year, 38 teachers and approximately 320 pupils. The main research questions were why the English teachers in the case study school used

videos in ELT, what kinds of videos were used, how and how often videos were used, what was taught and learned through the use of videos and, finally, what the teachers' and pupils' attitudes to lessons with videos were.

In order to answer the above questions, mixed methods research was used. Thus, it was employed qualitative methods of data collection, namely teacher interviews and lesson observations, and a quantitative method, namely a pupil questionnaire. Different methods of data collection increased the validity of the research. According to Dörnyei (2007:124), qualitative inquiry is very different from quantitative: while the latter can be easily divided into two distinct phases – data collection and data analysis – because they usually follow each other linearly, qualitative data collection and analysis, in their turn, are often circular and frequently overlap. Moreover, it is sometimes problematic to decide whether a particular qualitative method refers primarily to data collection or data analysis (Dörnyei 2007:124). Besides, Dörnyei (2007:125) accentuates the two main characteristics of a typical qualitative dataset: first, the tendency of qualitative data to become increasingly long and, second, its unfocused and heterogeneous nature. Nevertheless, because of its heterogeneity, qualitative inquiry can provide the researcher with rich, various and multiple data on the topic and hence with valuable results. Quantitative research, in its turn, can contribute to the study by providing proof of a greater accuracy and eliminating bias by the researcher.

Since the present research combines three different research methods – interviews, a questionnaire and lesson observation – it is relevant to comment on each of them before discussing them in detail.

Case study

A case study is defined as 'a detailed examination of a single subject or group or phenomenon' (Borg and Gall 1989:402). Thus, the current case study involved an investigation of why and how the English teachers from the particular Norwegian elementary school used videos in their teaching, as well as how their pupils reacted to and learned from such teaching. Borg and Gall (1989:403) differentiate between several types of case studies, such as historical case studies of organizations, observational case studies, oral histories, situational analysis, and clinical case study. The present case study can be distinguished as observational, because it focuses on English classrooms as a part of an organization (a elementary school) and the focus of the study is a group of individuals (the teachers and pupils).

Borg and Gall (1989:402) believe that: 'A case study requires the collection of very extensive data in order to produce an in-depth understanding of the entity being studied.' Therefore, the researcher employed the three aforementioned methods of data collection. The researcher believed that these three methods would provide detailed information and a deep vision of the topic, since multiple methods increase the validity of the study and provide versatile results.

Interviews

Four English teachers from the case study school were interviewed. Two of them taught English in the 8th grade, whilst the other two in the 10th grade. The researcher got in contact with one of the teachers via her university lecturer. The contacted teacher became a 'gatekeeper' for the researcher and helped her to contact the other three English teachers. The four teachers were all interviewed individually for approximately 45 minutes each.

The interview as a research method involves the collection of data through direct verbal interaction between individuals. The interview has the advantage of immediate feedback as contrasted with the questionnaire. Besides, the questionnaire is often criticized for being too shallow to provide a true picture of opinions (Borg and Gall 1989:446). On the other hand, the

It is conducted a semi-structured interviews for verbal data collection. This kind of interview can provide, on the one hand, with a certain amount of precision and accuracy, as opposed to unstructured interviews, and, on the other hand, with some level of flexibility, as opposed to structured interviews. In a semi-structured interview, the researcher uses an interview guide with specific questions that are organized by topic but are not necessarily asked in a specified order (Bailey 2007:100). According to Borg and Gall (1989:452), semi-structured interviews have the advantage of being reasonably objective and deep because they provide the interviewer with the opportunity to ask open-ended questions in order to obtain more complete data.

While interviewing, the focus was on listening to the interviewees more and speaking less by only asking the questions from the interview guide and the questions that arose during the interview. The researcher's aim was not to probe, dispute or judge the teachers' answers about their experiences; therefore, she tried to explore the latter with as objective as possible an attitude by asking more open-ended questions and following up without interruptions.

In order to keep the received data confidential for satisfying the ethical requirements of the research, it was transcribed parts and summarized the rest of the interviews herself.

Questionnaire

In total, 105 pupils from two 8th and two 9th grades were asked to answer a questionnaire. The questionnaire was originally written in English (see Appendix 2) and then translated into Albanian (see Appendix 3) so that there was less risk of the pupils misunderstanding the items, thus increasing the reliability of the research. Specifically, 50 pupils from two 8th grade classes and 55 pupils from two 9th grade classes participated. Brown (2001), cited in Dörnyei (2008:6), and gives the following definition of questionnaires: 'Questionnaires are any written instruments that present respondents with a series of questions or statements to which they are to react either by writing out their answers or selecting from among existing answers.' The pupils were asked to answer a questionnaire, ticking off 25 statements on a scale from 'strongly disagree' to 'strongly agree' ('strongly disagree', 'disagree', 'neutral', 'agree', and 'strongly agree'). The questionnaire included statements concerning the pupils' attitudes to lessons with videos, as well as the effect of videos on the development of oral, reading and writing skills, vocabulary growth, promoting cultural awareness, and the use of subtitles. Thus, the questionnaire contained, for example, statements, such as: 'Videos in English lessons provide me with topics to communicate with other classmates' or 'Videos in English lessons inspire me to read books that I may have previously had little interest in or that I did not know about before'.

The questionnaire as a method of data collection was chosen because of the following advantages: time and effort. Firstly, it took the pupils only about 20-25 minutes to answer the questionnaire, which is beneficial when collecting information from teenagers who may find the research procedure long, boring, or unnecessary to spend much time on it. Secondly, since 105 pupils participated in the project, it would not have been possible for the researcher to interview so many of them. However, the disadvantage of questionnaires is that they give general data without extensive information on the personal feelings and opinions of the participants. That is why the researcher included an open question in the questionnaire to learn whether the pupils had positive or negative attitudes and experiences of lessons with the use of video: 'What was your favorite English lesson with video? Why?' In order to keep the received data confidential, the questionnaires were anonymous.

Observation

Lesson observation took place in four lessons with video taught by three of the interviewed teachers from the case study school. Observation as a method of data collection in a case study implies the thorough examination of the characteristics of the phenomena being studied. The main advantage of observation is that it provides direct access to the phenomena under examination. Instead of relying on collecting information from other people, the researcher has the opportunity to observe the case him or herself. As opposed to observation, interviews as well as questionnaires may not always provide accurate or complete information because the respondents might answer in the way that corresponds, as they may think, to what is desirable. However, interviews and questionnaires are still an important basis of research data and they should by no means be ignored. Observation as the third method in mixed methods research can simply complement the first two methods more effectively and efficiently by providing the researcher with more unbiased and objective data.

FINDINGS

Introduction

This chapter presents the results of the research on the use of video in ELT carried out in the case study school. As stated in the previous chapter, the research is implemented in the following three research methods in the study: teacher interviews, a pupil questionnaire, and lesson observation.

It is observed English lessons with video taught by the interviewed English teachers except for Anna, because she explained that her class consisted of emotionally vulnerable pupils who might consider an observation lesson as a difficult or unpleasant experience. Therefore, the researcher observed two lessons of Era teaching with a complete film and one lesson of Maria and Lela teaching with a film, in which they showed part of the film during the observed lesson. The two latter observations with part of a film were carried out because the researcher's aim was to observe a typical lesson with video, rather than necessarily all the lessons with the same video from beginning to end. The teachers reassured that the observed lessons were the teachers' typical way of using video in class. During all her observations, I was setting at a seat at the back of the classroom in order to have the possibility to observe the whole class and take field notes.

Pupil's questionnaire

This subsection presents the findings from the questionnaires answered by the 8th and 9th grade pupils from the case study school, comprising 105 respondents in total. Each of the tables addresses one specific aspect concerning teaching with video. These aspects are the affective aspects of watching videos, the general educational aspects, and the frequency of watching videos in relation to vocabulary growth, the connection between watching videos and the development of oral language skills, the connection between watching videos and the development of other language skills, the cultural and contextual aspects of watching videos, and videos and subtitles.

Table 1 presents an overview of the questionnaire responses on the affective aspects of watching videos.

Table 1: Affective aspects of watching videos

Statement No 105	Strongly agree	Agree	Disagree	Strongly disagree	Neither agree nor disagree
English lessons with videos are fun and entertaining.	69 (65%)	30 (29%)	2 (2%)	2 (2%)	2 (2%)
I do not like English lessons when my teacher uses videos	5 (5%)	4 (4%)	29 (28%)	54 (51%)	13 (12%)
Videos in English lessons help me to gain confidence in speaking to my classmates.	18 (17%)	27 (26%)	24 (23%)	8 (7%)	28 (27%)
Visual cues (for example, face expressions and body language) in videos help me to maintain my interest and concentration while listening	29 (28%)	57 (54%)	6 (6%)	2 (2%)	11 (10%)

Table 2 provides an overview of how the pupils perceived the educational benefits of lessons with videos.

Statement No 105	Strongly agree	Agree	Disagree	Strongly disagree	Neither agree nor disagree
I learn more English during English lessons with videos.	14 (13%)	41 (39%)	17 (16%)	3 (3%)	30 (29%)
I learn in a more efficient way during English lessons with videos.	19 (18%)	44 (42%)	13 (12%)	5 (5%)	24 (23%)

Table 3 provides an overview of the pupils' responses to the frequency of watching videos in English lessons in relation to vocabulary growth.

Statement No 105	Strongly agree	Agree	Disagree	Strongly disagree	Neither agree nor disagree
Just a few lessons with videos do not help me to increase my vocabulary.	8 (7%)	22 (21%)	38 (36%)	10 (10%)	27 (26%)
Regular lessons with videos help me to increase my vocabulary a lot.	30 (29%)	55 (52%)	7 (7%)	2 (2%)	11 (10%)

Table 4: Effects of watching videos on oral language skills

Statement (N = 105)	Strongly agree	Agree	Disagree	Strongly disagree	Neither agree nor disagree
Videos in English lessons provide me with topics to communicate in English with other classmates.	11 (10%)	37 (35%)	25 (24%)	6 (6%)	26 (25%)
Videos in English lessons help me to improve my pronunciation and intonation.	41 (39%)	50 (48%)	3 (3%)	2 (2%)	9 (8%)
Videos in English lessons help me to understand oral English better than just ordinary audio sound recordings (CD, etc.).	34 (32%)	50 (48%)	5 (5%)	1 (1%)	15 (14%)
Videos in English lessons are a good source to make me familiar with and used to different ways of pronunciation and intonation.	50 (48%)	46 (43%)	3 (3%)	-	6 (6%)

Table 5: Effects of watching videos on reading, writing and vocabulary

Statements (N = 105)	Strongly agree	Agree	Disagree	Strongly disagree	Neither agree nor disagree
Videos in English lessons inspire me to read books that I may have previously had little interest in or that I did not know about before.	13 (12%)	22 (21%)	35 (34%)	11 (10%)	24 (23%)
Videos in English lessons make me more interested in doing written tasks.	12 (11%)	43 (41%)	25 (24%)	9 (9%)	16 (15%)
Videos in English lessons help me to learn vocabulary.	46 (44%)	46 (44%)	5 (4%)	4 (4%)	4 (4%)

BIBLIOGRAPHY

[1]   Allan, Margaret. 1984. 'Viewing comprehension in the EFL classroom.' ELT Journal, 38 (1): 21-26.

[2]   Arnseth, Hans Christian, Hatlevik, Ove, Kløvstad, Vibeke, Kristiansen, Tove and Geir Ottestad. 2007. ITU Monitor 2007. Oslo: Universitetsforlaget.

[3]   Bailey, Carol A. 2007. A Guide to Qualitative Field Research. 2nd edn. Thousand Oaks, Calif.: Pine Forge Press. [first published 1996]

[4]   Barton, David. 2007. Literacy: An Introduction to the Ecology of Written Language. Malden, Mass.: Blackwell Publ.

[5]   Burns, Anne and Jack C. Richards (eds.). 2012. The Cambridge Guide to Pedagogy and Practice in Second Language Teaching. Cambridge: Cambridge University Press. 107 .

[6]   Canning-Wilson, Christine. 'Practical aspects of using video in the foreign language classroom.' Internet TESL Journal, 6 (11). 11 November 2000. Accessed 24 March 2013. <http://iteslj. org/Articles/Canning-Video.html>.

[7]   Cavanaugh, M. P. 1996. 'History of teaching English as a second language.' English Journal, 85 (8): 40-44.

[8]   Chapple, Lynda and Andy Curtis. 2000. 'Content-based instruction in Hong Kong: Student responses to film.' System, 28 (3): 419-433.

[9]   Cohen, Louis, Morrison, Keith and Lawrence Manion. 2000. Research Methods in Education. 5th edn. London: RoutledgeFalmer. [first published 1980]

[10]   Drew, Ion and Bjørn Sørheim. 2009. English Teaching Strategies. Methods for English Teachers of 10 to 16-year-olds. 2nd edn. Oslo: Det Norske Samlaget. [first published 2004]

[11]   Dörnyei, Zoltán. 2007. Research Methods in Applied Linguistics: Quantitative, Qualitative, and Mixed

[12]   Gareis, Elisabeth, Allard, Martine, Gill, Susan and Jacqueline Saindon. 1998. 'Beyond entertainment: Novels and film adaptations in the ESL/EFL classroom.' TESL Canada Journal, 15 (2): 50-58.

[13]   Gebhard, Jerry G. 'Teacher development through exploration: Principles, ways, and examples.' Teaching English as a Second or Foreign Language, 9 (2). September 2005. Accessed 31 August 2013. <http://www.tesl-ej.org/wordpress/issues/volume9 /ej34/ej34a4/>.

[14]   Gee, James Paul and Elisabeth R. Hayes. 2011. Language and Learning in the Digital Age. Abingdon, England: Routledge.

[15]   Graddol, David. 1997. The Future of English? A Guide to Forecasting the Popularity of the English Language in the 21st Century. London: British Council.

[16]   Gruba, Paul. 2006. 'Playing the videotext: A media literacy perspective on video-mediated L2 listening.' Language Learning & Technology, 10 (2): 77-92.

[17]   Hatlevik, Ove Edvard. 2009. 'How to identify and understand digital literacy among 9th grade Norwegian students: Examining the influences from school and home on students' digital literacy.' Nordic Journal of Digital Literacy, 3 (4): 159-174.

[18]   Hayati, Majid A. and Firooz Mohmedi. 2010. 'The effect of films with and without subtitles on listening comprehension of EFL intermediate students.' International Journal of Instuctional Media, 37 (3): 301-313.

[19]   Ishihara, Noriko and Julie C. Chi. 2004. 'Authentic video in the beginning ESOL classroom: Using a full-length feature film for listening and speaking strategy practice.' English Teaching Forum, 42 (1): 30-35.

[20]   Ismaili, Merita. 2013. 'The effectiveness of using movies in the EFL classroom – a study conducted at South East European University.' Academic Journal of Interdisciplinary Studies, 2 (4): 121-132.

[21]   Jourdain, Robert. 1997. Music, the Brain, and Ecstasy: How Music Captures Our Imagination. NY: Avon Press.

[22] Koolstra, Cees M., Peeters, Allerd L. and Herman Spinhof. 2002. 'The pros and cons of dubbing and subtitling.' European Journal of Communication, 17 (3): 325-354.

[23] Krashen, Stephen D. 1982. Principles and Practice in Second Language Acquisition. Oxford: Pergamon Press.

[24] Krashen, Stephen D. 1989. 'We acquire vocabulary and spelling by reading: Additional evidence for the input hypothesis.' The Modern Language Journal, 73 (4): 440-464.

[25] Krashen, Stephen D. (1st internet edition). 2002. Second Language Acquisition and Second Language Learning. Accessed 24 March 2013. <http://www.sdkrashen.com/SL_ Acquisition_and_ Learning/>.

[26] Köksal, Dinçay. 2004. 'To kill the blackboard? Technology in language teaching and learning.' The Turkish Online Journal of Educational Technology, 3 (3): 62-72.

[27] Labbas, Rachida and Abir El Shabar. 2013. 'Teacher development in the Digital Age.' Teaching English with Technology, 13 (3): 53-64.

[28] Leaver, Betty Lou. 1998. Teaching the Whole Class. Dubuque, Iowa: Kendall Hunt.

[29] Leaver, Betty Lou, Ehrman, Madeline Elizabeth and Boris Shekhtman. 2005. Achieving Success in Second Language Acquisition. Cambridge: Cambridge University Press.

[30] Lebedko, Maria. 1999. 'Video as a resource for teaching American culture.' TESL Reporter, 32 (1): 1-8.

[31] Lewis, Marilyn and He Anping. 2002. 'Video-viewing tasks for language teacher education.' RELC Journal, 33 (1): 122-136.

[32] MacWilliam, Iain. 1986. 'Video and language comprehension.' ELT Journal, 40 (2): 131-135.

[33] Marsh, Jackie and Elaine Millard. 2004. 'Television and film.' In Grainger, Teresa (eds.), The RoutledgeFalmer Reader in Language and Literacy. New York: Routledge. 217-235.

[34] Massi, Maria Palmira and Bettiana Andrea Blazquez. 2012. 'A short is worth a thousand films!' Teaching English with Technology, 12 (3): 62-86.

[35] McNulty, Anastassia and Bojan Lazarevic. 2012. 'Best practices in using video technology to promote second language acquisition.' Teaching English with Technology, 12 (3): 49-61.

[36] Mills, Kathy A. 2011. The Multiliteracies Classroom. Bristol: Multilingual matters.

[37] Nagira, Yuri. 2011. 'Vocabulary learning through captions.' International Conference on Languages, Literature and Linguistics, 26: 95-99.

[38] Nixon, Helen and Barbara Comber. 2001. 'Film and video bridge popular and classroom cultures.' Journal of Adolescent and Adult Literacy, 44 (5): 480-483.

[39] Pandya, Jessica Zacher. 2012. 'Unpacking Pandora's box: Issues in the assessment of English learners' literacy skill development in multimodal classrooms.' Journal of Adolescent and Adult Literacy, 56 (3): 181-185.

[40] Pedro, Francesc. 2007. 'The new Millennium learners: Challenging our views on digital technologies and learning.' Nordic Journal of Digital Literacy, 4: 244-263.

[41] Rahmatian, Rouhollah and Novid Armium. 2011. 'The effectiveness of audio and video documents in developing listening comprehension skill in a foreign language.' International Journal of English Linguistics, 1 (1): 115-125.

[42] Reid, Joy M. 1987. 'The learning style preferences of ESL students.' TESOL Quarterly, 21 (1): 87-109.

[43] Richards, Jack C. 2006. Communicative Language Teaching Today. Cambridge: Cambridge University Press.

[44] Roell, Christine. 2010. 'Intercultural training with films.' English Teaching Forum, 48 (2): 2-15.

[45] Rubin, Herbert J. and Irene S. Rubin. 2005. Qualitative Interviewing: The Art of Hearing Data. 2nd edn. Thousand Oaks, Calif.: Sage. [first published 1995]

[46] Scacco, John. 2007. 'Beyond film: Exploring the content of movies.' English Teaching Forum, 45 (1): 10-15.

[47] Schachter, Jacquelyn and Susan M. Gass (eds.). 1996. Second Language Classroom Research: Issues and Opportunities. Mahwah, N.J.: Lawrence Erlbaum Associates, Inc. 114

[48] Schütz, Ricardo. 'Stephen Krashen's theory of second language acquisition.' English Made in Brazil. 2 July 2007. Accessed 24 March 2013. <http://www.sk.com.br/sk-krash.html>.

[49] Scrivener, Jim. 2005. Learning Teaching: A Guidebook for English Language Teachers. 2nd edn. Oxford: Macmillan Education. [first published 1994]

[50] Smilanich, Brad and Nicole Lafreniere. 2010. 'Reel teaching = real learning: Motivating reluctant students through film studies.' Journal of Adolescent and Adult Literacy, 53 (7): 504-506.

[51] Spolsky, Bernard. 1969. 'Attitudinal aspects of second language learning.' Language Learning, 19: 271-285.

[52] Spolsky, Bernard. 1989. Conditions for Second Language Learning: Introduction to a General Theory. Oxford : Oxford University Press.

[53] Språk åpner dører. Strategi for styrking av fremmedspråk i grunnopplæring (2005-2009). 2007. Oslo: Utdanningsdirektoratet.

[54] Stempleski, Susan and Barry Tomalin. 1990. Video in Action: Recipes for Using Video in Language Teaching. Cambridge, MA: Prentice Hall.

[55] Stempleski, Susan and Barry Tomalin. 2001. Film. New York: Oxford University Press.

Justification of Acquisitive Prescription in the Civil Law System. Why is It Not an "Uncompensated Deprivation?

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Abstract

Acquisitive prescription (a civil law institute) and Adverse Possession, its equivalent in the common law system is already a consolidated private law institute. It is recognised from the legal systems of almost each country in the world and is among the most important original ways of gaining ownership. Its constitutionality and the fact that should it be recognized from a legal system or not was brought in question in 2002, sparking a debate between lawyers in the world. The debate rose after the announcement of the decision of the ECHR (European. Court of Human Rights) in the case JAPye (Oxford) Ltd vs Graham. The Fourth Chamber of the ECHR held that acquisitive prescription is actually an 'uncompensated deprivation. First, we will analyze the main theories on the basis of which this institute is justified. The question to be raised for the review of the article is whether prescription is morally and legally justified, especially in the case of prescription in bad faith. In the end, it will be reached the conclusion that there are justified reasons for the prescription and it is a very useful institution in the civil circulation. But preliminary stricter legal criteria must be met for the recognition of the property right by prescription, especially in the case of bad faith prescription. The law should aim to provide a greater protection to the legitimate owner.

Keywords: property rights, ways of gaining ownership, acquisitive prescription, property deprivation, european court of human rights

I. Why the need for justification of adverse possession. [1]

The strange and wonderful"' doctrine of adverse possession."(Stake,2001) shows interest for Study because it is one of the institutes of law, known as the common law and civil law, which contains many contradictions. Application of this institute always has faced strong debates and controversy, as in its implementation both in private law and in public law.[2]

Although this institute is found in both systems of law, mostly efforts to justify it are made by the researchers of common law. But it is difficult to find a single justification for the doctrine of adverse possession, as it can be applied in different cases and situations that may vary greatly from one another.

The debate on justification of adverse possession has centuries that goes on. Since the beginning of nineteenth century the famous American judge Holmes has described adverse possession"a pure evil" Some authors say that adverse

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[1] Acquisitive prescription" is term used in civil law, and "adverse possession" ne common law. After a possession that continues for a certain period of time explicitly in law, a holder may become the owner of movable or not movable property .Per this he needs to establish the court, on the expiry of adverse period a lawsuit on "Knowing ownership through adverse possession ". If the user knows that is using someone else's land , is called misfaith, if the user thinks that the land is his is called possession in good faith. .Good faith is important only in civil law, not in common law..

[2] "Ever since the days of Grotius, there has been considerable discussion on the contents and function of…acquisitive prescription, while some of the leading international lawyers of the 19th century such as Fedor von Martens (1845-1909) and Alphonse Rivier (1835-1898) disputed their place in international Law." (Lesaffer, 2005, page 47)

possession does not vary much from theft."If the origin of property is "the agreement among men legalizing what each had already grabbed, without any right to do so, and granting, for the future, a formal right of ownership to the first grabber," how is property any different from theft?"[1]Another well-known author of private law, Ballantine, stated that the adverse possession is "an anomalousinstance of maturing a wrong into a right contrary to one of the most fundamental axioms of the law."[2]. While from other researchers is considered "an irregularity within our property regime"(Foncello,2005) or "disproportionate punishment" (Williams,2009)

Only in the twentieth century took a special importance study of the causes and justifications of various institutes of law . Unlike the theories of legal formalism, who saw the law as a whole legal norms, which are established once and for all, unchangeable, in the twentieth century was developed the theory of legal realism, which means that the law can take place only through doctrinal debate , justification of various institutes, debates thatdevelop jurisprudence. Law is forged through policy arguments, moral justifications, and institutional considerations, not discovered through deduction from abstract principles."[3]

Can be justified an institute of depriving the owner of his right only because another person has owned it for a long time? Just because the property right has an important role in society (Aristotle defined it as one of the three basic human rights) its restriction and the specific cases when it can be limited should be expressly provided by law.

In our work, analyzing the reasons that justify the institution of adverse possession, we will argue that the institution of adverse possession does not disappear the essence and purpose of the right of ownership, although it represents a certain limitation on the exercise of this right .[4]

II. Authors for and against acquisitive prescription

Some researchers accept the duality of this institute which might be helpful but essentially contains a contradiction [5]

a In general , adverse possession has lots of researchers as its tougher opponents.

These authors have named the winners of the property by AP as a thief(Katz,2010)Others have suggested canceling completelysuchdoctrine (;Burns,2011)[6] Burns claims that all the justifications that exist for AP are not enough to maintain this institute of law in feet.Cannot be supported the help provided to the most vulnerable people in society or increase the productivity of land by this institute already outdated, he suggests.

There are other authors who think that despite the cancellation is the right way, in order to achieve the cancellation of this institute will pass plenty of time, so their suggestion is tofine the owner who in spite of having aregistered titled, has not paid dues as owner (did not pay property tax, or does not maintain it (Heap,2010)It has also been suggested that to the society can be caused a serious damage especially in case when the state property is acquired by AP (which shows that negligence of government institutions to exercise it rights as owner undermines the whole society.)Some other authors even believe that AP promotes illegal possession of land (Yin Teo,2008). This author even thinks that AP in bad faith should no longer be recognized by Australian legislation

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[1] Clarke ,2005, page 570

[2] Ballantine,page 135

[3] Clarke,2005, page 602

[4] Cercel, 2010, page4 "it is essential that such restrictions should in no way effect the ground itself of this right, that the ownership right could never be completely annihilated."

[5] "On voit donc qu'il s'agit d'une institution à la fois utile parce qu'elle consolide les droits des propriétaires légitimes et redoutable parce qu'elle permet à un simple possesseur d'être préféré au propriétaire en titre." (Buffet,

[6]Burns even suggests canceling the application institute AP in Australia, considering dukee konsideruar: "*rough-and-ready' doctrine, which has the potential to undermine the otherwise indefeasible interest of registeredproprietors."(Burns,2011, page 1)*

Also a study conducted by the Hong Kong government in 2012 provides that AP can not have any moral justification."*There is no justification for what is essentially a transfer of property without compensation from the deserving to the undeserving..*" [1] *While some authors thought that the AP in bad faith, at first glance creates the idea that* "undermines the security and exclusivity of ownership" , therefore affect the essence of the property right. Exactly the criticism directed against this doctrine, promote the duty to justify it, as an institution that is supposed to be effective for many years to come.

b) Researchers in favor of AP

Despite the controversy, some researchers have noted that **"If** we had no doctrine of adverse possession, we should have to invent something very like it."(Stoebuck & WhitmanMany other scholars agree that APis entirely justified."The concept of adverse possession is called-for and economically justified within a property order."[2] Clarke suggests that AP should definitely continue to exist as the right of ownership is an interaction between power over the property of people at the same time. So, possession, as task of ownership, means to communicate to others constantly that you are the owner of the item. Through AP, communication must continue steadily, otherwise you can lose not only the task of possession, but entirely real subjective right of ownership.

Despite that AP somehow resembles with theft, as we will argue ongoing,benefits from this institute for society as a whole are much greater than its costs."Regardless of the moral argument that adverse possession is wrong and tantamount to stealing, it can be demonstrated that the benefits outweigh the detriment.[3]"

AP is considered an efficient institution, especially in the case of states that have passed conflicts, where land system has been very unsafe for a long period of time, like Timor-Leste (Williams,2009) or Cambodia ,also in developing countries like Brazil,Peru (Phalthy,2007) This institute will enable to solve quickly ownership conflicts and consequently to develop more the economy of these countries. Some researchers, like Marais, has concluded that not only AP has a moral and economic justification, but it is in accordance with the constitution of South Africa.

There are opinions that the AP goes againstto the constitutional provisions of a state and of the European Convention that recognize the right of property . But for some authors, AP can not be against the right of ownership, because otherwise possession as the institute would have no value"**If it is** incompatible,the impact of possession as a means of extinguishing a former title in land and creating a new one as discussed in this article is reduced to a meaningless concept ." [4]

Despite the debate that still continues in doctrine regarding AP and disagreement about this institute, the following excuses will again show us why this institute is still recognized by most of the countries in the world (excluding China).

III- Justifications

Among the main justifications that different authors have consistently cited in the literature for this institute, can be mentioned:

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[1] *Law reform Commission Hong Kong,2012, page 2*
[2] Bouckaert & Depoorter,1999,page 5
[3] Heap,2010,page 26
[4] Panesar &Wood,2007,page 4

1. In silence, the owner allowed land use by someone else

 Merril calls this" justification of sleeping owner"while Stake uses the famous phrase"you snooze ,you lose ".So, the owner of the land can do whatever he wants with his land, can even leave it without working. Leaving the land without working, is not an justification for AP . But the negligence of the owner and leaving the ownership in the hands of someone else is the main justification.[1] The owner may leave uncultivated the land, but should not allow someone else to work it . This is one of the most common justifications accepted by the various authors (Greenberg,2010; Turley,2013) Singer also is of the opinion that it is the silence of the owner that justifies this institute:"It is morally wrong for the true owner to allow a relationship of dependence to be established and then to cut off the dependent party.."[2]

 If AP would not be recognized as an institute, it would be morally unjust by the owner, to allow a quiet uninterrupted possession of the holder, and then to cut off the relationship created (This fact is even more evident in the case of prescription in good faith, where there is a connected transaction between the owner and the holder).Having a right means at the same time to do all lawful action to protect it. If the owner does not protect its right of ownership for a time so long, taking his property is fully justified. "Sometimes it is said that,if a man neglects to enforce his rights,he cannot complain if,after a while,the law follows his example."[3]

Even the Supreme Court of England has admitted that the main purpose of AP is to protect the holder who has used the land for a long time..[4] So with this excuse, we see AP as punishment against the owner, who did not exercise his rights (Marais,2011). So, the conduct of the owner himself by approving someone else to use his land is rated as the main reason, that would justify the use of AP institute in the field of intellectual property .(Bagley &Clarkson,2003)

Therefore AP has retroactive effect and the holder shall be deemed the owner from the moment that has entered into possession of the item .Because just in that moment, the owner with his behavior has allowed the use of his property by third party. By encouraging owners to exercise their right of ownership, AP promotes and facilitates transition of ownership transactions.So with this excuse, we see AP as punishment against the owner, who did not exercise his rights (Marais,2011).

That is why the conduct of the owner himself by approving someone else to use his land is rated as the main reason, that would justify the use of AP institute in the field of intellectual   property .(Bagley &Clarkson,2003) Therefore AP has retroactive effect and the holder shall be deemed the owner from the moment that has entered into possession of the item .Because just in that moment, the owner with his behavior has allowed the use of his property by third party. By encouraging owners to exercise their right of ownership, AP promotes and facilitates transition of ownership transactions..[5]This excuse has been criticized by one of the judges of the casePye vs ... Judge Neuberger says there is no reason to deprive an owner of his property (and especially in the case of land, where the consequences of deprivation are very high), just because he has allowed his property to be used by someone else .*This has also thought evenDockray* "Why should it protect a wrongdoer – a person whose conduct might be tantamount to theft – but whom the law may nevertheless aid even against an innocent owner, that is, a person who did not know and could not have discoveredthat time had begun to run? "[6]

Pavarsisht kritikave ky ende mbetet nje nga justifikimet me te vlefshme edhe sot per parashkrimin fitues, sidomos ne rastin e posedimit me mirebesim.

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[1] AOL,1977,page 10.

[2] Singer,1988, page 611

[3] Oliver Wendell Holmes, *The Path of Law,* 10 HARV. L. REV. 457, 476 (1897).

[4] Martin,2008,page 2

[5] Interest in this respect represents a decision of the Court of South Africa, where the Court stated that " *In a modern society , where unimproved property is frequently held for long periods by owners who live far away, and sometimes even abroad, the social desirability of [acquisitive prescription] may be questioned*."62 (*Morkels Transport (Pty) Ltd v Melrose Foods (Pty) Ltd and Another." (Marais, 2011)*

[6] Marais,2011,page 163

Despite the criticism this still remains one of the most valuable excuses today for AP, especially in the case of possession in good faith.

2. Legal security

First, Legal security is related to the evidences in a judicial process. Merrill calls this excuse"the problem of lost evidence" The more time passes the more increases the possibility of loss or destruction of evidence to prove the allegations in the judicial process. AP facilitates the process of proof of ownership in the trial. Being an original way of earring the ownership, is enough the proof that the one who hold the land has won it with AP, and there is no need to be done the so called "probation diabolica.[1]

 Secondly, the buyer of a property, which bought the land from a person who has acquired it by AP, has the maximum security that after buying the item, no person will press charges , claiming he has won the item with AP.(Bouckaert & Depoorter,1999). So the application of AP increases legal security to buyers during the sales transaction. But also the opposite interpretation is valid, and AP can be seen as an institution, the existence of which diminishes the legal security in signing a sale transaction.

The buyer is at risk after the purchase of the property, since a third person can pretend to have acquired ownership over the property with AP. In fact, the security of property rights is considered by some authors as "public good" (Rose,1988;Clarke,2005). AP can give security for several parties at the same time,first to protect the public interest[2]. Secondly it gives assurance to third parties that have entered into legal relations with the recipient at the time of possession. So the AP allows a de facto situation becomes a situation, "de jure", creating in society "legal certainty by preventing parties from unnecessarily litigating about ownership"[3] Facilitating the process of proof of ownership in a civil proceeding, AP directly affects the growth of legal security in society. The principle of legal certainty has been recognized as one of the main justifications of AP by one of the leading scholars in the beginning of the twentieth century, Ballantine stated that AP has no intention to penalize or punish:"[4]

The principle of legal certainty brings positive effects for several different subjects, first in favor not only of holders (who after many years that owns the land actually create certainty that the property will not be deprived of possession), but also helps increase transactions transfer of ownership, where third parties have already assurances that the title of the owner is free from any claims of third parties.And in the end, the most important consequence is that AP is in favor of the whole society in general, as if there are security to property titles, not only the society will increase stability but also the foreign investment. (Investors have certainty in sustainability of titles (Williams,2009).

Third, AP also creates legal certainty by resolving disputes about ownership of land." The purpose of constituting prescription is to put an end to litigation."[5]But unlike what some authors believe that AP facilitates sales transactions, actually there are some thoughts that this institute can increase insecurity. Prospective buyers of a property cannot have assurances that there are no potential suitor who in the future could sue the owner with a lawsuit to gain ownership by AP.(Martin,2008 Despite this disagreement, the creation of a state of legal security for the parties directly concerned but also for society as a whole is an undeniable consequence for this institute

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[1] This evidence is required in case of a rivendikim lawsuit. The one who pretends to be as owner, must prove how he acquired the ownership from a third party. After this, the previous owner, must prove how he acquired the ownership, and so on.

[2] Rose, 988 :" if no one knows whether he can safely use the land,or from whom he should buy it if it is already claimed,the land may end up being used by too many people or by none at all."

[3] Marais,2011,page 154

[4] Has not for its object to reward the diligent trespasser for his wrong nor yet to penalize the negligent and dormant owner for sleeping upon his rights; the great purpose is automatically to quiet all titles which are openly and consistently asserted, to provide proof of meritorious titles, and correct errors in conveyancing.

[5] Charles,1911,page 3

3. Connection created between property and possessors (reliance interest)

This justification is essentially a moral justification.As said from the famous judge Holmes "Man,like a tree in the cleft of a rock ,gradually shapes his roots to the surroundings,and when the roots have grown to a certain size, can't be displaced without cutting at his life."

This is the justification that Merrill calls " "quieting title" and that Posner calls "maintaining the status quo". By quieting titles , AP increases the number of transactions and creates more security for owners. By clarifying the ownership titles, the number of transactions will be increased in ownership transfer against a person who appreciates more the land. So the potential buyer of a property, the owner of which has acquired ownership by AP, is safer since the land is owned by the owner and will not have a subsequent lawsuit which will rise by possessors who would claim to own the land. By creating certainty in the exercise of property titles, is increased the potential for developing them, because now the owner has the certainty that he will not lose the property in the future.

For some authors this excuse with the excuse of silence of the owner, are the only ones who still have value in the XX1 century (Stake, 2001) That's why some authors calls this excuse is the most important one for the institute of AP. "The basic premise must be that long, unchallenged possession of land should not be disturbed." (Panesar & Wood,2007). If the property will then be taken to the possessors after a long possession, we will have as a consequence the creation of a situation of legal uncertainty. In most cases, possessors are poor people and squatters who have no means to live, and the apartment where they may have set is the only property they have.

