MORALITAS

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Editorial

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We consider that there is no present and there is no future without the past, namely, without history, without knowing the past. Talking about history is both easy and difficult at the same time because history provokes an emotional reaction, a sentimental reaction, especially when it comes to local or national history. A nation that doesn't know its history is like a child that doesn't know his parents. We must focus on the present to build a future, but a future cannot be built if we do not know our past. The past or history is the accumulation of human experiences. People are the same now as they were some time ago, but the contexts are different, and these contexts are extremely important because they form history, from which one can learn. The contexts shall be repeated, without finding two similar contexts in history, and that is why they must be well studied and recorded and well understood, without being interpreted according to certain current needs, and if we understand them, then we can learn lessons from what happened in the past, whether we are talking about political constructions, as we are talking today about the fact that democracy was inspired by Athenian democracy, only that it is not the same democracy, because Athenian democracy excluded women, excluded slaves, encouraged slavery, being a completely different kind of democracy compared to what we understand today.

History represents an accumulation of experiences that must be interpreted and adapted to the moment. We do not consider that something can be built if we do not relate to what has already been, if we do not learn from what has been done wrong, taking what has been done right, which is

then adapted to what we need to build in the future. Some say that history is an evolution, but I don't think that's always the case. For example, we have the period of the Roman Empire, when a certain apogee of civilization was reached when innovation was found in all the fields, roads, bridges, houses, palaces were built, heating with hypocaust, etc. After the disappearance of the Western Roman Empire follows the medieval period, when we have a dramatic decrease in the living standards until the Renaissance.

Interestingly, almost all the great innovations of the Roman Empire disappeared, and people stagnated and reached the level they had before this great progress. History does not always mean an evolution because if we are not careful, we do not reach a better period; we can even reach a more difficult period because society does not always go forward from inertia. After all, we as humans must do something for society to move forward. We are, in fact, the evolutionary factor; we must bring progress through what we do because nothing is achieved by itself. Once again, we want the articles found in the journal to be a step forward.

Promote Sustainable AI to Limit the Ethical and Technological Futuristic Issues

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ABSTRACT: AI as a technology is effective in bringing about much transformations but it cannot be denied that along with the advantages that it is laced up with, there are certain challenges as well. These challenges mostly relate to ethical issues and the concern here is how sustainable is AI or how is the concept of sustainability related to AI. The main objective of the paper is to discuss on the ethical issues of AI in brief and then to figure out as to how the world can move towards sustainable AI technology. The study is needed in this time when across the world there are growing concerns as to how human activities can be sustainable. Sustainability has to be the core issue and with a technology as AI that is being taken as one of the major technologies, there is a need to evaluate it in terms of sustainability. Here the method used is simple and is fully based on reviewing of recent articles, journals and other secondary sources taken from the website Google Scholar. The major finding hints at the fact that sustainable AI is not a new concept and that it is already in its third phase. AI is known to play a versatile role by acting on many different targets across the SDG's and on different sectors. However, it is important to note that these effects may not always be positive, and that negative impacts are plausible and been recorded. And, in order to develop sustainable AI, there is a need to consider the three aspects that are environment, economy and society.

KEY WORDS: AI, sustainable usage, ethical issues

Introduction

There is no doubt in the fact that artificial intelligence (AI) is a transformative technology (van Wynsberghe 2021). On one hand when this technology has much potential in almost every realms or sector, on the other hand there are some serious challenges with this as well. In the present times a subject that is machine ethics has become common and this is linked with development of Artificial Moral Agents (AMAs) (Vinuesa et al. 2020). Scientists are trying to come up with machines that behave in a moral way. This is much required as with every passing day humanity is encountering an array of innovations in AI. Benefits of AI are grand but as is the challenges and the worries, all of which being more related to ethical issues. It is confirmed that the development of AI systems and the deployment of the same gives rise to ethical dilemmas and some really hard questions (van Wynsberghe 2021). Thus, in this paper, the ethical issues with AI will be discussed upon in brief and then it will be figured as to how the world can move towards sustainable AI technology. Sustainable AI though a new term has come into the forefront very recently. This has been so only due to the ethical issues that are linked with AI. Therefore, the paper as mentioned above as well will try to discuss on the point "Sustainable AI."

Discussion

As per the research done by van Wynsberghe (2021), sustainable AI is nothing but a movement that has been taken up to bring about changes in the entire lifecycle of the AI products. The main aim is to move towards greater level of ecological integrity along with social justice. Yigitcanlar & Cugurullo (2020), opines that sustainable AI focusses not only on the AI Methods of implementation but relatively labels the entire sociotechnical approach associated with AI. It is not about sustaining the development of AI rather it is about the way in which AI can be developed to make it compatible with environmental resources. Pedro et al. (2019), lays stress on the fact that the current expansion of AI has been made likely by the growing volumes of data along with the power of computing thus this certainly can be taken to be as the root cause when dealing with the topic of ethics in AI. van Wynsberghe (2021), is of the opinion that sustainable AI is nothing new as there have

already been three waves in this context; the first wave focused on "what AI might do" while the second wave addressed the various practical concerns of machine learning methods including black box algorithm, problem of explainability, no equal depiction in training data and much more. Now it is time for the 3rd wave of AI ethics; this 3rd wave has to confront the environmental catastrophe of our time head-on and at the same time actively search for engaging academics, general public, AI developers and policy makers with environmental impact of AI (Milano, O'Sullivan & Gavanelli 2014). This wave has to keep sustainable development at its pivotal point.

As opined by Goralski & Tan (2020), there is a need to clear out the difference between AI for sustainability and sustainability of AI. AI for sustainability can be said to be much developed with the renowned nonprofit organization "AI4Good". It is more about exploring AI's application to accomplish sustainability by fair means, use of AI and machine learning (ML) for achieving the United Nations Sustainable Development Goals. Here AI or ML is just a method that has to be appraised to make accessible and unpolluted energy. Sustainable AI will not constrain itself to the use of the technology for sustainability. The author Yun et al. (2016), argues that sustainable AI can be thought of to be encompassing yet another branch of research that is not much developed and is rather under-funded. This zone deals with properly evaluating AI's sustainability or in more simple terms sustainable development of AI. Mrówczyńska et al. (2019), agrees to this and suggests that AI for sustainability certainly impossible to be accomplished without concurrently authorizing AI's sustainability.

As per the research done by Bergsten & Rivas (2019), sustainable development needs to be understood before getting into the other different aspects. It is put forward as a visionary having three pillars that are economic sustainability, environmental sustainability and lastly social sustainability. Being a proponent of sustainability, the author says that for sustainable AI there is a need for the technology to embody the existing tensions between innovation in AI for the various goals of sustainable development (Cheatham, Javanmardian & Samandari 2019). It is suggested that global discussion on this wholly addresses not just ethical concerns but in addition takes into consideration the pressure that is there in distributed demands of the environment, economy and lastly society. All the ethical issues such as loss

of job, bias and discrimination, unexplainable, non-transparency can be all addressed if sustainable AI is developed. There are security issues, issues related to invasion of privacy and many other such concerns that need to be addressed to ensure that sustainability is embraced (Dhar 2020). But this cannot happen by considering AI for sustainability it has to be consider the point sustainability of AI as well.

AI and societal outcomes

The report suggests that 65 targets that is almost 79% within the Society group have high chances to be benefitted from AI based technologies. For examples in SDG 1 on poverty, SDG 6 on clean water and sanitation, SDG 11 on sustainable cities, SDG 7 on affordable and clean energy, AI serves as an enabler for all these targets by providing food, water, energy services and heath (Dhar 2020). This technology also supports low-carbon systems and the best example in this are the smart cities.

Findings

The findings of the report suggest that there are two different concepts that are AI for sustainability and sustainable AI. Sustainable AI has been defined as a movement that has been already started off to bring about major modifications in the entire lifecycle of the AI products. The former has been focused on majorly while the latter still needs to be researched on in a deeper way. As is suggested by the results, it is more about attaining ecological integrity of the AI products. Again, these studies reviewed above also hint at the fact that sustainable AI is not a whole new concept as presently it is encountering its third phase. The first wave was more about "what AI might do" while the second wave was about addressing the various practical concerns of machine learning techniques including black box algorithm in the present times that is in the third phase it is about confronting the environmental disasters of these days. This is certainly the phase that is based upon the core concept of sustainable development.

The findings also suggest that AI on one hand is helping address the issue of sustainability with the help of smart grids, buildings and so on but at the same time it is also the major contributor of carbon emissions. Again,

some of the authors suggest that in order to understand what sustainable AI is, readers need to have a vivid idea on the concept of sustainable development itself. They suggest that for the purpose of development of sustainable AI, there is a need for the technology to embody the existing tensions between innovation in AI for the various goals of sustainable development. Sustainable development considers environment, economy as well as society and thus there is a need for sustainable AI to address all of these factors. It has been found that even missing on any one of the factors will lead to the failure of development of sustainable AI. The message of the authors is strong enough suggesting that sustainability can be a term highly linked with AI only if "AI for sustainability" and "sustainability of AI" are considered simultaneously. There is no other alternative to this, and it must be the starting point of research being conducted on integration of sustainability in AI.

Conclusion

Thus, from the discussion it can be concluded that AI though helping address the issue of sustainability with the help of smart grids, buildings and so on but is also becoming the major contributor of carbon emissions. There is no doubt that AI as a technology has brought in much major modifications in the life of the people and is certainly transformative technology but the drawbacks that it is associated with cannot be ignored as well. It is high time that the focus of the research shifts from AI for sustainability to sustainability of AI. The ethical issues that are related to AI can be grouped under categories that are economy, society and environment and thus when thinking about sustainable AI all of the mentioned groups need to be taken into consideration. There can be made no such compromise in missing or leaving out a section. AI is certainly a good technology and has proven its potential, but humans need to harness its power well to ensure that sustainability is embraced.

Recommendation

The study can be conducted in a better way by using primary data collection tools such as online survey. Different respondents can be made a part of the study and their knowledge base on the subject can help address the research objective better. This was the recommendation for the study. Apart from that,

considering the subject, it can be recommended that much investment needs to be made on researching on sustainable AI and in doing so the root causes and the different aspects of the technology should be taken into account.

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An Assessment of Nigeria's 2020 #EndSars Protests and a Comparative Analysis with US's Black Lives Matter Protests

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ABSTRACT: A social mobilization effort by the Nigerian youth against police brutality introduced via Twitter in 2017 turned into one of the largest youth protests in October 2020, when the hashtag #EndSars rattled the foundations of Nigeria as a unified nation. While some scholars claim that the protest seems to echo and borrow from the sympathies of the US's Black Lives Matter movement, another movement against police brutality with a decentralized network of activists which began in July 2013 and also peaked somewhat during the pandemic era of 2020, the #EndSars effect on national security, politics, and socio-economic lives of Nigerians, however, appear deeper and far reaching. This study compared the two movements regarding police brutality, uncovered the nuances of the #EndSars movement, the factors that led to its deeper impact, and lessons to learn from the experience. A survey of Nigerian undergraduate students (youth), was conducted and the data analysed using the social movement theory. Except for the differences in their historical development, the findings from the conduct of the two protests show significant similarities. The student's survey, in particular, shows that while the respondents support the original demands for a call to action by the #EndSars organizers at 84%, they did not, however, believe the violence and destruction were justifiable (at 59.7%). Also interesting was their response that they believed (at 73% of respondents) that the movement was influenced by US's Black Lives Matter.

KEY WORDS: Nigeria #EndSars, social mobilization, new media and protests, social movements

Introduction

Decentralized social movements powered by social media mobilization efforts that have swept many countries of North Africa and the Middle East during the last decade (Wolsfeld et al. 2013) have, in general, failed to produce credible changes sought, but have caused so much in social destabilization, political upheavals and other endemic problems that most of these countries are still navigating ways to find lasting solutions. That movement which started in 2011 in Tunisia and was later named Arab Spring, spread to many other Muslim Arab-speaking countries of Africa and Middle East such as, Egypt, Morocco, Bahrain, Yemen, Syria, etc. The Arab Spring brought down governments in several countries such as Zine Al Abidine's (Tunisia), Hosni Mubarak (Egypt), Muammar Gaddafi (Libya), and Abdullah Ali (Yemen). Of these Middle Eastern countries, "only Tunisia made a lasting shift to democracy, whereas Egypt backslid, and Libya, Syria, and Yemen spiralled into protracted civil wars" (Robinson 2020). The most recent social movement that occurred in Nigeria, with the potential to go the same way was the one that started based on a protest tagged #EndSars in October 2020.