For some authors, this is one of the main justifications for the use of the institute of prescription in the case of intellectual property (Bagley & Clarkson,2003).Nay "reliance interest It is the main reason that in common law claim for restoration is prescribed (can not be established after the expiry of a given period).In civil law, mostly in France and in Albania the restoration lawsuit is not prescribed.So the main purpose of the AP is :" to grant legal certainty to the peaceful use of the asset that continues over time."(D'Isa,2013)

Well AP aims to maintain a status quo condition, which is supported from"Theory of personhood", which justifies AP in the connection established between the possessors and property (Burns,2011;Foncell,2005; Rose,…).So through the property, the possessors achieves to obtain his "self-development". To say it brifly, adverse possession is "a wonderful example of reward to useful labor,at the expense of the sluggard."[1]

But why is created this link between the possessors and the owner Merrill has analyzed four reasons why there is this link.First, the theory of personhood, holder creates a connection with the land, and begins to identify with this wealth. Secondly, the aim to preserve peace in society, sothe relationship between the possessors and the land is so big,if deprived from the property after so many years of possession severe conflicts will begin Third, Merril gives the case when the possessor has made investment in this land.If there would not be adverse theory, the possessor would have interest to buy the land (to becomeowner alsoof the investmentthat he has done). But his interest to buy the land is large, which would encourage the owner to increase the price of land. This shows that the possessors, in the absence of AP institute , will be in a discriminating position towards the owner. Fourth, AP protects third parties, who throughout the time of possession have entered into legal relations with the possessor, believing that he is the true owner of the property. So the human instinct and the connection created between the possessor and the owner (allowed by the silence of the owner) is the greatest justification for AP "The law can ask no better justification than the deepest instincts of man "[2]

This excuse is supported too by the theory of "Radins' personality theory".If for a long time there is not an accordance between the entity that exercises the right of ownership and the holder of the real property (ie if the owner has essentially an empty ownership) then this property can not be part of the market.This condition may occur in two situations, which are very widespread in Albania.Firstly, if theregistered owner has vanished and for many years a third person has taken

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[1] Carol,1988,page 79
[2] Turley ,2013,page 1032

care of the property.Secondly in the case when between the owner and the third person has been signed an agreement for the transfer of ownership which contains flaws that render it invalid (for example is designed verbally and is not registered in the records of the mortgage).

The first case justifies the acquisitive prescription without title. Such cases have been encountered in Albania after 1990, for some reasons.Firstly,when the wave of immigration led many landowners to emigrate abroad leaving their lands without being exploited for many years.Secondly,theprolongation of the process of restitution of property has left many lands without a legal owner registered in the Register of Immovable Properties. This fact has brought as a consequence the occupation of many lands and the inheritors of the properties confiscated before 1945, because there are not still recognised as the legal owners, are not able to sue for the recovery of properties in Court.Thirdly, in many areas of Albania there is not yet performed the update process of immovable properties.[1] This has meant that for over 20 years there have been signed verbalcontratcsfor the transfer of land ownership , or contractsin the form of a simple letter, but not asa notarial act.[2]. This means that the ownership of these lands is not legally deemed to have passed from the seller to the buyer.The buyersof these lands have owned them for years, but the increase in value of the land might pushed the property owners to seek cancellation of these contracts and to require from the holder the return and release of the property.Acquisitive prescription is an institute that in all the cases above protects the holder, who through not their faultare put in a situation that gravely damages their interests.

Although there are criticisms about the fact that this excuse does not apply in the case when state bodies are those that have possessed the object, again this is one of the justification which is more well-founded and is less contested in the literature.This is because it is connected with the core of the property right.The universal aim of the ownership rightis that all valuable objects should be owned by someone (Gardiner ..:) So leaving the property without being exploited is not the main reason that justifies acquisitive prescription.In fact the owner can leave the property unused, and he isn't deprived from the proeprty in this case.But the fact that the property has been owned by someone else, has made that one of the msot important powers of ownership,possession, passes to someone else.This fact, entails as a consequence that the state should legalizethe transition ofall the other powers of the ownership tothe holder.

4. Economic Justification

The economic justification of acquisitive prescription can be connected with some economic consequences that come from the application of this institute.

 a. Firstlythe "marginal usefulness of revenues". This constitutes what is called "status effect theory (Stake, 2001). So it becomes very importantthe effect and the consequences on the parties. So how is prescription perceived by the owner or the occupier, the profit or loss of the property after the expiry of the limitation period.

The possessor perceives the acquisition of propertyas a natural consequence on the conclusion of the period of limitation (its loss would be conceived as a decrease in his income) Whereas for the owner,toretain ownership after the expiration of the limitation period is perceived as a benefitand an increase in his fortune. (Bagley & Clarkson, 2003; Holmes ...; Ellickson, 1989; Gardiner, ...) Sothrough prescription property exceeds to that subject of law for which the property has greater significance but who can not gain property through a voluntary transaction with the owner because he does not intend to sell it.

b.The objects are not left without being exploited, but through the holder, they are used maximally during a period of time.This justification applies mainly if we are dealing with immovable objects.So the property is given to that user who is most productive and issues the maximum benefit from the items. (Bagley & Clarkson, 2003) This refers to Locke's theory

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[1] The process of carrying out the registration in the Register of the Office of Immovable Property Registration of all exact borders of immovable properties

[2]Article 83 of the Albanian Civil Code:"Any legal action for transfer of ownership of real assets and real rights over them, must be notarized and registered, otherwise it is not valid."

of "Labor's theory", which argues that through the mixing of work with property, the property is obtained from the person who possesses it for a long time.[1] The positive side of labor theory is that it constitutes a sufficient basis and has great value for justification in the case of possession in good faith and in bad faith one, since in both cases we have a combination between the work of the holder and the property. Always acquisitive prescription promotes 'the use, maintenance and improvement of Natural Resources"[2] Acquisitive prescription encourages both property owners to exploit their property and to take care for it, but at the same time promotes the third persons to exploit abandoned lands if owners are not properly taking care for them. So acquisitive prescription, manages to create legal certainty and the maximum utilization of the property, promotes economic and social stability. Shortly, this is called the "incentive effect" (the theory that by Stake justifies prescription by the adverse effect that this institution has on the future behavior of the owner and other entities in society.)

The main criticism of this theory is that firstly it does not ensure that the way the property has been used from the holder, was the best way which could have increased the prductivity of land. Secondly, it does not always mean that the fact that the owner hasn't been using the land, has led to lower productivity. Maybe sometimes the best thing to do is leaving the land without exploiting it. (Bouckaert & Depoorter, 1999)
Some authors (Burns, 2011) suggest that the state must find other ways to increase the productivity of land and property in general and should not be based on ths institute.
Secondly, this theory is sharply criticized by scholars, because it represented a solid basis to justify the prescription before the XX century. But this justification can not be still valuable in the XXI century, where the primary purpose of the society is not the encouraging of the exploitation of land use, but its usage in the most productive way possible (Stake, 2001)

Thirdly, another critic of this justification is based on the fact that in civil law (including the Albanian Civil Code) as well as in the beginning of the application of this institute in the common law, the holder is not obliged definitely to invest on the property (especially on land) to win its ownership with acquisitive prescription. It is sufficiently for him to act as the owner, to care for its maintenance and use it. In thse cases, back then, the exploitation could even lead to reductions in the market value of the real economy.

Fourthly, not always the actions of the holder lead to increased productivity. Some actions (like the paying of taxes or the removal cenuesve ownership), suffice to qualify the the fact that theunlawful possessor has been acting as the owner. But these actions do not result in increased productivity of the land. (Clarke, 2005)
Fifthly, there are authors who think that this excuse applies only in some exceptional cases, when dealing with abandonedand unused land. But not in all thecases the application of this justification can be valid, especially in cases of natural resources .

In conclusion we can say that while the justification for the exploitation of the property may be still valid today for movable properties, for the land that excuse is not so much valuable. What in the literature is often known as the "Highest and best use " of land, today does not necessarily mean the planting and processing of land. In some cases, leaving the land bare, waiting to increase its value, may be the best option in today's market land (Martin, 2008) but also it's exploitation can bring irreversible consequences in nature. In this way today even the first justification, that prescription condemns the property owner is no more valid.[3]

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[1] According to Merril, acquisitive prescription is "a social policy favoring 'active' owners of property, who develop or exploit their land, rather than 'passive' owners."
[2] Burns, 2011, page 809

[3] Martin, 2008, page 3" Thus, perhaps the titled owner who is not "using" the land is being civic-minded and responsibleand should not be punished by giving an advantage to a trespasser."

c. If there is created legal certainty, there are reduced the costs of research and transactions.
The reduction of the costs of transactions for the transfer of ownership has been one of the main goals set forth explicitly in one of the laws that recognized for the first time the institute of limitation in medieval England.

d. There are decreased the costs of proving in court

Evidence can be lost over time and this not only undermines the legal security but increases the costs to prove in court the parties claims. So one of the benefits of acquisitive prescription is that it facilitates the proof of ownership in the trial and thus it increases the efficiency of the judicial process (Williams, 2009)

But in recent years, the development of technology and computing has made it easier the storage and has reduced the storage costs of evidence. That is why this excuse has no more value with the development of information technology (Bouckaert & Depoorter, 1999).

Despite critics we think that lowering the costs of the judicial process and increasing the guarantee of evidence can be achieved by prescription, and this excuse still holds true today. "The quality and quantity of evidentiary material deteriorates with time and the parties will have to bear greater litigation expenses to find, or corroborate, evidence.."[1]

5. Moral Justification

The moral justification of prescription is based in some way on its other justifications. This justification is based on the connection that is created between the owner and the holder (this relationship is established even if the two have never met and been introduced to one another) . The owner's conduct (his silence) has left the holder understand that they can continue to exercise their possession in the future. (Bagley & Clarkson, 2003) The most vulnerable part in this colludes is the possessor, who has understood through the owner's behaviour that has all the right to possess continuously the property without being violated by anyone, even by its own owner.

Some researchers agree that prescription can not have a moral justification (Marais,2011) . But the law can not be always in conformity with the moral. Acquisitive prescription in fact is not an ethic institute. But the law aims to resolve conflicts and acquisitive prescription is an institute which performs at his best this aim. The theory of Utilitarianism constitutes a sufficient basis for finding a certain moral justification to prescription, which is intended to achieve the common good by any legal action and institute. " It has been suggested that the policy is to reward those using the land in a way beneficial to the community "[2]

According to Bentham, the father of Utilitarianism theory, there is a link between recognition of the right of ownership in society, and security and happiness in general in a community. That is why to achieve welfare and an efficient utilization of land it should be applied necessarily the institute of acquisitive prescription. The Utilitarianism theory has as its sub-section "Law and economics" theory. The latter aims to achieve the greatest usefulness called "economic efficiency". Whereas the first theory maximizes the usefulness achieving the greatest happiness for the greatest number of people. Bboth these theories constitute a reasonable basis to justify the prescription.
Milli one of the leading scholars of the theory of utilitarianism says: "Possession ought to be recognised as ownership if it has not been challenged within a "moderate number of years." [3] Through prescription there can be avoid the social conflicts, since holders will tend to reach up to the use of violence, to regain possession of an item which they have possessed for so many time. But the avoidance of social conflicts and achieving peace in society is not a sufficient justification in the case when the state is the illegitimate possessor. The achievement of the social peace is estimated by

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[1] Foncello, 2005, page 687

[2] Henry W. Ballantine, *Title by Adverse Possession,* 32 HARV. L. REV. 135, 135(1918)

[3] Marais, 2011, page 206

many authors as the scope of application of acquisitive prescription in public international law [1]So being applied in international law, prescription provides "the fundamental interests of the Stability of territorial Situations from the point of view of order and peace "[2]

The main criticism of moral justification is that there can be no ethic found in this theory because the "squatters" are compared with thieves. But there are some scholars (Gardiner ..) who think that the squatters should be evaluated, for being part of the society who have managed to find their own solution to their problems, to which the state has provided for years no solution at all.

There comes a great contribution to the society from acquisitive prescription, because items left in limbo (for example the abandoned houses) are restored by the holder, which not only makes these houses part of the immovable property market, but also increases their value in the market, and contributes to the growth of the value of the neighboring houses, causing a very positive impact on the overall economy of a country (Heap,2010)

Despite moral contradiction of this institute, we can say that its usefulness justifies the lack of ethics. To conclude, we can mention the fact that in several decisions of the US Supreme Court it is recognized that this doctrine has no logical and moral base, but is necessary in resolving the conflicts (Teo Yin, 2008)

6. Psychological justification

The psychological justification of acquisitive prescription is based on the theory of "loss aversion 'and "experimental psychology". (Bagley & Clarkson,2003; Stake,2001)
 This justification has to do with the personal connections that are created between the holder and the property (espcially with the land). The core of acquisitive prescription is the human instinct, and the man becomes extremely connected with an item that he has used for far too long. This idea was supported strongly from Holmes in his famous statement that the property after a long possession "takes root in your being".[3]According to experimental psychology theory, "the doctrine places the loss on the person who will suffer it least-the person whose roots are less vitally embedded in the land." (Stake,2001)

Loss-aversion theory says that because "the disutility of giving up an object is greater than the utility of acquiring it", then the difference between WTA (Willing to accept) sum and WTP (Willing to pay) is always positive.
 Psychological justification is correlated with what is called the "endowment effect", which Holmes has refered as the first reason justifying acquisitive prescription. His idea was backed by other scholars, especially Stake. This effect it has in it's essence the fact that "people demand more to give up an object than they would offer to acquire it".[4]

7. The judicial process that is undertaken for the recognition of ownership, plays an important role to justify the doctrine of adverse possession:

 a. In order for the property to be acquired by acquisitive prescription there must be sued an indictment or a counterclaim (the latter in the event that a judicial process ha been initiated earlier against the possessor) by the possessor of the property. The judicial process that takes place is a further guarantee that, the fact that you take the property by the owner and it is won by the possessor, is in compliance with the material and procedurial law. That is why the judicial process that isconducted and theenforcement of the procedural law is very important. A regular judicial process promotes a behavior in accordance with the law. (Martin,2008)

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[1] Not only it is accepted the application of acquisitive prescription over land owned by another owner, but on land called "terra nullius" In the latter case we have the birth of a new stitute, which de Vischer calls "consolidation of historic titles".
[2] Lesaffer,2005, page 52
[3] Stake, as well, supports this idea when he says that through biological evolution the human beings create continuous and sustainable links with the property.
[4] Stake,2001, page 2459

b.The acquisitive prescription urges theowners to refer ,as soon as possible,to the claim for restorationor return ofpossession .(this is explained by the theory of the "incentive effect" of Stake).

c.It is true that acquisitive prescription can not reduce the number of conflicts, but it can reduce the number of conflicts in connection with lawsuits seeking redress from the owners against illegal possessors.

d.The material and prcedural law provides that the decision of the Court,which recognises the ownership by acquisitie prescription,has retroactive effect.So if a property is earned by acquisitive prescription, the acquisition of ownership has ab.initio effect, from the moment the possessor started to enjoy the object.This criterion facilitatesthe application of this institute to third parties, which may have undertaken transactions with the possessor, thinking that he is the true owner. (BI Report, 2006)

8. Transitional Problemscan arise if this institute is entirely eleminated.

It was Stake in his study of 2001 that has supported this excuse, saying that now this doctrine has become part of the system of law and can not be eliminated without bringing serious consequences in the whole system of law in general . In conclusion we can say that despite the fact that the above excuses were valid centuries ago and still are a reasonable basis for the institution of acquisitiveprescription, in the future there is little chance that they will still remain sufficient justifications.[1] Therefore, it is necessary to carry out studies in various countries to suggest the problems that have arisen over the years regarding the application of this institute in practice.

IV.The application of acquisitive prescription for other law institutes.

The more it is suggested that an institute of law can be applied in different branches of law,even being applied by analogy, the more based is the conclusion that this institute has a solid base in the system of law.

1.Some authors believe that acquisitive prescription should be applied in the case of intellectual property (Bagley & Clarkson,2003)

2.Other scholars suggest applying prescription for items of cultural heritage, passed from one state in another state.(Doyle, 2009)[2] In this case, if the object is displayedopenly to the public for a period of time, acquisitive prescription increases the safety of the right of ownership, the cultural heritage is propagated and one of the main goals of acquisitive prescription is achieved,the encouragement of the effective and efficient exploitation of objects (Doyle, 2009)

3. There are some researchers who agree that there is adequate opportunity that acquisitive prescription can be applied in the field of public international law.(Lesaffer,2005).[3]

But there are authors who believe that prescription should not be applied in other analogous situations (ie application of the law by analogy) as this may lead to uncertainty and disputes (Turley, 2013) .In any case, even whythe application of acquisitive prescription in other areas the law is limited, some few cases of it's application indicates the acceptance of the legitimacy of this institution by scholars of all branches of law as well as the existence of a reasonable basis in the essence of this doctrine.

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[1] Stake,2001,page 2455 "regardless of how well they served in the past, none of the justifications discussed so far will be entirely satisfactory in the future, as the same benefits can now be achieved in less costly ways."

[2] The author cites the case of the Elgin Marbles, which were removed from the Parthenon (cultural monument in Greece) .They were sold to the UK by Lord Elgin, the ambassador of the United Kingdom in the Ottoman Empire, in 1816, who claimed that these marbles had been removed from the Parthenon under a royal mandate issued by the Turkish Sultan.Greece in 1980 he made a request to recover these marbles, while England aims to hold them.One of the argumentations made by England is that it has acquired them by prescription, possessing them for over 200 years.

[3] In this area of law, acquisitive prescription is applicable in the cases when" the result of the peaceable exercise of de factosovereignty for a very long period over territory subject to the sovereignty of another'(Lesaffer,2005,page 46)

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VII. Acquisitive prescription costs.

Despite the continuous excuses for this institute, a summary of the costs of this doctrine will give us a clearer view of the true value that acquisitive prescription has for the society.

First, the cost of monitoring the property consistently (especially the monitoring of land). So even if the owner lives off his property, he should monitor his property, finding any possessor that may be exploiting the land illegally. (Bouckaert & Depoorter, 1999; Gardiner ...; Stake, 2001)

Secondly, it isn't provide the right of the owner to obtain compensation in the case of acquisitive prescription. Oftentimes acquisitive prescription is seen as too great a cost to the owner. The lack of compensation to the owner was the main reason that prompted Great Britain to claim before the ECtHR the inconsistency between the institute of prescription and Article 1 of Protocol No. 1 of the ECHR.[1] The only state that provides for compensation is Sweden, only if the owner whose property has been taken by force against his compliance, sues the state to receive compensation within a period of 10 years from the entry of the holder in control of the property.[2] In Spain, as well, there is a right of the juvenile owner to sue his legal representative for compensation if, due to his negligence, the property is acquired by a third person with prescription.[3]

The lack of compensation is justified by the fact that the prescription has retroactive effect. The owner may not claim compensation on a property to which he was legally considered lost from the moment that the third person came into possession of the item.

Third, it promotes the destruction of natural resources.
Although many authors claim that in fact acquisitive prescription promotes the utilization of natural resources (Burns, 2011; Clarke, 2005; Sprankling, 1994), in fact, especially by the scholars of the XXI century, it has been claimed that prescription in fact damages natural resources. The promotion of the degradation of natural resources, which are state property, constitutes one of the greatest risks of prescription. (Gardiner, ..)

Although acquisirive prescription helps the exploitation of land, this consequence is contrary to the principles of ecologists for the preservation of ecological zones and the inviolability of cultural heritage areas. Hereupon acquisitive prescription has a negative aspect, because it can affect natural habitats. This can be averted if prescription isn't applied in undevelopped ecological areas or there is limited its application only in urban areas. (Williams, 2009)

Fourth, similar to the above cost, is the case when the property (although it isn't a natural resource) has more value in the market if it remains unused "In some cases" the best use of land is no use at all "(Stake, 2001). But the Institute of acquisitive prescription promotes the exploitation of land from the possessor, with the aim to obtain it through the passing of time. This is a great cost not only because the land is irreversibly transformed but it also encourages the occupation of land by illegal possessors to the detriment of the legal owner. Some scholars call it as an incentive to theft (Stake, 2001)

Fifthly, there are costs for the accomplishment of the judicial process whereby ownership will be recognized to the holder becuause he has earned it by acquisitive prescription. Acquisitive prescription is determined through a declaratory judgement of the Court, which has retroactive effect. That is why a is a consolidated judicial system is a necessity. But it should be noted that the system of law in Albania has a lot of problems. That is why one of the main risks of the application

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[1] The issue J.A. Pye (Oxford) Ltd v United Kingdom urged the UK to do a study about the fact that what is predicted in the world about the issue of compensation of the owner, in case of application of adverse possession. The Report BI, 2006 was prepared. This report made a comparative analysis of the institution of acquisitive prescription in several countries Hungary, Poland, Germany, Netherlands, Spain, Sweden, France, Australia, New Zealand, United States and Canada.

[2] Report BI, 2006

[3] However the possessor will be recognized as an owner if the legal criteria are met. This criterion is applied only in Spain and not in other countries of the civil law, including Albania. In these countries prescription doesn't run against disabled persons but the Roman rule "*contram nonvalentem non agere prescription*" operates.

of this institute in Albania,and also in all the countries with a unconsolidated judicial system, is the risk of announcement of a court decision that could affect the essence of the right of property through unfair procedures.

 Sixthly,prescription reduces the usefulness because it discourages the owners to let third persons possess their property.[1] But despite the costs, prescription promotes legal security in society,transforming into de jure situations, the de facto situations that have persisted for a long time.This result is more than an enough criterion to conclude the usefulness of prescription, regardless of its costs.

VIII.The application of compensation in the case of acquisitive prescription.

It seems as if the lack of compensation is contrary to a basic principle of law that states that:the right of any one begins where the other's right ends.As a scholar accentuated "No one has the right to use land in such a way as to injure that of another."[2] But why until now the institute of limitation has not provided the recognition of a right to compensation? In the majority of cases, the illegal possessors without title are people who have occupied land from someone else because they didn't have the means to live .The recognition of the right to compensation would be completely inappropriate in this case.This is one of the most frequently cases encountered in Albania after 1990-s where many owners abandoned their lands and emigrated abroad, while squatters occupied them and builded houses where they could live.Secondly, if the right to compensation was entitled, it could contradict the very essence of this theory, which means that through acquisitive prescription the person becomes the owner from the moment that he started to possess it. So how can he be obliged to pay for something, the owner of which he has been from the beginning of the possession.

In general, the researchers suggest that compensation can not be applied because of the fundamental differences that exist between prescription and expropriation.These difference relates to the first justification of prescription, the neglectful demeanor of the owner. The negligent behavior of the owner ,who doesn't take care for his property,shows that he is not interested to it.That is why the taking of his property will not have a huge impact on his interests.Contrary to this, in the case of expropriation, the taking of the property has serious consequences for the owner because he was constantly using it. Also, according to the researchers, the application of compensation as a basic principle in the case of acquisitive prescription should not be accepted as this would conflict with the very essence of this institute."Indemnification would require an inquiry into the value necessary to fairly compensate all parties who have an interest in the property, interfering with the lost evidence and quieting title rationales."[3] This is because there will not be compensated only the owner, but all the parties whose interests have been damaged during the possession period. (For example third parties that may have signed oral or written contracts with the legitimate owner of the property, contracts that have been valid duringthe time of the possession) .We also saw prescriptionas an institute that "punishes" sleepingowners for their inaction.But if the right to reimbursementwas acknowledgedthe institute of prescription does not punish these owners, but instead it rewards them for their negligence.This would conflict with the "sleeping theory". But there are scholars who agree that a careful owner would not be inhibited by the conservation ofhis property, even ifhe was entitled with the right to compensation.it is also argued by some scholars (Foncello , 2005) that the recognition of the right to compensation could affect third parties who have entered into interaction with possessor.They will depend on the willingness of the holder, whio if wasn't willing or wasn't able to pay the amount of compensation would violate the interests of those third parties too.

The lack of compensation was even the reason why England claimed before the European Court of Human Rights that the acquisitiveprescription is contrary to the European Convention on Humna Rights.But the European Court concluded that prescription represents an institution in the public interest"finding that while the English law of adverse possession impacted the company, the original land owner, the company was not "deprived" within the meaning of Article 1. Additionally, the Court concluded that the law properly struck a balance between public interest and individual rights."[4]

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[1]This is especially true in the case when the owner allows one of his relatives, to use the property for a defined period of time,without a written agreement.Thenthe relatives after 20 years that they have behavedas property owners (especially after the owner has died and it is duifficult to prove how the relatives entered into the possession of the land), can gain the ownership by prescription in Court. This is too much of a risk for the owner.

[2] Foncello,2005,page 695

[3] Foncello,2005,page 690

[4] Williams,2009,page 603

But despite the above causes are there any situations in which there can be recognized a certain amount of compensation to the party injured from the application of the institute of prescription. Some of these cases are mentioned briefly below.

First, compensation may be provided in the case when the state institutions are the holder of private property (Merrill,; Foncello, 2005; Dick, 2007) In the case where the State is the unlawful possessor of the land, the justification of 'Reliance interest "isnot worth much in this case.There can not be perceived that there has been created a link between the personality of the state bodies and the private property possessed. The taking of the property in this case, which passes on the property of the state organs, may be considered as a taking of land " to the public interest ".

In the period of Colonial America, the state had the right to gain land ownership, without the obligation to pay compensation, starting from the principle that a citizen loses the right of ownership in favor of the state on the basis of the principle of "the general right of the whole society".(Dick, 2007) We argue that if the right of compensation wasn't acknowledgedin the cases where the state is the illegal possessor, it would conflict with the purpose that the state. He has has to protect it and not to infringe this right.

Secondly, there are authors who think that prescription in bad faith should be canceled entirely.There must be recognised only the right of the possessor to be compensated for theinvestments he has made on the land, which the owner conscientously has left to be performed.

Third, it must be recognized the compensation for theinvestments the holder has committed, in case the holder it fails to benefit the right of ownership, at the end of the lawsuit.So regarding the investments that he has performed on the land, which have added value to it, the holder, even if he does not meet the criteria for acquisition of property by prescription, has the right to request the return of these investments. But if he has made changes that have reduced the value of the object, we think that he should be forced to compensate the owner for the reduction of this amount.

Fourthly, there are authors who believe that injustice is not related so much to the fact that there is no obligation to pay a compensation to the owner, but to the fact that even though the property is registered in the Filing Office of immovable property and the owner may have paid yearly the fees for the land, the state has taken no measures to protect and inform the owners for theillegal possessors.[1]

Fifthly there must be applied compensation in the case of bad faith possession (and not not when the possessor is in good faith) as this possessor knows that he is violating the right of another person since the first day that has started to exploit someone else's property. In this case there can be applied the institution of "unjust enrichment" (Martin, 2008; Stake, 2001), as one of the parties s damaged contray to the principle of rule of law.[2] In this case the doctrine suggests that,in case to the owner is caused a serious and irreparable damage, there must be payed from the holder in bad faith the full value of the land and all the taxes that the owner may have paid during his possession.

Regarding the amount of compensation, in the few cases that it is accepted, we must point out one important fact. This fact is that the holder becomes the owner from the date that he entered in the possession of the property. So the value of the compensation will be the value of the property at the moment the holder entered into possession of the item.As one scholar accentuated"the property owner may *only* suffer a confiscation of those interests that were part of his title to begin with."[3]

In conclusion it should be said that despite that this doctrine contains many contradictions, it can not be eliminated completely.What must be done is the disappearance of "Perception of unfairness" (Martin,2008) and recognizing an opportunity for compensation depending on concrete cases against the most vulnerable party.

IX.CONCLUSION

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[1] Law Reform Commission Hong-Kong,2012,page 26, " *"The unfairness…lies not in the absence of compensation, althoughthat is an important factor, but in the lack of safeguards against oversight or inadvertence on the part of the registeredproprietor."*

[2] In a case in the Court of Colorado, Kirlin vs. McLean case, the holder did not win the property by prescription, although all the legal criteria were met.He had to pay the market value of the property to the owner and the tax property that the owner had payed for many years.

[3] Foncello,2005,page 694

The debate whether acquisitive prescription is or not justified and useful will continue to exist for how long this institut shall be applied. But again it's usefulness can not be questioned An institute of law can never satisfy without exception all members of society. As Williams emphasized "There is no way any process, any criteria [or] any land law would please everyone." [1] Precisely for the reasons that serve to justify acquisitive prescription, the scholars likens it to expropriation without compensation, or "constructive expropriation.[2] It is indisputable that prescription, despite the contradictions will continue to exist as an institute, because to deprive a holder who has used the land for so long (with the tacit approval of the owner) will bring very serious consequences for him.

Acquisitive Prescription is an institution born out of necessity and the usefulness that he has brought to society, is undeniable. But at the same time the existence of this institution can affect the manner the society will behave in the future (some researchers suggest that it promotes theft of property in the future). So, the law is a tool that reflects the behavior of the people in society but at the same time it shapes it.

Although the doctrine has many researchers who argue about the fact that will this institute be justified in the future (Stake, 2001), again we are confident that this institute will continue to exist for a long time, due to excuses mentioned above and the importance that the right of property ownership has in all countries in the world. An ownership right that remains idle for a long time not only has no value, but rather is harmful to the society. That is why the acquisition of the property right from the holder, who for many consecutive years has fulfilled all the obligations of the owner is the right solution the law provides.

References:

[1] Association of Ontario Land surveyors (AOLS), 'Seminar on Adverse Possession", 1977

[2] Bagley.C & Clarkson.G "ADVERSE POSSESSION FOR INTELLECTUAL PROPERTY: ADAPTING AN ANCIENT CONCEPT TO RESOLVE CONFLICTS BETWEEN ANTITRUST AND INTELLECTUAL PROPERTY LAWS IN THE INFORMATION AGE, *Harvard Journal of Law & Technology* Volume 16, Number 2 Spring 2003

[3] Joseph William Singer, *The Reliance Interest in Property*, 40 STAN. L. REV. 611, 667 (1988

[4] Boudewijn Bouckaert en Ben W.F. Depoorter, "ADVERSE POSSESSION - TITLE SYSTEMS", *Center for Advanced Studies in Law and Economics*, 1999.

[5] Report by the British Institute of International and Comparative Law for Her Majesty's Court Service September 2006, ADVERSE POSSESSION

[6] FIONA BURNS, "ADVERSE POSSESSION AND TITLE-BY-REGISTRATION SYSTEMS IN AUSTRALIA AND ENGLAND, botuar te Melbourne University Law review, Vol.35, 2011

[7] JESSICA A. CLARKE* Adverse Possession of Identity: Radical Theory, Conventional Practice, OREGON LAW REVIEW [Vol. 84, 2005]

[8] Carol M. Rose, *Possession as the Origin of Property*, 52 UNIV. OF CHI. L. REV. 73, 81 (1988) ("[C]lear titles facilitate trade and minimize resource-wasting conflict.".

[9] John G. Sprankling, *An Environmental Critique of Adverse Possession,* 79 CORNELL L. REV. 816, 816 (1994.

[10] L'usucapione, Rassegna giurisprudenziale e dottrinaria Codice civile – Libro III della proprietà – Titolo VIII del possesso – sezione III – artt. 1158 – 1167) Avv. Renato D'Isa 18/02/2013

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[1] Williams, 2009, page 598

[2] What is the meaning of "constructive expropriation theory". "This doctrine caters for the situation where certain state interference results in a serious loss or limitation of property for an owner. Such interference is then viewed as a *de facto* expropriation that requires compensation, even though the state – through the regulation – may not intend to expropriate the property." (Marais, 2011, page 288)

[11] OWNERSHIP BY DISPIAY: ADVERSE POSSESSION TO DETERMINE OWNERSHIP OF CULTURAL PROPERTY *Megan B. Doyle,* The Geo. Wash. Int'l L. Rev., Vol. 41., 2009

[12] ADVERSE POSSESSION AND TAKINGS SELDOM COMPENSATION FOR CHANCE HAPPENINGS *Martin J. Foncello*,SETON HALL LAW REVIEW* Vol. 35:667, 2005

[13] Oliver Wendell Holmes, *The Path of the Law*, 10 HARV. L. REV. 457, 477 (1897)

[14] REASONABLENESS IS UNREASONABLE: A NEW JURISPRUDENCE OF NEW YORK ADVERSE POSSESSION LAW *Jason Greenberg*, *CARDOZO LAW REVIEW* [Vol. 31:6, 2010

[15] Davina Heap, "Cultivating a common ground for adverse possession and the common law rules within it.", Dissertation, Manchester Metropolitan University, 2010

[16] Larissa Katz "The moral paradox of adverse possession. Sovereignty and revolution in property law" (2010), 55, McGill Law journal, page 47.)

[17] A Critique of the Doctrine of Adverse Possession Hong Yin Teo*,Australian National University, Cross sections | Volume IV 2008

[18] CONSTITUTIONAL ADVERSE POSSESSION: RECESS APPOINTMENTS AND THE ROLE OF HISTORICAL PRACTICE IN CONSTITUTIONAL INTERPRETATION JONATHAN TURLEY*, Wisconsin Law Review, 2013-965*wisconsinlawreview.org/wp-content/files/2-Turley.pdf*

[19] Henry W. Ballantine, *Title by Adverse Possession*, 32 HARV. L. REV. 135, 135 (1918)

[20] REACHING BACK TO MOVE FORWARD: USING ADVERSE POSSESSION TO RESOLVE LAND CONFLICTS

[21] IN TIMOR-LESTE Charlotte C. Williams, 2009 Pacific Rim Law & Policy Journal Association VOL. 18 NO. 3, 21. Christophe Buffet Adresa: https://sites.google.com/site/prescriptionusucapion/

[22] CONSIDERATIONS CONCERNING THE CONSTITUTIONAL AND EUROPEAN DIMENSIONS OF THE OWNERSHIP RIGHT AS STATED BY THE

[23] ROMANIAN JURIDICAL SYSTEM SEVASTIAN CERCEL, *Masaryk University, 2010* http://www.law.muni.cz/content/cs/proceedings/

[24] THE LAW REFORM COMMISSION OF HONG KONG ADVERSE POSSESSION SUB-COMMITTEE CONSULTATION PAPER ADVERSE POSSESSION This consultation paper can be found on the Internet at: <*http://www.hkreform.gov.hk*> December 2012

[25] *Argument from Roman Law* in Current International Law: Occupation and Acquisitive Prescription Randall Lesaffer, The European Journal of International Law Vol. 16 no.1 © EJIL 2005

[26] ADVERSE POSSESSION: PRACTICAL REALITIES AND AN UNJUST ENRICHMENT STANDARD by Susan Lorde Martin, Real Estate Law Journal, Volume 37, Number 2, Fall 2008

[27] Nagoya University, Graduate School of Law, The Implementation of Cambodia's, Laws on Land Tenure:Squatters on Private Land, Name of the Student: HAP Phalthy, June 25, 2007

[28] Sherman, Charles P., "Acquisitive Prescription: Its Existing World-Wide Uniformity" (1911). *Faculty Scholarship Series.* Paper 4442.,http://digitalcommons.law.yale.edu/fss_papers/4442

[29] MAKING SENSE OUT OF NONSENSE: A RESPONSE TO ADVERSE POSSESSION BY GOVERNMENTAL ENTITIES, Andrew Dick, *NEVADA LAW JOURNAL,* Vol. 7:348, 2007

[30] Robert Ellickson,"Bringing Culture and Human Frailtyr to rational Actors.A critique of Classical Law and economics",65, Chicago kent law review (1989),pp 38-39

[31] SQUATTERS' RIGHTS AND ADVERSE POSSESSION: A SEARCH FOR EQUITABLE APPLICATION OF PROPERTY LAWS,*Brian Gardiner,* IND. INT'L & COMP. Law. Review., Vol. 8:1

[32] Acquisitive Prescription in View of the Property Clause, Ernst Jacobus Marais, Dissertation, August 2011, Stellenbosch University http://scholar.sun.ac.za

[33] Panesar, S. and Wood, J. (2007) Adverse possession and the European Convention on Human Rights 1950 Protocol 1 art.1. *Coventry Law Journal*, volume 12 (2): 41-54 http://wwwm.coventry.ac.uk/bes/law/about%20the%20school/Pages/LawJournal.as px

[34] Stake, Jeffrey E., "The Uneasy Case for Adverse Possession" (2001). *Faculty Publications.* Paper 221. http://www.repository.law.indiana.edu/facpub/221

[35] Efficient Trespass: The Case for 'Bad Faith' Adverse Possession, Lee Ann Fennell,2005, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=800529

[36] Merril.Th. "Property rules, liability rules and adverse possession", 1984, http://heinonline.org/HOL/LandingPage?handle=hein.journals/illlr79&div=45&id=&page=

Science Teachers' Attitudes towards Using ICT and Mobile Learning Technologies in Malaysian Schools

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Abstract

The use of ICT has resulted in new opportunities that mobile devices have transformed from a means of communication to tools for socialization, entertainment, work, and learning. The aim of this study is to determine the science teachers' attitudes towards ICT and using mobile learning in education. The research sample consists of (67) science teachers from different cities in Malaysia who studing for master in University Education Sultan Idris. A valid and reliable scale has been adapted from "Mobile Learning Survey" (Pollara, 2011) and "Information and Communication Technology Attitudes Questionnaire-IAQ" (Kubiatko & Haláková, 2009; Mehra & Far, 2013) was used as a data collection tool. The results indicate that; science teachers have positive attitudes toward using ICT and mobile learning in education. On the other hand, science teachers' attitudes towards mobile learning was predicted by their perception about ICT and their self-efficacy.

Keywords: *Science teachers, ICT, mobile learning.*

Introduction

The recent time is influenced by an intensive usage of information and communication technologies. These technologies influence the way that young people play, socialize, and communicate as well as the educational process and has led to fundamental changes in education. The integration of Information and Communications Technology (ICT) in classrooms has been a challenge for the educational systems that aim to cope with the needs and the demands of the 21st century (Kyriakidou, Chrisostomou, & Banks, 1999; Yapici & Hevedanli, 2012).

The Malaysian Ministry of Education (MOE) has introduced various initiatives to facilitate the adoption and diffusion of Information and Communication Technology (ICT). In line with the Vision 2020, Ministry of Education has draft ways to integrate ICT into the education system. The Malaysian government has invested millions of Ringgit for the usage of ICT in education (Rashid, 2011). The Malaysian Ministry of Education sees ICT as a means, not an end in itself. As such, all efforts are concentrated on developing new media as tools in the service of richer curricula, enhanced pedagogies, more effective organizational structures in schools, stronger links between schools and society, and the empowerment of disenfranchised learners. The concept of ICT in education, as seen by the Ministry of Education, includes systems that enable information gathering, management, manipulation, access, and communication in various forms. The Ministry has formulated three main policies for ICT in education (Chan & Foong-Mae, 2002; Mohd Zaki M. et al., 2009):

1.   ICT is for all students, meaning that ICT is used as an enabler to reduce the digital gap between the schools.
2.   Emphasizes the role and function of ICT in education as a teaching and learning tool, as part of a subject as well as a subject by itself.
3.   Emphasizes the use of ICT to increase productivity, efficiency and effectiveness of the management system such as the processing of official forms, timetable generation, management of information systems, lesson planning, financial management and the maintenance of inventories.

It is now recognized that learning occurs in different settings, and school is only one of them. The way that young people use digital technologies in out-of-school settings and the intensity with which digital technologies are being used has challenged the educational community to rethink the nature of learning in informal settings, and how informal learning can inform formal learning. Education today takes place in a much broader context than the confines of school walls or traditional curricula (Khaddage & Knezek, 2013).

Theoretical Background

Much discussion about technology and education has focused on the question of how technology facilitates teaching and learning. The potential benefits of using ICT in teaching and learning are immense. The use of ICT has greatly transformed the outcomes of teaching and learning experience in classrooms. It does not only supplement and/or complement teacher instructional processes, but also offers unlimited access to knowledge and information that is readily available through the internet, manipulate data, explore relationships, intentionally and actively process information, construct personal and socially shared meaning and reflect on the learning process. It also gives the students opportunities to examine a variety of viewpoints so they can construct their own knowledge of various concepts (Koç, 2005; Tam, 2000).

The educational potential of ICT is stressed in a variety of ways. For instance, the potential of ICT could be to present rich learning environments, allowing learners to adopt multiple perspectives on complex phenomena, to foster flexible knowledge construction in complex learning domains, and to cater for individual differences (Sang, Valcke, Braak, & Tondeur, 2010). Students are more than ready to embrace technology in education. Today's students have grown up using digital technology. Surveys show that, of young people aged 12-17 (Look, 2005):

• Over 50% have their own blog or contribute to another blog or website

• Over 50% download music

• 90% use the internet to search for information for class assignments

• 80% are given internet assignments to complete at school

• 60% are using online dictionaries, encyclopedias and thesauruses

• Over 70% say that having access to the internet helps them earn better grades & be stronger students

Look (2005) cited that a review of 219 studies on the use of technology in education consistently found that students in technology rich environments experienced positive effects on achievement in all subject areas. The merits of ICT in education have been extolled in the literature. The use of ICT has been found to (Fu, 2013; Kubiatko & Haláková, 2009; Look, 2005; Sim & Theng, 2014):

1. Assist students in accessing digital information efficiently and effectively
2. Support student-centered and self-directed learning
3. Produce a creative learning environment
4. Promote collaborative learning in a distance-learning environment
5. Offer more opportunities to develop critical (higher-order) thinking skills
6. Support teaching by facilitating access to course content
7. ICT offers students more time to explore beyond the knowledge allowing them to understand better the scientific concepts.
8. ICT enhances the effectiveness of information presentation and stimulates students' interest.
9. ICT can improve the quality of education.
10. The use of multimedia approach had been successful in generating conceptual understanding.
11. The use of interactive multimedia software motivates students and leads to improved performance.
12. Using ICT increase the students' attitudes.

Further, research studies showed that ICT motivate student learning, there are a lot of assumptions that students are interested in using ICT; they found it more pleasant, more appealing, and more motivating to study with ICT tools than by traditional means (Kubiatko & Haláková, 2009). Multimedia and technology have proven helpful in engaging students in learning about subjects, in exploring ways to present their learning, and in helping students control their learning (Taylor & Parsons, 2011). In sum, the use of ICT also changes the teaching and learning relationship.

One of the technologies that teachers and students can use in learning process is the "Mobile technology". Mobile technology is changing the way we live and it is beginning to change the way we learn, mobile technology have transformed from a means of communication to tools for socialization, entertainment, work, and learning. Statistics show that over 6 billion people have access to a connected mobile device and for every one person who accesses the internet from a computer two do so from a mobile device (Tamhane, Khan, Tribhuwan, Burke, & Take, 2015). According to the International

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Telecommunication Union 2014, the number of mobile-cellular subscriptions worldwide is approaching the number of people on earth. Mobile cellular subscriptions will reach almost 7 billion by end 2014, corresponding to a penetration rate of 96% . More than half of these (3.6 billion subscriptions) will be in the Asia-Pacific region (Union, 2014).

Mobile learning involves the use of mobile technology, either alone or in combination with other information and communication technology (ICT), to enable learning anytime and anywhere. Learning can unfold in a variety of ways: people can use mobile devices to access educational resources, connect with others, or create content, both inside and outside classrooms. Mobile learning also encompasses efforts to support broad educational goals such as the effective administration of school systems and improved communication between schools and families (Tamhane et al., 2015). The concept of mobile education or mobile learning is still emerging and still unclear. Early approaches at defining mobile learning focused on technology, for example, it can be considered as any learning and teaching activity that is possible through mobile tools or in settings where mobile equipment is available. Caudill (2007) cite multiple definitions of m-Learning, including:

1. The point at which mobile computing and e-Learning intersect to produce an anytime, anywhere learning experience.
2. Mobile learning is a form of education whose site of production, circulation, and consumption is the network.
3. M-learning is as a process of coming to know, by which learners in cooperation with their peers and teachers, construct transiently stable interpretations of their world.
4. Mobile Learning- (M-Learning) The process of using a mobile device to access and study learning materials and to communicate with fellow students, instructors or institutions. Mobile learning can be done anytime, anywhere (Pollara, 2011).

Researchers suggested that there are three ways in which learning can be considered mobile: (1) learning is mobile in terms of space; (2) in different areas of life; and (3) with respect to time. It is clear that mobile learning systems should be capable of delivering educational content to learners anytime and anywhere they need it (Aderinoye, Ojokheta, & Olojede, 2007). In general, we can conclude that mobile learning is the use of any mobile or wireless device for learning indoor or outdoor. It is any service or facility that supplies a learner with electronic learning materials that aids their acquisition of knowledge, regardless of location and time.

Mobile learning is a relatively new phenomenon with its theoretical basis still under development. Researchers have begun to analyze more specific characteristics of mobile learning, including how mobile learning can support learning opportunities, the types of learning and learning activities that can be supported, and the various contexts in which mobile learning can take place. According to Sharples (2006), key characteristics of mobile learning that emerged were as follows:

1. Enables knowledge building to take place in different contexts.
2. Provides the ability to gather data unique to the current location, environment, and time (real and situated).
3. Enables learners construct their own understanding (customized to the individual path of investigation).
4. Changes the pattern of learning or the work activity (supports interactivity).
5. Supports the use of mobile learning applications which are mediating tools and can be used in conjunction with other learning tools.
6. Goes beyond time and space in which learning becomes part of a greater whole.

From a pedagogical perspective, mobile learning will serve a whole new highly mobile segment of society, a reality that could very well enhance the flexibility of the educational process (Aderinoye et al., 2007). Peters (2007) say that characteristics of mobile learning must include:

1. Urgency of learning needs
2. Initiative of knowledge acquisition
3. Mobility of learning setting
4. Interactivity of the learning process
5. 'Situatedness' of instructional activities
6. Integration of instructional content

Given that m-Learning is a discipline unto itself, there are certain advantages provided in a m-Learning environment that are not present in other kinds of e-Learning. The primary advantage of m-Learning is to provide truly anytime, anyplace learning. What this means for the learner is that they are no longer constrained by static resources. In addition to being able to access resources from anywhere with a mobile device, this ease of transport has other advantages. Perhaps most notably, mobile devices provide users with an interface to their content that is both personalized and secure (Caudill, 2007). According to Lim, Fadzil, and Mansor (2011), the general objectives of mobile learning are to:

1. Enhance the blend of the learning modes;
2. Increase the flexibility of learning offered to learners; and
3. Encourage and support ubiquitous learning (just in time, anytime, anywhere) via mobile technologies.
4. In a report of more than 25 handheld learning projects, Shuler (2009) found that the report highlights five opportunities to seize mobile learning's unique attributes to improve education. Those key opportunities for mobile learning include:
5. Encourage "anywhere, anytime" learning: Students can gather and process information outside the classroom to learn in a real-world context.
6. Reach underserved children: The low cost of a mobile device makes it accessible to low-income families and can help advance digital equity.
7. Improve 21st-century social interactions: Mobile technologies can promote and foster communication and collaboration; all important skills of the 21st century.
8. Fit with learning environments: Mobile devices can fit easily into many learning environments and eliminate the barriers associated with large devices.
9. Enable a personalized learning experience: Mobile devices allow differentiated instruction for diverse learners who can learn at their own pace.

Shuler (2009) remarked that mobile devices might be used to capitalize on the personalization capabilities of the devices that make learning more accessible. Mobile devices have bridged learning in school, afterschool, and home environments. Similarly, Shih and Mills (2007) and Pollara (2011) agree that the potential uses of Mobile learing in the classroom can do more than foster communication and aid in the exchange of information. They identify several potential advantages of mobile learning.

1. Mobile learning helps learners improve their literacy and numeracy skills and to recognize their existing abilities
2. Mobile learning helps learners to increase their understanding of the material/curriculum content.
3. Mobile learning may act as a good assessment tool for the students to identify areas where they need assistance and support
4. Mobile learning can be used to encourage both independent and collaborative learning experiences
5. Mobile learning helps to combat resistance to the use of ICT and can help bridge the gap between mobile phone literacy and ICT literacy.
6. Mobile learning helps to remove some of the formality from the learning experience and engages reluctant learners to express themselves and their ideas in a manner that is most comfortable to them.
7. Mobile learning helps learners to remain more focused for longer periods
8. Mobile learning helps to raise self-esteem/self-confidence
9. Mobile learning helps to increase students' motivation.
10. Mobile devices are becoming increasingly less expensive than purchasing textbooks, desktop, or laptop computers.
11. A student may use his or her mobile device to podcast, study using virtual flashcards, access the internet, connect to social media, read a poem, respond to a question posed by the teacher, post a comment, blog, or use the device as a calculator.
12. Games for mobile phones have the potential to support both cognitive and socio-affective learning while aiding in the development of strategic thinking, planning, communication, application of numbers, negotiating skills, group decision making and data handling.

Those advantages are supporting the results of some studies that integrating Mlearning with sound curriculum can contribute to increased student engagement, collaboration, productivity, technology competency, innovation, and critical thinking (Chou, Block, & Jesness, 2012). The study done by UNESCO (2012) has shown that mobile learning projects in South Africa have been used to improve teaching system especially teaching biology subjects. Furthermore the study conducted by Utulu and Alonge (2012) in Nigeria revealed that mobile phones were used by students for communicating with lecturer in charge of the course, collect data (recordings), sending emails to lecturers, access Online Public Access Catalogue and share knowledge. Also a study by Kajumbula (2009) in Makerere University-Uganda found that mobile phones were used by students for learning and teaching; for example, students can know whether their marks are missing, dates for tutorials, venues and meeting times with research supervisors.

Research has shown that teachers still resist the integration of new technology into the classroom. There are many factors affect the teachers' usage of new technology especially mobile learning. Researchers proposed those factors as the following (Kathryn MacCallum, Lynn Jeffrey, & Kinshuk, 2014):

1. Teachers' beliefs about the perceived value of the new technology "usefulness" and the perceived effort needed to learn to use the new technology "ease of use".
2. Teachers' skills to use and integrate digital technology into their teaching "digital literacy".
3. Teachers' self-efficacy beliefs pertaining to their own level of competence and their attitudes towards technology adoption.
4. ICT anxiety is considered as the tendency of a teacher to experience a level of uneasiness over his/her impending use of ICT.

The results on many studies indicated the importance of these factors in the acceptance of mobile learning.

The success of any initiatives to integrate ICT in classroom life depends strongly upon the support and attitudes of teachers involved, especially new teachers (Kyriakidou et al., 1999; Teo, 2008). Teachers' attitudes to and perceptions of technology use affect their technology use in instruction; guide the decisions teachers make and actions they take in the classroom. Those factors are important in motivating and encouraging a teacher to use technology in the classroom (Gilakjani, Leong, & Ismail, 2013). The results of those studies support the evidence that teachers' beliefs have an influence on the way they organized their classrooms, interacted with students, and how they act in the classroom (Fu, 2013; Palak & Walls, 2009). Palak and Walls (2009) mentioned that teachers who effectively integrate technology move toward student-centred instructional practices, and this in turn suggests a shift in teachers' beliefs as teachers experience new patterns of teaching and learning.

Purpose of the Study

The success of student learning with ICT will depend largely on the teachers' abilities, perceptions, and their willingness to embrace the technology (Teo, 2006). Teachers' attitudes and perceptions towards ICT is a very important factor that educators ought to consider in implementing mobile learning in classroom and it is a major predictor for future ICT use in the classroom (Teo, 2008). Other factors such as digital literacy, teachers' self-efficacy, and ICT anxiety are crucial for the usage of ICT as well as mobile learning. Therefore, the major purpose of this study is to examine science teachers' ICT attitudes and perceptions towards using ICT and mobile learning in teaching and learning as well as the factors affect the use of mobile learning. In particular, the following research questions will be addressed:

1. What are teachers' attitudes and perceptions toward ICT and mobile learning application in education?
2. How will the variables of the perceived attitudes and perceptions towards ICT and mobile learning, use of mobile and self-efficacy influence the perceptions and behaviour intention of science teachers' attitudes to adopt mobile learning?

Method and Research Design

This research is a descriptive in nature; its key purpose is a description of the state of affairs, as it exists at present. Surveys are concerned with describing, recording, analyzing and interpreting conditions that either exist or existed (Kothari, 2004). Therefore, qualitative data were obtained through a survey conducted with science teachers, the gathered data were analyzed using both descriptive and inferential statistics.

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Participants

The research sample consist of 67 science teachers who teaching science from two cities in Malaysia in the academic year of 2014-2015 , they were invited to participate in the survey via email that included a link to the web-based survey. The male teachers (n = 23) form 34.3% of the sample while the female teachers (n = 44) form 65.7% of the sample.

The Instrument

In order to investigate the science teachers' perceptions and attitudes towards ICT and mobile learning in education, the researcher adapted two instruments.

"Teachers' attitudes and beliefs about ICT" has been adapted from (Jimoyiannis & Komis, 2006) and from Mehra and Far (2013). The adapted questionnaire was a Likert-type scale containing 28 items that presented statements of perceptions and attitudes toward ICT. Every item in the questionnaire is 5 Likert scale. Likert scale question comprised five points ranking following: "strongly agree" (5 points), "agree" (4 points), "neutral" (3 points), "disagree" (2 points), "strongly disagree" (1 point). Several questions were constructed negatively. The evaluation of them was in reverse order. The scale consists of two dimensions, namely attitudes towards ICT in instruction (12 items) and perceptions/beliefs about the role of ICT in education (16 items). The results of Split-half reliability test and Cronbach's Alpha internal consistency coefficient for the sub-categories indicate that "Attitudes towards ICT in instruction" has Split-half reliability test of 0.757 and Cronbach's alpha of 0.83. On the other hand, "Beliefs about the role of ICT in education" has split-half reliability test of 0.969 and Cronbach's alpha of 0.90. This means that the instrument has a good reliability and can be used to measure the science teachers' ICT attitudes and perceptions towards using ICT.

"Mobile Learning Survey" developed by Pollara (2011) has been adapted to survey teachers' usage, cababilities and perceptions about mlearning. The adapted questionnaire was a Likert-type scale containing 34 items that presented statements of perceptions and current educational use of mlearning. The instrument consists of two sections; the first section divided into three sub-scale: prior knowledge (items 1-5), teachers' self-efficacy (items 6-10) and Ease of Use (items 11-18), the items in this section are 3 Likert scale (usually, sometimes, never). The second section of the instruments contains 16 questions related to perception about Mleaarning.. Every item in the second section is 5 Likert scale. Likert scale question comprised five points ranking following: "strongly agree" (5 points), "agree" (4 points), "neutral" (3 points), "disagree" (2 points), "strongly disagree" (1 point). Cronbach's alpha, the measure of reliability, was calculated for the scales and subscales for items measured on the five-point Likert scale. The overall scale had an alpha of 0.864. The instrument has a good reliability and can be used to measure the science teachers' perceptions towards mlearning.

Research Results

The research's survey asked science teachers to report their use of mobile devices for various educational tasks, their self-efficacy and thier attitudes towards ICT and mobile learning. Teachers were able to respond to as many of the questions that they believed applied to their prior use of a mobile device. Table (1) includes the means and standard deviations about science teachers prior knowledge, self-efficacy, use of mobile devices and attitudes.

The results show that science teachers have a high level of knowledge (82.8%) about using mobile learning and ICT in the learning process (M = 2.484, SD = 0.365). They also highly evaluate (77%) their self-efficacy in using mlearning (M = 2.31, SD = 0.438) and their frequent use of mlearning and its application in the learning process (M = 2.427, SD = 0.398), the percent of using mlearning is 80.9%.

In the next section of the survey, teachers were asked about their attitudes and perceptions with regard to ICT and mobile learning and mobile device use in the classroom. Means and standard deviations were calculated for all items, means above 2.5 indicate a positive response, 1.5-2.4 neutral while means below 1.5 indicate a negative response to the question. The results in table 1 show that science teachers have positive attitudes about Mlearning (M = 3.436, SD = 0.685) and about ICT (M = 3.42, SD = 0.352). They also have good and positive perceptions about ICT application in instruction (M = 3.596, SD = 0.446).

Those results indicate that science teachers believe about the importance of using ICT and mobile in education and they assert the usefulness of applying it in the teaching and learning process.

The second aim of this research is to investigate the effectiveness of the perceived attitudes and perceptions towards ICT, use of mobile, and self-efficacy in influencing science teachers' attitudes towards mobile learning. Therefore, a multiple linear regression analysis was conducted and a full model entry was employed to regress all predictor variables onto the dependent variable simultaneously. Table 2 displays the correlations between the variables.

Each variable has a positive significant correlation with each other variable with no any Multicollinearity. To get more information about the goodness of fit of a model, the results about R Square is presented in Table 3. In this case the R^2 of 0.393 indicates that 39.3% of the variation in science teachers' attitudes towards mlearning is explained by the regression variables. The adjusted R^2 value of 0.354 indicates that a good percent of the variability in science teachers' attitudes towards mlearning could be predicted by their perceptions towards ICT, use of mobile learning, and self-efficacy.

For more information about the model, Table 4 shows the regression ANOVA, which tests for a linear relationship between the variables. The results in the ANOVA Table ($F (4, 62) = 10.044$, $p < .001$) indicate that the value of F is significant beyond the 0.01 level. The full model R^2 was significantly greater than zero, $R^2 = 40.7\%$.

On the second step all of the predictors were entered simultaneously, resulting the "Coefficients", that provides the estimates of the regression coefficients (table 5).

Analysis of regression coefficients (Table 5) indicated that science teachers' attitudes towards mobile learning was predicted by their perception about ICT (Beta = 0.8, $p < .01$), and their self-efficacy (Beta = 0.4, $p < .01$). It is clear that those variables predicted significantly 39.3% of the variance. The other variables (prior knowledge and frequent use of mobile) are not a significant predictor. The overall model fit was $R^2 = 0.393$. Thus, the positive perceptions and the highest self-efficacy increase science teachers' attitudes towards using mobile learning in science classroom.

DISCUSSION

The research's survey asked science teachers to report their use of mobile devices for various educational tasks, their self-efficacy and thier attitudes towards ICT and mobile learning. The results show that science teachers have a high level of knowledge about using mobile learning and ICT in the learning process. They also have a high level of self-efficacy in using mlearning and of using mlearning and its application in the learning process. One the other hand, science teachers have positive attitudes and perceptions about Mlearning and about ICT. Each variable has a positive significant correlation with each other variables, the adjusted R^2 value indicates that a good percent of the variability in science teachers' attitudes towards mlearning could be predicted by the independent variables. For more specification, science teachers' attitudes towards mobile learning was predicted by their perception about ICT and their self-efficacy.

REFERENCES

[1]　Aderinoye, R. A., Ojokheta, K. O., & Olojede, A. A. (2007). Integrating Mobile Learning into Nomadic Education Programmes in Nigeria: Issues and perspectives. International Review of Research in Open and Distance Learning, 8(2).

[2]　Caudill, Jason G. (2007). The Growth of m-Learning and the Growth of Mobile Computing: Parallel developments. International Review of Research in Open and Distance Learning, 8(2).

[3]　Chan, By, & Foong-Mae. (2002). ICT in Malaysian Schools: Policy and Strategies. Retrieved 2/6/2014, from http://gauge.u-gakugei.ac.jp/

[4]　Chou, Chientzu Candace, Block, Lanise, & Jesness, Renee. (2012). A case study of mobile learning pilot project in K-12 schools. Journal of Educational Technology Development and Exchange, 5(2), 11-26.

[5]　Fu, Jo Shan. (2013). ICT in Education: A Critical Literature Review and Its Implications. International Journal of Education and Development using Information and Communication Technology (IJEDICT), 9(1), 112-125.

[6]　Gilakjani, Abbas Pourhosein, Leong, Lai-Mei, & Ismail, Hairul Nizam. (2013). Teachers' Use of Technology and Constructivism. I.J.Modern Education and Computer Science, 4, 49-63. doi: 10.5815/ijmecs.2013.04.07

[7]   Jimoyiannis, Athanassios, & Komis, Vassilis. (2006). Exploring secondary education teachers' attitudes and beliefs towards ICT adoption in education. Themes in Education 7(2), 181-204.

[8]   Kajumbula, Richard. (2009). Challenges In Implementing A Mobile Short Messaging Service (SMS) Program To Support Distance Education Students At Makerere University, Uganda. Paper presented at the the International Council for Distance Education Conference Maastricht, The Netherlands. www.ou.nl/Docs/Campagnes/ICDE2009/Papers/Final_Paper_316.doc

[9]   Kathryn MacCallum, Lynn Jeffrey, & Kinshuk. (2014). Factors impacting teachers' adoption of mobile learning. Journal of Information Technology Education, 13.

[10] Khaddage, Ferial, & Knezek, Gerald. (2013). Introducing a Mobile Learning Attitude Scale for Higher Education. Paper presented at the X World Conference on Computers in Education, Toruń, Poland.

[11] Koç, Mustafa. (2005). Implications of Learning Theories for Effective Technology Integration and Pre-service Teacher Training: A Critical Literature Review. Journal of Turkish Science Education, 2(1), 2-18.

[12] Kothari, C. R. (2004). Research Methodology: Methods and Techniques: New Age International Publishers.

[13] Kubiatko, M. , & Haláková, Z. . (2009). Slovak High School Students' Attitudes to ICT Using in Biology Lesson. Computers in Human Behavior 25, 743–748.

[14] Kyriakidou, Maria, Chrisostomou, Charalambos, & Banks, Frank. (1999). Primary Teachers' Attitude to the Use of ICT: a comparative study between Cyprus and the UK. Paper presented at the the European Conference on Educational Research, Lahti, Finland

[15] Lim, Tina, Fadzil, Mansor, & Mansor, Norziati. (2011). Mobile Learning via SMS at Open University Malaysia: Equitable, Effective, and Sustainable. . International Review of Research in Open and Distance Learning, 12(2), 122-137.

[16] Look, D. (2005). Discussion Paper: Impact of Technology on Education: PUSD Excellence Committee.

[17] Mehra, Vandana, & Far, Ziba Nikkhah. (2013). A Scale To Measure University Teachers' Attitude Towards ICT. International Journal of Teacher Educational Research (IJTER) 2(7).

[18] Mohd Zaki M., Faizal M.A., Erman H., Nazrulazhar B., A., Nor Azman M., & Y., Asrul Nadi. (2009). ICT Development In Malaysia. Paper presented at the Seminar on Information Technology 2009 (SemiT 2009)

[19] Palak, Deniz, & Walls, Richard T. (2009). Teachers' beliefs and technology practices: A mixed-methods approach. Journal of Research on Technology in Education, 41(4), 417–441.

[20] Pollara, Pamela. (2011). Mobile Learning In Higher Education: A Glimpse And A Comparison Of Student And Faculty Readiness, Attitudes And Perceptions. (PhD), Graduate Faculty of the Louisiana State University and Agricultural and Mechanical College.

[21] Rashid, Adnan Abd. (2011). The Utilization of Information and Communication Technology among Islamic Secondary School Teachers in Malaysia. Sosiohumanika, 4(2), 145-158.

[22] Sang, Guoyuan, Valcke, Martin, Braak, Johan van, & Tondeur, Jo. (2010). Student teachers' thinking processes and ICT integration: Predictors of prospective teaching behaviors with educational technology. Computer and Education, 54, 103-112.

[23] Sharples, Mike. (2006). Big Issues in Mobile Learning. Report of a workshop by the Kaleidoscope Network of Excellence (M. L. Initiative, Trans.). NOTTINGHAM: UNIVERSITY OF NOTTINGHAM.

[24] Shih, Yuhsun Edward, & Mills, Dennis. (2007). Setting the New Standard with Mobile Computing in Online Learning. International Review of Research in Open and Distance Learning, 8(2).

[25] Shuler, Carly. (2009). Pockets of Potential: Using Mobile Technologies to Promote Children's Learning. New York: The Joan Ganz Cooney Center at Sesame Workshop.

[26] Sim, Janice CH, & Theng, Lau Bee. (2014). Teachers' perceptions of the use of ICT as an instructional tool in Mathematics and Science. Retrieved 2/6/2014, 2014, from https://www.google.com.my/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CC0QFjAA&url=http%3A%2F%2Fictl.intimal.edu.my%2Fictl2007%2Fproceeding%2FFull_Paper%2F1A-03-

Paper%252069%2520(Malaysia).pdf&ei=R5CMU9aeCZPn8AX2vlDwDQ&usg=AFQjCNFaQnzrsHB8dbqt8fVJpIqtqd9W4w&sig2=FlySeO2caUClvp80cVwHNg

[27] Tam, Maureen. (2000). Constructivism, Instructional Design, and Technology: Implications for Transforming Distance Learning. Educational Technology & Society 3(2).

[28] Tamhane, K.D., Khan, Wasim T., Tribhuwan, Sagar R., Burke, Akshay P., & Take, Sachin B. (2015). Mobile Learning Application. International Journal of Scientific and Research Publications, 5(3).

[29] Taylor, L. , & Parsons, J. . (2011). Improving Student Engagement. Current Issues in Education, 14(1), 1-32.

[30] Teo, Timothy . (2008). Pre-service teachers' attitudes towards computer use: A Singapore survey . Australasian Journal of Educational Technology , 24(4), 413-424.

[31] UNESCO. (2012). Mobile learning for teachers in Africa and the Middle East: Exploring the potentials of mobile technologies to support teachers and improve practices. France: the United Nations Educational, Scientific and Cultural Organization.

[32] Union, International Telecommunication. (2014). The world in 2014, ICT Facts and Figures. Switzerland, Geneva: ICT Data and Statistics Division.

[33] Utulu, Samuel C., & Alonge, Ayodele. (2012). Use of mobile phones for project based learning by undergraduate students of Nigerian private universities. International Journal of Education and Development using Information and Communication Technology (IJEDICT), 8(1), 4-15.

[34] Yapici, İ.Umit, & Hevedanli, Murat. (2012). Pre-Service Biology Teachers' Attitudes towards ICT Using In Biology Teaching. Procedia - Social and Behavioral Sciences 64 633 – 638. doi: 10.1016/j.sbspro.2012.11.074

Table 1. Basic Descriptive Statistics

	Mean	Mean %	Std.Dev.
Prior Knowledge	2.484	82.8%	0.365
Self-efficacy	2.310	77.0%	0.438
Use of Mobile	2.427	80.9%	0.398
attitudes ML	3.436	68.7%	0.685
Attitudes ICT	3.420	68.4%	0.352
perception ICT	3.596	71.9%	0.446

Table 2. Correlations Between Predictor Variables

	Prior Knowledge	Self-efficacy	Use of Mobile	attitudes ML	perception ICT
Prior Knowledge	1	.335*	.287*	.296*	.321*
Self-efficacy	.335*	1	.383*	.452*	.391*
Use of Mobile	.287*	.383*	1	.398*	.489*
attitudes ML	.296*	.452*	.398*	1	.579*
perception ICT	.321*	.391*	.489*	.579*	1

* Correlation is significant at the 0.01 level (2-tailed).

Table 3. Model Summary

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Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	0.627	0.393	0.354	0.549

Table 4. The regression ANOVA

Model	Sum of Squares	df	Mean Square	F	Sig.
Regression	12.186	4	3.047	10.044	0.000
Residual	18.806	62	0.303		
Total	30.992				

Table 5. Regression output (Regression Coefficients)

	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
Intercept	-1.268	0.805		-1.575	0.120
ICT perceptions	0.800	0.231	0.385	3.460	0.001
Prior Knowledge	0.215	0.200	0.115	1.073	0.287
Self-efficacy	0.400	0.176	0.256	2.279	0.026
Use of Mobile	0.176	0.200	0.102	0.879	0.383

Perception of Lecturer on Intercultural Competence and Culture Teaching Time (Case Study)

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Abstract

Of all the changes that have affected language teaching theory and method in recent years, the greatest may be the transformation in the role of culture. This change reflects a broader transformation in the way that culture itself is understood. Culture is listed nowadays the fifth element of learning the foreign language. However, the perception of the professors to include culture as part of their teaching is still vain. This article involves ten English professors to understand their opinions regarding culture, and why they cannot develop intercultural competence during their classes. How culture is served in the classrooms depends from the professors opinions. This research was conducted based on the need to investigate culture teaching in English language in Albania. The data collected show that all the professors perform their lessons based on a curriculum which is limited regarding the culture aspects.

Keywords: Perception, lecturer, intercultural competence, culture, teaching time

1. Introduction

In the time that we are living and with the increase of people mobility, it is required to prepare students to communicate with individuals of different culture .The idea of teaching culture in foreign language education has been discussed a lot among scholars and academic people, but without making it part of the curricula. Still, a lot of language professors think that culture is part of anthropology and not to be taught by the foreign language teachers. Even though during the foreign language classes are treated different aspect of culture such as: everyday life, information regarding English-speaking countries, but they do not help to develop intercultural competence. *"Culture and communication are inseparable because culture not only dictates who talks to whom, about what, and how the communication proceeds, it also helps to determine how people encode messages, the meaning they have for messages, and the conditions and circumstances under which various messages may or may not be sent, noticed or interpreted... Culture is the foundation of communication"* (Samovar, Porter, & Jain, 1981) From this you can understand that culture is closely interrelated with language. It is important to keep in mind that culture is not something static but it is process that accompanies us during our life and it helps to give meaning to the words.

A lot of studies have been done regarding the importance of culture and the role of foreign language teachers. One of the most important studies is that of *Sercu's, an international investigation* on foreign language teachers and intercultural competence. This article is focused to find out how much time do the teachers in Albania dedicate to the teaching of culture and language competence and what the objectives of the professors are while teaching a foreign language. By understanding what the professors think will help to see where can be implement any changes in the curriculum.

2. Methodology

The methodology of the research discussed is a qualitative one. The questionnaire that I have used is adapted by **Lies Sercu(An international investigation: Section 3: You as a teacher**). It was completed by ten professors who taught English as foreign language to the students at University in Albania. All the participants have teaching experience more than five years. They were asked to rank according to the importance the objectives in order to understand how much time they dedicated to culture. From the data collected it is quite clear that the linguistic competences are the main important objectives of teaching a foreign language.

3. Analysis of Perception of the Lecturer

My purpose in the study was to learn about professors' perception of culture in order to understand whether they are willing to teach culture as general knowledge (facts) or as process to help students to acquire the adequate skills to interpret, analyze and compare on their own. Ten professors were given eight potential objectives to list them according to their importance and the one less important. These eight potential objectives are divided in culture learning objectives, language learning objectives, general skills/language skills.

Culture learning objectives
(1) Promote pupils' familiarity with the culture, and with the civilisation of the countries where the language, which they are learning, is spoken.
(2) Promote the acquisition of an open mind and a positive disposition towards unfamiliar cultures.
(3) Assist pupils to develop a better understanding of their own identity and culture.
Language learning objectives
(4) Assist pupils to acquire a level of proficiency in the foreign language that will allow them to read literary works in that foreign language.
(5) Enthuse pupils to learn foreign languages.
(6) Promote the acquisition of a level of proficiency in the foreign language that will allow the learners to use the foreign language for practical purposes.
General skills/language skills learning objectives
(7) Assist pupils to acquire the skills that will be useful in other subject areas in life (such as memorise, put into words, formulate accurately, give a presentation, etc.).
(8) Promote the acquisition of learning skills that will be useful for learning other foreign languages.

Table 1- Possible objectives of foreign language education

70 % of the professors have chosen these two options. Both of these two options clearly show that linguistic competences are the most important ones.

4. Assist pupils to acquire a level of proficiency in the foreign language that will allow them to read literary works in that foreign language.

5. Assist pupils to acquire the skills that will be useful in other subject areas in life (such as memories, put into words, formulate accurately, give a presentation, etc.).

Of course the four skills: speaking, reading, writing, listening are crucial and we are not going to stop it, but it's important to address the fifth skill – culture. The problem is that the Albania students have difficulties in these aspects mentioned and that is the reason why the professors dedicate more time to linguistic competence; they prefer to help the students acquire the skills to be able to communicate in English language.

The objectives that were ranked last are:

3. Assist pupils to develop a better understanding of their own identity and culture.

8. Promote the acquisition of learning skills that will be useful for learning other foreign languages.

Both of these objectives are characterized as cultural and generals skills. Since both of them are ranked last by the professors it means these two aspects are not developed by the professor at the university. In fact, if professors do not

help students by making a comparison of target and source culture, they won't be able to acquire the skills needed in order to increase their ability to communicate across cultures. It is the professors' responsibility to take the role of informant by giving information and asking them to show that they know it; to take the role of guide to engage students to make researchers and reach conclusions about cultural information.

4. What do the professors understand with "teaching of culture" under the context of teaching a foreign language?

 The other part of the questionnaire has to do with the opinions of the professors about the "teaching of culture". In the questionnaire they were asked to rank nine possible culture-teaching objectives. They are divided in knowledge dimension, the attitudinal dimension and skills dimension. An estimation of 70% of professors consider teaching culture more in terms of passing knowledge regarding daily life or history, geography, etc.

Knowledge dimension
Provide information about the history, geography and political conditions of the foreign culture(s) (culture/Culture).
Provide information about daily life and routines (culture).
Provide information about shared values and beliefs (culture/Culture)
Provide experiences with a rich variety of cultural expressions (literature, music, theatre, film, etc.) (Culture).
Attitudinal dimension
Develop attitudes of openness and tolerance towards other people and cultures.
Skills dimension
Promote reflection on cultural differences.
Promote increased understanding of students' own culture (also knowledge of own culture/Culture).
Promote the ability to empathize with people living in other cultures.
Promote the ability to handle intercultural contact situations.

Table 2.Possible culture teaching objectives

From the answers of the professors we can see that the majority of them ranked first the objective about daily life and second most important objective ranked history, geography and political issues of a foreign culture.

1. Providing of information in relation to daily life.
2. Providing of information on history, geography and political issues of foreign culture.
3. The last ranked options are;
4. Promote the ability to empathize with people living in other cultures.
5. Promote the ability to handle intercultural contact situations.

This means that the professors are more focused on passing knowledge to the students regarding different fields of culture. The main reason why the professors are focused more on these two points is because they want to increase students' familiarity rather than developing intercultural competence. It is important to keep in mind that if students' memorize facts of the English-speaking country by heart, they are not going to develop intercultural skills. Students must be stimulated to conduct researches on different cultural topics and to discuss it in class among each other. Professors must give to students extra materials to read and to include culture on the exams, in these way students will be more motivated to conduct researchers on their own. By the help of professors, students must learn how to react appropriately in a social situation; describe a pattern in the culture; "explain" a pattern; predict how a pattern is likely to apply in a given situation etc. It is the professors' duty to increase the students' curiosity about the target culture and empathy toward its people. This can be done by using different techniques or activities such as: dialogs, role plays, simulations.