The protest started on October 8, 2020, and by October 11, 2020, the Nigerian government announced that SARS had been scrapped as per protesters demand. The government also ordered the release of detained protestors, in addition to prosecuting police officers found to have been abusive, and compensation to the families of victims of police brutality. These were the demands presented to the government by the organisers of the protest. The protests did not stop however, but continued unabated. It turned into demands that the President should resign, with other political requests unrelated to police brutality. In addition, jail breaks in some southern Nigerian cities occurred where 2,051 inmates were set free by protesters in Ondo and Edo states, while a similar attempt was foiled in Lagos City. Other violent actions included looting of stores (Olufemi 2020), destruction of police stations, arson, and violence against some innocent citizens. The government and some media later alleged that the protest has been hijacked by thugs. The Lagos state government, in particular, the most affected city, imposed a curfew to be observed and enforced by security forces to restore peace. It attracted the most attention on October 20, 2020, when allegations

of shootings by the military at a toll gate in Lagos city were reported, where a casualty of 12 was quoted. The government to date denied giving such orders or having shot anyone (Mohammed 2021), and counter-allegations followed. The Lagos State government later ordered the investigation on allegations of Lekki Toll Gate shootings of protesters, and peace was later restored.

The EndSars protest was not the first social movement, however. A few others, such as, Occupy Movement of January 2012 over the proposal to remove petroleum subsidy for Nigerians, Bring Back Our Girls which started in 2014 after the kidnap of hundreds of young girls from a boarding school, all occurred within the past decade, but did not deteriorate to the #EndSars level as violence and destructions.

The EndSars Protest of October 2020

The hashtag #EndSars was a social movement with roots from 2017, when it was introduced on Twitter to call attention to extrajudicial activities of a squad of the Nigerian Police force named the Special Anti-Robbery Squad, SARS. The SARS unit comprised of a few officers of the Nigerian police force under the criminal investigating department (CID), established first in Lagos state in 1992 to curb the rising menace of armed robbery, and was later adapted by many other states across the nation to deal with similar criminal tendencies. The Criminal investigation department that established SARS is the highest investigative arm of the Nigerian police force (Salaudeen 2017).

To study the protest in isolation of why the unit was established will fall short of a comprehensive analysis. The highest threat to social, economic and political stability today in Nigeria is without a doubt the high rate of crimes and criminal activities. Before SARS was established, reported cases of rising crime in Lagos and other parts of southern Nigeria in the early 1990s were getting out of control. Because of the successes registered by one of the specialized police squads in Benin City, established by Officer Simeon Danladi Midenda of the Nigerian Police, which earned him commendation by the highest ranking Police Officer in the federation, Officer Midenda was transferred to Lagos to deal with the menace (Malumfashi 2020). In 1992, Midenda established a unit he named Special Anti-Robbery Squad, which registered immediate successes, and was later adopted in several states to combat similar menaces.

Years down the line, there were several allegations of extrajudicial handling of suspects. The emergence of a video clip circulated via social media about an alleged incidence in Ughelli, Delta state, supposed to have occurred on October 3, 2020, where an officer of the squad allegedly shot and injured a young man ignited the protest (Reliefweb 2021). Even though the video was later scrutinized for reportage on mainstream media but appeared to fall short, the youths were already on the street in protest by October 8, 2020. Among other things, it seems to echo the ongoing mass police brutality protests elsewhere such as Black Lives Matter in the US, drawing international sympathy (Obaji 2020, BBC 2020), though the context appears different. Even Occupy Nigeria, which enjoyed wider support from all segments of the Nigerian population, mirrored Occupy Wall Street, including its timing. And among the #EndSars enabling environment was the highly tensed pandemic lockdown that has hitherto confined people to their homes for months.

It is also worth noting that the southern coastal cities of Nigeria along the southern states, whose participation in the #EndSars protest was overwhelming (See map fig 1.), most especially Lagos city, have recently been battling rising cases of commercial internet scam by youths that have empowered the likes of Hushpuppy, a Nigerian multi-millionaire scam artist. The local popular tag for those scam artists is yahoo boys, coined from the use of yahoo browser for internet access to commit financial cybercrime. Just like in advanced communities dealing with drug infestations, you find youths involved, the yahoo boys, who have no business or employment to their name owning expensive vehicles, jewellery, phones etc.

These specialized trained police squads, SARS, fish the criminals out easily while some human rights critics call some of their methods profiling. As to excesses labelled against their modus operandi, an interview with the founder of the squad, retired Corporal Midenda says, "It is highly difficult to arrest a robber without application of force except, probably, if he is met at his place of leisure. Robbers arrested during shoot out will most likely be dead or injured. The injured ones were those giving us information and preserving them was most paramount to us" (Nnadozie 2017). Midenda also decried the changes introduced later, where squad officers were openly armed, and used police vehicles. Midenda added, "The secret behind the successes of the original SARS was its facelessness and its mode of operation. We operated

in plain clothes and used plain vehicles that could not be associated with security or any government agency."
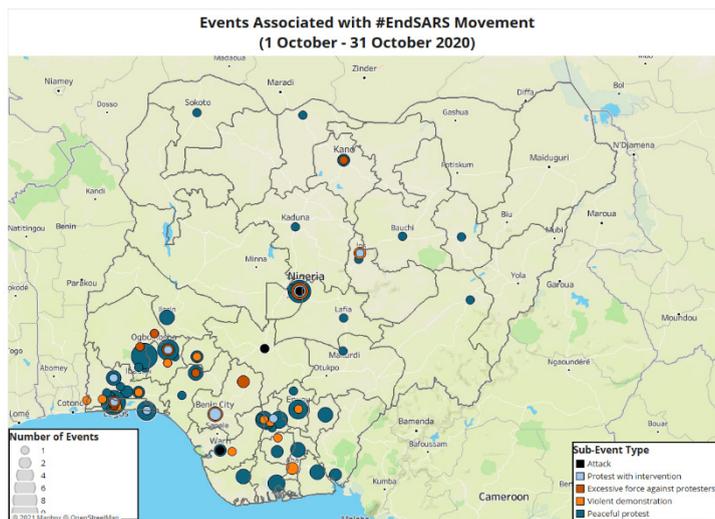
Fig. 1. Map of protest sites across the country
Courtesy of Armed Conflict Location & Event Data Project (ACLED), 2021

Statement of the Problem

Nigeria is a country of about 200 million people. It holds about one-fifth of the total African population, meaning every one in five Africans on the continent is a Nigerian. Any destabilization of the country may cause a catastrophic refugee phenomenon the continent may have ever seen, as none, or even all four, of the neighboring countries put together, can absorb such refugees.

The trend the world has seen so far shows that social media inspired mobilization of protesters hardly make lasting if any significant impact in developed nations (Robinson 2020), as we have seen with the WTO Seattle Protest of 1999 against world trade inequalities, Occupy Wall Street against economic inequalities of 2011, and the current Black Lives Matter movement, all three occurred in the United States without destabilization, beyond the conviction of the police officer responsible for the death of George Floyd, ruled a homicide by the court. But to countries of Africa and the Middle East, it continues to cause massive social disruptions, displacement of populations, political crisis, economic and other impacts.

This study therefore aims to examine the #EndSars protest of October 2020 in Nigeria with the aim of better understanding its causes, factors that aided it, as well as its impact. The protest that occurred during the pandemic season continued unabated, even after the swift resolution by the federal government of the demand put forward by the protesters. Among the issues this study will explore is why the #EndSars protest in particular became so far reaching among the social movements the nation has seen, and why the effects of the global protest on police brutality seems to be far deeper in Nigeria than say in the United States of America where it began. A survey of Nigerian youth will also be conducted to see their view of the protest and its impact.

Literature Review

Quite a number of scholars have argued from various angles and reached various findings and conclusions regarding social movements and social mobilization for protests via social media platforms. From those that argue that the existing political environment of the protesters is crucial as a variable (Wolsfeld et al. 2013), to others who try to link the upheavals from Arab Spring to cultural incongruence hypothesis, where they argue that the intensity of the upheaval is relative to the gap between the youth's demand for democracy and the existing level of democracy in a country (Almond et al. 2000). Others found that the degree of social media involvement for mobilization efforts differs from one country to the next (Howard and Parks 2012). Another angle (Salvatore 2013) saw the lack of meaningful achievement for the revolution within the spectacles of new media in the hands of a segment of the population outside of the usual 'opinion leaders' who are used to framing issues of 'common good' to their political and most especially corporate and financial goals. In other words, the inability to make significant impact rests on a struggle between a tool (social Media) empowered class within the society (youths) battling over their interests that clash with those of the 'opinion leaders' and corporate class who control media, politics and resources.

The deeper impact and ease of mobilization provided by social media use relates to its cheap access and ease of use is another angle (Earl & Kimport 2012), just as other studies show Twitter as a leading and popular platform used in spreading awareness about protests or movements, ahead

of Facebook. Traditional media and television, in particular, scored zero effect in that regard based on their study (Boulianne et al. 2020). Salvatore also argues for extending the issues beyond class related bias to scrutinizing Eurocentric bias alongside it (Salvatore 2013). Others believe more studies are needed to explore escalation of peaceful protests into violence as most studies concentrate on escalations on political and campaign rallies only (Ives & Lewis 2019). Apart from tendering recommendations for citizens and organizers to effectively pursue their goals, Ives and Lewis's findings show "violent escalations are more likely to occur following recent repression and when protests are unorganized." Key achievements of the Black Lives Matter Movement, according to a writer (Clingham-David 2020) include police reform and defund the police campaign becoming mainstream issues to be addressed, receiving international solidarity over its causes; and the success in removal of confederate statues from public spaces.

Theoretical Framework

Social movement theory is an interdisciplinary study within the social sciences which works on explaining why social mobilization occurs, including its social, economic and most especially political impact. Aside from media and communication studies, it extends into various disciplines like, political science, sociology and most especially psychology, as scholars pry into how it forms, who participates in it and why. Few scholars (McAdams 1982), for example, see such protests as emanating from structural strain and grievances that do not have a formal channel of resolution. However, that thesis was later challenged as limited and modified (McAdam, Tarrow & Tilly 2000).

Others discuss, under grievance theory, a branch of social movement study, that Fraternalistic deprivation, or group comparison up and down the class strata within a society, results in one group feeling deprived and aggrieved in some way, in this case, the youths feeling targeted by a squad of the police force unjustly; where in the EndSars protest youths in particular expressed being disproportionately targeted by SARS as a motivation for participation (Runciman 1966). As for determinants for participation, studied under 'action mobilization,' four steps are identified; "the (i) need to sympathize with the cause, (ii) need to know about the upcoming event, (iii) must want to participate, and (iv) must be able to participate." (Klandermans & Oegema 1987). Also relevant to this study and theoretical perspective

is how the age of popular use of social media platforms may impact social movements, especially the organizing and publicizing aspect (Lopes 2014).

Methodology

For this study, social movement is defined as a loosely organized but sustained campaign in support of a social goal; and protest is defined as "a public action by a group of people expressing disapproval of or objection to something; in this case, police brutality. Using these definitions, a historical account and study of racial issues or civil rights that begot black lives matter movement in the United States was reviewed, and its 2020 campaign timeline was tendered alongside that of #EndSars, side by side via a table, to draw similarities and differences for analysis. For the second segment of the study, 100 questionnaires were distributed randomly to undergraduate students of Kaduna State University, from all four levels of study, to elicit their responses to questions regarding the #EndSars protest. Their ages range from teenagers (17 years) to about mid-twenties. A total of 97 were returned and used for analysis.

Data Presentation
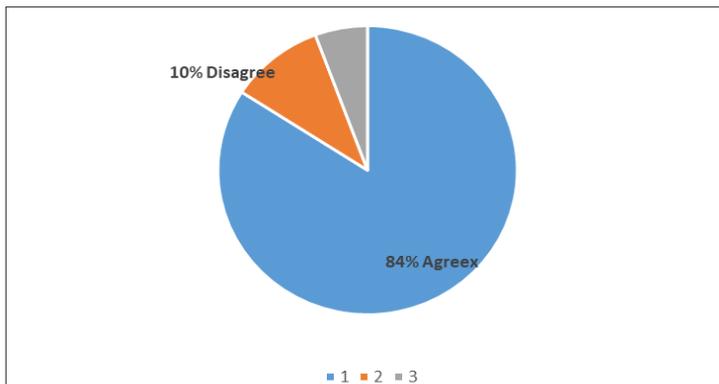
Fig. 2. Whether Respondents Agree that the EndSars protest was a worthy cause

Of the 88 respondents who answered the question, 74 at 84% agree that the EndSars protest was a worthy cause to protest for, while only nine (9) at 10% of respondents disagree. Five respondents as 6% hold no opinion on the matter (see fig. 2). But what about whether the protest achieved its goals?