5. How do professors plan their teaching hours for teaching of language and teaching of culture

This question is to find out the average allocation of the teaching time. To the professors they were given several options to choose which is shown on the graph below.
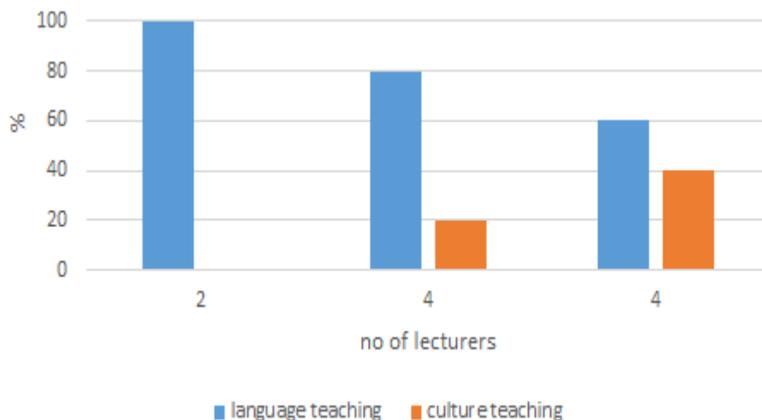
From the graph it is clearly shown that the majority of professors are focused more on language teaching. The time they dedicated to culture varies between 20% - 40%. Two professors have chosen the option 100% language teaching- 0% culture teaching; while the other professors have chosen the options 80% language teaching – 20% culture teaching or 60% language teaching- 40% culture teaching. This means that they still hesitate to interrelate culture and language .The following question was if they have the feeling that they would have liked to plan more time for teaching of culture during the teaching classes of foreign language but they have not managed to achieve it. Most of them would like to dedicate more time to culture teaching but at certain extend. The last question of this section was an open question to give some reasons why they didn't dedicate much time to culture. They wrote different things why they couldn't dedicate more time to culture teaching some of them were:

- *Course book restriction*
- *I usually don't have problem managing my teaching plans but there are times that I have to teach the language mostly due to the lack of teaching time*
- *Another reason is that the Albania students encounter lots of difficulties at the English grammar and the examples introduced to them do not have culture elements between the lines.*
- *The curricula program is organized in modules and it does not include culture in it.*
- *I think students may not like learning the culture*
- *It is difficult to teach culture when they are not at a proficient level in English*

Some of the problems they mention in teaching culture are:

1. The curriculum restriction, they have a curriculum to follow and since the hours are limited they don't have time to focus on culture aspects. Whenever they have free hours they would like to dedicate more time to the aspects where students encounter difficulties such as grammar or speaking.
2. Lack of time: Professors need to work extra hours in order to find materials to present to the students since the materials presented in the books are not enough.
3. Another reason presented is that in the beginner or intermediate level, teachers are more focused to develop students' ability to speak and to write the language in the appropriate grammatical way.

4. Lack of students' interest to learn the culture of English-speaking countries. This may be related to the professors fear how to deal with students negative attitudes towards other cultures.

5.

Conclusion

The findings of this study show that professors are aware of the importance of culture in the classrooms, but do not integrate it in the syllabus because of the reasons mentioned before. I think it is important to teach language together with culture and are the professors who should lead the students towards the target culture by taking different roles in the classroom such as that of the informant; coach; co-researcher or guide. It is not difficult for students to learn the vocabulary or grammar of English language, the main difficulty is to be able to form sentence and to communicate within the culture context. Culture needs to be present even at the beginning level of learning a language. If they don't understand the culture of the language they are learning, it will be difficult to communicate or to choose the right words in the appropriate culture context. It is now professors' responsibility to teach the culture while teaching a foreign language and be constantly updated with the changes that occur over time. Teaching culture needs to be integrated in the curriculum of the foreign language.

Reference

[1] Alptekin, C. (2002). Towards intercultural communicative competence. *ELT Journal*

[2] Brown, A.V. (2009). Students' and teachers' perceptions of effective foreign language teaching: A comparison of ideals. *The Modern Language Journal,*

[3] Byram, M.*(1989). Cultural Studies in Foreign Language Education: Multilingual Matters*

[4] Corbett,J. *(2003). An Intercultural approach to English Language Teaching: Multilingual Matters*

[5] Cheryl,A. Hunter., Donna K.Pearson and A.Renne Gutierrez. *Interculturalization and Teacher Education theory to practice*

[6] Chisholm I.M.*Preparing Teachers For Multicultural Classrooms.* The Journal of Educational Issues of Language Minority Students.

[7] Damen, L. *(1987). Culture Learning: the fifth dimension in the language classroom.*

[8] Fang, Z. A review of research on teacher beliefs and practices. *Educational Research,*

[9] Kramsch,C.(1998). *Language and Culture:* Oxford University Press

[10] Lazar.I, Huber-Kriegler.M, Lussier.D, S.Matei.G, Peck.Ch, *Developing and assessing intercultural communicative competence- A guide for language teachers and teacher educators*

[11] Lazar,I. (2003) *Incorporating intercultural communicative competence in language teacher education;* European Center for Modern Languages Council of Europe Publishing

[12] Moran R. P. (2001) *Teaching Culture: Perspectives in Practice:* The Electronic Journal for English as a Second Language

[13] Samovar, L., Porter, R. & Jain, N. (1981).Understanding intercultural communication. Belmont, CA: Wadsworth.

[14] S, Saglam.,Ipek Kuru Gonen S. Teaching culture in the FL classroom: Teachers' perspectives, *IJGE: International Journal of Global Education-2012,volume 1 issue 3*

[15] Sercu, L. (2000). *Acquiring intercultural communicative competence from textbooks*. Leuven: Leuven University Press.

[16] Sercu, L. (2005). *Foreign language teachers and intercultural competence*: An international investigation. Clevedon: Cromwell Press.

[17] R. Michael Paige, Jorstad,H., Siaya,L., Klein,F,. Colby J. *Culture Learning in Language Education: A Review of the literature*

Public Spaces in the Focus of Citizen's Right - Case Study – Urban Spaces Tirana

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Abstract

Syndrome of built environment and civil perception. *The article pays attention to solving the problems of natural environments,* as well as altered *and/or artificial ones* taking *Tirana as a case study. It reviews the application of practical solutions to everyday problems* of *environment, where theory, research and application are integrated, but mostly using their unification* as the *eclectic model* in order *to show the interaction between man and environment. The article* reviews the way we *are a product of our environment, our biology or the interaction of both.* It shares the way we are affected by *physical environment,* such *as noise and built environment.* In addition, it *also examines* the way we may *modify our environment through design principles, such as aesthetics, and* the way we *change our environment, when we disregard the impact that people and/or elements have in our ecological system. It provides ideas on the impact of micro and macro-*environment *of Tirana metropolis, including* their *short-*term *and long-term effects. Then, its is presented the position* of environment *in Tirana,* the *values,* ethics *and principles that apply to environmental assessment,* models *of perception and knowledge, including the way we process and maintain environmental information,* and *the main theories of man-environment interaction.* Then, a variety of environmental impacts, such as: noise, urban design, urban construction (including pollution effects), collection (overpopulation) and city life are examined, as well as the way they influence us. In the end, considerations are given on the way that these principles of psychology may be applied at home, in institutions (i.e. schools), at work and at leisure premises, by concluding with the concepts of the way we may change our attitude which harms environment[1].

Beautiful indeed.

Keywords: Public Spaces, Citizen's Right, Urban Spaces, Tirana

INTRODUCTION

A clean and healthy environment is a part and a parcel of prosperity and quality of life which we want for ourselves now and for our children in the future. The stairs we climb and descend each passing day in block, the paths of the house, the schoolyard, the green areas beyond the town, etc., need love and care from us, so that environment becomes what we want it to be, with clean air, healthy food, shifted into welcoming space for our civic coexistence. Environmental protection which is presented to us with changes and chances is not only an aspiration of people in order to live in a clean and healthy environment, but we need to know that the costs and the other damages caused by pollution and climate change are considerable.

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[1] March 2010, Marin Barleti publishing, Prof. Asc. Sazan Guri, Environmental Science and its basis.

If you the capital of Albania today in Blloku area, in the downtown and everywhere else, you get astonished with the huge buildings, heavy and large, which have been constructed recently. Beautiful designs of collective buildings, such as Twin Towers, Vodafone Tower, night clubs in Blloku area, luxurious hotels, 10-13 storey buildings in the main roads, if you analyze the urban and environmental cost they produce, it may be stated that separately they are designs in the proper level, but in communion they have no urban cohesion.

It is sufficient a day in terrain to visit neighbourhoods, it is sufficient to observe with an observant eye the groups of buildings, it is sufficient to research with the mind of an expert the residential complexes internally and immediately you will understand that Tirana looks like a hige urban village, pityingly you will accept that Tirana has been developed in constructions, but not according to a stable development, which obliges you to call such works rather fatalities than actual works. Here are the results of indifference from the relevant institutions, but also from the citizen who day after day feel the dust layers, which have been cemented in their lungs and again we continue altogether to destroy the city and ourselves[1].

At a time when Tirana in the eve of the `90s, was classified as a graceful European city, with quiet square construction blocks (former blloku), with neighbourhoods with characteristic elitary villas (surrounding RTVSH), with low bloks of flats arranged with the intuition of the geometer architects of that time (Shallvaret, Pallatet Agimi), with neighbourhoods with typical Tirana houses (Kodra e Kuqe), up to lagjia Vakëf with adobe houses (Varri i Bamit), with roads that have not changed for 200 years (the Great Boulevard). Hence, a city which used to be dominated by greenery comparable with Berlin, where each Tirana resident had 15m^2 greenery. But, where is Tirana heading today? Each resident of of Tirana inhales officially 49 kg of dust per year or half a glass per day; each resident inhales 10,000 liters of air, which he believes it is clean, we live in a city where dust has little air, we receive water in portions yet, while the others in other countries drink beer, after we face with policies on air that kill 300 people each year[2]. The fact of the World Health Organization state that there are 4300 additional tumor cases per year, 600 new cases with tuberculosis each year, for 8 persons-women awaiting daily death from breast cancer. Maybe we have neighbourhoods such as Komuna e Parisit with a population density of 1,500 residents/ha and may the so-called lake of Tirana is turning into a huge pool. Nowadays the downtown of Tirana is being served otherwise. Air per hectare – constant quantity which means that such oxugen is not proportionated for maximum 100 people/ha. Several figures which lead to this situation:

Urbanization – public space ratios

•	Tirana city area	40,000,000 m^2
•	Park area	100.000 m^2
•	Sport terrain area	100,000 m^2
•	Leisure area approximately	100,000 m^2
•	Project (design) area	700,000 m^2
•	Forest area	1,000,000 m^2

Urbanization – public space ratios

Public space – urban space ratio   1,3 %   (Tirana, city)

Green space – urban space ratio   0,5 %   (Tirana, city)

Public space – urban space ratio   5,2%   (Tirana, including forest)

Our concern

[1] March 2010, Marin Barleti publishing'Prof. Asc.Sazan Guri, Environmental Right (Albanian Environmental Legislation In Comparison To The European Legislation).

[2] June 2008, Marin Barleti publishing, Prof. Asc. Sazan Guri, Environmental Analysis In Urban Works .

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There is no ratio between land and construction,

There are no stipulated areas with low density, clean residential areas, common areas, mixed areas, village areas, central area,

There is no ratio between public spaces and concrete areas;

There is no ratio between green areas and grey areas;

There may not and there should be no urban pressure in the areas with high ecological values and national importance;

There may not and there should be no urban pressure in area of ecological crowns and national importance.

SITUATION

Uncontrolled human activity that is bringing negative changes to our natural environment, in the conditions of deterioration of biological factors in water, air and land and its physico-chemical composition, as well as institutional apathy in the field of environmental protection, which can cause irreversible consequences, brings to our joint attention the need to say "STOP" to the misuse of land and ecological values that are threatening urban environment, simultaneously the health of residents in the city of Tirana[1].

Albania and Tirana seem to suffer from a nasty social phenomenon, which is not the only case for the country, but that is more serious than in many other countries. From the political viewpoint, this may be called as "lack of respect for the law". More specifically, it should be understood that it is a dangerous selfishness and anti-social behavior towards the people who are not familiar with each other. Albanians are hospitable, friendly people, and this is noticed immediately in the first presentation with them, but their goal is an old Mercedes, big and with oil, which are anti-social consumers of the road space and air pollutants that absorb their fellow citizens. These cars prefer to go through the pedestrian crossing places, may park on pavements, including pedestrians in traffic. They build buildings very few centimeters far from their neighbor, hindering the view and light. The works in the buildings start at 6am on Sunday or listen to loud music at home or late at night, unreasonably argue with other drivers and spit in public places, such a disgusting and non-hygienic gesture, which is known to contribute to the distribution of diseases. Cops drive cars even though the red traffic light sign, challenging the compliance with the rules by other drivers. These features make the Albanian cities such as Tirana and Durres be unpopular and un-civilized, too.

TERRITORY STATUS

The Urban Study of this area was approved with the decision of the CTR of the Municipal Council, No. 81, dated 29.12.2007, based on the previous decision No. 4, dated 21.11.2006 of the CTRRA. This study will orient the development of this area towards a second urban centre for the metropolis Tirana. It includes the zone near the lake, planning a urban infrastructure, whose priority is the urban development, preserving as efficiently as possible the typical natural assets of this area. Even though the essential principle of the project is the stable development of the area, it has not been designed in harmony with the surrounding, because the fundamental condition for a stable urban development in this area is the necessary support on the principles and the orientations of the Sectoral Strategy for the development of the urban spaces, respecting rigorously the natural surrounding and the biodiversity of the region, preventing the

damages and the destruction of the natural habitats, which are very important. The respective territory has got a special status for some specific sectors and it is included in the forest fund[2].

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[1] June 2008, Marin Barleti publishing, Prof. Asc. Sazan Guri, Urban Violations in Tirana.
[2] February 2008, Marin Barleti publishing, Prof. Asc. Sazan Guri, Tirana, disaster or calamity

THE RECOGNITION AND THE STUDY OF THE BASIC OPTIMAL PARAMETRES TO LIVE

The recognition and the study of the basic parametres, which provide the appropriate space to a citizen to live in optimal conditions in a residential group, in a residential block, in a residential complex and in a residential neighbourhood, highlighting the construction coefficients, the construction intensity, the coefficient of the green areas (m^2/inhabitant), etc. constitute the necessity or the first step towards a study which focuses on the probable cases of urban offences in a specific city. Of course, in order for a city to function effectively, its constitutional actors and parts are important, without excluding even the specific economic, social, ecological, cultural policies, where all the actors act in harmony with each other.

Therefore, the city is a wide concept

The urban panning of a certain area in transition

The urban planning is a synthesis and a consequence of the analysis in some different disciplines, such as:

- social, economic, historic and ecological disciplines.
- In the respective case, we notice:
- the violation of the social sphere, where the public surface of the citizens of Tirana is reduced from their living style.
- the damage of the region history, which symbolizes another DNA or a DNA which is in opposition with the urbanization, such as the cases near the centre of Tirana, near the dam at the lake, near the zoo, near the forest, near the botanic garden, etc.;
- the ecological influence, which causes urban pressure on all the above-mentioned zones.

Drafting such urban long-term plans requires:

- qualified environmental analysis, which cannot be provided in the relevant case;
- a long-term prognosis about the demographic, economic and social development.

The relevant project does not change a lot from the other ones carried out so far by individuals or groups of individuals up to a state level, which have caused negative phenomena in the country, in some cases even with serious urban, environmental, economic and social consequences, settling irrevocably populations in constructions without permissions, in some areas which:

- were not studied for urbanization,
- lack an engineering infrastructure,
- are part of the public territories,
- include rivers and lakes,
- have natural and historic values, etc.

No further than yesterday, like many other cities in the country which experienced these situations gravely, even Tirana was not prepared to cope with this movement and this new urban development. What about today?! Until yesterday, there was:

- a confusion of the data and information provided by different projects and programmes,

- a lack of the specialists trained with the contemporary concepts in the area of the urban planning.

- a lack of the participation of the citizens in the drafting and approval of the urban studies. *What about today?!*

Urban diversity, a new model of Tirana

Therefore, the drafting of the new general regulatory plans requires:

- a full inventory of information,

- analysis and prognosis with the new contemporary concepts,

- a relatively long period of time at the disposal of the public to participate in order to be informed, until the citizens 'consciousness is created so that they are able to make such decisions.

Therefore, governing is the art which makes the locomotive-city work, regardless the political differences and the bureaucratic and arbitrary limitations, which requires:

- leadership, imagination, flexibility, community participation, the involvement of the expert and the negotiation abilities[1].

Nowadays, among the urban strategies worldwide, the *Stable Development* is classified as a life jacket. It has to be considered as the philosophy of the generations, where the first one fulfils its own necessities for a living without spoiling the opportunities and the pleasures the other generation has to get. Therefore, the complete stability of this development would require the efficient preservation and development of three main potential components: the social, economic and ecological components.

THE RECOGNITION AND THE CLASSIFICATION OF THE NEIGHBOURHOODS IN TIRANA BASED ON THE IMPORTANCE AND THE VALUE OF THE AREA

The recognition and the classification of the neighbourhoods of Tirana based on the importance and the value of the zone pursuant to the cultural, historic, touristic landscape, environmental, industrial commercial developments, firstly highlighting the construction areas, whether it is a rural area, central area, a clean residential areas, a mixed residential area, a business area, an industrial area, a preserved area, a management area, and specifying the permitted functions for each of them; all these factors constitute the fundamental condition for the planning of every territory despite its space at a commune, municipality, country or continent level[2].

The urban development of Tirana, which reached the highest peak of the GDP of country during the years 2002-2008, has required a Urban Plan for a long time, which was achieved by the end of the year 2008. Despite the boom in constructions, which were based on some special projects up to some partial studies, it was found that the neighbourhoods in Tirana have not been recognized and classified based on the value and on the importance of the zone in compliance with the cultural, historic, touristic landscape development, due to the fact that the construction of an entire complex at the hilly area near the botanic garden, is a typical Albanian case, where some constructions similar to palaces overlook the sunrise, meanwhile some other constructions similar to huts cannot see even the sunset, some villas are hidden after the several-storey flats, meanwhile some constructions similar to carcasses conquer the entire area where the poor creatures of the wildlife live.

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[1] October 13-14, 2009, Prof. Asc. Sazan Guri, Air pollution and urban planning in Tirana   International Conference, Tirana (Scientific Referee)

[2] Tirana 2011, Demography Magazine, Prof. Asc. Sazan Guri, Marianthi Guri, Thoughts about building and urban in Tirana, page 4

However, they share one common feature: they are all constructed on a tectonic-seismic zone, causing not only insecurity and fear but even urban pollution and why not even psychological, physical, visual pollution up to a grotesque sensation, where the children of the palaces, of the huts, villas and flats wake up and go to bed accompanied with the roar of the lions, wolves, jackals and of many other animals. Is there a similar case in the world where the architects and the decision-makers play games with the laws of nature. These grotesque spectacles of the superposition of the projects with different urban functions would not occur if there was a classification of the urban areas which possess the respective permitted functions such as:

1. The development area

These area would include the regions where the construction in compliance with the contemporary parametres would be encouraged, creating the necessary spaces for all the kinds of the activities and of the functions which are expected to be involved in it, such as multi-family buildings, education institutions, supermarkets which might be separated, attached to or integrated in other objects, restaurants, bars, cafés, offices and administrative institutions, theatres, cinemas, cult buildings, buildings with a recreational character, an area for temporary car parking, underground garages, parks and squares, temporary halls for exhibitions and fairs, etc.

2. Management area

The management areas are supposed to be those regions where interferences in the existing zones are accepted in order to increase the density and the improvement of the living conditions of the citizens. These areas will develop after the assessment of the residential objects and complexes with special values, interfering very carefully an only through the urban studies in the free spaces, reassessing the degraded areas and the ones without any special values for the city, permitting the buildings such as one-family constructions (for example: 1 to 3-storey villas), schools, etc.

3. Conservation area

These areas include the characteristic, city-formatting, historic, cultural, environmental, picturesque and touristic zones of the city. In these areas, no construction permits can be given for the objects and structures which spoil the identity of the area. The existing objects of the zone might be rehabilitated only in their interior part, without damaging their volume, façades and their special architectonic elements. The permission is issued only in the following cases: They have to be one-family buildings, with *permitted functions* such as parks and squares (relaxation spaces, preserving and cultivating the green areas), protected landscapes, places with recreational character (boats, canoe, fishing and camping with the respective services), fountains and water mirrors, sculptures and monuments, parks, zoos, temporary service objects (only with a special permit and with a continuous supervision from the municipality)[1].

4. The industrial area

Constructions with the following functions should be permitted in the industrial area: bakery shops, enterprises of food processing, warehouses and other premises for the trading of fruits and vegetables, clothes factories, enterprises where furniture is manufactured, etc. Under these circumstances, the area near the Lake and the neighbourhoods of many other urban areas in Tirana are not recognized and classified based on the importance and the value of the area in compliance with the cultural, historic, picturesque-touristic, environmental, industrial and touristic development, therefore we are in the middle of a chaos and where their existing values are exchanged with their urban character (the case of the centre of Tirana

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[1] April 2006, G & Ggroup, 2k Group, Environmental Ministry, *The Eia Report And Social Impact For The Urban Master Plan In Ex Chemic Block In Tirana.*

and of the centre 2 of Tirana). After the request for the transformation from a sportive zone to a residential zone, the Council of the Territory Regulation of the Republic, with the decision no. 4, dated 21.11.2006, passed the change in the Regulatory Plan of Tirana regarding the functional zoning, for the area in the street "Margarita Tutulani", "Sami Frasher" and in the north-western part of the Dam of the Artificial Lake (zone C1 and C2) from a "sportive zone", according to the Regulatory Plan, into "a residential area". Pursuant to the respective decisions of the Municipality and of the CTRRA, the following is the current division for urban construction:

1. **The residential area**, which lies in the north-eastern part and in the south-western part, in both sides of the pine area (**zone C1 and C2**) shall be treated as a residential area with residential buildings. The objects of the residential area will be multifunctional. Commercial and residential premises will be in these buildings. The first floors of the residential buildings are projected to have multifunctional character, for commercial and social activities. The residential objects shall be projected pursuant to all the urban norms. Streets for the service of the fire engines and of the emergencies will be provisioned in the residential area. The construction intensity varies from the value 2.5-3.

2. **The multifunctional object (zone C1/a)** whose destination is a cultural administrative and sportive zone, which is located in the south-western part. The multifunctional object shall include different activities which generate working positions, for example: a centre for fairs and conferences, art galleries, cinemas, theatres, an opera house, sport halls, restaurants, etc. It will be a strategic point with activities not only for the surrounding area but for the entire city of Tirana. The ground floors of the multifunctional object will be connected with the other part of the residential object, with underpassings and pedestrian areas, which will be treated as special elements with a contemporary architecture. As the multifunctional object is close to the Artificial Lake, an architectonic connection with the dam of the lake has been considered, in order for this connection to be used as a boulevard and the inhabitants of Tirana can use this part of their city as a recreational area which offers several activities[1].

3. **Zone C2.** This area needs a urban development which involves a mix residential and commercial character of the area; the layout of the urban network of the entire area and the introduction to the new standards, creating new urban places, as well as the introduction to the objects with a cultural and recreational character. The zone will be developed as a modern multifunctional centre with contemporary standards, or as a commercial, recreational and residential centre, intermingling the multifunctional spaces with the green areas of the Public Park, with residential towers, with a height of 13-22 floors and with e high tower up to 33 floors and with a big recreational park in the function of the residential towers.

4.

5. **The area of "Garda" and of the Park of Tirana (zone C3).** The construction of the residential objects based on a typical architectonic project will transform this area into a residential complex, connecting it with the existing part of the city. Its position close to the National Park created a direct connection of man with nature. The part of the park near Garda is thought to remain a green area (check the functional zoning). **Zone C5**. This zone up to the ring road will have a residential character with residence intensity 2.5-3. **Zone C4** and the area above the ring road of the zone C5 will be a residential area with a lower residential intensity. The maximal height of the objects will be 3+1. The underground parking spaces throughout the area lie on the entire surface of the property, avoiding the access through the secondary roads of the parking block. The number of the parking posts in this floor shall be in proportion with the number of the inhabitants. There shall also be parking posts for the people who will visit the multifunctional premises (the floors with commercial functions). The development of the area through the Lake of Tirana, based on the project, means its revitalization including even the dam

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[1] January - May 2009, G & GRegional, Environmental Ministry, Eia on the study of geological, geotechnical and hydrogeological on the administrative area of bërzhit comune and social impact.

of the lake and the preservation of the development balances, giving priorities to the infrastructure which will fulfill the needs of the community[1].

THE IDENTIFICATION ON TERRAIN OF THE URBAN CONSTRUCTION MISMATCHES IN COMPLIANCE WITH THE RULES OF THE CITY PLANNING

Even today, the Municipality gives land for construction but not sites prepared for construction. Which are the reasons that in most of the cases the norms of the city planning rules are not respected during the constructions? Who is responsible for the creation of the infrastructure of the construction site? Do the construction companies or the Municipality have to do this thing? At the moment, in our capital city, all the investors who buy a construction site pay for projects which in most of the cases have not been studied from the city planning prospective, and not only. The construction number during the last five years has rocketed. This is shown by the fact that the previous utility poles, result to be in the middle of the streets these days. Having constructed the block of flats, it is found that there is no free space or a pavement to put the pole. Also, in the boulevard "Gjergj Fishta", there are still buildings positioned in the middle of the bank of Lana River. There are still degraded sites and zones covered with rubbish and nobody notices it[2].

The minimal distance of the buildings or of the objects from the side of the street is less than 5 metres, for streets whose width is up to 7m, not less than 7.5m for streets whose width is 7-15m, and not less than 10m for streets whose width is more than 15m (refer to the photos of the street "Komuna e Parisit"). Pursuant to this part of the rules, taking into consideration even the surveys, we can say that almost everywhere in the residential territories (group, residential block or complex), there are no respective surfaces square metre/inhabitant for the constitutional elements, such as playgrounds for children, surfaces for social objects, surfaces for sportive terrains, organized green areas (parks), streets and squares among the blocks. According to this part of the rules and even to the studies, we can say that almost in all the above mentioned elements which serve for public services, there is no parking service because the public spaces are occupied. On the contrary, the blocks of flats inside the big ring road, particularly the ones with very expensive and with the so called luxurious flats, offer spectacles, with dramatic consequences sometimes, every morning and evening, due to the narrow entrances in the parking spaces. Pursuant to this part of the rules and even to the surveys, we can say that the green areas in the residential area have been substituted with urban works, taking to a trough the standard regulated by the law, meanwhile the green area in the residential complexes is just a zone similar to a park, with few trees and a little greenness, mostly covered with pebbles and with an infertile land.

Regarding the local parks, it can be said that the ecological balance of approximately 450,000 new residences in Tirana was supposed to have been located on a surface of 7,500 hectares, or the other ecological balance, which determined two trees per inhabitant, nowadays has two change with six trees per inhabitant due to the urban life we live. Regarding this element of the public space, we can say that in Tirana there is an increase of the mini-football pitches or of the terrains for

[1] June – November 2009, G & G Vora Municipal, Environmental Ministry Vora, Municipality Preza Comm. Preza Comm, Bërxull Comm., "Eia on the study of geological, geotechnical and hydrogeological on administrative area of vora and preza and social impact".
[2] 2009, Environmental Ministry, G & Ggroup, Eia for the sportive complex in the bubq village and social impact, Bubq

the organization of the sportive games. However, they are not sufficient compared with the current number of the population. In some other cases, due to the international laws, some sportive areas, which are even private, such as the annex of the Stadium "Dinamo", are preserved. According to the survey carried out in the city, it is found that every citizen of Tirana might encounter every day, throughout his life, the violation of this rule, in more than 80% of the new blocks of flats constructed in these last 6-7 years. For example: the 12-floor buildings, which are supposed to be 26m or 30m away from each other, actually are no more than 3-4m away from each other. New blocks of flats are still being constructed. If we refer to their beautiful computerized designs, they pretend to be surrounded with public and green spaces. However, the truth is that they do not have any surrounding free spaces, as they have exploited the entire area for construction, and they do not have even a pavement for the pedestrians. The separating space among them is inconsiderate compared with the number of their floors. In some cases, these buildings have been constructed at the side of the pavements and extend beyond their limits. This fact is not taken into consideration during the calculation of the space among the buildings or from the building to the pavement[1].

With regard to the console parts of the buildings, there is a law in the city planning rules, which stipulates that: If a building has console parts in more than 50% of the its entire surface, they are considered construction surface and they will be calculated in the distance among the constructions. According to the studies in the terrain, it was found that in the area of Farka, this rule has not been respected. The consoles of the balconies of all the flats go beyond the line of the pavement. This area has a steep terrain and the balconies are above the heads of the pedestrians, causing troubles for the normal movement along the pavements. These problems do not belong only to Farka, because the situation is even more serious in the internal streets of the city. In the region of Dajti and Farka, more concretely in their horizontal levels, there are buildings which compete against the laws of nature[2].

The artificial lake of Tirana is facing the threat of self-drowning, of drying and becoming undesirable for most of the people here in Tirana. At the moment, it has the smallest surface covered with water it has ever had, the lowest volume and consequently its most unpleasant view. Previously, it used to give pleasure and grace to the relaxing park of Tirana. We are finding it impossible to know its values, we are not using it for its beneficial features such as for watering, for rinsing and the dilution of the sewage that comes from Lana. Nowadays, it is full of mud and cannot be cleaned; its ways and mechanisms that supply it with water have been blocked, therefore it can realize the function it was designed for in the '50s. The artificial lake or the big park of Tirana constitutes one of the most preserved areas during the riots of the year 1997 and it still is a

sportive and spiritual pilgrimage spot for thousands of people, who go there every morning or evening for physical exercises, for relaxation and for cleaning the filter of the lungs which is dirty because of the polluted and dusty air of the city. This place has got this feature due to the perfect combination of the parametres of the forest with the waters of the lake. Even the citizens themselves accept the fact that when they want to relax they go to the lake or the big park. Actually, it is obvious that man goes to that place where the park and the lake live in symbiosis with each other, where he can find spiritual, physical and mental quietness. But what is happening with the lake? The park is not being well-maintained, but this is not the entire situation; it is deteriorating day by day. Unfortunately, almost all the lakes of Albania have degraded in the similar conditions like the lake of Tirana, with just little water, with lots of mud and with destroyed dams. We are demonstrating that we do not have the decision-makers to administer, we do not have the specialist to lead and we do not have employees to maintain the area[3]. We are giving a new dimension to the destruction of the city through the destruction of the artificial lake. We have to think very carefully before undertaking actions to change or to interfere at the lake, because what these actions have already started to show their consequences. However, the worst is expected to come in the future. Albanian

[1] June - November 2009, Prof. Asc. Sazan Guri, Eia for the bërxull administrative unit, G & GBërxull Comune.

[2] 2012, Prof. Asc. Sazan Guri Strategic environbment assessment report for the urban plan of Tirana

[3] 2013, Strategic environbment assessment report for the urban plan of Berzhita.

nature is wonderful, with climatic features which have been attempted to be realized artificially by other countries[1]. The weather in Albania has the highest amount of the rainfall, increasing the input of the water resources which are represented by several rivers and power plants. We are assisting urban planning in the negative sense. What is occurring at the park and at the hills referred to as the green garland of Tirana? This area does not change a lot from the urban life in Tirana, because it is populated with schools, kindergartens, bars, restaurants, and sometimes people have to avoid the vehicles (more than 100 vehicles pass through the area to go to the school daily), the motorcycles, the fast bikes, and in some cases the air is full of dust, there is rubbish and nowadays there are even high-risen flats located near the green hill. However, they are not in harmony with the quiet life of the animals of the zoo and with the vegetation of the botanic garden. Nowhere else in the world do we find constructions in the national parks and in some special areas of the cities, which are classified as recreational and relaxation spots. In our case, there are constructions without any criteria and the citizens are being deprived from the most minimal conditions of living. There is cement in the city centre, cement in the suburbs, cement in the sandy beaches, cement in the beaches with cliffs, cement in the fields, cement in the hills. City planning does not mean only cement and high-risen buildings. Where are the other elements of the landscape and of the image of the city? Is the orverpopulation of the cities the only matter?

Urban construction near the Lake

This is another issue to be discussed. The streets of the city used to be well arranged. Today, there are only old and new flats without any space among them. These happen in the interior part of the residential complexes. The big buildings of 13 floors are positioned just 3 metres away from each other, meanwhile the norm is: for the 12-storey buildings which are next to each other there should be distance no less than 30 metres. In the area of Fraka, which is an expanding zone, all the buildings have 7 floors. So they do not respect the permitted norm, which is 5 floors. The geological formations cannot support these buildings. Even here, the public space is very small[2]. Furthermore, it is an area under construction. So, the municipality continues to permit the construction of other buildings and the rules are not respected. Most of the buildings in the city have 13 floors and they do not have an underground floor. According to the geological criteria and the stability of the buildings 1/10-1/15 of the height of the building must be under the ground. Is this norm applied in the new buildings? There are electric and telephone cables everywhere in the streets of Tirana. They are in a total disorder. No common solution has been found yet, meanwhile this situation remains threatening for the life of the citizens.

In the boulevard Zhan d'Ark, there are lots of paradoxes such as the extension of the buildings without permission, meanwhile the process of the legalization continues and nobody notices this problem. But where are these extensions classified? Firstly, the most serious issue is the fact that the old blocks of flats have been constructed on the foundations which can support only their initial floors. If other floors are added above, the weight of the building increases and the foundations merge over the time. Also, they are the most unstable and vulnerable buildings during earthquakes and seismic forces. Even the system of the canals is a serious issue for Tirana. If we take into consideration the area near the lake, the region of Farka, it is obvious that it is still under construction and the system of the canals does not function appropriately. However, we cannot justify the fact that the work has started in disorder. Firstly, the canals are dug, the construction site is prepared with the necessary elements and then the work goes on with the foundations of the building continuing with the improvement and the completion of the pipelines in the buildings[3].

[1] 2006 - 2008, Haskoni Company, Prof. Asc. Sazan Guri, European Commission, Tirana, The ecological alternatives of the movements in tirana in limit the emissions in the air, social and health impact.

[2] February 2004, Isis Sh.A., Prof. Asc. Sazan Guri Inertest study and social and helath impact Of Bërzhitë – Tirana terrace

[3] March 2004, Prof. Asc. Sazan Guri, M. Guri, Geological-engineering study and the project of river inert career exploitationand social impact, Qedaja – Tirana.

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12 QUESTIONS WITH RESPONSES FOR 2200 URBAN VIOLATIONS

1. **To the question, if the congestion (overccrowding) in Tirana** may be called, inter alia, a disaster, we would respond with "Yes", because of the way that the territory was captivated, where today and forever, the Albanian humanity will suffer the syndrome of a bread parcel, a urban building, a green plot a high-rise and a public parcel several-storey buildings.

2. *To the question if Tirana constitutes a metropol*, we would respond with "Yes", but it looks like the phenomenon of metropol in the 60s, where people used to go from rural areas to urban areas, meanwhile today it is happening the contrary (Torino, Milan out of 3 million residents, nowadays 1,2 million are living outside the city). The final conclusion is that for the metropolitan space it does not exist the need of a great expansion in order to reach the accommodation of an increasing population. Through the densification process, the city presently cannot provide new residences in the future.

3. *To the question , if there is any place better than Tirana from the urban viewpoint*, we would respond that all the cities of Albania, with the exception of the economic-cultural life are better than it is, from both the urban and environmental aspect. The former garden area of about 40ha at the former exhibition ''Shqipëria Sot'', is full of concrete due to the high-rise buildings.

4. *To the question , if the model Tirana with high buildings in the center* may be adapted by other cities as well, we would respond: No, in no way; because we would add up the cities with the unprecedented urban picture, where urban concrete buildings like nowhere else in Europe,exceed the tops of church minarets and mosques in the center.

5. *To the question if Tirana constitutes a bad urban model* we would respond without doubt "Yes", Because, again, it may be the only city in Europe, where in the entrance of blocks, the vehicles cannot enter for the collection of family urban waste;

6. *To the question that due to buildings, how many villas have been destryed and burnt* we would respond that such an ill-fated case because fashionable that before one constructs with "urban permit" one must bust burn and then build. A villager in Ucraine and Macedonia is poorer, but they care about the State;

7. *To the question if the French plan has violated law* we would respond tha none of the Western studios, which have completed designs for center 1 and 2 in Tirana has dared to introduce such innovation in the downtown of their countries or any other European countries. We remind you that skyscrapers, even though in a limited number, are beyond Danub in Vienna, beyond from Paris downtown, they are missing in Berlin, Budapest, Prague, etc. Liverpool i.e. is presented with 3 business centers, Tirana with 6-8 centers. They say that French towers do not affect the center of Tirana. Maybe a center for them would be called the Franch Towers, if they would be constructed near the monument of Skanderbeg. On the other side, the center of Tirana is a first-class cultural monument, (The center of Tirana became a cultural monument in 2001), where no internal and external inerventions are allowed, however several other imply that the protected area allows for intervention. What about the cultural area of a nation, what about the historical asset of a nation, what about the traditional values of a nation, such as the center of Tirana, do they allow intervention?! hence, Tirana is the model of destruction, starting from its very center;

8. *To the question if Tirana has presented the harmonization of private interests with the public ones*; Common properties have become private properties of politicians.

9. *To the question if Tirana has reflected the lack of urban city planning* and urban expert we would respond that, unfortunately, until today there has been no urban design and no urban planning, where each architect may have modelled separately a work, maybe an excellent urban work, but, in complec or in communion with others have offered a bad model; (Compare the urban works in Golem, Tirana where the coffins are hardly taken out from the blocks, sidewards. It is well-knwon that the Contract for the urban city planning of Tirana has been postponed for three years, when it should have been the basis of construction works since its very beginnings, particularly after 2000 of the construction boom. Presently, the Municipality has approved the regulatory plan, for which voting has taken place in principle, but this plan is similar to the job after the corn. The bad was done. Centuries are required to repair this model *alla shqiptarçe*. In no case in Tirana, in the territort planned for urban construction, has been established underground infrastructure before construction. However, in all the cases, constructions have been made, then destructions in order to realize the undergroun infrastructure (hydrotechnical, improvements, telephone, etc.). On the other side the regulatory plan of Tirana gives you the feeling of a

plan closer to politicizationi than to the urban one, where often the greatest politics decides for urban strategies, such as informality formalization;

10. **To the question if Tiranais fed up with buildings** we would respond that it has been excessively fed up, so much as it encourages you to take decisions or at least processes such as Moratorium for stopping such situation, by obliging construction companies for mandatory deviation from construction field for buildings. We can say indeed that we have damaged our nature with our money. Terrible?! Only in the years 1996-1997 we lost 2000ha agricultural land. Today we have more than 20 bread area, 80% of public area, more than 10% green area, more than 90% of sports area.

11. **To the question how tall should the buildings in Tirana be** we can say that Tirana consists of road with a general width of 18-24m. This suggests that building consist of 4 to 6 floors. There are also other strong arguments which show that in Tirana no other very tall buildings be constructed, such as the network of roads cannot deal with the flow of circulation due to such numerous buildings. Usually, the roads consist of two lanes and one lane for parking. For this reason the maximum of the height of buildings should be 6 floors including herein the last floor. This has been applied in many city centers and by the river strip in Tirana, extending in the northwestern part of Tirana up to the industrial area of Bërxull. For example: a path in the old Ottoman roads had 4-6m distance for buildings up to 3 floors. In the area of Yzberisht and Sauk no buildings more than 3 floors should be built.

12. **To the question**: *what kind of development should Tirana have* we should respond in advance to: what kind of model should Tirana have? *The framework of our capital development should recommend that the city settlements must respond to requests for housing and land use. Given the basic topography such as: lake, hills, mountains, river valleys, plateaus, the existing model and the transport network there can be assessed and identified a preferred option, which combines elements of business with social elements, by simultaneously preserving the natural values.*

CONCLUSSION

1. Nga matrica e interpretuar rezulton se opsioni i dendësimit më të madh është zgjidhja më e lehtë, më pak e kushtueshme dhe më pozitive ndaj mjedisit, nëse respektohet trafiku, parkimi, hapësirat e hapura publike, transporti publik, gjithmonë, nëse gjëndet tokë e përshtatshme.
2. Gjithësesi, kjo duhet të jetë qasja afat mesme, që mund të përdoret (10-12 vjet). Më pas, duhet të vazhdohet ose të mbështetet ose të zëvendësohet nga ndoshta një zhvillim i një skaji periferik i qytetit dhe/ose zgjerimi i vendbanimeve të shtrira në periferi, por sipas modelit qytet kopësht.
3. Ndërkohë që fakti në jetën urbane rezulton se opsioni i tejskajshëm i dendësimit ka ofruar zgjidhjen më të vështirë për qytetarët, sepse po rezulton e kushtueshme dhe negative ndaj mjedisit, mbasi u dendësua trafiku, u mbipopullua parkimi, u asgjësuan hapësirat e lira e publike, u dekurajua transporti publik.
4. Nga qasje afat mesme (që mund të përdoret 10-12 vjet), nuk doli as për qasje afatshkurtër.
5. Kështu strategjia për zhvillimin e vendbanimeve të rajonit duhet të bazohej mbi një kombinim të opsionit - A *"Dendësimi"* me një pjesë të opsionit - C *"Zgjerim i madh i një skaji periferik të qytetit të Tiranës.*

BIBLIOGRAPHY

[1]   2k Group" Company , Action plan of environmental infrastructure management and social impact of Golem-Karpen area, 2003, "

[2]   Environmental Ministry Vora, Municipality Preza Comm. Preza Comm, Bërxull Comm., "Eia on the study of geological, geotechnical and hydrogeological on administrative area of vora and preza and social impact", June – November 2009, G & G Vora Municipal

[3]   Environmental Ministry , Eia on the study of geological, geotechnical and hydrogeological on the administrative area of bërzhit comune and social impact, January - May 2009, G & G Regional

[4]   Environmental Ministry , G & Ggroup, Eia for the sportive complex in the bubq village and social impact, Bubq, 2009.

[5]   Environmental Ministry , The Eia Report And Social Impact For The Urban Master Plan In Ex Chemic Block In Tirana, April 2006, G & Ggroup, 2k Group

[6]   Sazan Guri Inertest study and social and helath impact Of Bërzhitë – Tirana terrace, February 2004

[7]   Sazan Guri Strategic environbment assessment report for the urban plan of Tirana, 2012

[8]   Sazan Guri, Environmental Science and its basis, March 2010, Marin Barleti publishing

[9]   Sazan Guri, Air pollution and urban planning in Tirana, October 13 -14, 2009, International Conference, Tirana (Scientific Referee)

[10]   Sazan Guri, Eia for the bërxull administrative unit, G & GBërxull Comune, June - November 2009

[11]   Sazan Guri, Environmental Analysis In Urban Works , June 2008, Marin Barleti publishing

[12]   Sazan Guri, Environmental Right (Albanian Environmental Legislation In Comparison To The European Legislation), March 2010, Marin Barleti publishing

[13]   Sazan Guri, European Commission, Tirana, The ecological alternatives of the movements in tirana in limit the emissions in the air, social and health impact, 2006 - 2008, Haskoni Company

[14]   Sazan Guri, M. Guri, Geological-engineering study and the project of river inert career exploitationand social impact, Qedaja – Tirana, 2004

[15]   Sazan Guri, Marianthi Guri, Thoughts about building and urban in Tirana, page 44, Tirana 2011, Demography Magazine

[16]   Sazan Guri, Recording of violations in ifrastruktures urban area around lake tirana and ways to prevent them, social and health impact, January –March 2009.

[17]   Sazan Guri, Tirana, disaster or calamity, February 2008, Marin Barleti publishing

[18]   Sazan Guri, Urban Violations in Tirana, June 2008, Marin Barleti publishing

[19]   Strategic environbment assessment report for the urban plan of Berzhita, 2013

Distinct Matters between the Phenomenon of Smuggling of Migrants and Trafficking in Human Beings as Types of Organized Crime in Kosovo

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Abstract

Generally speaking, the organized crime is a very complex phenomenon and quite heterogenic that adapts to the various requirements of economy and political and social institutions of the countries where it emerges and operates. Subject to the criteria that are taken as basis for its classification, the criminal phenomena emerge and operate in various types of organized crime. Hence, the Republic of Kosovo has introduced punishments against the organized criminal groups and major types of crime that emerge and expand in the shape of organized crime, including smuggling of migrants and trafficking in human beings. The criminal phenomena in the form of organized crime in the modern world which appears to be very concerning and quite threatening for the whole society, is trafficking in human beings and smuggling of migrants. Therefore, it is very important to study and identify all matters which bring together and separate these two criminal phenomena, which have emerged and continue to be present in various places and countries throughout continents and that have caused fundamental political, social, economic, cultural changes, etc. The key matters to be treated are as follows: Legal Framework of Republic of Kosovo which treats and punishes the organized crime, smuggling of migrants and trafficking in human beings, including the distinct points between these two criminal offences.

Keywords: distinct matters, smuggling, migrants, trafficking, human beings, organized crime, Kosovo

Introduction

In general, the organized crime is a very complex phenomenon and quite heterogenic that adapts to the various requirements of economy and political and social institutions of the countries where it emerges and operates. Subject to the criteria that are taken as basis for classification, the criminal phenomena emerge and operate in various types of organized crime.

The criminal legal literature by majority of authors has treated the following criminal phenomena as a type of organized crime: trafficking in human beings, smuggling of migrants, narcotics, weapons, nuclear materials, terrorism, thefts and vehicle smuggling, gambling, etc.

The Criminal Code of Kosovo of 2012[1], under chapter XXIV, punishes the organized crime, respectively its article 283 introduces the criminal offense "**Participation in or organization of an organized criminal group**" which provides as follows:

1. Whoever, with the intent and with knowledge of either the aim and general activity of the organized criminal group or its intention to commit one or more criminal offenses which are punishable by imprisonment of at least four (4) years, actively takes part in the group's criminal activities knowing that such participation will contribute to the achievement of the group's criminal activities, shall be punished by a fine of up to hundred fifty thousand (250,000) EUR and imprisonment of at least seven (7) years.

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[1] Criminal Code of Kosovo, Kosovo Assembly, Prishtinë, 2011, Code No. 04/L-082 which took effect on 20th April 2012. http://www.kuvendikosoves.org/?cid=1,122

2. Whoever organizes, establishes, supervises, manages or directs the activities of an organized criminal group shall be punished by a fine of up to five hundred thousand (500,000) EUR and by imprisonment of at least ten (10) years.

3. When the activities of the organized criminal group provided for in paragraph 1 or 2 of this Article result in death, the perpetrator shall be punished by a fine of up to five 149 hundred thousand (500,000) EUR and by imprisonment of at least ten (10) years or life long imprisonment.

4. The court may reduce the punishment of a member of an organized criminal group who, before the organized criminal group has committed a criminal offense reports to the police or prosecutor the existence, formation and information of the organized criminal group in sufficient detail to allow the arrest or the prosecution of such group.

5. For the purposes of Article, "actively takes part" includes, but is not limited to, the provision of information or material means, the recruitment of new members and all forms of financing of the group's activities.

The criminal phenomena in the form of organized crime in the modern world which appears to be very concerning and quite threatening for the whole society, is trafficking in human beings and smuggling of migrants. These criminal phenomena have emerged and continue to be present in various places and countries throughout continents and these have caused fundamental political, social, economic, cultural changes, etc.

The present study reveals that with reference to certain cases, one cannot make a distinction between the criminal offence of smuggling of migrants and the criminal offence of trafficking in human beings, or one finds it difficult to make such a distinction. Thus, it is important to point out their constituent elements which make it possible to easily identify the distinction between these two criminal offenses. Kosovo and its population, during the period 1989 – 1999 have experienced the biggest flux of migration in its history [1], where almost each family in Kosovo had either one member or more abroad due to the difficult political and economic situation ruling in the country. In order to observe the distinct points between these two criminal offenses, it is important to provide the definition of criminal offense of Smuggling of migrants and Trafficking in human beings.

The paragraph 8, article 170 of the Criminal Code of Kosovo, respectively paragraph 8.1 stipulates as follows:

8.1. The definition "Smuggling of migrants" – means any action with the intent to obtain, directly or indirectly, a financial or other material benefit, from the illegal entry of a person into the Republic of Kosovo, where such person is not a Republic of Kosovo National, or a person who is a Republic of Kosovo National or a foreign national into a State in which such person is not a permanent resident or a citizen of such State.

8.2. The definition "Illegal entry" – means crossing a border or a boundary of the Republic of Kosovo without complying with the necessary requirements for legal entry into the Republic of Kosovo or crossing the borders of a State without complying with the necessary requirements for legal entry into such State.

8.3. The definition "Fraudulent travel or identity document" means any travel or identity document:

8.3.1. that has been falsely made or altered in some material way by any person other than a person or agency lawfully authorized to make or issue the travel or identity document;

8.3.2. that has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or

8.3.3. that is being used by a person other than the rightful holder. [2]

This definition is similar with the definition set forth under article 3 [3] of the Protocol against Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

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[1] Baton Haxhiu. *Lufta ndryshe (War Differently)(*.Prishtinë, 2004, p. 69.)

[2] Criminal Code of Kosovo, 2011, article 170.

[3] According to article 3 of the Protocol: (a) "Smuggling of migrants" shall mean the procurement, in order

to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident

Although these two criminal offenses are similar between each other, again, they contain elements, on the grounds of which a distinction can be made. The Article 171 of the Criminal Code of Kosovo, respectively paragraph 6.1 provides: *the definition "trafficking in persons" means the recruitment, transportation, transfer, harboring or receipt of persons, by threat or the use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or the abuse of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.*

6.2. the definition "exploitation" as used in sub-paragraph 6.1 of this paragraph shall include, but not be limited to, prostitution of others, pornography or other forms of sexual exploitation, begging, forced or compulsory labour or services, slavery or practices similar to slavery, servitude or the removal of organs or tissue.

6.3. The consent of a victim of trafficking in persons to the intended exploitation shall be irrelevant where any of the means set forth in sub-paragraph 6.1. of this paragraph have been used against such victim.

6.4. The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph 6.1. of this paragraph.

This term is similar with definition set forth under article 3[1] of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, that was adopted in November 2000 and that served as the main source to draw up national laws against trafficking.

By performing an analysis to the aforementioned articles, in specific, to the provided definitions, we can identify the distinct points between the criminal offense of smuggling of migrants and the criminal offense of trafficking in human beings, as follows:

1. Establishment of relations between the trafficker and the victim. In the case of trafficking, this relation is established and exists only until such person is transferred to the place of destination, i.e. to emigrate, and afterwards it ceases to exist. Whereas, in the case of trafficking, this relation continues further through exploitation for the purposes of benefit.

2. The object of a criminal offense in trafficking is called victim, while in smuggling it is called a migrant, so it is not called a victim;

3. In the case of criminal offense of trafficking, the victim's consent is voluntary in most of the cases (in certain cases due to failure in rehabilitation and reintegration of the victim in the society, the ex-victim willingly becomes a victim of the criminal offense of trafficking, but in the majority of cases such willingness is obtained through various methods such as for instance fraud, force, etc. Whereas, in the case of smuggling, the migrant consents willingly to such offense;

(b) "Illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;
(c) "Fraudulent travel or identity document" shall mean any travel or identity document:
(i) That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or
(ii) That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
(iii) That is being used by a person other than the rightful holder;
[1] Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, UN, 2000.
a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
d) "Child" shall mean any person under eighteen years of age.

4. For the criminal offense of smuggling of migrants to exist, it is necessary to cross a state border. On the other hand, the offense of trafficking in human beings may take place within the state boundaries.

5. Smuggling is a criminal offense against the judicial system which enforces the public order of management and control of state boundaries, whereas trafficking is a criminal offense against freedom, dignity and personality of an individual.

6. In the case of smuggling, the initiative/request to commit a criminal offense of smuggling arises from the migrant, so it is the migrant who seeks certain services from the smuggler to cross the border, whereas in the case of trafficking, it is the trafficker who through use of coercion, misinterpretation or otherwise, commits migration, respectively trafficking, and this does not depend on the victim's choice.

7. The purpose of movement of a migrant in the case of smuggling is to cross a border, whereas in the case of trafficking, its purpose is to take a victim in a foreign environment without protection and exploration as rational as possible.

The smuggling of migrants can easily be converted into trafficking in human beings. In fact, the smuggling of migrants who are women and children should be treated as trafficking in human beings, due to possibility of their abuse and exploitation. The importance of distinction of concepts between these two criminal phenomena is connected with the manner of treatment of incorporated persons in them, respectively of the migrant or the victim of trafficking for rehabilitation measures that have to do with: their protection, reintegration program, non-infiltration, social treatment, health care, etc.

Volume and dynamics of expansion of criminal phenomena relating to smuggling of migrants and trafficking in human beings
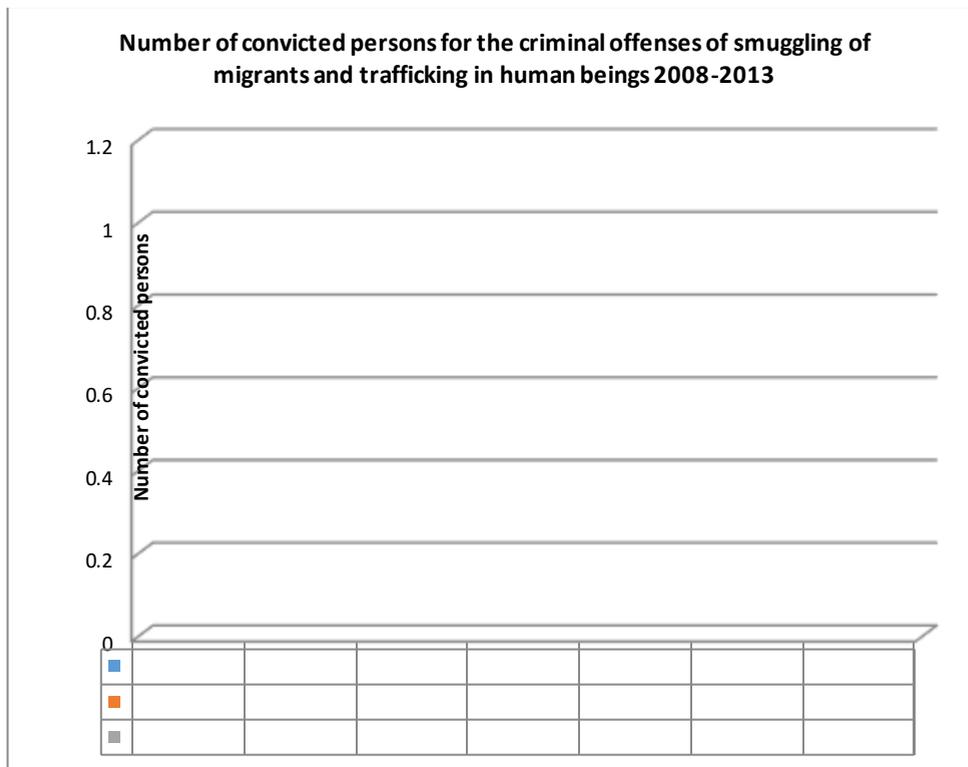
The adoption of 1244 Resolution by United Nations Security Council provided grounds for Kosovo to be liberated and to place it under civilian international administration that was accompanied with deployment of military structures of KFOR and civilian structure of UNMIK. The establishment of a new reality was accompanied with creation of a legal and institutional vacuum that was filled on 27th Jul 1999 when the first Regulation 1999/1 was adopted by the United Nations Interim Administration Mission in Kosovo which defined the Authority of Interim Administration in Kosovo. Supplementation of the legal vacuum continued further when on 12th Dec 1999, UNMIK adopted the Regulation 1999/24 in respect of determination of applicable legislation in Kosovo.

The criminal phenomenon relating to the smuggling of migrants and trafficking in human beings as some of the most threatening types of criminality that cause multiple consequences to the society, are quite present in the modern society, including Kosovo. In order to fight, prevent and punish these criminal phenomena, it is necessary to perform a treatment and analysis of fundamental phenomenological and victimological features of criminal offenses relating to smuggling of migrants and trafficking in human beings in Kosovo in the post-war period, respectively after the declaration of Independence of Kosovo[1], by performing a treatment and analysis through presentation of volume of these criminal offenses, dynamics of commitment, its regional expansion, etc.

The statistics data provided by the Kosovo Agency of Statistics covering the period 2008-2013, indicate that the number of convicted persons for criminal offenses of smuggling of migrants and trafficking in human beings is substantially lower than the number of arrested and charged persons as suspects for the for criminal offenses of smuggling of migrants and trafficking in human beings, where this number has had the following developments during the above-noted time frame[2]:

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[1] The Kosovo Assembly in its extraordinary meeting of 17th February 2008, in the capital city of Kosovo in Prishtina, adopted the Declaration of Independence of Kosovo.

[2] Jurisprudence statistics for adults and minor for the period 2008, 2009, 2010, 2011, 2012 and 2013, Kosovo Agency of Statistics, Prishtina. https://ask.rks-gov.net/publikimet/cat_view/41-drejtesia

Number of convicted persons for the criminal offenses of smuggling of migrants and trafficking in human beings 2008-2013

Number of convicted persons

1.2
1
0.8
0.6
0.4
0.2
0

The illustrated data in the above-noted able indicate that the number of convicted persons for committing the criminal offense of trafficking in human beings as set forth in article 139 of the Provisional Criminal Code of Kosovo and article 171 of the Criminal Code of Republic of Kosovo for the period of 2008-2013, was 167 persons or 54 persons more than the number of convicted persons for committing the criminal offense of smuggling of migrants as set forth in article 138 of the Provisional Criminal Code of Kosovo and article 170 of the Criminal Code of Republic of Kosovo for the same period.

Conclusion

Smuggling of migrants and Trafficking in human beings still continues to be a very concerning criminal phenomenon today in the whole modern society, including the country of Kosovo. According to the above-noted data, we can come to conclusion that the overall self-awareness and professionalism has been on the rise in respect of identification of distinct points between these two criminal offenses, in the institutional and social reaction in fighting, preventing and sanctioning the doers of the criminal offenses of smuggling of migrants and trafficking in human beings, in compliance with the reformation process of organization and expansion of this criminal phenomenon by certain criminal groups. Fortunately, owing to this self-awareness and professionalism of institutions in respect of taking anti-smuggling and anti-trafficking measures, there has been a decrease in the number of victims every year. The necessity to provide a legal ground in response to these modifications came from conventions and other international acts, for instance, the Protocol against Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime and the United Nation's Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, etc. As far as the consequences of these criminal phenomena are concerned, it is normal that they are vast and include such consequences as: psychological, social, ethical, economic and many other ones.

Literature

[1] Provisional Criminal Code of Kosovo, Kosovo Assembly, Prishtinë, 2003, which entered into force on 06th Apr 2004. http://www.kuvendikosoves.org/?cid=1,122

[2] Criminal Code of Kosovo, Kosovo Assembly, Prishtinë, 2011, Code No. 04/L-082 which entered into force on 20th Apr 2012. http://www.kuvendikosoves.org/?cid=1,122

[3] Baton Haxhiu. War differently.Prishtina, 2004, p. 69.

[4] Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the protocol was adopted in November 2000 by the United Nations.

[5] The Protocol against Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime and the United Nation's Convention against Transnational Organized Crime.

[6] Declaration of Independence of Kosovo, Kosovo Assembly in its extraordinary meeting of 17th Feb 2008 at the capital city of Kosovo, in Prishtina.

[7] Jurisprudence Statistics for adults and minors 2008, Kosovo Agency of Statistics, Prishtina. https://ask.rks-gov.net/publikimet/cat_view/41-drejtesia .

[8] Jurisprudence Statistics for adults and minors 2009, Kosovo Agency of Statistics, Prishtina. https://ask.rks-gov.net/publikimet/cat_view/41-drejtesia.

[9] Jurisprudence Statistics for adults and minors 2010, Kosovo Agency of Statistics, Prishtina. https://ask.rks-gov.net/publikimet/cat_view/41-drejtesia.

[10] Jurisprudence Statistics for adults and minors 2011, Kosovo Agency of Statistics, Prishtina. https://ask.rks-gov.net/publikimet/cat_view/41-drejtesia.

[11] Jurisprudence Statistics for adults and minors 2012, Kosovo Agency of Statistics, Prishtina. https://ask.rks-gov.net/publikimet/cat_view/41-drejtesia.

[12] Jurisprudence Statistics for adults and minors 2013, Kosovo Agency of Statistics, Prishtina. https://ask.rks-gov.net/publikimet/cat_view/41-drejtesia.

Diplomatic Means of Resolving the International Dispute: Case of Iranian Nuclear Program

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Abstract

The purpose of this article is to explain the necessity of resolving the conflict with Iran through diplomatic means and avoiding military confrontation, as much as possible and start cooperation with the state as other important regional issues concerns, which in turn is the most effective track for resolving the conflict. Moreover the article aims to serve as an example of resolving the future potential conflicts by diplomatic means as proposed in "Resolved Iranian Dispute". The main goal of this article is conceptual exploration and identification of concepts theoretically applicable in the field of international relations, as mean of building peaceful resolution on international disputes. Furthermore the enforcement of theoretical concepts to a specific and generally complex cases such as the Iranian nuclear program.

Keywords: Diplomatic Means, Iran Nuclear Program, Peaceful Resolution

1. Introduction

For more than three decades, the United States (as a leader of western countries) has relied more heavily on the pressure track than on the diplomatic track of its "dual-track" Iran policy. After the presidential election in Iran is a right time for a reexamination of the United States' policy approach, even while Iran continues to expand its nuclear program.

Although by their nature, negotiations take time, the US should make clear to Iran to understand that the time for diplomacy is nearing its end. Stopping in progress more quickly toward making Iran a de facto state with nuclear weapons requires important diplomatic action, quick and without interruptions.

This paper explains and analyzes the steps of resolving the case of Iran nuclear program, the proposals of the parties and the failure to reach a resolution. Moreover this paper explains and analyzes the step by step Russian proposal and silence on these proposals by the Western countries. In this article will be discussed the impact and effectiveness of the Security Council Resolutions against Iran who has approved six resolutions as part of international efforts to address Iran's nuclear program.

2. The Steps toward Resolution

Diplomatic initiatives to resolve the Iranian nuclear issue have produced several proposals for a negotiated settlement, or to build confidence between Iran and the international community. So far, none of these proposals have not been accepted by all parties involved (except the last agreement), so efforts to address Iran nuclear program still are ongoing.[1]

One of the reason to reject the proposals by interested parties is that the multilateral negotiations are more difficult to reach agreement when it comes to deal with many subjects, values and interests, which with their diversity of consensus or agreement it makes very difficult to be accepted generally by all parties involved in negotiations.[2]

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[1] Devenport, Kelsey, History of Official Proposals on the Iranian Nuclear Issue, Arms Control Association, January 2014, http://www.armscontrol.org/factsheets/Iran_Nuclear_Proposals,19.03.2014.
[2] Bashkurti, Lisen, Negociatat, Historia, Teoria, Praktika, Tetovë, 2010, pg. 7.

While Iran progressed continuously in its nuclear program, the difficulties in finding a compromise to the parties involved, which would prevent Iran to possess nuclear weapons as something unacceptable for Israel as well for US were increased obviously. Teheran in the interval time 2003-2005 had drafted a number of proposals, some of which included provisions to limit nuclear operations at its main facilities and the implementation of transparency measures for its nuclear activities.[1]

While other negotiating party (France, Germany and the United Kingdom- EU3) in the same time interval mentioned above, had offered to Iran some proposals to resolve the nuclear issue during the negotiations. Later the diplomatic game had joined China, Russia and United States as part of a format known as the "P5 +1", whose at the same time are the permanent members of the UN Security Council, plus Germany, which provided approximately similar comprehensive proposals for Iran. This truck P5 +1 negotiations with Tehran regarding these proposals is perceived as a way of a "dual strategy" to address Iran's nuclear program. The second way, which had been followed by the P5 +1 consists of Security Council Resolutions that impose sanctions on Iran and demand to suspend all activities related to uranium enrichment and reprocessing and building heavy water reactor. But it can be said that recent initiatives are more focused on short-term measures of building the confidence and not in the solution of the nuclear issue, in order to overcome the deficit of trust between the two parties before entering into the more difficult and long-term negotiations.[2]

Very important in resolving the issue through diplomatic means it is which party takes the diplomatic initiative, as parties often reluctant to take such a step in order to maintain the prestige and failure to submit. In Iran's case referred to Karl Rove (White House deputy chief of staff to President George W. Bush), who had received a copy of a secret proposal by Iran to negotiate with the United States in early May of the year 2003.[3]

This is also confirmed by Tim Guldimann, former Swiss ambassador to Tehran, where he said that Iran made a proposal to the United States in May 2003 calling for negotiations on a range of contentious issues between the two countries. This document contained a number of points on the agenda that the two countries will negotiate and, simultaneously, the proposal to establish three parallel working groups to carry out negotiations on disarmament, regional security and economic cooperation.[4]

Among the key points of this proposal was the removal of all US sanctions against Iran, banning US hostile behavior against Iran, the lifting of the status of Iran in the relationship to the US as the "axis of evil", cooperation to stabilize Iraq, full transparency on the Iranian nuclear program, including the Additional Protocol, cooperation against terrorist organizations, acceptance by Iran of the Arab League Declaration constituted as" Land for Peace ", in 2002, dedicated to Israel and Palestine, full access to Iran-nuclear peaceful technology, chemical and bio-technology, prevention of any material to support the Palestinian opposition groups (Hamas, Jihad etc.) from Iranian territory, pressure on these organizations to stop violent actions against civilians within borders of 1967, conversion of Hezbollah in a simple political organization.

The Bush administration rejected the proposal in favor of placing additional pressure on Iran.[5]

If we analyze the proposals above in detail, and if same proposals it would be treated more seriously by the United States for sure the case of Iran it will take another direction from what it is today; and other tools will be probably unnecessary to turn Iran in the right direction in that the west wanted. China, Russia and the United States along with the three countries in June 2006 EU3 offered another proposal for comprehensive negotiations with Iran. The proposal reflects some of the previous offers for negotiations[6] but Tehran rejected the terms of the proposal because the proposal demand that Iran to

[1] Devenport, Kelsey, History of Official Proposals on the Iranian Nuclear Issue, Arms Control Association, January 2014, fq, 3-5, /http://www.armscontrol.org/factsheets/Iran_Nuclear_Proposals?page=54ros, 19.03.2014.

[2] Ibid, pg. 7.

[3] Porter, Gareth, Rove Said to Have Received 2003 Iranian Proposal, 17.02, 2007. http://www.antiwar.com/orig/porter.php?articleid=10535, 16.03. 2014.

[4] Devenport, Kelsey, History of Official Proposals on the Iranian Nuclear Issue, Arms Control Association, January 2014, http://www.armscontrol.org/factsheets/Iran_Nuclear_Proposals,19.03.2014.

[5] 2003_Spring, Iran Proposal, google.search, 02.02. 2014.

[6] Elements of a proposal to Iran, as approved on 1 June 2006 at the meeting in Vienna of China, France, Germany, the Russian Federation, the United Kingdom, the Unites States of America and the European Union, European, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/reports/90569.pdf, Council, Council of European Union, S202, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/reports/90569.pdf 26. 03.2014.

suspend its uranium enrichment activities, but he noted that the proposal contained some " useful elements for a constructive approach".[1]

If Western Countries had had accepted Iranian proposals, Iran will certainly cooperate in point, which had declined, and certainly that Khomeini's regime would be returned politically from the West and that it will cooperate in point ,which had been rejected before. One of the reasons why Iran would cooperate even at this point has to do with it exactly the after military intervention by the US-United Kingdom coalition in Iraq, Iran had expressed willingness to reestablish the relations with the United States indirectly intentionally to be supported by USA to remain major regional power. After the election of US President Barack Obama, he began abandoning the previous policy of the United States, asking Iran for fulfilling the requirements of the UN Security Council to suspend nuclear fuel cycle, and urged the P5 + 1 to issue a statement that five other countries welcomed "the new truck of US policy towards Iran", calling for the resumption of talks officially once again.[2]

3. Step by step Russian Proposals

During a speech in Washington, Russian Foreign Minister Sergei Lavrov publicly proposed a "road map", which will need to be followed by the 5+1, those proposals have not contained details, but its main elements are described by former head deputy of Iran's top nuclear negotiator Hossein Mousavian. According to him:

First step- Iran should limit uranium enrichment in Natanz, will not install any additional centrifuge and prevents production of advanced centrifuges, while the P5 + 1 will suspend some of the sanctions imposed by the UN, including financial sanctions shipping inspections.

Step 2- Iran will gives design information to the IAEA concerning its enrichment levels up to 5% and should allow greater monitoring of the IAEA on its centrifuges, while the P5 + 1 will suspend UN sanctions and gradually unilaterally will lift sanctions.

Step 3- Iran must implement the Additional Protocol adopted by the IAEA, while the P5 + 1 will suspend all UN sanctions in further stages.

Step 4-Iran shall suspend all activities related to uranium enrichment for the next three months, while the P5 + 1 will remove all sanctions and begin to implement a program to stimulate the cooperation proposed by the P5 + 1 group.[3]

P5 + 1 have not expressed public opposition, to the Russian proposal, but some of them do not even have supported it publicly.[4]

Analysis of this diplomatic truck suggested that has often this way had given proper results in settling international disputes. Example we can mention diplomatic way of practicing step by step diplomacy by Kissinger after the war of 1973, which has had positive results not only in terms of tactical positive result but as well as strategic one. Through this way has reached bilateral agreements with Egypt, which has changed drastically regional politics for 25 years and the other, where the Arab countries and Israel have maintained in a cold peace, which we can say that there has been success in this direction.[5]

The truck and methods followed in the resolution of the Iran case, based on the logic of the proposal gives to understand that the intensity and Russian diplomatic strategy relies more on "giving carrot" than in "the use of the stick".

4. Impact of Security Council Resolution on Iran

[1] Devenport, Kelsey, (202) 463-8270 x102, *Timeline of Nuclear Diplomacy With Iran*, January 2014, 202) 463-8270 x102, http://www.armscontrol.org/factsheet/Timeline-of-Nuclear-Diplomacy-With-Iran, 22.02.2014.

[2] Arms Control Association, Fact Sheets & Briefs, http://www.armscontrol.org/factsheets/Iran_Nuclear, 13/02/2014.

[3] Kei, Helen&Bryan Lee, G8 or SCO, *Which Way to Go?, NTI, Building a safer world*, 06.07.2012, http://www.nti.org/analysis/articles/g8-or-sco-which-way-go/, 02.02. 2014.

[4] Sadri, Mohammad, Iran – P5+1: *What Happened from Moscow to Almaty*?, Iran Rview, Saturday, 23.02. 2013. http://www.iranreview.org/content/Documents/Iran-P5-1-What-Happened-from-Moscow-to- Almaty-.htm, 02.02.2014.

[5] Bordeaux Parke, Richard, The October War: A Retrospective, University Press of Florida, 2001, pq.301.

An International Monetary Fund mission led by Mr. Abdelali Jbili, Assistant Director in the Department of the Middle East, completed a review of economic developments in Iran and held discussions with the authorities policies under the IMF's annual consultations with Iran. The mission noted that during the past three years, Iran has achieved one of the highest rates of growth in Eastern Region East-North Africa against the background of increasing openness to international trade and investment, economic reforms and stable prices oil. General economic situation in 2002/03 has been favorable, with high growth and broad-based real GDP, a drop in the unemployment rate for the first time in recent years, lowing international debt, and increasing international reserves. The mission welcomed progress in economic reform in some areas, including trade liberalization, establishment of private banks, the adoption of the law of foreign direct investment, amendment of the tax law and the preparation of the reforms underway in some other areas.