While 59 respondents at 62.7% out of 94 believe they have registered success with the dissolution of the squad by the government as per the protester's demands, 70 percent of them at 68 respondents out of 97 do not believe that overall the goals were achieved, as far as seeing any changes in the operational manners of the police even after the dissolution of the squad in 2020.

Another question asked of the respondents is whether Jail breaks, destruction of property and violence that occurred during the protest was justified as part of what is expected during a protest, a greater majority of the respondents, at 58 out of 97 or 59.7% do not believe those actions were justified, while only 25 respondent agreed that it was justified, representing 25.7%, and 13 respondents at 13.4% hold no opinion on the matter. Another 78 respondents out of 96 representing 81% believe that the hijacking of the protest by hoodlums in the latter part of the movement, which was chiefly responsible for much of the destruction including violence and jail breaks caused so much harm to the original purpose, derailing the issues, and casting doubt as to the credibility of the protest.
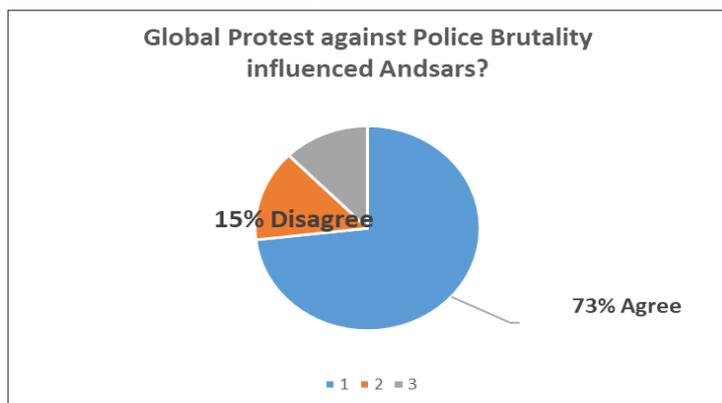
Fig. 3. Whether the Global protest against Police Brutality influenced the call for EndSars protest in Nigeria

A question regarding whether the youth (respondents) think the global movement against police brutality that was occurring about the same time has any influence on the organization and conducting of the Nigerian EndSars protest, most of the respondents, 71 out of 97 at 73% agree that it did influence the Nigerian EndSars movement, with 4 respondents at 14%, disagreeing that it did, as graphically represented in Fig. 3.

Another important finding was 84 out of 97 respondents, at 86.5% believe the pandemic lockdown and its impact on lives in October 2020 influenced and boosted turnout for the protests. In addition to that, unemployment, and poverty that was also aggravated by the lockdown restricting the means of earning a living and wages being a condition at the time of the protests.

Table 1. Timeline comparison Chart between 2020 Black Lives Matters Protests and 2020 #EndSars's

2020 Black Lives Matter Timeline (Courtesy CBS)	2020 #EndSars Protests Timeline (Compiled)
1. Started 2013 with shooting of an un-armed teenager in Florida. 2. With several similar shooting deaths, the movement went global in 2017 with the establishment of BLM Global Foundation. 3. Escalated after George Floyd was choked to death by a police officer on 25 May, 2020. 4. Protests started immediately. 5. On 27 May, 2020, all four police officers involved were fired by the police department. 6. On 29 May, 2020, Former President Trump tweeted calling protesters 'thugs' threatening when looting starts they will be shot. 7. On 31 May, 2020, protests around the federal capital begins to turn violent. Virginia state governor declares state of emergency, DC Mayor reported damaged businesses and 11 police officers injured, though non-life-threatening. 8. 1 June, 2020, DC police charged 18 protesters aged 18-34 for rioting, looting, robbery. Same day, DC Mayor issued citywide curfew for two days. 9. 3 June, 2020, more than 300 protesters arrested in DC, same day that police officer in court over George Floyd killing charges were upgraded to second degree murder.	1. Started in 2017 incident trigger unknown. 2. Revitalized after alleged shooting and injury of a young man on 3 October, 2020. 3. Protests starts 8 October, 2020, in several cities across Nigeria. On the same day, protesters in Lagos gathered at the residence of the state governor where they spent the night into 9 October. 4. 9 October, Lagos State legislature held an emergency session on the protest and issued a seven-point resolution most of which tasks the federal legislature in Abuja to probe SARS, protect protestors, guard against youths abuse, proscription and replacement of the Unit SARS with a new unit to operate with a clear code of conduct. 5. 10 October, 2020, BBC reported Nigerian Police have begun to use tear gas to disperse protesters in several cities. 6. 11 October, 2020, protesters listed a five-point demand for the Nigerian government to meet. 7. 11 October, 2020, The Nigerian Police announced the dissolution of the SARS squad. The government also committed to the other four demands of the protesters.

10. 9 June, 2020, DC council unanimously passes massive police reform package that bans using tear gas by police and making police choke hold that killed George Floyd a felony. 11. On Juneteenth (19th) Protesters brought down the only remaining confederate statue erected in DC since 1901 (general Albert Pike), burnt it. 12. Protests waned months later, after global sympathetic rallies, but BLM movement is still active.	8. 13 October, 2020, The public relation officer of Nigerian Police announces the setting up of a new unit named SWAT, which was to start operating a week later. 9. October 15, 2020, protest prohibition in the nation capital was announced after a meeting of Capital area security council under the chairmanship of the Federal Capital Minister. 10. October 20, 2020, the protesters who were reported to have defied the Lagos state curfew and gathered at the Lekki Toll Gate were allegedly shot by military officers.

Table Originally designed by the author,
with the source of BLM timeline information acknowledged

Discussion and analysis

Significant Findings from the EndSars Protests Survey

We find general agreement in the survey response from the youths from Nigeria, and also the timeline comparison table as to day to day pattern of the protests regarding police brutality in the two nations. The agreement as to that influence by the respondents was at 73%, or 71 out of 97 respondents. In short both studies affirmed that the protests largely carried out in the United States and tagged Black Lives Matter from May 2020 may have influenced the #EndSars protests in Nigeria in October 2020.

Another significant finding that ties to contemporary protest studies come from the questions we posed for the youths as to whether local conditions existing at that time may have boost the number of protesters, for which the response was in the affirmative with 84 out of 97 respondents, at 86.5% believing it impacted turnout for the protests. Many scholars do stress the study of the existing environmental conditions at the time of mobilization as well as launching a protest (Wolsfeld et al. 2013), arguing it is crucial to any study.

The protests occurred during the pandemic lockdown in Nigeria which effectively confined the Nigerian population to their homes, regardless of age, for at least five months by October 2020 when the protest commenced. Distribution of food by government and other non-governmental

organizations to relieve the difficulties encountered by people, most especially those who work daily to earn a living, has already encountered challenges making life more difficult, especially in Lagos and other large commercial cities that saw the most violence from the protests. EndSars organizers appear to understand and used that situation by distributing free food to participating protesters. That was in addition to ability to gather publicly to ease tensions after months of lockdown.

When the protests continued even after all demands of the protesters were accepted by the federal government four days into its launch, the protests began to face criticisms of insincerity, foreign financial support for destabilization, and other ulterior motives. Especially when it turned violent, jail breaks, looting and destruction for days following the protesters demands were met. Majority of youth respondents to the survey conducted by this study, at 59.7% of respondents, also believed such actions were unjustified and may have taken much away from the credibility of the protesters. After successive studies on the Arab Spring, a scholar (Salvatore 2013) reached as one of his conclusions "looking simultaneously at the, albeit different, Egyptian and Iranian cases, the everydayness of communication not only in Facebook but in all social networks, including their ritualized forms often transgressing into the carnivalesque, entails a subversive potential irrespective of the intentions of the actors" (Salvatore 2013, 226).

It does appear though that another factor may also be relevant. According to a study (Ives & Lewis 2019), "violent escalations are more likely to occur following recent repression and when protests are unorganized." So did the viral video from an injured young man circulated via social media count as a recent repression igniter, in addition to possible lack of good organization of the protest?

Comparing Black Lives Matter protests in the United States to the EndSars protest in Nigeria

We learn from scholars on these issues that "social movements emerge within democracies because of perceived perceptions of the democratic failings of the state (Kirkpatrick 2008, Tilly and Wood 2009, 13 and 142); etc." And that these kinds of movements' demands are generally described and argued

within the context of 'social contract theory' where in democracies such social contracts for coexistence in justice for all groups is spelled out in the nation's constitution. In her works (Stephanie 2020) describes how peaceful protest could end up with some violence, which are sometimes described as having been hijacked. She described how movements actually factionalize based on levels of satisfaction of individual members. In fact, she says, the 21st century Black Lives Matter movement to a larger extent echo the more violent approaches of Malcolm X and the Black Panther Party (Stephanie 2020, 225). She writes about the Black American civil rights struggles that spanned many years thus "One of the leaders of the politically violent faction, Stokey Carmichael explained the necessity for the revolutionary Black Panthers in 1967 when he wrote: "Black people must organize themselves without regard to what is traditionally acceptable, precisely because the traditional approaches have failed (Self 2003, 218 quoted in Stephanie 2020)" a position also echoed by another Black Panther leader, Eldridge Cleaver.

Since the legitimacy of protests based on these backgrounds appears legitimate, why then do the protests turn violent even as they start as peaceful protests? Rudimentary reference to Black American civil rights struggles, that today manifests in Black Lives Matter Movement shows two parallel channels, the non-violent struggle which the world recalls as the Martin Luther King kind, and its revolutionary violent counterpart represented by the likes of Malcolm X and the Black Panther Party. Furthermore, and based on an academic study of Black America struggles also, the long history of civil rights struggle that was slow to deliver ultimately led to the violent struggles that were at times experienced, with the leaders of the violent struggle expressing losing faith in the authorities' court system, police and law enforcement, and other major institutions as stipulated in the American social contract.

Comparing that American experience to the #EndSars protest even on this matter alone will be difficult and should be a subject of further and more enriched studies. For one, the Nigerian records of robbery menace, for which the SARS was founded to deal with it by law enforcement remains real and at its highest peak today. Shortly after the Nigerian civil war, 1967-1970, left over rebel arms were used in menacing armed robbery, with 70-80% of total robbery incidents in Nigeria occurring between Western Region and Mid-

Western region the capitals of which were Lagos and Benin, (Wada 2015, 28), the same two cities where the founder of SARS worked. Up until 1992 (SARS formation), and to date Lagos and Benin form the main centres of persistent armed robberies. When the #EndSars protest went violent also, it was mainly within those areas, with the allegation of killings at the Lekki Tool gates occurring in Lagos. So also some prison breaks, violence against some citizens, police stations and members of the police forces elsewhere in southern Nigeria. Racial discrimination was not the cause of the protest on police brutality, though there was a significant campaign that defined the youth as disproportionately targeted by the Special Anti-Robbery Squad, SARS.

Probably another stark difference is the Nigerian authorities' sense of responsibility during the initial years of Nigerian native government of the 20th century, were their being stern in upholding the nation's law (Social contract) against both the criminals and the police was effective. Trials were swift and execution of convicted armed robbers, who used arms against citizens, was immediate after conviction. A Deputy Supretendant of Police, George Iyamu, found by the courts to have connived with a notorious armed robber Lawrence Anini was executed, for example, just as Lawrence Anini the armed robber was also executed earlier on March 29, 1987. These occurred in the early years of effective governance after the civil war (Wada 2015, 31). Other notorious robbers apprehended and executed almost immediately were Sunday Oyenusi, Monday Osunbor, and Mighty Joe who was shot in 1973. The decree that established execution of convicted armed robbers by the post-war reconstruction government of General Yakubu Gowon was effective in nixing the menace within just a few years. The death penalty decree against armed robbers, was challenged for abrogation by South West lawyers during the civilian administration of President Shehu Shagari 1979-1983, but was not abrogated and was later used effectively to bring down the menace once again by another military government. Some scholars to date advocate for the enforcement of the capital punishment law against armed robbers in Nigeria as a deterrent (Abangwu 2013), as its recent non enforcement has left innocent Nigerians in their thousands at the mercy of armed robbers annually, who today kill with no remorse in the process of robbing people for money, property and mostly cattle (rustling), as well as kidnapping.