Security Council of the United Nations adopted six resolutions as part of international efforts to address Iran's nuclear program. The key demand of the Council was that Iran must suspend its program of uranium enrichment, as well as to take some concrete measures affecting confidence building by the International Atomic Energy Agency (IAEA), including the review of its building, heavy water reactor and ratification of the Additional Protocol to the IAEA. Council initially filed these calls with a non-binding statement of the Security Council adopted in March 2006. Almost all resolutions were adopted under Chapter VII of the Charter of the United Nations, making provisions legally binding resolutions against Iran, and that all resolutions were adopted as a result of the failure of previous resolutions. Four of them include a series of progressive sanctions on Iran, Iranian individuals and legal entities. Sanctions represent a track with a "dual approach", followed by the five permanent members of the Council and Germany (P5 + 1) to address Iran's nuclear program. Another way involves the proposal for comprehensive negotiations with Iran, which is updated on June 2008's.[1]

Council Resolution 1696 calls on Tehran to suspend its enrichment program and to verify its compliance with the requirements of the IAEA Board of Governors. The resolution expresses "the intention to adopt appropriate measures under Article 41 of Chapter VII of the Charter of the United Nations", if Iran does not cooperate the resolution warns Iran that its failure could result in sanctions of the Security Council not excluding the application of economic sanctions.[2]

Resolution 1737 was adopted in response to Iran's failure to comply with Resolution 1696. This resolution requires Iran to suspend uranium enrichment and to take other measures to build confidence. It also calls on Iran to ratify the Additional Protocol to the IAEA. The resolution impose sanctions on Iran, Iranian individuals and legal entities that are considered to provide support for proliferation activities of Iran. Firstly, the resolution calls upon states to exercise vigilance regarding the entry into their territories of persons engaged in nuclear activities or Iran's ballistic missiles. Second, states should freeze funds, financial assets and economic resources of certain individuals who are involved with Iran's nuclear programs. Thirdly, the resolution calls upon states to prevent the specialization and training of Iranian nationals to boost the ambitions of Iran's nuclear purposes.[3]

Resolution 1747 of the Security Council-this resolution was adopted as a result of Iran's failure to meet the two previous resolutions. The resolution reiterates and enhances some of the key sanctions Resolution 1737 and introduces some new measures. It requires states to prevent the entry or transit into their territories of certain individuals involved group of persons on Iran's nuclear ambitions.[4]

Unlike his predecessor, **Resolution 1835** has not been approved under Chapter VII of the UN Charter, nor envisages new provisions for Tehran must meet. Instead, he merely reaffirms four previous resolutions. It reaffirms the Council's commitment to a negotiated solution to the Iranian nuclear issue. This resolution would not describe the new sanctions against Iran or new monitoring mechanisms.[5]

Resolution 1929 imposed sixth round of sanctions on Iran. It forbids Iran to invest in nuclear and missile technology abroad, including investments in uranium mines. It creates a comprehensive arms embargo against Iran, banning the sale of tanks-

[1] Davenport, Kelsey, 202-463-8270 x.102 , 2012, http://www.armscontrol.org/factsheets/Iran_Nuclear_Proposals, 05.02. 2014.
[2] United Nations, Security Council, Resolution, 1696, 31.07. 2006.
[3] United Nations, Security Council, Resolution 1737 31.07. 2006.
[4] United Nations, Security Council, Resolution 1803, 03.03. 2006.
[5] United Nations, Security Council, Resolution 1835, 27.09. 2008.

combat, armored combat vehicles, artillery systems, large-caliber, combat aircraft, attack helicopters, battleships, missiles or missile systems to Iran. Also it is forbidden undertaking any activity related to ballistic missiles at the same time it requires states to take the necessary measures to prevent relevant to ballistic missile technology to Iran. Resolution 1929 requires the Secretary General to establish a panel of eight experts who will assist the Commission in carrying out its mandate, which will make recommendations for action to the Council, the Committee or State, may also take to improve implementation appropriate measures.[1]

Although most of the above Resolutions provide sanctions against Iran, where significant number of them are aimed at damaging the economy of this state, and almost successful implemented these sanctions, this path followed did not give expected results, has postponed Iran's nuclear program ahead, which the latter has bought time by long-term application of these sanctions[2] Fundamentally number of sanctions against individuals and legal entities against Iran has increased in much greater if we compare with North Korea. In this aspect, even though North Korea had tested a second time its nuclear weapons, however, sanctions have grown much more to Iran than on North Korea.[3]

Conclusions

Implementation of coercive diplomacy means like sanctions, pressure and threats of military intervention although given their positive effects have not given the expected results as to halt the progress of Iran's nuclear program and have not forced the state to decrease to the negotiating table. It may be argued that:

a) Military threat against Iran cannot intimidate this country to sit at the negotiating table, because Iran's supreme leader knowing the pressure on his regime, has created such circumstances that the cost of military intervention is much greater than the benefits, especially because one in every five barrels of oil that flow into international markets, passing through the Strait of Hormuz, where any military action against Iran, may be block the trade in this strait, where the same time will have enormous increase of oil prices, which can quickly affect higher prices for Americans, undermining economic recovery of America's poor and the global economic crisis.

b) Military attack on Iran would provoke a violent counterattack from Iran and Muslims in the Middle East. Iran possesses ballistic missiles with medium range, which can be filled with chemical weapons, where the first target is Israel. Iran could destabilize Iraq and also its impact on Hamas and Hezbollah, may require the latter to act militarily. Also do not cooperate on the Syria and Afghanistan case. Will be increased Russian and Chinese influence in the region. And from all these above mentioned policy makers in Iran are not afraid of a possible US attack on Iran.

The most favorite alternatives to resolve the Iranian crisis is active diplomacy. Iran must agree to limit its uranium enrichment program. The US and its negotiating partners must agree to accept Iran's peaceful nuclear program (including enrichment) and lift some of the most severe sanctions (including sanctions for trading in precious metals, European restrictions on imports oil and some banking restrictions). The US and its negotiating partners should agree on a process for the removal step by step of all UN sanctions in response to further progress.

Iran and the P5 + 1 must be agreed to a settlement under which Iran will adhere to all international nuclear conventions and safeguards agreements on nuclear program set by the IAEA. Moreover, Iran should be flexible in uranium enrichment, below 5% (percent), and this will boost the confidence of the international community that its nuclear program is only for peaceful purposes and that the state will remain free of nuclear weapons in the future. This would ensure the peaceful nature of Iran's nuclear activity. In response, the United States and other members of the P5 + 1 must agree to recognize the legitimate right of Iran to enrich uranium in accordance with the Nuclear Nonproliferation Treaty and gradually remove all sanctions. This framework can be realized in the upcoming talks through a plan step-by-step to build mutual trust between the negotiating parties.

[1] United Nations, Security Council, Resolution 1929, 09.09.2010,
http://www.armscontrol.org/factsheets/Security-Council-Resolutions-on-Iran.
[2] Borszik, Olive, International Sanctions against Iran under President Ahmadinejad: Explaining Regime Persistence,
GIGA German Institute of Global and Area Studies Leibniz-Institut für Globale und Regionale Studien, 260/2014, pg 20.
[3] Myong-Hyun, Go, North Korea as Iran's Counterfactual: a Comparison of Iran and North Korea Sanctions, Nov. 30, no 82, Asan Institute for Policy Studies, 2013. pg 6,7.

Bibliography

[1] Arms Control Association, Fact Sheets & Briefs, 13/02/2014, http://www.armscontrol.org/factsheets/Iran_Nuclear_

[2] Arms Control Association, 2003_Spring, Iran Proposal, google.search.

[3] Bashkurti, Lisen, Negociatat, Historia, Teoria, Praktika, Tetovë, 2010.

[4] Bordeaux Parke, Richard, The October War: A Retrospective, University Press of Florida, 2001, pq.301

[5] Borszik, Olive, International Sanctions against Iran under President Ahmadinejad: Explaining Regime Persistence, GIGA German Institute of Global and Area Studies Leibniz Institut für Globale und Regionale Studien, 2014.

[6] Davenport Kelsey, Iran, P5+1 Sign Nuclear Agreement, Arms Control Association, , (202) 463-8270 x102, Updated: November 2013, http://www.armscontrol.org/about/Kelsey_Davenport?page=2.

[7] Devenport, Kelsey, (202) 463-8270 x102,Timeline of Nuclear Diplomacy With Iran January 2014, 202) 463-8270 x102, http://www.armscontrol.org/factsheet/Timeline-of-Nuclear-Diplomacy-With-Iran.

[8] Davenport, Kelsey, History of Official Proposals on the Iranian Nuclear Issue, Arms Control Association, (202) 463-8270 x102 , January 2014, http://www.armscontrol.org/factsheets/Iran_Nuclear_Proposals.

[9] Davenport,Kelsey,202-463-8270x.102,2012, http://www.armscontrol.org/factsheets/Iran_Nuclear_Proposals.

[10] Elements of a proposal to Iran, as approved on 1June 2006 at the meeting in Vienna of China, France, Germany, the Russian Federation, the United Kingdom, the Unites States of America and the European Union, S202. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/reports/90569.pdf,Council, Council of European Union, S202, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/reports/90569.pdf.

[11] Kei, Helen&Bryan Lee, G8 or SCO, Which Way to Go?, NTI, Building a safer world, 06.07 2012, http://www.nti.org/analysis/articles/g8-or-sco-which-way-go/.

[12] Porter, Gareth, Rove Said to Have Received 2003 Iranian Proposal, 17.02, 2007, http://www.antiwar.com/orig/porter.php?articleid=10535.

[13] Sadri, Mohammad, Iran – P5+1: What Happened from Moscow to Almaty?, Iran Riview, Saturday, 23.02. 2013, http://www.iranreview.org/content/Documents/Iran-P5-1-What-Happened-from-Moscow-to-Almaty-.htm,.

[14] United Nations, Security Council, Resolution. 1696.

[15] United Nations, Security Council, Resolution 1737.

[16] United Nations, Security Council, Resolution 1747.

[17] United Nations, Security Council, Resolution 1803.

[18] United Nations, Security Council, Resolution 1835.

[19] United Nations, Security Council, Resolution 1929. http://www.armscontrol.org/factsheets/Security-Council-Resolutions-on-Iran.

[20] 2003_Spring, Iran Proposal, google.search.

Kosovo's Security Policy in Preventing and Fighting Trafficking of Human Beings 2009-2014

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Abstract

Development of policies for the prevention of every nature of organized crime from the security institutions of the Republic of Kosovo is an important element through which is aimed the coordination of works and prevention activities in order to respond to negative phenomena through taking precautions. Prevention means all activities that impact on halting and reducing crime as a social phenomenon, both quantitatively as well as qualitatively, through occasional initiatives (ad hoc). Advancing capacity to prevent crime is the need of the time and the challenge faced by the countries of the Western Balkans, especially Kosovo, because in this area there is still the old belief that only the police should be involved to prevent and fight trafficking of human beings. Nature and trends of trafficking of human beings have taken a direction in which the police as law enforcement agency cannot as such prevent these crime phenomena. Therefore, it is time imperative that in the field of crime prevention of human trafficking engage all relevant institutions with special emphasis on civil society and community in particular. To cope with the challenges of preventing and fighting trafficking of human beings, activities within state's territory are not sufficient, but it is vital that states align and coordinate activities at the regional level in real time, place and space identified for common actions. This paper aims to address this phenomenon not only in the case of Kosovo, but also in the Western Balkan region. The main thesis of this paper is the articulation of the problem in order to successfully prevent the phenomenon of trafficking of human beings through awareness of citizens, while from institutions is required opening of perspectives for new generations, for work and life, through economic development, fighting poverty, stimulating employment and preventing the migration in different countries. To successfully prevent crime, particularly trafficking in human beings, it is necessary that responsible institutions have sufficient human resources, specialized and equipped with technical tools and necessary technology, to have continuous specialized training and to deal with all phenomena of organized crime.

Keywords: prevention, fighting, crime, trafficking, capacity, training, technology, etc.

INTRODUCTION

Trafficking of human beings in Kosovo is a complex phenomenon and constantly shows changes in the form and manner of the performance. General nature of the crime of this act is hidden and victims are threatened, blackmailed, intimidated, deceived and systematically exploited by traffickers, therefore victims do not self-declare nor dare to speak about the situation in which they stand even if they talk to law enforcement personnel.

Current trends of human trafficking in Kosovo show that this criminal phenomenon is focusing more on internal trafficking (within Kosovo) and as a result the number of identified victims of trafficking is increasing, also in recent years there are more victims identified in locations/apartment/private homes than in night bars, which was not the case a few years ago.

The main form of trafficking, respectively the manner of victims exploitation still remain exploitation for the purpose of providing sexual services (forced prostitution) but also with some minor cases of forced begging.

Today, in the world, human trafficking in considered as modern slavery and, while one of the main goals of any democratic country which aims rule of law it is to combat human trafficking, as one of the most complex crimes, therefore through this research I tend to spread my knowledge associated with this offense that is prescribed by the Criminal Code of Kosovo, in particular highlighting the similarities and differences of the offense of trafficking with other similar criminal offenses, which essentially differ from human trafficking, as well as the position of human trafficking victim. By analyzing the causes and factors of human trafficking in our country, the applicable legislation in Kosovo, especially international cooperation, through

this paper will attempt to somehow present some essential elements of this negative occurrence with elements of criminal act punishable with our legislation as well as international legislation. It is a known fact that international factors have paid special attention to combating this phenomenon with the release of a series of measures and adequate laws, because this complex crime more and more has been growing in its entirety as a phenomenon, more complex methods are added to this crime and also have highlighted the weakness of the state towards the crimes of this kind. International and multilateral cooperation can play an important role in combating trafficking activities.

The definition of trafficking offenses under the laws of Kosovo

For its nature and its content, this offense is very close to the crime of smuggling people, because even with this offense human beings are treated as objects, where human dignity, the basic rights and freedoms are violated. Moreover, as Professor Kambovski asserts, human being is degraded and treated like an animal! (Kambovski V.,2011:1203). The name itself "human trafficking" quite clearly shows that this offense trades and alienates people, where the main goal is the realization of material benefits. Under paragraph 1 Types of actions which are conducted by this criminal act are determined alternatively and as such are numerous and complex. Consequently, as a form of commission of this offense is considered; recruitment, transfer, harboring or admission of trafficked persons (victims) with the aim of exploitation in different ways such as; sexual exploitation or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or removal of organs (illegal transplant of organ).

In paragraph 2, as a serious form of human trafficking offense is considered the case if the offense in paragraph 1 of this Article is committed in a circumference of 350 meters of a school or other locality which is used for children, or when the offense is committed against a person under eighteen years old. In paragraph 3 is foreseen a special form of this offense which is considered as such by the fact that someone has organized a group, or when there is a established group of persons for the purpose of committing the offense of human trafficking foreseen in paragraph 1 of this article (Salihu I.,2014:138). In paragraph 4 it is also foreseen severe form of human trafficking if the foreseen offense in three previous paragraphs is committed by an official by misusing official position. While in paragraph 5 as a severe form of human trafficking is considered human trafficking offense which caused the death of one or many persons.

The example of very severe form of human trafficking where death of people was caused was trafficking citizens from Albania to Italy across the Adriatic Sea by raft on January 9, 2004, which killed 28 people. Also very serious case of this offense was trafficking of Kosovars, where in October 2009, in the border between Serbia and Hungary, in the Tisa River drowned 17 people, among them women and children. All these forms of crime of human trafficking may be committed by any person, except this form of the offense foreseen in paragraph 7 of this article, which can be committed only by official person. This offense is considered to have been committed even when the passive subject (trafficked person) has given consent to be trafficked (paragraph 6, point 3). Regarding the guilt, all forms of this offense, can be committed intentionally. Sentences for the offense from paragraph 1 punishable by a fine and imprisonment up to twelve years, sentences for offenses from paragraph 2, a fine and imprisonment of up to fifteen years, sentences for offenses from paragraph 3, a fine of up to 500,000 euro and by imprisonment of seven to twenty years, for the first offense from paragraph 4 are foreseen different sentences, while for the offense from the paragraph 5, imprisonment of at least ten years or life imprisonment (Idem; Pg. 138).

Regional and international instruments which relate directly to trafficking and forced labor

Human trafficking is foreseen as a criminal offense with a relatively large number of international conventions. The most important international conventions prohibiting and punishing human trafficking are; Convention on the prohibition of the white slave trade 1910; Convention for the punishment of trafficking of women and children, 1921; Convention for the punishment of adult women trafficking of 1933 and the Convention on the punishment and prevention of human trafficking and their exploitation for prostitution of 1949 and the Convention on the prevention of human trafficking and exploitation of others 1950.

General knowledge and statistics on human trafficking in Kosovo

According to reports from international organizations, about 2 to 4 million people are trafficked worldwide each year, approximated by the United Nations. According to the National Crime Squad in the UK around 200,000 people are brought illegally to Europe every year, most of whom come for sexual exploitation. About 200,000 people are trafficked in Europe

every year; the majority is women and girls forced into prostitution. While, according to the State Department of USA, 80% of victims are trafficked into the international borders are female and 70% of them (women) are trafficked for sexual exploitation. An estimated 7-13 billion dollars profit is generated annually from trafficking. While, based on official statistics on the number of cases that are prosecuted in the courts of Kosovo during period 2009-2104, we find that there is not such a large number of them, compared with reports of various organizations, stating that there is a large number of cases of human trafficking, but which were not detected and investigated by the investigating authorities. Below, for comparative needs, I will present tables in which are presented the numbers of cases received in the district courts, from 2009 to 2014 (Police Reports: 2009-2014).

Table 1 Victims identified by age group - 2009

Age	14--17	18--22	23--25	26--30	31--35	36--40	41-50	Totali
Female	7	7	6	2	3	3	1	29

Table No. 2 Cases/offenses from 2009 to 2014

Cases by criminal acts	2009	2010	2011	2012	2013	2014
Human trafficking	32	31	28	32	38	28
Provision of prostitution	4	8	11	26	18	24
Dealing with prostitution	11	14	17	30	15	21
Other acts	22	4	10	4	17	16
Total	69	57	66	92	88	89

Table 3. Arrests based on criminal offenses from 2009 to 2014

	2009	2010	2011	2012	2013	2014	Totali
Human trafficking	34	76	91	121	91	66	479
Provision of prostitution	3	13	39	39	35	35	164
Prostitution	9	27	50	61	26	49	222
Placement of slavery		1		0			1
Other acts	6	5	2	7	30	11	61
Total number of arrest	**52**	**121**	**183**	**228**	**182**	**161**	**927**

Table No.4 trafficking victims identified by nationality in Kosovo 2009-2014

	Kosovar	Moldovian	Albanian	Romanian	Bulgarian	Serbian	Pole	Other	**Total**
2009	16	8	3		1	1			29
2010	28	1	7			2	1		39

2011	35		1			3			39
2012	29	23	1					1	54
2013	44		7			1			52
2014	36		4	1		1			42
Total	**188**	**32**	**23**	**1**	**1**	**8**	**1**	**1**	**255**

Table No. 5 victims of trafficking identified by level of education in Kosova 2009-2014

Victims - level of education 2009-2014	Nr
Illiterate	23
Initial education	158
Secondary education	70
University	4
Total	255

No. 6 victims of trafficking identified by means of recruitment in Kosovo 2009-2014

Victims – manners of recruitment 2009-2014	Nr
Job offers/promises	141
Promise for marriage	75
Tourism	/
Other	39
Total	255

Table No. 7 Victims of trafficking identified in the manner of exploitation in Kosovo from 2009 to 2014

The form of exploitation of victims 2009-2014	Nr
Sexual exploitation/forced prostitution	190
Forced labor	31
Forced begging	16
Holding in slavery and servitude	18
Exploitation for organ removal	/
Total	255

Factors favoring human trafficking in Kosovo

The Kosovo war 1997-1999, is manifested in the economic and social consequences which largely affected people. Over 120 thousand homes were destroyed, family and economic situation in Kosovo especially that of the village came under the average level down to extreme poverty, demographic movement occurred, the population largely migrated from the villages to the cities. The unemployment reached high up to 70%. Many families had killed members in the war and were left without any source of existence. Many children from poverty had to leave school and look for work to support themselves and their families, all of which were prerequisites that networks of traffickers from different countries of the world, come to Kosovo to recruit local traffickers, but also for Kosovar trafficked victims.

Criminal activity of traffickers of human beings becomes even easier by the absence of its preventive mechanisms, such as the security institutions of the country and state institutions. Initially, immediately after the war of 1999 human trafficking began with victims from post-communist countries of Eastern Europe, but soon the local Kosovar victims too. As statistics show, the trend of trafficking of Kosovo victims has increased from year to year, but this figure is only of those who were identified and rescued from trafficking, because the number of trafficking victims is many times larger and under Kosovo Police reports, it can be around 2 thousand victims from 1999 onwards.

The legal basis for preventing and combating human beings trafficking in Kosovo is based on these laws, regulations and national documents as follows:

• The law on preventing and combating human trafficking and protecting victims

• Law on Foreigners

• The law on compensation of victims of crime

• National Strategy on Combating Trafficking of Human Beings and action plan 2015 to 2019.

• Standard operating procedures for trafficked persons in Kosovo

• Minimum standards for the care of victims of trafficking

• Long-term strategy for the reintegration of victims

To these general factors favoring human trafficking are also added individual factors of trafficked victims, as is the age of the victims, mainly between the ages of 14 and 18, which is the age of lability, education of victims (many victims are illiterate, with primary and secondary education), poor economic condition of the family of the victims, as well as the stability of their families (families with divorced parents or with presence of domestic violence). Increased number of victims assisted and rescued, presents the result of the work of institutions to combat human trafficking in our country. However, the largest number of local victims is trafficked to Western Europe, who are never rescued and continue to live as victims of human trafficking. The first cases of human trafficking in Kosovo are marked with victims of the Southeast European countries [1] which come from countries where unemployment is high and where traffickers deceive the victims with the promise of employment, but exploit them exclusively for practicing commercial sex. Foreign victims of trafficking are brought to Kosovo after the war, in order to provide employment in prostitution, whom would be used by international workers. Kosovo's new residents, who come from all over the world, have been and continue to be regular clients of sex workers. Immediately after the war, Kosovo was considered as a high risk country, so the international community would not allow its employees to bring their families with them, or many of them were unmarried. International workers were also advised not to enter in relationship with local women, because according to the traditions of the local population, it can be dangerous.

Protection and assistance for victims

Protection of victims of trafficking remains a challenge for the institutions of Republic of Kosovo despite the fact that progress has been made in creating adequate conditions for protection measures, housing and reintegration of trafficking victims. The cooperation and contribution of civil society organizations is of particular importance, especially those that provide specialized services and expertise in dealing with this sensitive issue. Government of Kosovo supports the issues

[1] http://web.archive.org/web/20060222155531/http:/www.usembassy.it/file2001_04/alia/a1042405.htm

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of protection and reintegration of victims of trafficking and in 2012 provided support to 43 victims of trafficking, while in 2013 provided support to 52 victims of trafficking[1].

A particular progress concerning the protection of victims of trafficking is the review of standard operating procedures to reflect changes made in the new criminal code, in particular for police officers and social workers about the referral of trafficking victims after their identification. The Ministry of Justice is drafting Law on Compensation of Victims of Crime by whom the program for compensation of victims of crime will be functional and will be in accordance with Council Directive 2004/80/EC of April 29, 2004, concerning the compensation of victims of crime.

The creation of safe conditions for repatriation and resocialization of victims

Proper protection and support should be extended to all trafficked persons without discrimination. However, victims are being saved from traffickers often face difficulties to reintegrate in society. In order to overcome this problem, legal and other material assistance should be provided to trafficked persons to enable them to realize their right to adequate and appropriate improvements. The needs of victims of trafficking can be different:

1) Basic needs and requests for accommodation, food, medical control, communication with family, etc. (Netkova, B;2009:152)

2) Health needs - headaches, anxiety, stress, anxiety, various diseases.

3) Legal needs - legal representation, counseling, representation from victim protection unit, etc.

Protecting witnesses from threats or intimidation has been and remains one of the greatest challenges for the judicial system in Kosovo. This issue has been repeatedly raised in the reports of various international organizations on justice. Incidents of witness intimidation continue to hamper the proper functioning of the justice system, especially in high profile criminal cases.

International cooperation with countries and international organizations in combating the phenomenon of trafficking

Trafficking is a regional and global phenomenon that cannot always be dealt with effectively at the national level, so strengthened national response can often result in the operations of traffickers elsewhere. International and multilateral cooperation can play an important role in combating trafficking activities. States should adopt appropriate legislation and other necessary measures to prevent and combat trafficking and its acts as: the adaptation of bilateral agreements aimed at preventing trafficking, protecting the rights and dignity of trafficked persons and support their welfare; provision, on bilateral basis or through multilateral organizations, technical and financial assistance, countries and relevant sectors of civil society in order to aid the development and implementation of anti-trafficking strategies based of human rights; implementation of regional and sub-regional treaties on trafficking, using the Palermo Protocol and relevant international standards of human rights as a starting point and framework; adoption of labor migration agreements, which may include provision for minimum work standards, model contracts, modes of repatriation, etc., in accordance with existing international standards.

Conclusions

One can conclude that the 1999 war in Kosovo is associated with direct impact on the welfare of the population. Over 120 thousand homes were destroyed, family and economic situation in Kosovo especially that of the village came under the average level down to extreme poverty, and demographic movement occurred, the population largely migrated from the villages to the cities. The unemployment reached high up to 70%. Many families had killed members in the war and were left without any source of existence. Many children from poverty had to leave school and look for work to support themselves and their families. Most of the victims are rural origin, have lived their childhood in a poor economic situation, have been

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[1] http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/ks_rapport_2013.pdf

unable to attend school, or lived in families with divorced parents and did not see any perspective for their lives, and therefore are easily misled by traffickers. The survivors of trafficking are not well received by the social and family circle, state institutions do not offer anything for re-integration into society, and they do not offer accommodation, food or employment for them to live independently. They live in safe houses which IOM offers, but their life is isolated, as if they were prisoners, with controlled freedom of movement. The victims have dilemmas about their lives. Clients of trafficking victims (which are used for prostitution), are mainly people who are rich, are married and have children, but visiting commercial sex workers, because according to them, they are beautiful and attractive.

Therefore trafficking has affected Kosovo families by stimulating and causing adultery. These clients of sex workers think that "prostitutes" are immoral along with their clients, excluding themselves, but in reality they are within this circle. Today, however small, only 95, the number of internal trafficking victims, represents a layer of contemporary Kosovar society, which must face our society and institutions, to integrate and to enable a normal life, as already has been saved. However, this number has a increasing trend and institutions of the country and our society must face, prevent and combat this phenomenon, in order not to mark an enormous increase which would become unbearable for our society. This phenomenon, if not fought now by local institutions, risks spreading even more and affecting the whole structure of Kosovar society.

Recommendations

At the core of this continuous and uncompromising struggle should be:

– Measures for judiciary reform. They must be accompanied by completing the legal framework according to international standards and specific conditions of our country.

– Full identification and strict punishment of the human trafficking organizers and their helpers.

– Specialized assistance to victims and their rehabilitation, starting with medical and psychological treatment and then create the conditions for employment at home and abroad.

– Increase of awareness to the public, particularly information of minors and young people about this ugly and inhuman phenomenon.

– Reduction of poverty and political tensions with social and other harmful consequences.

Literature:

[1] Netkova. B. analysis of human trafficking in organized crime aspects, Tetovo, 2009

[2] Kambovski, V., Commentary of criminal law of Republic of Macedonia, Skopje, 2011.

[3] I. Salih, Criminal law - special part, Pristina, 2014

[4] Police Reports 2009-2014.

Sources from the Internet:

[1] Int'l Organization for Migration Data on Human Trafficking in Kosovo

[2] 2013 Progress Report on Kosovo, 2013

A Simple Model about Regional Economic Cooperation – A Multidisciplinary Approach

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Abstract

In this study had been investigated regional cooperation Middle East countries. This study includes, literature revive, historical background, comparison research and submitted to simple model. In this model dependent variables is economic and social development, independent variables are, population, education, culture, fiscal capital etc. Regional cooperation, which are includes social, economic and cultural are based for development. Middle East countries should be revised some economic and social cooperation in the world. These matters are important for countries. In responses to global competition their market (EU, Asia, China, North Africa) have started diversifying into new markets and production. Contrary to other economic cooperation MENA countries are differ from social and economic condition. My hypothesis is important this matter. For example, from port of Liverpool to port of Lagos distance between is 4576 mile. Time is 19.1 days. Nigeria gained independent from UK 1960, after that coined south and north. From port of Le Havre to port of Continuo distance between is 4290 mile .Time is 17.9 days. Benin gained independent from France at 1960. Many years had been some difficulties for trade two countries. Therefore regional cooperation is important .In fact, two countries Commerce City distance between is 85 mile.In this work a theoretical study and a model proposal are prepared about the information of an economic – social and political cooperation among 14 Middle- East countries and about the birth of the idea of a new cooperation (unity) while entering 21'st. century. The cooperation like EU, AET and NAFTA, BRİC-S, LAFTA, NAFTA, EEC, MERCESUR, SHANGAY-5, has brought some facilities to the economic life. It is impossible for a country today to live survive a closed economy to other countries in our globalize world. We would argue that the defining issue of economic geography is the need to explain concentrations of population and of economic activity: the distinction between manufacturing belt and farm belt, the existence of cities, the role of industry clusters. (Fujita, 1999, p. 4) Generally we talk about measuring development, in order to decision for future. So we can choose a series of indicators in different social fields, mainly economics, to describe how a particular society has progressed over the time. There are other phrases that have become important in the public debate trying to explain what development really means to a society. Among these we have: Well-being, Welfare state, Developed countries, Reducing poverty, Solution unemployment, Quality of Life, Human development, Social development etc. Classical sectors are chanced today. Today society called "Knowledge society". Productive for work needs to quality education. Shortly, innovation policies criteria, globalization, WtrO rules, Wipo rule, Pisa scores requires new studies this field. Basically social and economic development has been result. I will explain reason and cause effect those reasons.Job creation is the first priorities in the MENA region. This model will be contributed to solution of unemployment. A free trade agreement (FTA) is a preferential arrangement among countries in which tariff rates among them are reduced to zero. However, different members of the arrangement may set external tariff for non- members at different rates (Krueger, 1997, p. 7) There are kind of agreement for example. Bilateral investment agreement, free trade agreement, regional investment agreement. I will try to my models similar to European Union. In sum up, according to Bell "Society can be viewed as three separate parts that, when integrated, create a harmonious relationship within society. The three parts: polity, market economy (techno-economic), and culture (human tradition) (Bell, 1976, p. 14) in addition to regional trade has impact of multiple effect some fields.

Keywords: Regional Cooperation, MENA, Social Development, Unemployment, Social Structure, Basic needs.

INTRODUCTION

In this work a theoretical study and a model proposal are prepared about the information of an economic – social and political cooperation among 14 Middle East countries and about the birth of the idea of a new cooperation (unity) while entering 21st century.

Regional economic integration has many names, shapes and forms, for example EU, NAFTA, ASEAN, SAFTA are differing from another. Regional cooperation are differ forms. Regional cooperation, number of country, rule of trade law, and rule of custom law, social structure, and economic structure etc. summarized that variable for my hypothesis

GAFTA is still in a nascent stage. The unemployment rates in Tunisia and Oman are about 14 per cent, among the highest in the world (UNDP 2010) Like most MENA countries, Tunisia exhibits the highest rates of labor force increase over the last three decades, making 40 per cent. Unemployment rates for young age groups a major concern (Drine, 2012, p. 10).

In 2010, the major exporters of commercial services were the European Union, the United States, Japan, China and India, which together represented around two-thirds of the world exports (WTO, 2011). The share of developing countries remained low, although the performance of some countries was significantly improved in many directions. For instance, in some Middle East and North Africa (MENA) countries, trade in services, rather than trade in goods, appears as the core of their development strategies. Countries of the Gulf Cooperation Council (GCC) have heavily invested in services to reduce their dependence on oil and further diversify their economy and exports. The Emirates of Dubai promoted tourism, which now contributes more than oil to the Emirates' GDP, as well as exports in information and communication technology, and media. Non-GCC countries are also performing well. For example, Morocco is becoming an important off-shoring center for high-tech enterprises.

Besides, the service sector has been an important source of value added growth and job creation in MENA countries during the latter half of the 2000s, irrespective of whether the country was an oil exporter or importer (from World Bank, 2011)(Sedighi, 2013, p. 11).

The corporations like EU, Nafta, Lafta; Asean, and EEC have brought some facilities to the economic life. It is impossible for a country today to live a closed to other countries in our globalize world.

In the world diminished by the technological developments, it is required for countries to cooperate among them and use the limited sources in an efficient way. In our age where some productions are determined with the photographs taken by means of satellites cooperation is inevitable for countries to have a word in the markets of the world.

Some factors like the change-taking place in the social and economic structures of nations due to some significant events. International competition, the change in the volume of world trade, the development and expansion of communication technology may cause the birth of economic and cultural corporation (unity) between nations and countries.

Another way outside Capitalism and Socialism is an opportunity for the third countries of the world. When the total labor power is more than the total employment or the total capital is more than the total investment, the use of money for the sources out of the country can lead to negative consequences.

If unity been this factor would be available.

The Middle-East countries are obliged to form a new model and to develop it because the gap between them and the developed countries is large. Through this model the poverty can be reduced in this area where raw materials, capital, labor power, supply and demand are abundant.

The fact that some countries like Japan have a word on the stage of trade and policy in the world stems from their economic power.

Some scientists of politics generally explain the concept "national interest" "as the interest of a country and vital things for its independence, life style, land unity and the economic welfare of the leaders of a government or in a wider sense, of a nation." (Lincoln Padelford, 1954, p. 309), (Ölçün G.A., 1958, p. 181).

MENA is experiencing a 'youth bulge' with more than 30% of the population currently between the ages of 15 and 29, and youth unemployment averages hovering around 25%. Women in the region still lag far behind their international counterparts, with fewer than 20% of adult women in paid employment. Up to 90% of government jobs in some GCC countries are held by nationals, with a staggering 10% of GDP being spent on the annual government wage bill and IMF and World Bank reports have stated that there is a significant 'skills mismatch' in MENA countries, with education systems not meeting the requirements of the market (The Economist, 2015)(The Economist (Dubai Edition), 2015).

Middle East and Mena region's important is well-being, reduce poverty, and future of Middle East. Over one hundred years this region has conflict, political and economic disaster. This model can be improve and contribute this regions. My approach is holistic and interdisciplinary view. "Neighbors makes zero problem" this motto was suggested, Turkey s neighbor countries. This means is called by win win policy.

The Arab world stretches from Morocco across Northern Africa to the Persian Gulf. The Arab world is more or less equal to the area known as the Middle East and North Africa (MENA). Although this means that is includes Somalia, Djibouti, and the Comoros Islands which are part of the Arab world. It can also be defined as those countries where Arabic is the dominant language. 22 Arab countries-areas, Algeria, Bahrain, the Comoros Islands, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Mauritania, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen. Iran and Turkey are not Arab countries.

Russia will become a founding member in the China-led $50 billion Asian Infrastructure Investment Bank (AIIB) on April 14, according to the State Council of the People's Republic of China. At least 44 countries have applied for membership in the AIIB with the rights of founding countries. AIIB as a founding United Kingdom, France, Germany, Italy, Switzerland and Luxembourg. China's Ministry of Finance welcomed Kyrgyzstan's application to join AIIB on Tuesday. The country is expected to become a bank member on April 9.Sweden will also apply to join the bank, the country's finance minister said Monday.

Padelford and Lincoln examine the international relations limiting them to five matters: of these, the important three are shown below:

National interests of countries are similar on another

Although the interests are not exactly similar, they can be reconciled reciprocally.

The interests of two or more states may be opposite each other in some certain conditions even though they are not opposite each other completely (Ölçün, 1958, p. 181).

The approaches like these also support the idea of corporations.

After this integration of the Ottoman State, some main clashes in the Middle East influenced the region. Among these we can mention 1956 Suez Disagreements, 1958 Iraqi Revolution, the disembarkation of USA marines to Lebanon, the landing English soldiers to Jordan, the Iraq-Iran war.

If the permanent treaties like EU had been carried out and obeyed in this region, the clashes and conflicts would have been reduced to their least level and a rapid progress realized. USA succeeded in this foreign policy due to Monroe doctrine. The first beginning of the Baghdad Pact in the region is the Turk-Iraq mutual cooperation agreement between Turkey and Iraq on 24 February 1955.

England joined this pact on 5 April 1955, Pakistan on 23 September 1955 and Iran on 3 November 1955. The validity of the treaties, which are not being supported socially, economically and culturally, is being reduced.

1.Theoretical Background

Free trade and an unimpeded movement of factors are the first best policy in a world which does not have any distortions, but this is only a hypothetical scenario. The real situation is full of market imperfections that may be corrected and/ or exploited by the employment of an economic policy (intervention). The rationales for international economic integration exist. When one distortion (e.g. a universal tariff of a country) is replaced by another (e.g. the common external tariff of a customs union) the net effect may be obscure. Theory about regional economic integration (an introverted economic strategy, to a degree) is the analysis of second best situations. It is, therefore, not surprising that general theoretical principle may not be found. What matters, however, are not solely the predictions of theory, but rather what happens in real life (Miroslow N., Jovanovic, 1982, p. 352).

While Middle East and Northern African (MENA) countries differ in terms of resource endowments and economic evolution, they share common history and cultural heritage. The MENA region has managed to maintain a unique geopolitical significance throughout its history. Situated at the junction point of three continents, the region was a thriving centre of trade. Control over main commercial networks helped to establish MENA as the world's leading economic power from the seventh to the thirteenth centuries. Compared to the rest of the world, including Europe, the region was very prosperous: according to Table 1, GDP per capita in the MENA region in the 10th century was the highest of the five country groups (Drine, 2012, p. 1).

The gains that international economic integration provides can be summarized as follows;

Integration extends, improves and secures the markets for a country's goods and services against abrupt changes in the trade policy of partners in the future. Hence, integration can be seen as an insurance policy' against sudden and unilateral economic actions by partners in the deal.

Creation of new technologies, goods and services.

Integration reduces the cost of a national import- substitution policy.

International action limits, to an extent, the possibility for unnecessary public intervention in the economy because it extends the scope of economic policy across several countries.

Wider and secure markets increase investment opportunities for both domestic firms and TNCs. Expectations may be established with an increased degree of security. Trade creation and trade diversion. Creation of the potential for monetary stability. Improvement in bargaining positions with external partners. Terms of trade effects and gains to exporters provide benefits from preferential trading agreements that are not available from unilateral trade liberalization policies. Stimulation of economic growth.

Given the above motives for regional integration, it is not necessary to resort exclusively to non-economic reasons for economic integration. However, there are still many unanswered and emerging questions regarding international economic integration (Miroslow N., Jovanovic, 1982, p. 355).

"Large and developed countries depend a lesser degree on external relations than do small countries. In theory, these countries may have a diversified economic structure, which allows for an autarchic economic policy, while such a policy for small countries in a situation with economies of scale and other externalities does not have an economic rationale. If some production takes place, the consequences include short production runs, high prices and lower standard of living (Miroslow N., Jovanovic, 1982, p. 355).

Most residents of industrialized nations have at some time been strata by the vast gap in wealth separating them from those who reside in the poor countries of the world. Whether they travel to those countries or visit them vicariously through television and film, the gap is probably the single most vivid impression the poor countries themselves, Two questions concern most social scientists that conduct research in the Third Word, where they experience the gaps firsthand. First, what causes the gaps? Second, are they narrowing or widening? (Mitchall A., Seligsun-John, T. Passe-Smith, 1993 p. 18).

There is another gap separating rich from poor. Many developing nations are experiencing a growing gap between their own rich and poor citizens. Poor people, who live in poor countries, therefore, are falling further behind not only the world's rich but also their more affluent countrymen Moreover; precisely the opposite phenomenon has taken place within the richer countries, where the gap between rich and poor has narrowed. The world's poor, therefore, find themselves in double jeopardy. The consequences of these widening gaps can be witnessed day. The industrialized countries have responded with foreign aid programs that, by all accounts, can only hope to make a small dent in the problem (Mitchall A. Seligsun, 1993, p. 4).

The enormity and persistence of the Per capita income gap between rich and poor countries is the subject of this selection by David Marawetz. Using data gathered by the Word Bank, Marawetz shows that there are two gaps, the relative and the absolute. Although some areas of the world (China, East Asia, and the Middle East) have narrowed the relative gap in the 1950- 1975 period, others have seen it widen. For the developing countries as a whole, Per capita income equaled only 7.6 percent of the Per capita income of the industrialized nations (Dava Moravets, 1993, p. 9).

During the 1975- 1990 period, which captures much of the impact of the first oil shock, the second oil shock, the extended world recession, and the global debt crisis, the world growth rate dropped below 1 percent. All three-income groups suffered during this period, and the relative fortunes of the income groups began to change. It could be that middle - income counties have the highest potential for growth when global economic expansion is taking place but are not as able as the rich countries to protect themselves when economically difficult times arise (John T. Passe-Smith, 1993, p. 17).

Trade policy has become increasingly important within the international, regional, and national policy-making spheres. It expanded beyond mere tariffs' policies and exchange of goods to have immense effects on macro and micro economic policies, as well as social and cultural realities. Many countries have argued that the principles of national treatment are

not possible when considering investment and that there is no reciprocity in the services provision given that the service providers in developed countries are huge versus very small units existent in developing countries sectoral implication (The Arab Region And Trade Liberalization Policies , 2012, p. 31).

"In the past fifty years, various leaders of the Middle East have tried to make the newly independent states work. On the whole, they have not done very well in forging viable economies or in providing a modicum of social justice for their populations. To do better as the 21 st century approaches, they will need to improve the governance of their societies, which entail some measure of democratization and accountability. As the century draws to a close, one should reflect on what a remarkable era the Middle East has been passing through. Just a century ago, the Ottoman Empire was still intact and was struggling to find a constitutional formula to keep is increasingly assertive national groups together. That effort failed, in part because of World War I. Then, the imperial powers of the day, primarily Britain and France, intensified their domination over most of the area (William B. Quantit, 1996, p. 9).

"Everyone talks about the corporation, but in the words of Mark Twain, no one does anything about it, and for this there are some pretty good reasons. In the first place, something very like the modern corporation is the inevitable product of an industrializing society, whether that society follows a capitalist or a socialist trend of development. Lawyers love to describe the corporation, as a creature of the law, but law in a major manifestation is simply a device for facilitating and registering the obvious and the inevitable. Given the technologically determined need for a large stock of capital, the managerial requirements set by the problem of administering the efforts of many men, and the area of desertion demanded for the effective conduct of an entrepreneurial function, the corporation, or a reasonable facsimile thereof is the only answer (Edward S. Mason, 1970, p. 1).

We would argue that the defining issue of economic geography is the need to explain concentrations of population and of economic activity: the distinction between manufacturing belt and farm belt, the existence of cities, the role of industry clusters (Fujita, 1999, p. 4).

"In the second place the Business Corporation is so much our most important economic institution and it is so thoroughly integrated into our business culture that to suggest a drastic change in the scope or character of corporate activity is to suggest a drastic alteration in the structure of society. We look to the corporation for the technical improvements that spark our economic growth. The corporation recruits our youth from college and provides them with pensions in their old age (Edward S. Mason, 1970, p.1).

Comparison of the organization's role in both the East- West and the North- South conflicts seems to be particularly suggestive to conclude our interpretative analysis. The joint effect of the two rules suggests three problems and associated critical phases in the life of international organizations':

The first phase is characterized by the initial spirit of co-operation, which underlies the foundation of an organization. A second phase, primarily characterized by conflict processes with a view to both necessary institutional adjustments to the power relations of its environment and transforming the general goals of the organization into operational pursued by its individual members.

Third phase, where in a continuous political process varied tasks have to be performed as regards the substantive accommodation of competing values, related re-definitions of behavioral and distributive norms, and the eventual re-distribution of resources in accordance with these norms.

During this second phase the organization was driven into a marginal role as to the tasks of maintaining peace and security since a basic consensus regarding standards for exercising the regulatory function did not exist to a sufficient degree (Rudiger Judge, Annemarie Grusse- Gudde, 1981, p. 9). The European Communities emerged as a unique organization among other regional organizations formed to achieve economic and political integration in Europe after the Second World War. The evolution of European Communities on the basis on the treaties establishing them and of the amendments mode to those treaties has created a dynamic integration process. The Treaty of Paris signed by Germany, Franc, Belgium, Luxembourg, Italy and the Netherlands on 18 again 1951 constituted the first step towards integration by setting up the European Coal and steel Community.

The three Communities formed a de facto unity finding excision in the fusion of their organs. The unity demonstrated by the European Communities Constituted the basis for the evolving integration process which has been preserved and developed through the direct effect and primarily of community treaties and the act of the Common.

Arab thought during the last century and a half has focused mostly on themes of change arising from (a) the internal dynamics of the Arab society, (b) encounters with the West, and (c) the onslaught of various challenges. Given this situation, it is naive to clam that Arab thought is always critical of the existing order and that Arab intellectuals constitute a group or even a class in them and for themselves (İ. İbrahim, 1993, p. 70-71. Halim Barakat 1983).

Dougherty and Pfaltzgraff summaries the common concerns of writers who use systems theory as follows: 1) the internal organization and patterns of complexes of elements hypothesized or observed to exist as a system; 2) the relationships and boundaries between a system and its environment and, in particular, the nature and impact of inputs from and outputs to the environment; 3) the functions performed by systems, the structures for the performance of such functions, and their effect upon the stability of the system; 4) the homeostatic mechanism available to the system for the maintenance of steady-state or equilibrium; 5)the classification of systems as open or closed, or as organismic or non- organismic systems, the location of subsystems within systems, the patterns of interaction among subsystems themselves, and between subsystem and the system itself (1981, p. 150) (A. Nuri Yurdusev, 1991, p. 110-111).

Clearing has many different meanings within the financial markets. In its broadest definition, clearing is a post-trade activity and aims to reduce risk. This often means using a central counterparty (CCP) to eliminate risks associated with the default of a trading counterparty. In the OTC derivatives markets, 'bilateral clearing' means two parties to a trade make their own arrangements to reduce their exposure to each other's default. All clearing arrangements are designed to help market participants manage various risks - operational, counterparty, settlement, market, and legal - between trade execution and settlement. CCP clearing means a CCP becomes the legal counterparty to each trading party, providing a guarantee that it will honour the terms of the original trade even if one of the parties defaults before the discharge of its obligations under the trade. (Euroccp, 2005)

When the trade potential of between Islamic countries is considered, the economic relations among the Islamic countries are seen to be insufficient. For the development of the mentioned relations and their Economic development and wealth level increase as a whole Islamic community, some handicapped are root of history. But Islamic countries must be economic and social cooperation especially economic cooperation. Islamic organization has 57 members, those of 22 members the Islamic, countries are defined to have a very low development and the economic successes of Islamic countries are under the sovereignty of a few countries.

Regional trade agreements (RTAs) have emerged as an alternative to achieve trade liberalization as multilateral efforts have faced political and economic obstacles. 2, 3 the difficulties of reaching agreements on sensitive issues like agriculture and services have been evident in the Doha Round. The previous rounds were also marked by complex and slow negotiation processes. For one, as the number of participants' increases, it has been more difficult to address each country's demands for special considerations (Euroccp, p.3).

Trends in Foreign direct investment by major region, 1991-96 average Inflows

Europe	39.2 %
N.America	23.9 %
Non OECD Asia	21.5 %
Latin America	9.4 %
OECD Asia	4.6 %
Middle East & Africa	1.3 %

Outflows

Europe	45.9 %
N.America	30.4%
Asia	22.2 %
Latin America	0.8 %
Middle East & Africa	4.6 %
Middle East & Africa	0.7 %

Source: OECD (1997c) (OEDC, 1998, p. 75)

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As shown below on graphic, Middle East Countries has been little percent trade of the world. Middle East countries, especially 14 countries may increase trade amount themselves. Geographically Turkey is in a position of between Europe and Middle East and strategically situation has been Balkan Countries. Turkey is candidate EU and she is member of a lot of union. Now the superpower bloc system has been ended. Regional powers are very important today.

Consultation, coordination and communication are important among the Middle East Countries. Rich of countries depends on the rich of people. The aspect is supposed to the development five It's which are information-inspiration-innovation-interjection and integration. One of the major problems among the Middle East countries is industrialization social structure.

Regional Outcomes, A common indicator of regional competitiveness is GDP per head, which provides an, albeit incomplete, indicator of the average well-being of the population. For analytical,Purposes this can be decomposed as follows:

GDP   GDP Employment Working Population

--------- = ---------- * --------------- * -----------------------

Population Employment Working pop. Population

(EU commission, 2015, p. 46)

I applied this method for my support hypothesis compared with three countries results for economic development had been supported my hypothesis. Those countries are Turkey, S.Korea and Saudi Arabia. Turkey, per head GDP 11000 UDS, population 76000000, employment 35000000, working population 26000000 and Result is 1.40=1.44. S.Korea, per head GDP, 20000 USD, population 56000000, employment 29000000, working population 22000000 and result is 3.57=3.52. S.Arabia, per head GDP 18000 USD, population, 26000000, employment 14000000, working population 9000000 and Result is 6.92=0.00527. I applied this method for Spain, Egypt, and Ireland. Those result is supported my hypothesis, i.e. Economic, social cooperation and human power are effecting development. Reduced had been unemployment also. Spain's result is 4.89=0.00049, Eygpt result is 6.2=0.48, and Ireland result is 0.0088=0.0086. Because in Ireland unemployment rate is lover.

Working employment in S.Arabia has foreign workers. Because of this result is differing from others. This Formula can be used for regional cooperation.

Merchandise trade flows within regions outperform flows between regions. Merchandise exports by region and destination 2011 (USD. Billion) (World Trade Organization. 2012.) Raw data from WTrO, adjusted by author's. From To Region US Dollar billion Region

North America	1103 Billion $	North America
	476 Billion $	Asia
	382 Billion $	Europe
	201 Billion $	Central South America& the Caribbean
	63 Billion $	Middle East
	37 Billion $	Africa
	15 Billion $	Commonwealth of Independent States

Europe	4667 Billion $	Europe
	639 Billion $	Asia
	480 Billion $	North America
	234 Billion $	Commonwealth of Independent States
	199 Billion $	Africa
	194 Billion $	Middle East
	119 Billion $	Central & South America & the Caribbean

| Central & South America & the Caribbean | 200 Billion $ | Central & South America & the Caribbean |
| | 169 Billion $ | Asia |

	140 Billion $	North America
	138 Billion $	Europe
	21 Billion $	Africa
	18 Billion $	Middle East
	8 Billion $	Commonwealth of Independent States

	205 Billion $	Europe
	146 Billion $	Asia
	102 Billion $	North America
Africa	77 Billion $	Africa
	21 Billion $	Middle East
	19 Billion $	Central & South America & the Caribbean
	2 Billion $	Commonwealth of Independent States

	2926 Billion $	Asia
	922 Billion $	Europe
	906 Billion $	North America
Asia	242 Billion $	Middle East
	189 Billion $	Central & South America & the Caribbean
	152 Billion $	Africa
	110 Billion $	Commonwealth of Independent States

	660 Billion $	Asia
	158 Billion $	Europe
	110 Billion $	Middle East
Middle East	107 Billion $	North America
	38 Billion $	Africa
	10 Billion $	Central & South America & the Caribbean
	6 Billion $	Commonwealth of Independent States

	409 Billion $	Europe
	154 Billion $	Commonwealth of Independent States
	117 Billion $	Asia
Commonwealth of Independent States	34 Billion $	North America
	24 Billion $	Middle East
	12 Billion $	Africa

This data's had been supported my hypothesis.

Industrialism requires and mobile workforce, large-scale production in large cities, together with political consensus for government intervention; a professionally of managers; work force participation in benefit of industrialism and political acceptance of this system. This system is regulated by a web rules. (Kerr et. al, 1960, p. 33-46.) Jacqueline O. Reilly. 1996 p :5)

The idea of cooperation to be based on recent years, which had been formulate some scholars, e.g. Duncan. Duncan had formulated international trade and cooperation in his survey research in 1938. (A.J Duncan Marshalls paradox and the direction of shift in demand Econemetrica, 6, 358-360 October 1938). Richard E-Coves 1960 p. 202) my simple model will be offering a solution for under development countries for developments. In sum, what are the strengths of Member of Countries 1.Cultural and historical resemble 2. Geographical closeness, 3.Population, 4.Workforce, 6.Markets, 7.Capital, 8.Natural resources. What are the weaknesses of Member of countries, 1.Infrastructure incomplete 2.Lacking of Manpower, 3.Lacking of research, 4.Lacking of technical level 5.Lacking of industrialization?

Generally some scholar and political sciences especially social sciences talk about measuring development, so we choose a series of indicators in different social fields, mainly economics, to describe how a particular society has progressed over the time. Some empire and country is richer from other. There are other phrases that have become important in the public debate trying to explain what development really means to a society. Some concept debates between social scientist, those are: Welfare state, Social and economic well-being, social progress, social development, economic development, etc.

Another aspect this subject is social security. 7G and EU Countries have perfectly social security system. Underdevelopment countries should be improving social security system.

II. Historical Background

"Sa'dabad pact, Sa'dabad pact of 1937 was signed by Iran, Iraq, Afghanistan, and Turkey in July 1937, Initiated by Iran's Reza Shah, Sa'dabad represented the first alliance entered into by Middle East states without European participation. His principal target was Great Britain, the dominant power in the Persian Gulf area and the most impressive imperial power in the Middle East at the time. Sa'dabad" alliance of Middle East states, but he was rebuffed because of his dependence on the United States, and because he was not a trusted figure (Lawrence Zinning, 1928, p. 343).

"Baghdad Pact the Baghdad Pact was a treaty of alliance entered into by Iraq and Turkey in 1955. Iran, Pakistan, and Britain joined the pact in the months that followed. The United States, although not a signatory to the pact, participated in all its activities (Lawrence Zinning, 1928, p. 343).

"Central Treaty Organization (CENTO) The Central Treaty Organization (CENTO) was the successor to the Baghdad Pact. In 1958, the Iraqi monarchy was overthrown and abolished. Iraq withdrew from the Baghdad Pact. The rest of the alliance, however, remained intact, necessitating a change in nomenclature. The name "Central Treaty Organization" was considered appropriate insofar as it seemed to follow the concept of the North Atlantic Treaty Organization.. The creation of CENTO attempted to formalize the alliance between Turkey, Iran, Pakistan, and Britain, and the Southeast Asia Treaty Organization (SEATO), assembled in 1954. CENTO was intended to organize the "Northern Tier" of states, two of which shared a border with the Soviet Union (Turkey and Iran) (Lawrence Zinning, 1928, p. 343).

"Regional Co-operation for Development (RCD) The Regional Co-operation for Development was proposed by the president of Pakistan, Ayub Khan, It was established in July 1964 and included Turkey and Iran as well as Pakistan. RCD's objective, according to Ayub Khan, was economic co-operation and cultural exchange between like minded area states. RCD was conceived as and promote trade, assist in joint enterprises, and generally enhance the well being of their respective citizenry. Cooperation is not competitions committees for agriculture, industry, banking, and shipping. Nevertheless, it never measured up to the intentions of its creator. From the outset, Iran was less than inspired. Turkey's economic interests were oriented more toward Western Europe, Little trade moved between the RCD countries, and Pakistan, of the three, had the least lately ignored the offer. The three member states were all identified with the Central Treaty Organization, and RCD was perceived as an extension of CENTO, Indeed, there were some observers who concluded that the United States had prompted Pakistan to form RCD, giving the organization the necessary support (Lawrence Zinning, 1928, p. 345).

It is well known that the Ottoman Turkish Presence in Palestine encompasses 402 years, beginning 1516 and extending down to the end of the First World War (Ataöv, Türkkaya, 1970 p. 15-71).

The Sa'dabad Pact of 1934 had in the meantime been followed by the conclusion of on agreement between Turkey, Iran, Iraq and Afghanistan, known as the Pact of Sa'dabad 1936. The effect of this was to guarantee Turkey and its Asiatic neighbors against the some attack.

III. Simple Model

At our time when there a speedy social change, in the process that started in the Middle East in 1900s and continued approximately for 100 years, it is observed that conflicts rather than power unification are experienced.

Huntington says, "The speedy change of the social values, in general, emerges in the societies which have oriented towards modernization." (S.P. Huntington, 1976, p. 23).

The technological defeat and underdevelopment have yielded political and social underdevelopment. The Ottomans began to be defeated in the wars after the use of the firearms. They were unable to resist against the sailing ships with their steamboats. In the model, I offer that the Middle East countries have to eliminate the technological barrier, first of all.

Because after the theoretical framework of the model is discussed, its chance of being put under implementation increases. Monnet's thought of a single Europe in 1950s and its recognition and (ECSC, European Coal and Steel Community) the use of a significant raw material has affected on the idea of such a unity. French Minister of Foreign Affairs of the time proposed that the European states should unite around a federal system in the year 1929. In my opinion, this model too is to be discussed and put under implementation.

Since the European Community is not solely a political unity and shelters a number of sub-unites in its structure, in the model I propose, functionality will emerge through technical and social unity to a greater extent. Among the sub-unites included in the European Union are the European Council, European Free Trade Area (EFTA), OECD (partly), West European Union, Benelux States Union, Scandinavian Countries Council, 1951 KGT Agreement, 1957 AET and agreement.

In spite of the fact that Turkey is strong in textile in the global markets, she is constrained due to the quotas applied. If there were a powerful union, Turkey's rights would be protected.

In the model I propose, emphasis has been put on the basic elements of the classical economic approach. Furthermore, a discussion entails through the modern economic approaches, which are as follows:

Natural Resources: Different Middle East countries have different raw materials. Technology: The idea of union will complement this significant deficiency. Capital: Most of the 14 countries have sufficient capital. Labors: Those countries, especially like Turkey, that have a young population. I believe that this is an advantage to be used. Market: The member countries, Islamic countries, Africa and the global market. Social environment: Cultural, historical and social unity. In addition to all these, the other factors such as the modern economic approach, private property, freedom, the profit ratio, competition are to be taken into consideration.

In Table 1, in which my MODEL is presented, the following basic conditions are to be met:

- Independence of the countries (like those of the EU) will fully be kept ,

- Economic good will be looked after like EU – NAFTA,

- Balance will be protected in such matters as Participation – Responsibility – and – Management.

Another issue that interests the World and the Middle East countries is that the fact that without industrialization, it is impossible to become an information society. Although Importation – Sub institution in information and technology provide a temporary ease, without industrialization, an information society is impossible to reach. In this model, it is targeted to provide resources for the solution of the basic and difficult issue of the industrialization process. In this scope, it will be possible to meet the main infrastructural expenditures.

Custom union is an agreement between nations thought which tariff on all goods and services produced by member nations are traded tariff fee, while the member nations agree on common tariff rates on imports from all non-member countries.

We should be separate regional economic cooperation with sub field cooperation. For example; PTA, Free Trade Area, customs union, common market, monetary union-complete integration. Trading blocks is differ from economic integration. Some economic block below. PARTA-EEA-CARICOM-AEC-SACU-GAFTA-NAFTA-LAFTA-ASEAN-CEFTA-EFTA-AEC-SAFTA-ŞANGHAY-BRİC+S-. A country can be both member of a lot of trade block and cooperation members. And a country can be signed bilateral free trade agreement.

My regional cooperation model is differing from another. My hypothesis is occurs four pillars. Those are firstly, this region has been cultural, religion and geographical neighbour, secondly, knowledge based economy is primary sectors. India and China achieved reduce poverty this sectors. Thirdly Turkey is donor country; In sum up my model is all member of country equal.

METAU Region includes: 1.Algeria 2.Bahrain 3.Djibouti 4.Egypt 5.Iran 6.Iraq 8.Jordan 9.Kuwait | 10.Lebanon 11.Libya 12.Morocco | 13.Oman 14.Qatar 15.Saudi Arabia 16. Syria 17.Tunisia 18.United Arab Emirates 19.West Bank and Gaza 20.Yemen 21.Turkey,.Some economic union had been submitted below.

AMU: (Arab Maghreb Union): Tunisia, Morocco, Algeria, Libya, Mauritania

GCC: (Gulf Cooperation Council): Saudi Arabia, Kuwait, Bahrain, Qatar, Oman

GAFTA :(Great Arab Free Trade Agreement): Syria, WBG, Lebanon, Iraq, Saudi Arabia, Kuwait, Bahrain, Qatar, Oman, Sudan, Yemen, Jordan, Egypt, Tunisia, Morocco, Libya

ECO: (Economic Cooperation Organization) Turkey, Afghanistan, Azerbaijan, Kazakhstan, Kyrgyz Republic, Pakistan, Tajikistan, Turkmenistan, Uzbekistan, Iran

COMESA :(Common Market for Eastern and Southern Africa) Egypt, Libya, Djibouti, Burundi, Comoros, D.R. Congo, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, Zimbabwe

EFTA :(European Free Trade Association) Morocco, Tunisia, Egypt, Jordan, Lebanon,

Agadir: Jordan, Egypt, Tunisia, Morocco,

Bilateral Agreements with Regional Agreements:

United States: Morocco, Singapore, Oman, Bahrain, Lebanon

Efta: Morocco, Tunisia, Egypt, Jordan, Lebanon,

European Union: Syria, WBG, Lebanon, Jordan, Egypt, Tunisia, Morocco, Algeria

Turkey: Egypt, WBG, Syria, Tunisia, Morocco,

Singapore: Jordan

The Arab countries have been developing regional economic integration plans through the Greater Arab Free Trade Area (GAFTA), which came into force in 2005. Twelve of the Arab countries are members of the WTO (Bahrain, Egypt, Jordan, Kuwait, Morocco, Oman, Qatar, Tunisia, United Arab Emirates, Djibouti, Saudi Arabia, and Mauritania) while six are negotiating accession (Lebanon, Libya, Iraq, Sudan, Yemen, and Algeria).9 Under the Euro-Mediterranean Partnership, Algeria, Tunisia, Morocco, Egypt, Jordan, Lebanon, and Palestine have signed association agreements, while Syria is still negotiating with the European Parliament. By 2010, a free trade area between all members of the Euro-Med agreement (15 EU countries originally in the agreement, 12 new EU countries after its recent enlargement, and 10 Southern Mediterranean countries) is to be established. Moreover, the EU and the Gulf Cooperation Council10 (GCC) have accelerated negotiations during the end of 2005 (Mohamadieh, 2007, p. 1).

WTrO has 160 members since 2014.WTrO has 24 Observer governments, those are. Afghanistan, Algeria, Andorra, Azerbaijan, Bahamas, Belarus, Bhutan, Bosnia and Herzegovina, Comoros, Equatorial Guinea, Ethiopia, Holy See (Vatican), Iran,   Iraq,   Kazakhstan, Lebanese Republic, Liberia, Republic of Libya, Sao Tomé and Principe, Serbia, Seychelles, Sudan, Syrian Arab Republic, Uzbekistan. 6 countries are MENA region

MIDDLE EAST DEVELOPMENT UNION

A – Research Institutes:Centre,:country.a

B – Financing Council:Centre.:country.b

a.   It will provide resources for the basic infrastructure investments,

b.   It will provide resources for industrialization,

c.   It will meet the financing needs of the SMEs (Small and Medium Size Enterprises),

d.   For urgent situations, there will be a financing capability in the Emergency Fund.

C – Financial Council:Centre.:country.c

e. It will make regulatory arrangements in the customs legislation between the member countries,

f. It will make regulatory arrangements in the importation – exportation legislation,

g. It will meet the expenses made by the Secretariat.

D – Technological Council: Centre.:Country.d

a. It will provide access into the available technology and create new technologies,

b. It will ensure communication,

c. It will establish information units.

E – Political Council:Centre.:Country.e

d. It will ensure the exterior security of the member countries,

e. It will prevent conflicts,

f. It will protect the interests of the member countries.

F – Social Security Council:Centre.:country.f

g. It will ensure the social process of helping one another,

h. It will use the fund to be distributed,

i. It will put the attached formula into practice.

Related to some of the activities conducted in the scope of the regional economic cooperation, details to this end are presented below (Bayraktutan Yusuf, 1997, p. 9):

Regional integration (or national integration) means the integration of various regions in the borders of a national state as the smallest scale of the economic integration. Substantially, this category is a matter pertaining to the regional economy and regional science. International (economic) integration expresses the subject of economic integration of various countries in a bloc. As a classification frequently met, regional – international economic integration is the integration process of the different nations within a geographical bloc or territory. Global integration is the integration experienced worldwide. Commercial theory separates, in general, the ways of the economic integration into six categories (Bayraktutan Yusuf, 1997, p. 16):

H.J. Harrington says "Measurement is the first step that leads to control and eventually to improvement. If you can't measure something, you can't understand it. If you can't understand it, you can't control it. If you can't control it, you can't improve it." This motto's means is some countries should be coined WTrO.

CONCLUSION

This model may be multiple effects and contribute to some interdisciplinary fields. Those are Sustainable development. Sustainable development includes economic, social and environmental areas. This model is contributing sustainable development.

In this interdisciplinary researcher especially economic scholars trust economy, green economy. Mena region and Muslim countries should be protecting some value. For example green economy, trust economy. Usury is forbidden in the Quran. İn 2015 some Middle East countries 250 billion USD reserves are out of country. This model offers this fiscal capital can be use industrialisation. Unemployment especially, young unemployment people are Mena region. These countries must be solving unemployment problems.

Pisa examination is international exam. But this regions student score are failing. For the future this exam should be prepare this countries. Social structure is differing from others. These countries cannot be separate (like Sudan) if artificial state is occurs, this area economic and social structure may be domino effects.

Sciences are methods. To compare with some data's requires WTrO data's. Therefore some countries, which are 6 country should be coined WTrO.

Economic growth bears importance for any Middle East and North African countries with different levels of development. It is seen that various theories of economic growth give a different importance to technological development, social development and human capital. This model will be contribute analytical framework..Because regional economic integration mainly dependences on other countries, which has been effected other countries. This means that multiple effects. For example Eu and Usa signed custom agreement therefore Turkey had been effected. Since beginning the XIX century regional economic integration has been goal pursued by middle income countries. A free trade agreement, which is easy for MENA countries, is preferential agreement among countries in which tarif rates among them are reduced to zero. In sum up, this model is interdisciplinary model. Those are green economy, Islamic economy, ethical economy etc. Concept will be considering.

Public administration and trade culture are important for development. Meritocracy and organisation culture impact of development. In history this region has not industrialisation revaluation. In addition to pressing of has been colonisation. Therefore those countries are called as underdevelopment countries. E U is perfect model for countries' is economic, social and political organisation in the

Bibliography

[1] Ataöv Türkkaya; the Palestine Question and Turkey Ankara University

[2] Bayraktutan Yusuf; Economic Integration, Unpublished Ph. Thesis. Atatürk University Sosyal Bilimler Institute. Erzurum.1997.Turkey

[3] Department of Economics, Ferdowsi University of Mashhad, Mashhad, Iran e-mail: lotfalipour@um.ac.ir, sa_montazeri65@yahoo.com, so_sedighi@yahoo.com p.1

[4] Edward S. Mason. The Corporation in Modern Society. Harvard University Press – Cambridge – Massachusetts. 1970

[5] Euroccp, 2005, www.euroccp.com, 04.03.2015

[6] Ibrahim I. Arab Resources the Transformation of a Society. Centre for Contemporary Arab Studies. Georgetown University Crom Helm Ltd. Washington. 1983

[7] Imed Drine Working Paper No. 2012/52 'Successful' Development Models in the MENA Region United Nations University World Institute for Development Economics Research p.1 and 10 May 2012

[8] Jacqueline O Reilly, Theoretical Consideration in Cross-National Employment Research. Sociological Research Online vol, 1. No, 1 UK.I996

[9] Jos Bergman, Bea Centillion The European Face of Social Security Essays in Honour g. Herman Deleeck Avebury. 1993

[10] Jose Daniel Rodríguez-Delgado SAFTA: Living in a World of Regional Trade Agreements IMF working paper 07.23 p.3

[11] Lawrance Zirring The Middle East Political Dictionary Clio Press Ltd. England. 1928

[12] Masahisa Fujita, Paul Krugman, Anthony J. Venables the Spatial Economy Cities, Regions, and International Trade The MIT Press Cambridge, Massachusetts London, England 0.1999 p.4

[13] Miroslow N. Jovanovic. International Economic Integration. Limits and prospects Roultledge London and New York 1982, p. 352 and 355.

[14] Mitchell A. Seligsun – Juhn T. Passe – Smith Development – Under Development. The political economy of Inequality Riconer, 1993, p. 17 and 18.

[15] OECD, Open Market Matter the Benefits of Trade and Investment Liberalisation, OECD-1998

[16] Ölçün Ahmet Gündüz. Ankara Üniversitesi Siyasal Bilimler Fakültesi Dergisi Cilt: XIII. No:4 Aralık : 1958 p. 181.

[17] Publisher. Inc 1993-. USA. Padelford Lincoln, International politics New York. 1954

[18] Richard E.Caves. Trade and Economic Structure Model and Methods. Harvard University Press.Cambridge.Masshacutes.1960

[19] Ronald L. Martin A Study On The Factors Of Regional Competitiveness A Draft Final Report For The European Commission Directorate-General Regional Policy Cambridge Econometrics Ecorys-Nei Covent Garden P.O. Box 4175 Cambridge NI 3006 Ad Rotterdam Cb1 2hs University Of Cambridge P.46

[20] Rüdiger Jütle ans Annemoze Grusse-Jütte. The Future of International Organization. A Publication of the Institute of Peace Research and Security Policy at the University of Hambre 1986

[21] S.P. Huntington Political Order and Changing Society Çev. M. Mahmut Yale University - Peru Massachusetts 1976-p:23

[22] Siyasal Bilgiler Fakültesi Dergisi. Cilt: XXXIV. No: 1-4 Ocak-Aralık 1970

[23] Somayeh Sedighi, Mohammad Reza Lotfalipour, Samaneh Montazeri, Economic Insights – Trends and Challenges Vol. II (LXV) No. 2/2013 pp. 1 – 11 Trade Openness and Inflation. Evidence from MENA Region Countries

[24] The Arab Region And Trade Liberalization Policies A Look Into Sectoral Implications. And Lebanon 2007

[25] The Economist, 2015 UAE.

[26] Willam B. Quantid. Annual Table of Contents the Middle East in Brink Prospects for Change in the 21 st. Century Middle East Journal V1 50 No:1 winter : 1996.

[27] Yurdusev A. Nuri System Theory and International Relations Three Major. Conceptualizations. Unpublished Thesis Metu Ank. 1993

Witness Protection in Kosovo: Progress and Challenges

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Abstract

The role and importance of the witnesses in criminal procedure in fighting serious and organized crime, corruption, terrorism and preserving the public security have continuously increased. Law enforcement institutions increasingly face with difficulties in the process of proving criminal acts in the judicial processes because of their complexity in providing sufficient evidence during the criminal investigation procedure. Therefore, besides the reactive investigation methods and application of special crime investigation measures, establishing a legal infrastructure and capacities for the implementation of witness protection concept is necessary as well. Kosovo government and institutions declared fight and prevention of all forms of organized crime, corruption and terrorism as a priority and up to now, it was evaluated that a great job was done in drafting legislation and strategic documents in the law enforcement field as well as increasing the operational capacities of law enforcement institutions. Regarding the witness protection in Kosovo, progress is achieved in improving legislation and establishing special structures for implementation of witness protection programs, but still remain some challenges that Kosovo law enforcement institutions face such as international cooperation and geographic, cultural and social specifics.

Keywords; witness protection, legislation, Kosovo, criminal procedure

Introduction

Organized crime, corruption and terrorism are serious concerns for national governments and international organizations as well. Financial power and use of modern technology by criminal and terrorist groups made that forms of organized crime and terrorism be more sophisticated and represent serious challenges for law enforcement institutions in combating and prosecution of these acts. In fact, competent institutions, through operational techniques and different sources can provide trusted information regarding criminal activities of individuals or criminal groups, but, providing evidences for judicial processes remains a challenge especially when these groups act in complete secrecy and pose threat for the life and safety of witnesses and members of their families. "At the national level, organized crime (and corruption cases) can be some of the most difficult and complex to investigate and prosecute. Disrupting or dismantling criminal groups requires getting information about actors, activities and financial dealings that can be difficult to obtain because of the secrecy of their operations and because corrupted officials are often paid to alert and protect them from such investigations."[1] Providing evidence in judicial processes through witnesses is an issue that in its administration requires will, professionalism and investment in managing protection programs. "The ability of a witness to give testimony in a judicial setting or to cooperate with law enforcement investigations without fear of intimidation or reprisal is essential to maintaining the rule of law. Increasingly, countries are enacting legislation or adopting policies to protect witnesses whose cooperation with law enforcement authorities or testimony in a court of law would endanger their lives or those of their families.[2] According to the Kosovo Law on witness protection the protected person means the person to whom the protection measures are applied and who in the position of witness or damaged party, shall notify or witness on the facts and circumstances, that comprise an object of relevant proof in a criminal procedure, for criminal offences foreseen in paragraph 1 of Article 4 of this Law and due to these notifications or proofs, is in a serious risk situation, and the person, who expiates the criminal sentence or is accused in criminal procedure, towards whom the special protection measures shall be applied, because of cooperation,

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[1] http://www.unafei.or.jp/english/pdf/PDF_GG4_Seminar/Fourth_GGSeminar_P3-19.pdf

[2] UNODC, Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime, United Nations Office on Drugs and Crime, UNITED NATIONS Wiena, 2008, pg.1

notification and declarations made in criminal procedure, for criminal offences foreseen in paragraph 1 of Article 4 of this Law and that for these reasons, is in a serious threat situation.[1]

Kosovo stand point

In the security and crime combating field, Kosovo institutions with the international assistance, mainly by the experts from European Union (EU), Organization of Security and Cooperation in Europe (OSCE), United Nation Development Program (UNDP), United States Agency for International Development (USAID) and many other organizations present in Kosovo, have adopted legislation in line with European Standards, which require stability of institutions, guaranteeing democracy, the rule of law, human rights and respect and protection for minorities. The Kosovo Constitution defines the priorities in the field of security and the role of state security and law enforcement institutions. Kosovo now has a legal infrastructure of witness protection in Kosovo. Firstly Criminal No. 04/L-123 Procedure Code of Kosovo, Chapter XIII Protection Of Injured Parties And Witnesses, stipulates Petition for Protective Measure or Anonymity Article 221, Order for Protective Measures Article 222, Order for Anonymity from the Public Article 223, Order for Anonymity from the Defendant Article 224, Form of Order for Anonymity Article 225, Prohibition of Questions that may Reveal Identity Article 226 and Special and Extraordinary measures, ways and procedures for witness protection and cooperative witnesses are governed by the Law on Witness Protection, Law No. 04/L-015, Witness Protection Article 227. "A major step in the investigation under the previous Criminal Procedure Code or under the new Criminal Procedure Code is the taking of pre-indictment statements from witnesses. This can be taken in three ways: pretrial interviews, pretrial testimony and special investigative opportunities. The State Prosecutor is not required to use all the methods, but having three options creates flexibility."[2] Law no. 04/l-015 on Witness Protection Law regulate special and extraordinary measures, ways and procedures for witness protection and cooperators of justice. Considering the entirety of laws regulating the field of investigations and criminal procedure, we may say that in the aspect of establishment of legal bases, great progress has been achieved in creation of legal conditions for witness protection programs implementation. Although, as European Commission states in the Kosovo Progress Report, the government needs to approve the rules of procedure of the inter-ministerial working group on dealing with the past and reconciliation and it needs to adopt a transitional justice strategy. In general, there continues to be insufficient political support and a lack of proper mechanisms to gather information relevant for investigations regarding war crimes and missing persons. Witness intimidation continues to be a concern, although the police have made good progress establishing a witness protection directorate.[3] Establishing and strengthening the law enforcement and security institutions was supported by international missions and organizations in Kosovo and this helped implementing best practices and standards internationally accepted. Therefore, in the attempts of establishing functional and effective mechanisms in combating crime, the Directorate of Witness Protection was established, as a specialized and competent unit for implementing protective measures. Of course, it requires time for total functionalization and creation of the conditions for implementing witness protection programs. "A witness protection directorate has been set up within Kosovo Police and continues to be supported by EU and EULEX experts. In accordance with the law on witness protection, the witness protection committee, consisting of the chief state prosecutor, the head of the KP investigation unit and the director of the witness protection directorate were established in September 2013. Kosovo needs to sign agreements for witness relocation"[4]

Witness Protection Program

"The experience of many countries demonstrates that effective measures to defeat organized criminal groups require the cooperation of criminals who are willing to cooperate with the law enforcement officials and testify against conspirators. Such cooperation is impossible without the ability of the prosecutors and law enforcement officials to provide sufficient protection for individuals."[5] For many reasons, in complex cases of criminal prosecution of individuals or criminal groups, witnesses can be protected only through special programs, by special laws and managed by legally foreseen organizational

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[1] Law no. 04/l-015 on Witness Protection, pg. 1

[2] Smibert, Jon. Guide to the Criminal Procedure Code of Kosovo, Office of Overseas Prosecutorial Development and Training, US Embassy, Prishtina 2013, Pg.48-49

[3] European Commission, Kosovo Progress Report 2014, pg. 22

[4] Ibid, pg 51

[5] OSCE, Witness Security and Protection in Kosovo; Assessment and Recommendations, OSCE Mission in Kosovo, 2007. Pg.19

structures. "The primary objective of any witness protection program is to safeguard witnesses in cases of serious threat which cannot be addressed by other protection measures in cases of special importance where the evidence to be provided by the witnesses (including victims) cannot be obtained by other means."[1] The issue of witness protection is an important one not only within national framework but international one in crime combating as well. Witness protection programs are applied in the judicial processes for war crime investigations in various international tribunals. Also, determining internationally accepted standards for whiteness protection is very important in the international aspect. According to the United Nations Office on Drugs and Crime (UNODC) some of the most important elements for the establishment and operation of witness protection programmes are:

(a) A clear legal or policy basis for designing a methodology and carrying out operations;

(b) Adequate financing that is stable and continues for several years;

(c) Strict personnel qualifications and vetting procedures;

(d) Protection of the programme's integrity;

(e) Close coordination with judicial and other Government authorities engaged in law enforcement and intelligence, prison administration, public housing, health and social security services, among others;

(f) Accountability and transparency that conform with the programme's special Security needs;

(g) Obligation of government authorities to provide appropriate assistance, safeguarding the information disclosed to them;

(h) Ability to offer assistance to national and international law enforcement agencies.[2]

Witness protection programs management in Kosovo initially was under the International Police competencies within the United Nations Mission in Kosovo (UNMIK), then under the European Union mission of rule of law in Kosovo (EULEX) until completion of legislation and increasing mechanisms of local institutions. Currently, by the approval of law on witness protection in 2011 are set the legal provisions for implementation of witness protection programs by local institutions. According to Kosovo Law no. 04/l-015 on Witness Protection, Article 4 Grounds for application of protection measures, protection measures may be implemented before, during and after criminal proceeding for the endangered person with regard to the investigations for criminal offences as follows: criminal offence against Kosovo, its citizens and residents; criminal offence against international law; criminal offence against the economy; criminal offence against the official position; criminal offence which, as foreseen by the Law, is punishable by imprisonment of five (5) or more years. Protection measures may be applied towards the person related to above mentioned criminal offences if there is a serious threat to that person and his close persons and that person accepts to cooperate closely with the courts or investigatory authorities. While, the protection measures that can be initiated according to this law are stipulated in the Article 5 Types of Protection Measures. Protection measure is applied to ensure the protection for the protected person from serious threat against his life, physical or mental health or to close persons defined in this Law. Protection measures are as follows:

- physical protection of the protected person;
- temporary relocation of protected person to a secure place;
- special procedures for access to data and documents related to protected persons from offices for issuing the documents and other formal information databases;
- change of the protected person's place of residence, work or study;
- change of identity of the protected person;
- change of the protected person appearance, including plastic surgery;
- financial support for the protected person;
- social, legal and other necessary assistance for the protected person; and
- special regime for the protected person in custody, in correctional institutions.