While some reports against SARS' mode of operation have emerged over time, the general opinion of those who have been covering the high crime rate in the country, including newspapers do not suggest scrapping the unit as a solution. "…They had busted a lot of crimes and restored sanity in many instances. Therefore, isolated cases of a few "criminals" or the ill-behaved amongst them should not be generalised or form the basis to write them all off" (*ThisDay* editorial 2017).

Conclusion and Recommendations

In conclusion, this study found many similarities between the conduct of the Black Lives Matter 2020 protest, using its activities timeline side by side with that of the 2020 EndSars protest in Nigeria. It also found that the former protest of May 2020 tagged Black Lives Matter in the United States did influence the ease of mobilization of the latter, the Nigerian #EndSars protest of October 2020. EndSars, however, appear more deadly. For example, while some police officers were reported injured in the Black Lives Matter protests, in the case of EndSars some police officers were actually killed, police offices burned down, and several buildings vandalized and destroyed. Jail breaks that resulted in 2051 inmates freed during the Nigerian protests also had no equivalent in the US protest. A survey of undergraduate youth from Nigeria shows 84% support the original demand by protestors, did not believe violence and destruction was justifiable at 59.7%, and believed the protest was influenced by the black lives matter movement by 73% of respondents.

Recommendations include the need for the government in Nigeria to study these recent social movements as soon as they start, so it can better deal with it. It also needs to act fast to study the validity of the organizers' claims and, if credible, work on a solution. As the original founder of the SARS squad that registered much success suggested in an interview with Vanguard newspaper (Nnadozie 2017), the need still exists to keep any anti robbery squad operating underground and in plain clothes using unmarked vehicles to complement their counterparts that roam the street daily dealing with the issue directly. That was critical to the element of surprise they successfully used to deal with the armed robbery menace.

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The Personal Duties of the Spouses Under Romanian Law

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ABSTRACT: After the marriage is concluded, the man and the woman acquire the status of spouses, which confers on each of the two family members, among other things, a series of personal rights and duties. The study presents and analyzes the main duties (obligations) of the spouses, namely: duty of respect; duty of fidelity; duty of moral support; duty to live together; joint decision making (co-decision) by the spouses; and the names of the spouses during marriage. Also, as will result from this study, according to the legal provisions, each spouse must enjoy full independence as regards his or her personal life. In this respect, each of the spouses will decide on their health, their professional training and the establishment of friendship relations with other persons.

KEY WORDS: spouses, personal duties, duty of respect, duty of fidelity, duty of mutual moral support, duty of living together

Introductory concepts

According to the provisions of Article 259(2) of the Romanian Civil Code (Law No 287/2009 on the Civil Code, published in the Official Gazette of Romania, Part I, no. 511 of 24 July 2009), "man and woman have the right to marry in order to establish a family". It follows from the analysis of this text that the primary effect of marriage is the establishment of a family.

Once married, the spouses are entitled to a series of rights and duties of a personal nature and of an economic nature throughout the marriage. The personal rights and duties of the spouses are regulated in Title II (Marriage),

Chapter V, Article 307-311 Civ.C. and the patrimonial rights and duties are regulated in Chapter VI, Article 312-372 Civ.C.. In other chapters, the Civil Code also enshrines a series of rights and obligations of the spouses, such as: the protection of children under age (Article 483-506 Civ.C. or the obligation to maintain (articles 516 to 534 Civ.C.). We must bear in mind that, as was also shown in the literature (Florian 2018, 90), "the common denominator of the effects of marriage, in both components - personal and patrimonial- is the equality of the spouses' rights" [Article 258 (1) Civ.C.]. According to art. 48(1) of the Constitution of Romania, the spouses have equal rights and obligations in relations between them, as well as regarding the raising, education and training of children (the Constitution was adopted during the meeting of the Constituent Assembly of 21 November 1991, it was published with the Official Gazette of Romania, Part I no. 233 of 21 November 1991 and it came into force following its approval by the national referendum of 8 December 1991. It was reviewed and republished in the Official Gazette of Romania, Part I, no. 767 of 31 October 2003).

The mutual rights and duties of the spouses

After the marriage has been concluded, the man and the woman acquire the status of spouses, which confers on each of the two family members, among other things, a series of *rights and duties of a personal nature*. For the same purpose, the Romanian courts have indicated that "*as a legal act, marriage generates legal relationships between spouses, i.e. rights and obligations, both of a personal-non-patrimonial nature and of a patrimonial nature. Thus, the spouses must bear the agreed name during the marriage; the relations between the spouses must be based on respect, love and friendship*" [Cluj District Court, Civil matters Section, Civil Decision No. 932A of 29 July 2020].

Therefore, once married, the spouses have a number of duties, such as: duty of respect [Article 309 (1), sentence I Civ.C.]; duty of fidelity [article 309 (1), second sentence, Civ.C.]; duty of moral support [article 309 (1), third sentence Civ.C.]; duty to live together [Article 309(2) Civ.C.]; decision-making by mutual agreement (co-decision) by the spouses (Article 308 Civ.C.]; duty to respect the personal independence of the other spouse (Article 310 Civ.C.); name of the spouses during marriage (Article 311

Civ.C.). With a pronounced moral emphasis, these obligations of the spouses were named by the French attorney and professor, Jean Carbonnier, as the "*code of conjugal moral*" (Bénabent 2012, 116).

1. Duty of respect

The duty of respect is regulated in Article 309 (1), sentence I Civ.C. and requires each of the two spouses to manifest esteem and to have a good behavior with regard to the other spouse, to respect and protect the physical and mental integrity of his or her life partner. The spouses must show an appropriate affection for each other.

In this regard, in a particular case concerning the dissolution of marriage, the court held that" for *a marriage to be harmonious and stable, both parties must be involved in everything that involves family life, creating an appropriate family climate, each of the spouses having both rights and obligations for this purpose. Mutual respect due to each other's spouses is essential for the proper functioning of the family, and when there are misunderstandings, they must be resolved in good faith*" [Dragomiresti Law Court, Civil sentence No. 564 of 29 December 2020).

In another case concerning the dissolution of the marriage, the court found that "*both parties made no efforts to remove the tension and maintain marriage relationships and good communication in order to avoid family decay. The behavior of both parties has diminished the affection between the spouses, respect between them and the spiritual community, as the plaintiff claims in the writ of summons, the parties having come to quarrel for any reason in breach of the obligation of mutual respect, fidelity and moral support, given that under the provisions of Article 309(1) Civ.C., the spouses owe each other respect, fidelity and moral support, they have the duty to live together*" (Iasi Law Court, Civil sentence No 482 of 18 May 2017).

As also shown in the specialized literature (Avram 2016, 74), the content of the duty of mutual respect includes a "*conduct based on sincerity, loyalty, discretion and tolerance*" toward each other. We must bear in mind that "*personal options or dependencies accumulated*" throughout his/her life by one of the spouses should not be hidden from his/her life partner, even if they are considered to be likely to lead to lively discussions between the two spouses. During the marriage, we must, in our view, constantly think of

the words of the French writer André Malraux who said: "*A good marriage is an infinite conversation*" (Nicolescu 2020, 101).

We also stress that domestic violence through verbal violence, psychological violence, physical violence, sexual violence, economic violence, social violence or spiritual violence constitute serious violations of the mutual obligation of respect between spouses.

For example, in a case, the court found that "*because of the defendant's excessive alcohol consumption, her spouse, the plaintiff is subjected by him, in the presence of the two minors, to a series of verbal violence using insults, threats, degrading or humiliating words or expressions. Also, during their relationship, she was subjected to physical violence, through repeated acts of hitting which caused her to fissures of the spine and haematomas, as well as psychological violence, by imposing his will and personal control, and by not allowing the plaintiff to leave the courtyard and constantly controlling her. (…) Following the production of the evidence, the court granted the petition made by the Prosecutor's Office attached to Oltenita Law court to issue the protection order against the defendant. He will be obliged to keep a distance of 500 meters from the plaintiff, from the two minors, from the plaintiff's mother, as well as from the plaintiff's home and the school of the minors*" [Calarasi District Court, Civil Section, Civil Decision No 553 of 29 September 2020].

Within the meaning of Article 3(1) of Law No 217/2003, *domestic violence* is defined as "any intentional act or inaction, except for acts of self-defense or defense, whether physical or verbal, committed by a member of the family against another member of the same family, which causes or may cause physical, mental, sexual, emotional or psychological harm or suffering, including the threat of such acts, coercion or arbitrary deprivation of liberty".

According to Article 4(1) of Law No 217/2003 on the prevention and control of domestic violence, republished (Official Gazette of Romania, Part I, no. 948 of 15 October 2020), domestic violence occurs in the following forms:

a) "*verbal violence* - addressing with offensive, brutal language such as the use of insults, threats, degrading or humiliating words and expressions;

b) *psychological violence* - imposition of will or personal control, causing distress and mental suffering in any way and by any means, verbal or other means, blackmail, demonstrative violence against objects and animals, hostile arms display, neglect, control of personal life, acts of jealousy, constraints of

any kind, the surveillance without right, the supervision of the home, the place of work or other places frequented by the victim, making telephone calls or other communication by means of distance transmission which, by the frequency, content or time of issue, create fears, as well as other actions having similar effect;

c) *physical violence* - physical injury or health by hitting, shoving, slamming, hair pulling, stinging, cutting, burning, strangling, biting, in any form and at any intensity, including masked as the result of accidents, by poisoning, intoxication and other actions having a similar effect, subjecting to exhausting physical efforts or activities with a high degree of risk to life or health and body integrity, other than those referred to in letter e);

d) *sexual violence* - sexual assault, imposing degrading acts, harassing, intimidating, manipulation, brutality for the maintenance of forced sexual relations, conjugal rape;

e) *economic violence* - prohibition of professional activity, deprivation of economic resources, including lack of primary means of existence such as food, medicines, basic necessities, intentional absconding of the person's property, prohibition of the right to possess, use and dispose of common property, unfair control of common goods and resources, refusal to support the family, imposition of hard and harmful work to the detriment of health, including a minor family member, and other actions having similar effect;

f) *social violence* - imposing the isolation of a person from the family, from the community and from friends, prohibition of attendance of an educational establishment or place of employment, prohibition/limitation of work, imposition of isolation, including in the common dwelling, deprivation of access to housing, dispossession of identity documents, intentional deprivation of access to information and other actions having similar effect;

g) *spiritual violence* - underestimating or diminishing the importance of meeting the morale-spiritual needs by prohibiting, limiting, ridiculing, penalizing the aspirations of family members, of the access to cultural, ethnic, linguistic or religious values, prohibiting the right to speak in their mother tongue and to teach children to speak in their mother tongue, requiring adherence to unacceptable faith and religious beliefs and practices, as well as other actions having similar or similar repercussions;

h) *cyber violence* - online harassment, online hate messages based on gender, online stalking, online threats, non-consensual publication of information and intimate graphical content, illegal access to interception of private communications and data and any other form of misuse of information and computer communications technology, smart mobile phones or other similar devices that use telecommunications or can connect to the Internet and send and use social or e-mail media in order to shame, humble, frighten, threaten, silence the victim".

For example, in the *Bălşan v. Romania*, in which the plaintiff "*claimed that she had been subject to violence by her husband and the state authorities did not do much to stop these acts of violence being repeated*", by Decision of 23 May 2017, ECHR found that "*the continued acts of violence committed by the husband caused him physical and mental trauma which can be considered inhuman and degrading treatment on the grounds of Article 3 of the ECHR*" [see ECHR, Decision of 23 May 2017, given in Balsan v Romania case].

Failure to respect each other is a reason for divorce, and family relationships are thus seriously affected, and if they take serious forms, they may be a contravention or a criminal offense, as appropriate. For example, *the offense of family abandonment* provided for and punished by Article 378 (1) of the Penal Code (Law No 286/2009 on the Penal Code, published in the Official Gazette of Romania, Part I, No 510 of 24 July 2009, with subsequent amendments and supplements) which states that "the committing, by the person having the legal obligation of maintenance, in relation to the person entitled to the maintenance, of one of the following deeds: a) leaving, putting away or leaving without aid, exposing him/her to physical or moral suffering; b) failure, in bad faith, to the maintenance obligation laid down by law; c) failure to pay a court-determined maintenance pension in bad faith shall be punishable by 6 months to 3 years in prison or a fine".

2. Duty of fidelity

The duty of fidelity is registered in Article 309(1), second sentence, Civ.C. and is related to the "*intimate sphere of conjugal life*" (Florian 2018, 91). In other words, the duty of fidelity mainly consists in not having amorous/sexual relations outside marriage.