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[1] http://www.unafei.or.jp/english/pdf/PDF_GG4_Seminar/Fourth_GGSeminar_P3-19.pdf

[2] UNODC, Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime, United Nations Office on Drugs and Crime, UNITED NATIONS Wiena, 2008, pg.94

Another important issue in witness protection is the process of decision making for initiation and administration of the program. Kosovo legislation establishes the decision making committee which is composed of three (3) members: Chief State Prosecutor of Republic of Kosovo, head of investigation unit of Kosovo Police and the director of the Witness Protection Directorate. Responsible body for the implementation of protection measures is Witness Protection Directorate (WPD) within the Kosovo Police (KP). The establishment and functionalization of this directorate was supported by international presence in Kosovo and by various projects in personnel training, drafting work procedures and implementing professional standards. "The EU-financed project "Witness Protection in the Fight against Serious Crime and Terrorism II" (WINPRO II) is progressing within slightly delayed timelines. EULEX, WINPRO and the KP are in a final stage of completing the revision of the organizational structure of the Kosovo Police Witness Protection Directorate (KPWPD), the job descriptions for KPWPD, the secondary legislation as well as the relevant Standard Operating Procedures . The Administrative Instructions were already approved by the MoIA."[1]

Conditions and challenges for implementing Witness Protection Program

The abilities and conditions for successful implementation of witness protection programs should be viewed from the perspective of existence of functional and competent mechanisms for program management and the legal bases defining standards for the competent officer's accountability and prevention of misuse, arbitrariness and human rights violation. From the legal perspective, conditions for inclusion of witnesses in protection programs are clearly determined. Kosovo Law on witness protection, Article 22 Conditions for inclusion in the program stipulates that when deciding regarding the proposal for inclusion in the program, Committee shall take into consideration following criteria:

1. the importance of the information which is acceptable as testimony in the main trial that cannot be provided from any alternative source. Request for the inclusion in the program should contain information that the proposed person for inclusion in the program regarding criminal offence, perpetrators and other important data and information which are necessary and substantial for the prosecution of the criminal offence;
2. seriousness of the threat;
3. willingness of the proposed person for inclusion into the program to cooperate with courts or investigatory authorities while implementing the program.
4. suitability of the proposed person for inclusion in the program to act in accordance with the program and creating a belief that the witness relocation will not cause any danger to life or health of others.

After the decision for inclusion into the program of the endangered person, written consent and completed questionnaire of the person included into the program will be protected and archived by the witness protection Directorate. After concluding a special agreement between witness protection Directorate and any person at risk, such person shall be considered as protected person.[2] Except the legal bases, progress in strengthening operational capacities was positively evaluated. "Progress in the area of witness protection is noticeable and the Kosovo Department of Witness Protection is on its way towards full operational capability. Necessary administrative instructions have been prepared and Memoranda of Understandings with relevant state authorities, as well as with some partner countries, have been signed. Further work is ongoing to create the necessary preconditions for the KP WPD to begin taking on cases.[3]

Despite the progress in establishing legislation and building mechanisms for implementing protective measures, Kosovo Institutions face some challenges in implementing witness protection programs. Initially, in the geographical aspect, implementation of programs within Kosovo is almost impossible and the only opportunity is taking witnesses under protection to another state, but in the aspect of international cooperation, Kosovo faces some challenges by not being member of important international organizations as a result of political obstacles. High level of corruption in the country creates insecurity and distrust in responsible institutions for implementing protection measures as well as reflects lack of political will in combating crime in general. Besides this, the concept of witness protection requires time for education and awareness rising of responsible actors. Another challenging issue in successful implementation of witness protection

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[1] EULEX Kosovo, Compact Progress Report, 2014,pg.11
[2] Law no. 04/l-015 on Witness Protection, Kosovo, 2011.pg.10
[3] EULEX Kosovo, Compact Progress Report , Prishtina, 2014, pg.5

programs is the financial part as well, considering Kosovo's budgetary abilities and cost carrying witness protection program.

Conclusion

In order to effectively prevent and fight serious and organized crime and terrorism there is a need for state institutions for updating legal infrastructure and policies, building new mechanisms, strengthening existing mechanisms, assigning be-lateral and multi-lateral agreements, sharing knowledge and experiences and also coordinating activities in one side and in the other side preparing and building capacities to manage effectively witness protection programs.

The role and importance of witnesses in crime combating is an irreplaceable one. Kosovo made progress in establishing legal infrastructure and mechanisms in implementing witness protection measures and at the same time faces some challenges in the aspect of international cooperation, education and awareness raising of the responsible actors, social, cultural and geographical factors as well as in the logistics aspect for financing witness protection programs.

Referneces

[1] Criminal No. 04/L-123 Procedure Code of Kosovo, 2013.

[2] EULEX Kosovo, Compact Progress Report, Prishtina, 2014.

[3] European Commission, Kosovo Progress Report 2014

[4] http://www.eulex-kosovo.eu/en/news/000502.php (08/11/2015)

[5] http://www.unafei.or.jp/english/pdf/PDF_GG4_Seminar/Fourth_GGSeminar_P3-19.pdf (11/11/15)

[6] Law no. 04/l-015 on Witness Protection, Kosovo, 2011.

[7] OSCE, Witness Security and Protection in Kosovo; Assessment and Recommendations, OSCE Mission in Kosovo, 2007

[8] Smibert, Jon. Guide to the Criminal Procedure Code of Kosovo, Office of Overseas Prosecutorial Development and Training, US Embassy, Prishtina 2013

[9] UNODC, Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime, United Nations Office on Drugs and Crime, UNITED NATIONS Wiena, 2008

Violence in YAL with Special Emphasis on Contemporary Macedonian YAL

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Abstract

In this paper, we focus on contemporary Macedonian literature for young people, in particular of one of its segment, and it is the presence of violence and violent scenes in the works designed for this audience. Theorists of this literature, popularly called YAL, not circumvent these issues, just like writers who write books intended for adolescents. This topic will be discussed by esplicit examples that will be taken of contemporary literature for young people, in order from one side to indicate their presence, and the need to write freely on the subject, and on the other hand to help young people who are experiencing these problems. The analysis will show that in most cases, the cause of the young sometimes turning to violence or themselves been victims of violence are shifting family values, or lack / absence of the family, a family member, usually a parent, neglect by parents and their preoccupation with work.

Keywords: Literature for young people, violence, Macedonian Literature

1. INTRODUCTION

In the last half century, experts try to define literature for youth. Other terms that refer to this literature: adolescent literature, books for teenagers and so on. This is literature that describes things that connect children's literature to literature for adults (Pinkwater, 1982). It seems that adolescence is a time of questions, confusion and strong feelings. It is a time when young people loose the innocence of childhood when peeked into the world of adults (Cart, 2013).

This type of literature is defined by the following activities: the main character is a teenager, events revolve around the main character and his / her struggle to resolve a conflict, telling the story from the perspective of the young protagonist (Donelson, 1977: 7-241). The topics are: maturity, sexuality, relationships, drugs and so on (Barlow, 2002: 77-78).

It would seem that before we start reviewing this painful subject we should briefly look at the characteristics of adolescent literature. The theory of literature provides a clear picture of the characteristics which are supposed to have such work, for example, according to theory of literature, YAL should mainly have these following characteristics that define literature for young people:

1. The protagonist is a teenager.
2. The events revolve around the main character and his struggle to resolve the conflict.
3. The story is told from the point and through the voice of a young adult.
4. The literature is written by and / or for young people.
5. The literature is marketed for youthful audiences.
6. The story is no "happy ending" the way they have books for children.
7. Parents are largely absent or are in conflict with the youth.
8. The theme of this literature is mostly about: maturity, sexuality, relationships - relationships, drugs;
9. The books under 300 pages, mostly to 200th

Gisela Konopka from Center for research and development of young people at the University of Minnesota developed the concept of normal adolescence in 1973. From her research resulting five key concepts and features six adolescence. The five concepts of adolescence "experience of physical sexual maturity", "experience of withdrawal from the protection of adults", "awareness of themselves in interaction with others," "reassessment of values" and "experimentation". According

to her, adolescence characteristics are: "uncertainty", "deep sense of loneliness", and "a high degree of psychological vulnerability, "change of mood", "strong need to be part of the group" and "need to be emotional and in the mood for a fight" (Konopka, 1973).

On the other hand, there are authors like Carlsen, who put emphasis on the protagonists and their experience of the world and the person which is transmitted narration. Moreover, Carlsen believes that in literature for young people, a key point is that the main protagonists are adolescents commonly facing a problem and the story is in the first person (singular), because that way the reader-adolescent can be best connect with the character / protagonist. (Op.cit. VanderStaay, 48). Crowe again, though he notes that adolescents can read and read different types of texts, however he reduces the definition of literature for texts who are written, designed and read by young adults (Crowe, 2001: 146-150). Stephens expresses a subjective attitude and commitment to the "young" that it should refer to the problems that young people face on the road to claim their own identity (Stephens, 2007: 34-42). Rosenblatt also focus his attention on the adolescent as a reader of this literary genre, linking it to the need for the reader to enter into the experience of others, to feel the beauty and intensity of what the world offers. All that Rosenblatt connects with human need to connect and identify. This is where she sees the positive side of adolescent literature or research experiences of others through literature, can directly help in empowerment and building self-confidence. Linking with similar experiences can help adolescent-reader to feel less lonely or to serve as a guide, or to serve as a guide through his own experiences, and to explore human relationships, issues related to morality or social expectations (Fox, 2010:8).

2. INFLUENCE OF FAMILY AND FAMILY VALUES FOR ADOLESCENTS

Of course, developments in society can not be considered out of the nearest environment in which the individual exists, in particular young people, and it's family. In the context of closer determination of the term "family" will emphasize that the social sciences, sociologists use the term "traditional family," which refers to the environment for the upbringing of the child that sociologists have identified earlier as the norm. The term "traditional family" means middle-class family with a breadwinner - a father and a housewife mother, within which raise their biological children. Any deviation from this family - model is considered "nontradicional family" (Panasenko, 2013: 79-98). According to Susie Duffy, consistent family social unit consisting of parents and children, who are grown, and family values that define such values that the family develops the basis for how children learn, to grow and function in the world.[1] In this context, we emphasize the vast importance of family values and the development of the young man and his relationship to violence. According to Dictionary.com, "family values" are defined as "moral and ethical principles that are traditionally held and transferred within the family, as honesty, loyalty, diligence and faith.[2]

According to Merriam-Webster, "family values" are the values of traditional and conservative character held to promote stable family functioning and strengthen the structure of society. Then, according to Oxford Dictionaries., "Family values" are the values that have traditionally been learned or enhanced within the family, such as high moral standards and discipline.[3] Family values include all ideas about how you want to live your family life, and they are often transmitted from previous generations. They can help to define the behavior in different situations, to help young people to make good choices, to strengthen the relationship that your family has.

By addressing such books for reading with characters and works that are carriers of positive moral, ethical, political, social and religious values, should help young people to build relations in accordance with their family values, help them understand the importance of family support, and to recognize how these family values that need to be nurtured from early childhood to help them overcome certain obstacles or challenges that will be encountered in the future. To this end, we will consider texts that explicitly treat themes of modern life and modern living, such as divorce of parents, adoptions, vices of today, family conflict, death in the family, adolescence, the role of older (parents, grandparents) in fostering these values and so on. Because literature is one of the most effective ways to educate young generations, we will allocate works by contemporary Macedonian authors that foster positive values such as tolerance, understanding, training, etc.

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[1] http://www.parentiq.com/news/DefiningYourFamilyValues.asp, пристапено на 15.08.2015

[2] http://dictionary.reference.com/browse/family+values.

[3] *Oxford Dictionaries*. Oxford University Press, acssesed on 18.08.2015

3. VIOLENT SCENES IN THE MACEDONIAN YAL

In the novel "Skalila" (Misirkova-Rumenova, 1987) there is an event with the abuser Tome Siclar a repeated couple of thimes. Violator, along with his group again attacked Boro and his clique demanding money and asking their territory – the street. Boro was not brought to beating with children, he was not strong enough to do that, so he and his band on resourceful way escaped brawl. In this way the author opens a very delicate issue in literature are for children and youth, and that is violence and how young people deal with it. Author Michael Cart emphasizes therapeutic influence has this literature for adolescents, because there they read a series of problems which are themselves faced through secondary education, some family conflicts, issues related to their identity, issues related to violence and questions associated with certain mental problems (Cart, 2010: 275).

In the novel "Bubreze" (Misirkova-Rumenova, 2001), main protagonist Elena lives in a family in which violent events occur and the social and family plan: the divorce of her aunt who then returns home with her bags, layoffs, strikes everyday, and the implications that her boyfriend might be drugs, it all affects young girl. Although in the novel there are not present scenes of violence, atleast not directly, but there are scenes in which young adolescents are confronted with death, and the reason is the stampedo which was caused in a fire at a discotheque. In doing so, the young protagonist Elena creates a feeling of remorse because the girl who was killed, was her friend and she that waited them at the disco until they were on a completely different place. It will deepen the gap between Elena and her boyfriend Vojdan, which will inevitably lead to the suspension of their relationship, when Elena turns to new friendships and to sport.

"Prolet zad mojot prozorec" (Arsovski, 2005) is a novel that captures the problems of young adult in the urban area and has a story that is told interesting, with a sovereign language whomarks are the characters. All virtues of the narrative genre for children are conducted with meticulous procedure in which heat and refined didactics are unobtrusively present in the narrative. Modern young reader can identify with the positive ethical principles that this novel affirms. The novel has a sovereign compositional story that led to the engagement of the reader's attention witch confirms the narrative quality Tome Arsovski. It is a novel in which the narrator is a high-school student girl. Scenes of violence in this novel are related to the drug problem. The novel begins with a stable situation in which we see Dana as a high school student, in a relationship with Darko, but very soon she reveals the vile nature of her best friend Betty which takes Darko from her. Although at the time she captures them, she will not make any violent scene, however Dana will water them with a drink in a public place. The topic of interest in the opposite sex is characteristic of adolescent literature. Although Dana apart her relationship with the "blonde angel" (Darko), because of his relationship with Betty, she is not so hurt by the loss of love, as the fact that she feels betrayed by best friend. After this, the disorder occurs in her life, but fortunately life continues and Dana introduces a curly boy called Philip: „Romantic as Lord Byron, he is witty, elegant, most beautiful child in high school. A dim view, full of longing for something that even I can not cut through. Sometimes his pupils shine like live coals, another time his hands quiver of hidden internal struggle: he surely likes me and refrain about something, perhaps he is afraid to offend me? (p.29)". Dana saw some nervousness, some strange behavior with Philip, but she could not predict what the problem and how accidents is lurking in the future: "I did'n knew that poor, he had tied a stone around his neck. Smoking. And drink. I can kill myselves" (p.29). In this chapter, Dena realizes that life is not all as rosy as it seems to young children: "Slowly I realized, life is a garden where not only rose's bloom, there are weeds and nettles and weeds. You haven't seen the nettles, and they glowed you on your feet. Rose with a thorn touched you, and she hurt your knee. On the life path, obviously, there are obstacles and misconceptions, and funny moments, joys and lies (p.24)". The drug problem that Philip has directly affected Dana at the party with his companion. The topic of drugs as acute problem today in world literature for young occurs in 1980 with an autobiographical novel by Cristiane Felscherinow "We, the children of the track of the Zoo" (Težak, 2008). For the members of those circles that are in higher stratum of society by their status, Dana is a potential user that they need to attract, but her inner strength will cause resistance inside her: "I already stepped to the edge, Philip offered me to try marijuana, but when he burn, like crazy and staring, he grabbed it from me: Do not, Dana, do not listen to me! It is hell!(p.85)". Because of that, she will put at risk her life, and Philip's, who thanks to the love he feels for her, would protect her, and even himself would go to rehab: "I asked Filip seriosly, do they threaten you if you don't …slide me too?" (p.78). At the last meeting when Philip and Dana are sitting in the park, she realizes that Philip is already addicted to hard drugs, because his face was not clear and beautiful as before, but it was wrinkled and dark, as if he had not fifteen, but fifty years. But Philipp loves Dana and instilled great confidence in him, he knew that her love will get him out of the hole in which he were. Without telling anyone, he went to rehab and no one knew where he was for a month and a half. Because of what happened with Philip, Dana could not sleep, had nobody to confide in, nobody to tell her plight, there was nowhere to evict her soul.

As alcohol, and drug use became substantial health problem in young adults. Studies shows that adolescents who live in urban communities, are at higher risk of involvement in the drug problem and it seems that there are no gender differences and boundaries then and has great influence whether an adolescent playing with consumers of drugs (such in the case of this novel), and the fact if an adolescent comes from a family with a single parent. These studies highlight the importance of open communication between parents and their adolescent children (Kuther, 1995).

In the abovementioned novel, Dana as a child of divorced parents, with a boyfriend who is addicted, she moves in the circles of addicts and drug dealers, with a mother who is constantly on the road, has all the prerequisites to become a drug addict and itself, but thanks to her inner strength and will, she saves not only herself from these hazards, but she also saves her boyfriend Philip. Although in his mature age, author Arsovski main draws inspiration from teenage love, friendship, companionship, experienced author paints and parents and teachers, thereby expanding the artistic and social context of the work, including the problems of families with divorced and business burdened parents, so common in modern life.

The novel "Mladi i divi" (Arsovski, 2007) was released shortly before his death, and the author Tome Arsovski once again confirmed his artistic mastery in writing. It does so through modern dialogue, colorful slang of young people, getting into the psychological labyrinths of the teens, whose humor prevails and defeats the dramatic fluctuations of youthful vitality. The novel depicting life of modern adolescents, specifically two sisters, Jana and Dena, who jointly live because of the small youth aged between them, on the other hand because of the continued absence of parents at a time divorced. Two sisters go out together at cafes, along survive all the problems, because actually are been left alone. Besides socialize with their peers, because they are very popular and communicative, they work through the summer in a familiar café in Skopje. But one evening going home from work, a tricky situation will happen where walking on the streets of Skopje, she and her friend were attacked by some unknown assailants who abused two girls, but fortunately on the street appeared Goran his friend Costa Grande, who helped them to get away from the unpleasant situation. Then everyone, happy, went to a nightclub to celebrate the happy event with girls. This event will shake and although will ends well, because they were saved by their friend, from that moment they seem to mature and begin to think about all the dangers around them. Then, both sisters become more cautious.

In the novel "Sinata pateka na ljubovta" (Manev, 2000), the hero Zoran belongs to the happy family in which love prevails, mutual understanding and happiness. Zoran is a student who lives in Skopje, trying to pass exams for next year, and on the break from the faculty returns to his home village of Anzabegovo, where are his parents, his brother and sister - twins and girl Mary. All in the family have mutual respect and agree with one another. Zoran remains true to his girlfriend Maria and he is anxious to see her. Their love is very clean and big, and they surrender to the passion without thinking what might happen. From their love creates something that now grows in the belly of Mary, she is pregnant. But their happiness is interrupted when Zoran, sees a beautiful gypsy Eshmes and falls in love with her. He is constantly lying to Mary and inventing some new ways in order to be removed from the situation. At the football match he can not put the ball into an empty goal because his mind is confused by the beautiful gypsy with black eyes and slim body. This will be the toast and persecuted by the entire village, all furious at him. Not thinking of his parents's honor parents, the embarrassment that causes getting a love affair with Eshmes, he hurts Mary with the words: "So what, have an abortion! – says Zoran with a voice which even surprised himself (p.110)". Because all of evil that he caused, he constantly have nightmares, waking up late at night and can not sleep again. "I just slept and nightmares appeared to him". Although the novel has no scenes of violence directly, the very immoral and inappropriate behavior toward Mary by Zoran is sufficient for his conviction by the family and the environment.

In the novel "Zaboraveniot kolosek" by Gligor Popovski (Popovski, 2001) as a result of global social change, starting to penetrate and other topics such as the disintegration of a family, dysfunctional family, and so on. Hero Janko, voluntarily leaves his parents' home because after the departure of his father overseas, his mother began to live an immoral life. In protest he went to live on the street. Although there is in danger of straying in evil ways, he will be accepted by friends and start working and earning, and it also will save him. However, deep down, he can not make peace with this situation and with a sense of homeless and rejected, so repeatedly to returns home to inspect the situation from afar. When he sees that his mother has not changed and that through their home constantly defile unknown men, in a situation Janko lose her composure, and will even think to rush in crime: "I can open any door, I know the layout of the apartments, rooms ... But I was so embittered and unhappy, and I felt if you do not control that I do and greater damage than I had imagined (p.89) ". However, time is taken away from that thought, but can not abstain and not to react to the immorality of his mother: "My mother came out on the balcony, wearing only a T-shirt and skirt. The man approached her and tossed his hand over his shoulder. And she, slimy, like a cat, hugged him around the waist. I could not bear. I felt that my chest was cracked will

burst poison from them. I was forgotten! I got up, I searched for a stone around my bench, chose a shady spot, closer to the building and throw the stone to the bright window. Broken glass burst, pieces falling on the sidewalk, I turned around thru yhe shaded areas of the park, as wind undertakings me, run to the railway station" (p.90).

In the novel "Ulica" by Slavko Janevski (Janevski, 2004), a group of young boys whose principal residence is the street, are looking for their place. The hero, Jane can not track down and find a common word to anyone in the family, because there ruled dullness and monotony. Through the description of only one day, he describes his entire childhood where all the other days were identical to each other, gray and boring. That he did not like, he wanted more, and not accepting monotony. Despite the presence of some members of his family, he feels if ignored and it seems like everyone just stumbles over him. So, he has only two more opportunities where he can show him self, and it is the school and the street. On him remains to decide what will he choose. So his resentment and the desire for something new and different, forces him constantly to explore until he finds the real thing. In the next stage he thought salvation could find in school. Following is described and represented the school as very boring and professors are anecdotal and even cartoons shown and described, since all are boring, slow, uninteresting, and at the same time too strict. He feels like they are untouchable. He can not expect some advice from them. He even ridicules certain teachers for certain subjects, he feels disappointed because and that this place is unfit for the edifying of his personality. So the only remaining street. Here parade only negative characters that are on the verge of existence, evil and horrible. Jane comes in several grim events described along with the street gang, but then realizes that his priority is - book. It is his mainly weapon. The desire to experience something extraordinary is his only motive for this life and not socially conditioned (unlike the other characters). Participating in actions, he is constantly aware of the boundary between good and evil. That is why after the act he is always feeling bad, played, set and instead filled and adventurous as expected at the beginning, he was disappointed. He becomes stronger on the street, but never really belongs to her. Finally, he realizes that it is not his living space and therefore leaves. Apparently, Jane realizes some things and matures, and thus builds its own identity. Violence in this novel we see in the images of Bazdar and Pencho. Bazhdar is older homeless on whose trust fight all children of the street. He is the leader of the shares. To those who stand closest to him, the remaining show open hatred - because it means that they have reached the top. A top, it is theft in the apartments, breaking windows glass, taking pay toll, and taking tax from the passengers that are smaller and so on. We do not know anything in terms of the family of origin, but it is clear that he has mastered the craft to all who aspire to the street. While about Penco and Kuzman we learn something distinctive about their family environment, for him –we do not know anything. For example, according to the author, Pencho is criminal and it will remain forever. He repeatedly emphasizes his physical strength and unscrupulous in thefts at all costs and under all conditions. But his behavior is conditioned by the environment they originated. Namely, his father is a ruined man - an alcoholic, so it is quite clear that his life has no future. Through it we become quite clear the reasons for his hopeless future.

"Den potoa" is a novel by Vasil Tocinovski (Tocinovski, 2001) which is an excellent example of how social change and turbulence in society reflect on the dislocation of family and family values. It is one of those novels oriented to modern living of young man. In it, through an interesting observation of daily activities of youth groups they show the dilemmas faced by young people in contemporary turbulent life. Important place take everyday social and economic trends in society and reflect on family and emotional life of young people. The author covers current events that hit our country since independence: privatization, layoffs, unemployment and reflections of all these events on young people, especially families. In the difficult times of transition occurred disintegration of many families. In the difficult times of transition occurred disintegration of many families. Many children and young people remain on the streets, left to themselves. Many of them found a way out in hopelessness, but a great number found new wrong roads. On one such intersection will be found and Jovance, the protagonist of the novel, whose mother lives immoral, and that forces him to get away from it. The charge takes student Darko and saves him from many dangers in the streets, and thus fall into dangerous situations. For these reasons, the novel has a multitude of words with a pejorative connotation, insults and threats "asshole" (p.11) "villainous" (p.16) "robber" (p.22) "thief" (p.23) "jerk" (p.26) "urine-head", "dummy", etc.

In the novel "Beloto cigance" by Vidoe Podgorec (Podgorec, 2010), violence is presented thru the speech of intolerance and hatred. He first came to the fore in conversation with the old Hansa and Mulon grandfather of Taruno (the white gipsy), when her hatred for child Taruno gets monstrous dimensions: "Come on, while it is still small - Get rid of him! In vain he eata our bread …If you don't expel him, I, with my hands will blind him …I will have scalded his eyes with boiling water" (p.14-15). Her words full of hatred and thirst for inflicting pain to Taruno, at little boy cause fear and trauma, but at Baba Mulon cause rebellion and protective attitude towards Tarun, so therefore he addresses her with the words "You snake, snake …Get out of here" (p. 16). Other place where hatred and violence are visible in this novel is the relationship of the

villagers (adults and children) to the Gypsies as to the people who has no home, people who beg in the villages or engage in criminal activities, for which mostly they offend them with inappropriate words, threatening… (Denkova, 2013:4).

Verbal violence as a form of violence is present in the novel "Kula od kopnezi" by Rajko Jovcevski (Jovcevski, 1993), where the main character from his native Kathino goes to school in the big city (Bitola) and there meets with children who live in a different environment. Intrigued by his simple clothes, these urban kids from day to day mock to his appearance and clothes: "Gentlemen, we arrived Count" (p.16), "Majesty, Count, would not join us we ordinary mortals!?"(p.19), "Good night, Count and have a nice dreams" (p.20).

The novel "Preminot ne e osvetlen" (Nikolova, 1993) treats and social theme, the theme of orphan child living in the home for children without parents. Great desire for a family and a home makes it manageable for the deceiver who is presenting to him as his father, after which he manipulates with young boy to steal, so they can have a home some day. Fortunately, at the same time, the boy Sokole met with the family of Igor and with his help and his family in time to escape the clutches of criminals.

The novel "Sama" (Petrevski, 2006) is one of the best works of Gorjan Petrovski. This novel fully captures the everyday life of the young man, twisted and ugly time in which the young man daily encounters falsehood, hypocrisy, wickedness, deceit, alcohol, prostitution. One yesterday's child should withstand the pressure and build proper person in avoiding all vices. The main character in this novel is the internationally renowned pianist Simeon Georgiev and Teodora Malinova, young girl, international carate fighter.Everything what happens in the novel is connected with it, and all events begin and end with it. Besides it presented as a world famous young pianist, with his consistency, perseverance, diligence, humility, understanding, kindness, love and respect for others, our author captures the story of the main heroine in the novel Theodora Malinova. She is an international karate player who constantly hears the constant exercise of the pianist, his perseverance and desire to accomplish some great work which would leave a trace in his life, showing that the only measure of human are toil and work. Author represents rarely successful karate girl who is also eager for revenge as alone and lonely unfortunate girl. The reasons for this should be sought in the violence to which she was exposed by a best friend. In such event, she closes herself and becomes unavailable for all. And not only that, but she begins to train carate, which has its own background in desire for self-defense and creating a defensive wall around. After the insult and deception from school mate Emil and his band, all her spiritual and physical beauty recreated in its long and unique love for the young pianist. Gorjan Petrevski in this novel incorporates the story of two young characters who grow up too soon and engage in a life of evil. There they face all evils and misfortunes, debauchery, drugs. And while they themselves struggle, it needs work and effort to conquer life as a value and dignity. This novel exudes ancient wisdom and it is equally acceptable for the younger but also for the older mass of readers.

4. CLOSING REMARKS

From a review of works written by contemporary Macedonian authors dedicated to young adults, it becomes clear that violence is a topic for open talk. In some of these novels, the main protagonists themselves exhibit certain violent behavior, but fortunately always come back on track. Even in most cruel violators, the roots of such behavior authors looking around, slum family relationships, the absence of parents, especially the absence of the father figure, the vices of today such as drugs and alcohol, the current socio-economic disruptions in society, poverty, etc. The analysis also showed that violence must always be physical, but rather as a sick and verbal violence, offensive and obscene words and so on.

Some recent studies connected to influence of violence shows that violence scenes have negative effects on child-adolescent adjustement Authors in this study indicate that there is a difference, depending on whether the adolescent is victim or witness to the violence. Then, the authors suggest that the effects are different and depending on where the violence is taking place, on the street, at home, at school, etc. Another factor that appears to play a crucial role is gender. The reactions of males and females are different. A possible explanation is that males are socialized to be aggressive early, whereas females are expected to be sensitive and to maintain good relatioships with others. (Bacchini, Affuso, Aquilar, 2014:3).

Novels analyzed in this paper indicate that in most novels, the main protagonists are victims of violence, and a smaller part are his witnesses. Most of them are male and the most common place where the violence takes place (verbal or physical) is a street, school, and finally family environment. The fact is that violence is very present in everyday life. Through this kind of novels that are offered for reading to adolescents we, as teachers can achieve many positive effects. With the help

of such novels, adolescents can overcome personal care, family nostalgia, loss, and the challenges of adolescence, culture, gender, and sexual-identity formation (Athanases, 1998:273).

5. LITERATURE

[1]   Arsovski, T. (2005). Prolet zad mojot prozorec. Skopje: Detska radost.

[2]   Arsovski, T. (2007). Mladi i divi. Skopje: Makavej.

[3]   Barlow, D (2002). Rationales for teaching young adult literature. The Education Digest.

[4]   Cart, M. (2013). The New Adult; Or, What's In a Name? Booklist

[5]   Crowe, C. (2001). The problem With YA Literature. English Journal: 90.3, 2001, 146-150, 3 March 2015.

[6]   Denkova, J. (2013). Rasni, socijalni, nacionalni, kulturni, religiozni, rodovi stereotipi vo makedonskata literatura za deca, nivniot socijalen kontekst i nivnata estetska funkcija. Novi Sad: Detinjstvo.

[7]   Donelson, K. L. (1977). YA Literature Comes of Age. Wilson Library Bulletin 52.

[8]   Fox, J.A. (2010). Girls coming of age: possibilites and potentials within young adult literature, 6, 2010, College of liberal Arts & Social Sciences Theses and dissertations, DePaul University, 45. (

[9]   Janevski, S. (2004). Ulica. Skopje: Detska radost.

[10] Jovcevski, R. (1993). Kula od kornezi. Скопје: Детска радост

[11] Manev, M. (2000). Sinata pateka na ljubovta. Sveti Nikole: Drustvo za nauka, umetnost i kulturna inicijativa.

[12] Misirkova Rumenova, K. (1987). Skalila. Skopje: Detska radost.

[13] Misirkova Rumenova, K. (2001). Bubreze. Skopje: Detska radost.

[14] Nikolova, O. (1993). Preminot ne e osvetlen. Skopje: Detska radost.

[15] Panasenko, N (2013). Czech and Slovak Family Patterns and Family Values in Historical. Social and Cultural Context". Journal of Comparative Family Studies 44 (1).

[16] Petrevski, G. (2006). Sama. Skopje: Detska radost.

[17] Pinkwater, M (1982). Young adult novel. New York: Random House.

[18] Podgorec, V. (2010). Beloto cigance. Skopje: Detska radost.

[19] Popovski, G. (2001). Zaboraveniot kolosek, Skopje: Detska radost.

[20] Rozenblatt, L. (1938). Literature as Exploration, New York: NY, D., Appleton Century Company.

[21] Stephens, J. (2007). Young Adult: A book By Any Other Name…: Defining the Genre. Alan Review, 35.1.

[22] Tocinovski, V. (2001). Den potoa. Skopje: Detska radost.

[23] VanderStaay, S. (2015). Young-Adult Literature: A Writer Strikes the Genre. English Journal. 81.4, 1992, 48, 3 March 2015.

Web sources

[1]   *Oxford Dictionaries*. Oxford University Press, acssesed on 18.08.2015

[2]   http://dictionary.reference.com/browse/family+values.

[3]   http://www.parentiq.com/news/DefiningYourFamilyValues.asp, accsessed on 15.08.2015

[4]   Athanases, Z. S. (1998). Diverse Learners, Diverse Texts: Exploring Identity an Difference Through Literary Encounters, Journal of Literacy Research, 1998, 30,

https://www.researchgate.net/publication/249022898_Diverse_Learners_Diverse_Texts_Exploring_Identity_and_Difference_through_Literary_Encounters, acsessed on 23.12.2015

[5] Bacchini, D., Affuso, G., Aquilar, S. (2015). Miltiple forms and settings of Exposure to Violence and Values: Unique and Interactive Relationships With Antisocial Behavior in Adolescence. J Interpers Violence, J Interpers Violence**, October 2015** vol. 30 no. 17 **3065-3088,** http://jiv.sagepub.com/content/30/17/3065.full.pdf+html**, acsessed on 25.12.2015**

[6] Konopka, G (1973). Requirements for Healthy Development of Adolescent Youth. Adolescence, 8, (31), https://www.adph.org/ALPHTN/assets/043009_req.pdf

[7] Kuther, L.T. (1995). Adolescents At-Risks: A Literature Rewiew of Problems, Attitudes and Interventions. 1995, http://eric.ed.gov/?id=ED386644, 07.11.2015

[8] Težak, D. (2008). Dvije spisateljice romana za mlade odrasle. Kolo 3, Matica Hrvatska http://www.matica.hr/kolo/309/Dvije%20spisateljice%20romana%20za%20mlade%20odrasle/, 07.11.2015