For example, in a case involving the dissolution of marriage, the court held that *"the duty of fidelity presupposes both an active side, which requires the spouses to maintain intimate relations together, and a passive side, which prohibits them from intimate relations outside their marriage'* [Neamt District Court, Civil Decision No 385/2015]. In another case, the court held that *"although the defendant is an unsuccessful party, he cannot be obliged to bear the sums advanced by the plaintiff in order to settle the case as long as, according to the parties' claims, the minor is the result of an extra-conjugal relationship of the plaintiff, which thus violated the duty of fidelity laid down in Article309Civ. C"* [Galați Law Court, Civil sentence no 7183 of 28 November 2019].

In an interesting case, the plaintiff has requested in contradiction with the defendant, her former husband, that in the decision which is to be delivered, the be ordered: *"the obligation of the defendant to pay moral damages in her favor of EUR 100,000 for the moral damage suffered as a result of the fact that during the last three years of their marriage she was deprived of conjugal sexual relations on the part of her former husband, was cheated and emotionally abused, all these causing an emotional trauma, for which she is still making therapy. (...) The court held that the former spouses divorced at the notary, so there were no debates on their guilt in the dissolution of the marriage, and the plaintiff claims compensations for the actions/inactions of the former spouse during the marriage. In fact, the plaintiff invoked the lack of sexual relations, the fact that she was cheated and considered her mental integrity to be impaired and her dignity was violated. It is to be noted that, according to the plaintiff's claims, it was the former husband who wanted to divorce, so although the claimant invoked certain dissatisfactions during the marriage, she did not have the initiative of the marriage being broken, this denoting an attitude of the plaintiff in contradiction with the accounts in the case that would have caused her the described suffering. (...) Following the production of evidence, the court held that there was no unlawful act"* [Bihor District Court, Section I Civil matters, Civil sentence No 147/C of 25 June 2021].

Finally, in a case concerning the dissolution of the marriage, *"the court held that the plaintiff had infringed his obligation of loyalty by maintaining extra-conjugal relations with various women during the marriage, and the fact that he did not spare the defendant so that because of the physical effort she gave birth to a child who later died and the other pregnancies were not carried to the end"* [Suceava Court of Appeal, Civil Decision no. 2245 of 23 October 2012].

In a not too distant regulation, the deed of the married person having sexual relations outside marriage was *the offense of adultery* and was sanctioned by prison from one month to six months or by a fine (the offense of adultery was repealed by Law no. 278/2006 for amending and supplementing the Penal Code, as well as for amending and supplementing other laws, published in the Romanian Official Gazette, Part I, No. 601 of July 12, 2006).

At present, the breach of duty of fidelity is a valid reason for divorce from the sole fault of the unfaithful spouse.

3. Duty of mutual moral support

According to the provisions of Article 309(1), third sentence, Civ.C., *the spouses owe each other moral support.* In other words, support must be mutual.

Moral assistance between spouses is also regulated in Article 1(1) of Law No 217/2003 to prevent and fight against domestic violence, republished, where *solidarity between spouses and other family members* is enshrined (according to Article 1(1) of Law No 217/2003, republished, "Family protection and support, the development and strengthening of family solidarity, based on friendship, moral and material affection and assistance of family members, is an objective of national interest"].

As underlined in the specialized literature (Bodoasca 2015, 93), the support being moral in nature, "*it is translated into attitudes of encouragement, support, acceptance or tolerance of one spouse toward the other*".

In one case, the court considered that "*the mutual duty of moral support is to grant the other spouse affection, devotion and assistance at all times of the common life, but especially in the difficult ones*" (Neamt District Court, Civil Decision No 385/2015, cit.work). Thus, for example, in a case where it has been found that art. 309(1) of the Civil Code is also incident *inter alia*, the court noticed that "*the parties have been married as of 16.07.1969, and that currently, even though they share the same residence, they are financially separated, an aspect confirmed by both parties. Following the production of evidence, the application of the provisions of Articles 309 Civil C. and Art. 516, 524 and 527 Civ.C. shall be established in the case. Under these legal provisions, the spouses owe each other, moral support inclusively, and there is also a legal obligation to maintain one another, which is governed by Article 516(1) Civ.C.*" [Focșani law court, Civil sentence no. 5737 of 8 November 2012].

Failure to provide mutual moral support is a strong reason the dissolution of marriage, pronounced against the guilty spouse.

4. Duty to live together

According to Article 309 (2), sentence I Civ.C., the spouses have the duty to live together (to cohabit). For *grounded reasons*, the spouses may decide to reside separately [Article 309 (2), second sentence, Civ.C.].

From the interpretation of the provisions of Article 309 (2) Civ. C., we can say that they impose on spouses the duty to live together as a result of marriage, of particular importance being the *"family home"*, because it allows cohabitation and the best possible conduct of family life. We appreciate that by regulating the institution of family housing and its legal regime, the legislator wanted to protect a number of principles, such as: the principle of the protection of marriage and the family, the principle of the best interests of the child, and at the same time ensure a balance in terms of the powers of the two spouses, censor and even prevent the abusive acts of one of the two partners, so that all contribute to the achievement of family comfort.

In a particular case, the duty to live together during the marriage *"refers to the fact that the common dwelling is only one aspect of the common life which marriage involves, which implicates many other aspects, such as joint management, sharing of living together, raising children, etc. Without this common life, family relations have no purpose and the purpose of the marriage is not achieved"* (Neamt District Court, Civil Decision No 385/2015, *cit. work*).

In another case, the court ruled that *"given that the parties had divorced, between them the duty to live together ceased and thus the defendant's right to reside in the apartment building the exclusive property of the plaintiff ceased. In such circumstances, considering that the defendant does not currently hold any title under which he may reside in the apartment in question, the court granting the action will order his removal from apartment no 6 situated in the municipality of Brasov"* [Brasov Law Court, Civil Section, Civil Decision No 8878 of 24 November 2020).

As it follows from Article 309 (2), second sentence Civ.C., in certain objective circumstances, with the agreement of both spouses, they *may not reside together*. For example, one of the spouses must practice their profession in a different locality than the one in which the other spouse lives, study by

one of the spouses in another locality, stay in a medical unit for a longer period of time, lack of space for cohabitating, etc. (Avram 2016, 744-746).

In a case concerning the dissolution of marriage, *"the court found that the relations between the spouses were not characterized by the specific characteristics of a family relationship given that, after marriage, the defendant continued to live with his co-nationals in a refugee center and the plaintiff lived together with her family in a rented apartment, the spouses meeting sporadically, more in the workplace"* [Târgu Bujor Law Court, Civil sentence no. 597 of 17 October 2017].

In case of disagreement, the spouses may use the services of a mediator under the terms of Law No 192/2006 on mediation and the organization of the profession of mediator (published in the Romanian Official Gazette, Part I, no. 441 of 22 May 2006), normative document containing a series of special provisions on mediation of family conflicts. Failure to respect the duty to live together, although this duty is not of the essence of marriage, may constitute *a grounded reason* for the marriage dissolution. Furthermore, Article 373 c) Civ. C. provides that the *de facto* separation of spouses for a period of more than two years constitutes a reason for divorce.

We consider it to be an exception, of a temporary nature, from the duty to live together the establishment of a protective order against one of the spouses, an order which can be established under the terms of Law No 217/2003 to prevent and combat domestic violence, republished (Republished in Off. G. No 948 of 15 October 2020). Thus, by Law no. 217/2003, republished, the legislator regulated the protection and support of the family, development and consolidation of family solidarity, based on friendship, affection and moral and material assistance of the family members, as an objective of national interest. It should also be noted that the law establishes two categories of protective orders:

a) *one ordered by police officers,* named also a provisional one, which shall, in accordance with article 28 of the law, be issued when it is established that there is an imminent risk that a person's life, physical integrity or liberty may be endangered by an act of domestic violence, with the aim of mitigating that risk. The duration of this protective order shall be five days, during which the policeman may provide one or more protective measures capable of contributing to the mitigation of the imminent risk found, of the following obligations or prohibitions, respectively:

- the temporary evacuation of the aggressor from the common dwelling, whether he or she holds the ownership right;

- reintegration of the victim and, where appropriate, of children into the common dwelling;

- obliging the aggressor to maintain a specified minimum distance from the victim, from the members of his/her family or from the residence, place of work or educational establishment of the protected person;

- obliging the aggressor to wear an electronic surveillance system at all times;

- obliging the aggressor to hand over the weapons held to the police.

b) *another one ordered by court* notified by a person whose life, physical or mental integrity or freedom is endangered by an act of violence on the part of a family member. Such a protective order may be established for a period not exceeding six months. In other words, the order can be ordered both on days (e.g. 15 days, 30 days) and on months (e.g. one month, two months). If the decision does not state the duration of the measures ordered, they shall take effect for a period of six months from the date of issue of the order. One or more of the following measures may be ordered for the duration of the protective order - obligations or prohibitions:

- the temporary eviction of the aggressor from the family home, whether he or she holds the ownership right;

- reintegration of the victim and, where appropriate, of children, into the family home;

- limitation of the right to use of the aggressor only to a part of the common dwelling where it can be shared so that the aggressor does not come into contact with the victim;

- housing/placement of the victim with the consent of the victim and, where appropriate, of children, in a welfare center;

- obliging the aggressor to maintain a specified minimum distance from the victim, from the members of his/her family or from the residence, place of work or educational establishment of the protected person;

- prohibition of the aggressor from traveling to certain localities or specific areas which the protected person regularly visits;

- obliging the aggressor to wear an electronic surveillance system at all times;

- prohibition of any contact, including telephone, by mail or any other means, with the victim;

- obliging the aggressor to hand over the weapons held to the police;

- custody of minor children or establishment of their residence.

For example, in a case in which the plaintiff applied for a protective order against her husband, *"the court found that on 23.05.2021 the defendant physically assaulted the plaintiff, causing her excoriations and cut wounds, as follows from the statement given as injured party in conjunction with the photographic plates. (...). At the same time, the court found that the defendant was causing conflicts with his wife, accusing her of infidelity and showing a compulsive-obsessive behavior, reaching to controlling her phone, to seize her personal property, all these actions culminating in acts of physical violence. According to the documents in the file, the plaintiff filed a criminal complaint against the offense of domestic violence, file which is under investigation. On the basis of the evidence produced, the court issued a protective order for a duration of 6 months, consisting of the obligation on the defendant to evacuate the dwelling and to keep a minimum distance of 200 meters from the* plaintiff" (LawCourt 5 Bucharest, 2nd Civil Division, Civil sentence No 4673 of 26 May 2021).

5. Conjugal duty

This duty of the spouses, not expressly covered by either the Civil Code or the Family Code currently repealed (the Family Code was in force until 30 September 2011, the date from which it was repealed by Law No 71/2011 for the implementation of Law No 287/2009 on the Civil Code), covers *intimate relations between the spouses*. The conjugal duty of the spouses exists regardless of whether they live together or not.

The performance of conjugal duty is also called *the consumption of marriage*. The groundless refusal of one of the spouses to perform their conjugal duties or, in other words, the final alteration of their intimate, spiritual connection may constitute *a grounded reason* for divorce.

We must bear in mind that if one of the spouses fails to perform the conjugal duty, the other spouse has no right to force him/her by compulsion to sexual relations, because he//she would commit the offense of rape provided for and punished by Article 218 (1) Penal Code. In other words, in a

marriage, like all other intimate aspects, *sexual relations must also be consensual* [Conjugal rape has been recognized in many European countries. Thus, for example, England has regulated it since 1991, Germany since 1997, Austria since 1989 or Sweden since 1965 (Chirita 2002, 154-159, *apud* Moloman and Ureche 2016, 172).

In our opinion, sexual relations in a marriage represent a way in which the two spouses love each other and express their love and care for each other, their children, their family. But it is good to know that *neither the wives belong to the husbands nor the husbands belong to the wives* [for development, see an interesting material made by Cristina Cucos on 14 September 2019, as part of the "Media for Youth inclusion" project, supported by the representative of IM Swedish Development Partner].

6. *Duty to comply with the co-decision rule*

According to Article 308 Civ.C. with the exception of the "*Making of decisions by the spouses*", the spouses decide by common agreement on marriage-related things. The law gives details on this duty exclusively to marriage, to family relations, to family life. This co-decision rule should not be regarded as restricting the independence of spouses with regard to their personal, social or professional life.

In a case, the court ruled that "*the spouses must understand each other as regards the establishment or change of their house, the conclusion or modification of a matrimonial property agreement, the bearing of the costs of the marriage, the choice of the common name of the spouses and children, the upbringing and education of the children, the liquidation of the matrimonial property regime, etc.*" (Neamt District Court, Civil Decision No 385/2015, *cited work*).

This *co-decision rule* is a consequence of the principle of equal rights of the spouses governed by Article 258(1) Civ.C. and enshrined in Article 48(1) of the Romanian Constitution, according to which the family is based on the equality of the spouses.

We appreciate that compromise also plays an important role in compliance with the co-decision rule, given that the views of spouses may differ as regards family life. However, this compromise must be constructive, strengthen the family, the arguments put forward by the spouses to be strong, convincing, pertinent and decisive in order to convince the other spouse that

his/her point of view is the most beneficial to the family, so at the end of the argument, the decision to be taken by the spouses to be common.

7. *Duty to respect the personal independence of the other spouse*

The duty to respect the personal independence of the other spouse is enshrined in Article 310 Civ.C. according to which a spouse has no right to *censor correspondence, social relations* or *the choice of the profession* of the other spouse.

In a case concerning illegal access to a computer system, the court found that "*between September 2011 and January 2016, defendant C.R.C., knowing the unique access password configured by his wife for two email accounts, but also for the social network Facebook account with user name (…), he has accessed several times, without right, the e-mail accounts of the injured person C.I.E. (his wife), and between 24.12.2014 and 08.02.2015 he accessed the account of the injured person (his wife) owned on the www domain(...).ro served by the internet banking application, account corresponding to the bank card xxx, issued by the bank on the name of the injured person (his wife). At the same time, the court established that the deeds of the defendant C.R.C. to access the electronic mail accounts of the injured person (his wife) meet the constituent elements of the offense of illegal access to a computer system, stipulated in the art. 360 paragraph (1) and (2) Criminal Code and the fact of opening and reading, by repeated material acts, 24 electronic mail messages received and sent from the e-mail account (…) of the same injured person (his wife), meets the constituent elements of the* infringement of the secrecy of correspondence *provided for in article 302 (1) Criminal Code, with the enforcement of the Article 35 (1) Criminal Code*" [Iași District court, Criminal section, Criminal sentence no.168 of 2 February 2017].

In another case, the court held that "*the deed of the defendant C.A., which between December 2010 and January 2011 used computer software by which she intercepted without right the telephone calls and communications made by her husband C.I., by telephone, meets, objectively and subjectively, the constituent elements of the offense of unlawful interception of a transmission of computer data in continuous form, as referred to in article 361(1) Criminal Code, with the enforcement of Article 35 (1) Criminal Code*" [Galati Court of Appeal, Criminal and juvenile cases Section, Criminal Decision No. 746A of 21 June 2017].

Although, by marriage, the independence of men and women is limited in a way, the provisions of the art. 310 Civ.C. acknowledge the *professional independence and the right to privacy* for the spouses. The spouses can *freely dispose of their time*, *choose* and *determine the social relationships* they wish, *choose freely the profession* they want to pursue [according to Article 327, sentence I Civ.C., "Each spouse is free to pursue a profession (...)". If practicing the profession would be incompatible with family life and the spouses fail to reach an agreement, the specialized literature considers that the only legal solution is divorce].

Last but not least, it should be noted that spouses have the right *to keep their correspondence secret*, provided that all this *does not affect or harm the obligations arising from the marriage*. This personal independence of the spouses must be seen in the entirety of the mutual duties of the spouses derived from the marriage. The personal independence of the spouses must not affect family life, nor must they conflict with the other duties which the spouses have toward each other.

If practicing the profession was incompatible with family life and the spouses fail to reach agreement, the literature considers that the only legal solution is the dissolution of marriage.

Conclusions

As our study shows, the personal duties (obligations) imposed on spouses cannot restrict the affirmation of their personality. The joint living of the two spouses requires many decisions to be made concerning both the family household and the upbringing and education of children. As stipulated in Article 308 of the Romanian Civil Code, the spouses must decide in common as far as marriage is concerned.

However, in accordance with the legal provisions, each of the spouses enjoys full independence as regards their personal life. In this respect, each of the spouses will decide on their health, their professional training and the establishment of friendship relations with other persons.

Moreover, as the author has already mentioned, we must bear in mind that the personal independence of the spouses must not affect family life, must not conflict with the other duties which the spouses have toward each other.

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Counterfeiting of the EU Digital Covid Certificate. Offenses and Penalties for Forgery and Use of False Documents

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ABSTRACT: This article focuses on counterfeiting offenses committed by some persons who commit such offenses to conceal the fact that they are not vaccinated or take advantage of those who are not vaccinated and want to procure such documents in exchange for money. In the case of forgery, the social value that criminal law protects is public trust in things that have the legal authority to prove.

KEY WORDS: European COVID certificates, criminal concurrence, forgery, use of forgery, public health

Introduction

At European Union level, vaccines used in vaccination campaigns against COVID-19 are those approved by the European Medicines Agency. In Romania, the authorized vaccines are as follows: Comirnaty – Pfizer, Spikevax – Moderna, Vaxzevria – AstraZeneca, Janssen – Johnson&Johnson. All vaccinated persons receive a certificate of vaccination. This certificate contains the following information: name and surname of the vaccinated person, date of birth, age, county of residence, Identity Card number and series, vaccine data: dose 1 (vaccine type, product, series/batch, expiry date), dose 2 (type vaccine, product, series/batch, expiry date), data on the vaccination center

(name of vaccination center, county, coordinating/vaccinating doctor), electronic signature of the National Electronic Vaccination Register.

Evidence of vaccination is provided to the vaccinated person either electronically or on paper to enable him to keep track of the two visits to the vaccination center (initial dose and booster) and to provide him with essential information about the characteristics of the vaccine administered (Government of Romania 2021).

Vaccination is free, voluntary/optional, and the certificate is not issued for the purpose of subsequently conditioning or restricting the rights of vaccinated persons. Human rights and fundamental freedoms are one of the key pillars of democratic societies. Fundamental rights and freedoms are the common legal heritage of mankind, because they refer to values universally recognized in international relations (Corlățean 2015, 1; Corlățean 2018, 69-83). Vaccination is not mandatory for minors either (also see Corlățean 2021, 13-19).

When the rate of infection with the SARS-CoV-2 virus rose to 6 per thousand inhabitants, certain restrictions were imposed, by Government Decision, such as, for example, the obligation to wear a mask in open spaces, in offices, the establishment of the night quarantine, between 22.00 - 05.00. Shops, restaurants, cafes or cinemas were open until 9 pm, while bars and clubs were closed and the green COVID certificate became necessary for most activities or for entering public institutions.

Exceptions were those who had been vaccinated against the SARS-CoV-2 virus and for whom 10 days had elapsed since the completion of the complete vaccination schedule, respectively those who were in the period between the 15th and the 180th day subsequent to confirmation of SARS-CoV-2 virus infection (see GD no. 1130 of October 22, 2021, published in the Official Gazette of Romania no. 1013 of October 22, 2021). In order to avoid these restrictions, some people have decided to procure false European COVID certificates or attestation, or to use other people's certificates, in other words to violate all legal principles (see in detail Ciochină and Vedinaș 2012), ethics, morals, etc. These facts are incriminated in the Romanian Criminal Code. Depending on the mode of operation, these persons were charged with fraud, forgery, use of forgery, false statements, computer offenses, identity offenses, formation of an organized criminal group, in the

manner of initiation and constitution, bribery, illegal access to a computer system, computer forgery, and intellectual forgery, influence peddling, bribery, intellectual forgery and money laundering, etc.

Therefore, the staff of the Ministry of Administration and Interior together with the employees of the other institutions with attributions in the field continued to carry out verifications and intensified the control actions in case of economic operators, passenger transport operators, objectives of interest, including public catering spaces, crowded areas. stations, bus stations, markets, terraces, cafes, game rooms, gas stations and more. They checked the green certificate (QR code check) where it was needed.

As a result of these actions, where irregularities were found, sanctions were applied, in particular for not wearing a protective mask and non-compliance with travel bans. At the same time, criminal cases were opened for several crimes, such as:

- Committing the crime Thwarting Disease Control (see in detail, Hegheș 2020, 90-98);

- Forgery of identity, in the case of persons inside premises (for example in the mall), who, at the request of law enforcement, presented a green certificate, only that during the investigations carried out, it was found that presented to the police officers did not belong to the person in question, but to another person, who were used without right;

- Criminal cases have been set up regarding possible frauds registered in the process of issuing vaccination certificates and certificates. These facts were discovered when several people went to the hospital with severe symptoms of SARS-CoV-2 virus infection and showed vaccination certificates at the hospital, which later admitted to the medical staff that in fact they were not vaccinated. Thus, it was found that there were green certificates issued as a result of "vaccination in the sink". This practice emerged and spread with the authorization of the single-dose vaccine, produced by Johnson & Johnson, which provided the opportunity for family physicians and nurses to make arrangements with people who wanted to officially register as vaccinated without to inject for a sum of money, and the corresponding amount of serum was thrown into the sink. These persons were registered in the National Electronic Vaccination Register, thus having the possibility to download their

European Green Certificate, on the basis of which they could travel and have access to public spaces in the country and abroad. According to the Romanian Criminal Code, those who falsify vaccination certificates or certificates risk up to 5 years in prison on charges of intellectual forgery. And those who use them risk not only getting sick, but also being charged with misuse, which can lead to three months to three years in prison or at least a criminal fine. People who sell fake vaccination certificates have also been found on social networks, who close their account after collecting the money. This type of fraud is facilitated by the anonymity offered by secure communication and payment applications, as well as by the reluctance of deceived persons to report the facts, as they are of a criminal nature;

- To the extent that many GPs received free tests for COVID-19 free of charge from the Ministry of Health, some of them (few in number) falsified the results of tests for certain patients, unrealistically attesting that they are infected and thus they have been on paid medical leave for 14 days and have obtained the green certificate, although in reality they have not been infected;

- Also, the border policemen from various crossing points of the Romanian state border discovered Romanian citizens with certificates that falsely attested the performance of some PCR tests at various clinics.

Counterfeiting offenses

Counterfeiting offenses are provided for in Title VI of the Special Part of the Romanian Criminal Code (see in detail Cristiean 2017, 237-273):

- Chapter I – Counterfeiting of currency, stamps or securities (art. 310 - Currency counterfeiting, art. 311 - Counterfeiting of bonds or payment instruments, art. 312 - Counterfeiting of stamps or postage, art. 313 - Circulation of counterfeited securities, art. 314 - Possession of tools used for the counterfeit of securities, art. 315 - Fraudulent issuance of currency, art. 316 - Counterfeiting of foreign instruments);
- Chapter II – Counterfeiting of authentication or marking instruments (art. 317 - Counterfeiting of official instruments, art. 318 - Use of counterfeit instruments, art. 319 - Counterfeiting of foreign authentication instruments);

- ⚬ Chapter III – Counterfeiting documents (art. 320 - Tampering with official documents, art. 321 - Creating false documents, art. 322 - False deeds under private signature, art. 323 - Use of false documents, art. 324 - Tampering with a technical record, art. 325 - Tampering with computer data, art. 326 - False statements, art. 327 - False identity, art. 328 - Offenses of falsification committed in relation to the authority of a foreign state).

The offenses under the name of "Counterfeiting" constitute a well-defined and extremely varied category in the vast sphere of facts considered to be dangerous. False acts seriously undermine the truth and trust that must lead to the formation and development of human relationships (Duvac 2016, 395). The above-mentioned offenses consist in the falsification of certain values whose authenticity, veracity or accuracy are of great social interest and which must therefore be protected by criminal law. Also included in this category are related offenses, and other acts such as circulation, use of counterfeits, etc., as derivative and correlative actions, antecedent or subsequent to counterfeits (Dongoroz et al., Vol. IV, 358).

By criminalizing the facts that make up the group of counterfeiting, the criminal law understood to protect the social relations that are born, develop and develop in connection with public trust in things of probative value. The social project presented by the facts incriminated in this title derives from the alteration of the truth committed on things that have the legal property to serve as a means of proof, to constitute proof of realities, the existence and veracity on which depend the formation and development of various social relations. By criminally sanctioning the alteration of the truth on such things with probative properties, the criminal law creates a legal protection for these things, strengthening the trust that people must have in their probative value, trust that contributes to the protection and, implicitly, to the development of social relations and therefore to social progress (Dongoroz, vol. IV, 360; Pascu and Gorunescu 2009, 530).

From the point of view of the *generic legal object* of the counterfeiting, the social value that the criminal law defends is the public trust - *public fides*, in the things that have the legal property to prove.

The direct *active subject* to these counterfeiting is, in principle, any person, without any qualification, but who has criminal capacity. A

characteristic of these crimes is that they can be committed by a legal person, with the limitations and under the conditions provided in art. 135 Romanian Criminal Code.

Criminal participation is possible in all its forms - co-perpetrators, instigators, accomplices, in all crimes of counterfeiting.

The objective side

The action that constitutes the *material object* of the crime must consist in an operation of alteration of the truth committed in any way - material, written or oral, but which always materializes in the object that contains the alteration of the truth.

In terms of *immediate follow-up*, all counterfeiting offenses are offenses that create a state of danger.

The *causal link* between the action and the immediate consequence must exist and result from the materiality of the act - *ex re*.

The subjective side

From a subjective point of view, all counterfeiting offenses are intentional criminal offenses. The acts of altering the truth do not constitute offenses when the alteration occurred through fault.

Penalties

For all the offenses of counterfeiting, the punishment of imprisonment was stipulated, alone or alternatively with the criminal sanction of the fine. However, the special limits of the prison sentence and implicitly of the fine differ in relation to the abstract social danger established by the legislator for each deed incriminated separately.

Procedural issues

From a procedural point of view, all counterfeiting offenses are prosecuted *ex officio*. With regard to the jurisdiction of the courts, there are some differences, in the sense that in the case of counterfeit offenses, in principle, the usual rules apply, while for some offenses in Chapter I, committed in certain circumstances, the criminal prosecution is carried out in mandatory by the prosecutor (Duvac 2016, 401).

There is a natural correlation between the actual counterfeiting offenses and the derived offenses, in the sense that the existence of the subsequent offense depends on the existence of the previous one, such as the use of forgery presupposes the existence of the offense of forgery in documents, from a procedural point of view, the provisions regarding the reunification of cases will be applied (art. 43 of the Romanian Code of Criminal Procedure). In criminal proceedings with the object of committing false offenses, it is usually necessary to order, as the case may be, a technical-scientific finding or an expertise, finding the truth and therefore the existence of forgery, often requiring knowledge technical and specialized. If, after the discovery of the forgery, the forged object has disappeared or been destroyed, the existence of the forgery may be proved by any other evidence (Duvac 2016, 402).

Conclusions

At this time, vaccination is not mandatory in Romania. It is up to each person to decide what is best for himself/herself and his/her family, but the recommendations of the state/authorities is to get vaccinated. Using a false European COVID digital certificate is not a solution but a crime punishable by imprisonment. The EU digital certificate on COVID is free of charge, is valid in all EU Member States and is available in Romanian and English. As vaccination is not mandatory, the EU digital certificate on COVID is not a mandatory document either, but is accepted at European level as an authorized proof of vaccination, tested negatively or recovered after COVID-19 infection.

Police need to step up checks. Although the number of cases where customers use false certificates is limited, the involvement of the police in double-checking actions (certificates and bulletins) is a useful initiative.

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Is Polite Behavior Always Positively Marked? The Role of Sincerity in Politeness in an Arab Context

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ABSTRACT: In this paper, polite/politic linguistic behavior, introduced in Locher and Watts (2005) and which may be used insincerely, was investigated at a first order level of kind. The method followed is that of Spencer-Oatey (2011) who examined the emotions and (im)politeness judgements that people recount in metapragmatic comments and interviews. Thus, the participants of this study were invited to show their own perceptions, and evaluations about polite/politic but insincere linguistic behavior of any individuals behaving with them as such in a purely Arabic context. The responses were analyzed quantitatively. One interesting finding was that this kind of insincere polite/politic behavior was negatively marked unlike what was introduced in the diagram of relational work by Locher and Watts (2005) and which was clearly described as positively marked. This study shows that polite/politic behavior in the spectrum of relational work with judgment (c) ignores the fact that insincerity in polite behavior can generate negative markedness and hence can cause relationship breakup, although it is superficially polite and appropriate.

KEY WORDS: first and second order politeness, negative markedness of politeness, politeness

1. Introduction

The field of politeness studies has drastically developed within the last decades. In this respect, approaches and discussions on how to theorize this topic, especially methodologically, its scope of investigation has also thrived. Among these approaches, Brown and Levinson's model of politeness is the most influential one. However it was criticized a lot for its incompatibility with a lot of cultures when applied. One of the criticisms that proved influential is that of relational work introduced by Locher and Watts (2005). The notion of relational work urges politeness theorists not only to consider the polite variant but should also regard the impolite, non-polite, over-polite variants in the spectrum as a whole. Therefore, Locher and Watts opt for studying the entire spectrum of the interpersonal side of social practice. The notion of relational work is defined as the work people invest in negotiating their relationships in interaction (Locher 2004; Locher and Watts 2005; Locher 2006). Locher and Watts assume that people orient to the norms of behavior which are evoked by frames of expectations in accordance with the social situations and the notions of appropriateness and markedness. Locher and Watts (2005) note that one can think of a certain utterance to be socially appropriate behavior that is socially unmarked (judgment b) and does not evoke any evaluative comments. A behavior that breaks social norms (judgments a and d) is negatively marked and can evoke negative evaluations. Sometimes, relational work could be judged as positively marked and socially appropriate (judgment c) because it follows social norms and does not break or get out of frames of expectations. However, this model has been criticized by Spencer Oatey (2011), who says that it is too narrow to perceive the relational patterns that emerge over time and cannot easily emerge by simply studying recorded data of interaction. This is true, especially at the level of markedness of judgment (c) which cannot always be positive, as introduced in the diagram of relational work by Locher and Watts (2005); and this is due to the intentional aspect of participants when dealing with their counterparts. So the question to be asked here is: 'How can intentionality in politeness affect social markedness of polite/ politic and appropriate behaviour to make it negative and not positive?'

        In this respect, I will introduce an example in which social markedness that is evoked over polite/ politic behavior is not positive but negative because of its intentional aspect of insincerity.

        In this study, I develop a more contextualized approach to politeness study where the intentional aspect of being polite insincerely can affect our relationships and hence cause relationship breakups because of its lack of truthfulness. The paper is thus organized as follows. Section 2 presents the theoretical concept. Section 3 presents the methodology and the implementation of the model. Section 4 presents the results. Section 5 provides a brief discussion concerning the shortcomings of the model at hand when applied. Finally, a conclusion is provided.

2. Literature review

2.1. Politeness theorizing

With the coming of the pragmatic aspect of language use in general, researchers started to focus on language variation according to expressive and stylistic reasons (Locher 2012, 38). Variation in using different ways to convey a message of opening a window could be expressed either directly (open the window) or more softly ('please, would you be so kind to open the window', 'it is cold in here') (Ibid). This discussion was labeled politeness (Ibid). Under this heading, researchers started to be interested in this kind of phenomena. In this respect, a number of approaches have surfaced. The most influential approaches of politeness to date are: Lakoff (1973), Brown and Levinson (1978/1987) and Leech (1983). All of these approaches were influenced and mainly based on the idea of communicative competence introduced by Hymes (1972) and structured on Grice's Cooperative Principle (1975).

        Lakoff is said to be the first to explicitly draw a relationship between pragmatic knowledge and politeness use (Locher 2012). Thus, the study of politeness was launched. Politeness has been given a great importance by researchers in the field of sociolinguistics. However, despite the fact that a lot of research has been done on politeness in the last two decades, its definition remains unclear in the sense that its ambiguity and fluidity makes it difficult to come at common agreements on. This is due to the fact that when applying certain theories on specific cultural backgrounds, different types of results appear.

The basic study that underpinned politeness in its first steps was *'the Cooperative Principle and Conversational Maxims'* by Grice (1975). He introduced the Cooperative Principle for the achievement of maximally effective interaction and exchange of information by presenting four basic maxims. They are maxims of quantity, quality, relation and manner. Grice believes that when people communicate effectively, they will try to be informative, truthful, relevant, and avoid ambiguity. However, this theory was criticized by Robin Lakoff who asked good questions such as the following: 'why don't people follow Grice's (1975) 'Rules of Conversation'?', 'Why not always speak logically, directly and to the point?' She explained this issue by relating it partly to the need for politeness rules (Lakoff 2004, 152). In this respect, Lakoff's theory of politeness is structured on three basic rules of *Formality*, *Deference* and *Camaraderie*. However and in the same sort of way, Lakoff's politeness theory was criticized by Tannen (1985) who claimed those rules to be unsatisfactory to explain the complex phenomenon of politeness. Watts (2003), in his turn, states that Lakoff's theory of politeness does not explain how speakers come to form sentences which can be classified as polite.

Also, Geoffrey Leech's (1983) theory of pragmatics which is structured on Grice's communication model, is also one of the most known classic works. In his view, politeness is considered a regulative factor in interaction and as a key to indirectly explaining the meaning. The theory of Leech claims strongly for the importance of the communicative goal of the speaker. He emphasizes on "the goal-oriented speech situation in which S uses language in order to produce a particular effect in the mind of the H" (1983, 15). He defines the politeness used between individuals as "interpersonal rhetoric" where he sets his three kinds of principles (Hsieh 2009, 41). They are Grice's cooperative principle (CP), his own politeness principle (PP) and the irony principle (IP). Leech claims that his PP is "*designed to minimize (all things being equal) the expression of impolite beliefs; maximize (all things being equal) the expression of polite beliefs" (1983)*. Leech's PP consists of a set of Maxims, they are as follows: 1) tact, 2) Generosity and 3) approbation, 4) modesty, 5) agreement 6) sympathyy (see Leech, 1983). Leech asserts that the speaker should always work for the best of the interlocutor (hearer). Leech advocates CP and PP interact with each other. In this respect, he sees the CP maxims are used to explain how utterances are used to express the indirect meanings

of the speaker while PP maxims help us understand the indirectness of the speaker. However, the pragmatic theory of Leech had also been exposed to many kinds of criticizing. For example Fraser (1990) sees that Leech's PP is too theoretical because it does not explain which maxims are to be used, how they are formulated, what their dimensions are, etc. Also, Mey (1993) criticizes the theory of Leech for it does not take the fact of context of situation into consideration. Fraser and Mey prove the failure of Leech's PP because he neglects the cultural and situational context. Not only that, but many researchers point out that Leech leaves open the maxims needed in order to account for politeness phenomenon (see Brown & Levinson 1987; Lavandera 1988; Fraser 1990). Brown and Levinson claim that in creating a new maxim every time to explain politeness, there will be an infinite number of Maxims (1987, 4). Instead, they suggested forming a model to account for politeness choices made by speakers in interaction personally and cross-culturally either.

Brown and Levinson's (1987/1987) theory of Politeness is the most influential theory of politeness to date. Brown and Levinson were the first to systematize the politeness theory by observing some similarities in the linguistic strategies used by people from different language backgrounds: English, Tzeltal and Tamil. Their work consist mainly of two separate parts: the first part is their fundamental theory about the nature of politeness and how it functions in the course of interactions. The second part is a list of strategies known as "Politeness Strategies". The most important concept in the theory of politeness by Brown and Levinson is that of *Face*.

Face is claimed to be the motivation behind politeness behavior. In reality, their politeness theory is influenced by the work of Goffman who introduced the notion of 'Face'. So for a better understanding of this notion, we should refer to the work of Erving Goffman (1967). Goffman defines face as an image "pieced together from the expressive implications of the full flow of events in an undertaking" (1967, 31). In this definition, he stresses the fact that face is constituted in social interactions. That is to say, face does not reside in an individual but it is negotiated in the flow of communicative events. According to Haugh (2013), Goffman (1967, 5) sees face as "*the positive social value a person effectively claims for himself by the line others assume he has taken*

during a particular contact" where a line refers to that individual's *"pattern of verbal and nonverbal acts by which he expresses his view of the situation and through this evaluation of the participants, especially himself"* (Ibid).

In this respect, on the ground of what Goffman offers here, one would claim that face is not seen as a static image imposed on individuals. Rather, it is formed during 'a particular contact'. From this point of view, face is seen as the result of face-work during interactions. In this respect Goffman, in turn, defines face-work as *"the actions taken by a person to make whatever he is doing consistent with face"* (Goffman 1967,12).

According to Goffman, facework includes what can be said and what can be done either in stating the following *'In other words, facework involves the verbal and nonverbal acts through which an individual expresses evaluations of himself and others that results in the lines underpinning the face of the speaker and others being "maintained", "lost", "saved", or "given"'* (Haugh 2013, 3). This means that face and face-work are inextricably linked with each other (Ibid). Thus on the ground of Goffaman's theory of face and face-work, Brown and Levinson built their seminal theoretical work of politeness. In this sort of way, they expanded the notion of face to the 'positive' and 'negative face' (Brown and Levinson 1987)

Brown and Levinson suggest that all interactants have an interest to maintain two types of face during the course of their interactions. They call them "positive" and "negative" face. Brown and Levinson (1987, 62) claim that positive face is the wish to "be desirable to at least some others" whereas negative face is the wish to have one's "actions .....unimpeded by others". So positive face needs can be said to be the need to be liked and admired whereas negative face needs is considered to be the need for not being imposed upon.

The notion of face in politeness theory by Brown and Levinson (1987) derives another notion in case people try to maintain relationships. This notion is called *"face-threatening acts"*. Brown and Levinson's approach of politeness regards any utterance which *'could be interpreted as making a demand or intruding on another person's autonomy can be regarded as a potential face-threatening act.'* Holmes (1995, 5). This would include even suggestions, advice and requests *'since they potentially impede the other person's freedom of action'* (Ibid). Furthermore, they propose that the degree of threat could be evaluated in relation to three sensitive social variables which are *Social*

Distance between the interlocutors (D), *Relative power* of the interlocutors (P), and *Absolute Ranking* of impositions carried in the act in a certain culture (R). Besides these three variables, one can measure the degree or seriousness of a face-threatening act according to the participants in interaction.

Brown and Levinson argue that individuals try maximally to minimize the threat that can be caused at any given situation or interaction. Therefore, participants in different situations and interactions choose strategies which can suit the needs of these situations and interactions. In this respect, there exist a kind of direct relationship between the seriousness of a face-threatening act and the strategies used by individuals to save their face. This results in considering the fact that the greater the threat of an act, the more polite strategy is required.

On the basis of the belief that face needs exist in any culture, Brown & Levinson's politeness theory (1978) strongly claims that universal rules govern relationships between people so as to be maintained and maintain one another's face (Hsieh 2013, 44). Researchers like Ardnt and Janney (1985, 293) support this claim of universality. They claim that the wish to maintain face and the fear of losing it *are interpersonal universals transcending all sociocultural, ethnic, sexual, educational, economic, geographical and historical boundaries*. However and after a number of attempts by researchers to apply Brown and Levinson's model of politeness, it has become very evident that this theory of politeness cannot account for the different situations in the world's languages and cultures making it clear that the model given by Brown and Levinson is not universal at all.

This model of politeness attracted considerable criticism (Matsumuto 1988; Ide 1989). Not only this theory, but all the traditional theories of politeness study have been criticised because of a number of problems. Grainger (2011) calls them Gricean approaches or the first wave of politeness theorising (Grainger 2011, 169). These approaches were largely criticised by different researchers who call themselves discursive theorists of politeness or post-modern researchers of politeness study. They introduced their new views in works like 'Impoliteness' (Culpeper, Bousfield, and Wichmann 2003; Culpeper 2005), Gender and Politeness (Mills 2013), politeness at work (e.g. Holmes and Schnurr 2005), etc. The discursive turn into politeness criticised the Gricean, mainly Brown and Levinson's approach due to a number of problems. The first

problem in this approach is that it relies on speech act theory where an act like apologising is considered as inherently polite. Mills (2011, 22) gives the example of 'I'm sorry' which *'may not necessarily feature in utterances which are accepted by both speaker and hearer as constituting an apology'*. Mills says that the use of some politeness markers *'which are generally seen within a particular community as indexing an apology may be used when a speaker wishes to indicate a 'surface' apology or even wishes to be impolite'* (Ibid). Thus, the fact of considering some language items or strategies as inherently polite with no account to the context of situation is not adequate. Instead, Coupland, Grainger and Coupland (1988, 255) claim that, *'any empirical work on politeness needs to confront the sequential realisation of politeness phenomena in discourse"*. In this respect, one has to rely on longer discourse fragments within community practices in the evaluations of what is polite and what is impolite. In addition, the Gricean approach seems to neglect the hearer's evaluation of utterance. Eelen argues, *"in everyday practice (im) politeness occurs not so much when the speaker produces behaviour but rather when the hearer evaluates that behaviour"* (Eelen 2001, 109). So judgments and evaluations that can be referred to the hearer are interesting in discursive politeness research. Another important point in the traditional model of politeness is that the analyst decides what is polite or impolite contrary to the discursive approach which gives importance to the participants' decisions of politeness behaviour. This makes a difference between politeness1 which is the participant's evaluation of (im) politeness and politeness2 which is the analyst's evaluation of (im) politeness (Eelen 2001). Another interesting weak point in this theory of politeness is that it is based on face threats and how they can be mitigated in the use some strategies. It is argued that it is not necessary for individuals to use mitigation and that they can use different behaviours such as politic behaviour instead. The discursive approach to politeness (Locher 2006) developed largely to respond to the failings of the Gricean- specifically Brown and Levinson's treatment (Grainger 2011, 170). Grainger (2011) points out that, *'this approach takes the constructionist perspective that meaning is: fluid, negotiable between participants and as such cannot reside in the minds of speakers in the form of 'intention".* Although this approach was criticized for its lack of clear methodology (Xie et al, 2005, 449), Mills and Van Der Bom later on suggested a clear way of politeness data analysis through interviewing the participants to be the basis for their analysis of politeness (Van Der Bom and Mills 2015).

The approaches of discursive politeness and the interactional model to (im) politeness study have different points of focus in understanding (im) politeness. The interactional approach emphasizes on the construction of (im) politeness during interactions while the discursive approach focuses on judgment and interpretation of (im) politeness behavior by participants. Although different in foci, the two approaches to the analysis of (im) politeness have proved to introduce clear and insightful ways to better understand how (im) politeness works within communities of practice and their contexts as well. Arundale (2006) claims that the two approaches can be considered complementary to each other.

As indicated earlier, the discursive approach to politeness led by, Locher (2004, 2006), Watts (2003, 2005), and Locher and Watts (2005) criticize Brown and Levinson's focus on mitigation of face threatening acts and say one can opt for different behavior like being politic (Locher and Watts 2005). They called this 'relational work' (Watts 1989, 1992, 2003, 2005; Locher and Watts 2005; 2008; Locher 2004, 2006, 2008). In this respect, Locher claims one can also put emphasis on impolite or rude aspects of social behavior.

2.2. Relational work

Locher and Watts (2008: 96) define relational work as "*the work invested by individuals in the construction, maintenance, reproduction and transformation of interpersonal relationships among those engaged in social practice*". According to this definition, much focus is put on the interpersonal side of communication and the effects of linguistic behavior on our relationships. The term relational work is used instead of Brown and Levinson's one *facework* which is reduced to referring to mitigating behavior only. Relational work, in contrast is '*the entire gamut of interpersonal effects. We can speak of face-enhancing and face-maintaining behavior as well as face-damaging, face-aggressive or face-challenging behavior*' (Tracy 1990). These terms are theoretically second-order ones which can help the researcher to theorize about the interpersonal aspect of language with no reference to more charged terminology such as 'polite' or 'impolite' Locher (2012). Thus, the aim of relational work is to better '*understand how people create relational effects by means of language, comprehend how this process is embedded in its cultural and situated context, and recognize how*

this is interrelated with social and cognitive processes.'(Ibid). These research aims of relational work are theoretical in nature, which motivates the researcher to understand language in use within interpersonal communication elements. According to Locher and Watts (2005), the intention or the perception of a message to be polite or not depends on the hearer's judgments that s/he makes at the level of relational work in situ, and which means during an interaction in a particular setting. These judgments are made on the ground of norms and expectations that people have learnt from similar past experiences of their own or even from others' experiences. This calls for an important notion which is that of 'frame' (Tannen, 1993). This notion is regarded as the cognitive conceptualizations of forms of appropriate and inappropriate behavior that individuals have formulated in the course of their own histories of social practice. Those norms and expectations are achieved over time and are constantly subject to change and variation Locher and Watts (2005).

Locher and Watts (2005) supply the following table to explain what relational work means and people's different judgments about polite behavior when interacting. They assume that people orient to the norms of behavior evoked by frames of expectations in accordance with the social situation and the notions of appropriateness and markedness.

Table 1.   Aspects of the spectrum of relational work, exemplified with the lexeme 'polite', in a particular context Y

	LEXEME (first order)	Two of the cognitive domains against which the lexeme is profiled		
Judgement (a):	impolite	inappropriate/ non-politic	+	negatively marked
Judgement (b):	(non-polite)*	appropriate/politic	+	unmarked
Judgement (c):	polite	appropriate/politic	+	positively marked
Judgement (d):	over-polite	inappropriate/ non-politic	+	negatively marked

* The judgement 'non-polite' is unlikely to be uttered.

According to Table 1, Locher and Watts (2005) note that one can think of a certain utterance as socially appropriate behavior of an unmarked kind (judgment b), which does not evoke any evaluative comment. A behavior that has broken a social norm (judgments a and d), is a negatively marked behavior and which evokes negative evaluations like impolite or over-polite. Sometimes, relational work could be judged as positively marked and socially appropriate (judgment c). Locher and Watts follow the interactional approach to (im) politeness (Arundale, 1999, 2006) which is based on the Co-constituting Model of Communication. In general, it sees (im) politeness as interactionally and collaboratively achieved by participants in certain interactions (Haugh, 2007, 309). It perceives (im) politeness as a kind of social practice. Haugh (2007, 310) suggests that politeness and impoliteness should be analyzed out of the responses of the participants in their interactions. Thus, he stresses that analyzing (im) politeness implies focusing on the participants' interpretation, understanding, analysis, negotiation, and evaluation of one another's verbal conduct, which is displayed in the participants' responses. Also, the analysts' interpretation of (im) politeness (second order politeness) should further be strengthened by adopting a first-order politeness perspective to be cross-checked. In this respect, the analyst can further consult the participants for post-facto evaluations for final analytical framework. That is to say, we have to distinguish between lay interpretations of (im) politeness (first order politeness) and (im) politeness as a sociolinguistic technical concept (second order politeness) (Watts 2003).

However, Spencer-Oatey (2011) provides empirical evidence that an exclusive focus on discourse data is too limited in (im) politeness. She claims that 'the relational work' is too narrow to grasp the relational patterns that emerge over time (Locher 2013). Spencer-Oatey (2011) gives the example of a workplace team who described a problem of 'lack of communication' when interviewed by the researchers. This problem would not easily emerge by simply relying on recorded data of interaction. In this respect, Spencer-Oatey (2011,17) claims:

'Since the lack of communication did not usually take place within a face-to-face context nor within an individual speech event but rather occurred over time as the various facets of the project developed, a discourse analytic research approach would have failed to identify these team-related problems.

This suggests that the analytic approaches proposed by theorists such as Locher and Watts (2005) and Arundale (2006, 2010) are too narrow to capture some of the key relational concerns that project members may have and that project managers in the real world need to be aware of and to handle. I would argue therefore that, at least in project partnership contexts, discourse data needs to be supplemented by project members' reflective comments.'

Therefore, and on the basis of the fact that investigating politeness during interaction is not sufficient and that metapragmatic comments derived from interviews are also important, this study examines politeness via direct written interviews with the informants. This is to see their emotions, feelings, and perceptions about insincere politeness use by people with them.

3. Methodology

In collecting my data, I delivered a questionnaire of an open-ended question to thirty individuals. This direct question was about how they would interpret polite behavior of any of their interlocutors when used insincerely. My informants were my first year students of English at the University of Relizane. The data was collected via written answers of their own. The question was asked in the Arabic language. I left the question open so as to avoid any influence of my opinion or my own biases. The informants were a number of thirty students of an age ranging between 17 and 22 years old at most. So the study was a quantitative kind of analysis. This question was a clear elicitation of first-order politeness where real social views could help in the analysis of politeness in general.

4. Results

A totality of thirty answers was collected out of my informants in the elicitation of politeness from a first order level of kind. My informants answered the question directly with either one word or gave an explanation via long expressions. I have to note that my question was about past experiences of insincere politeness use my informants got involved in with their interlocutors acting in this way. This means that I wanted to know the feelings and interpretations of the participants in question during their past interactions with people acting politely and insincerely at the same time

with them. I left the question open so as not to influence them with any of my biases. The question generated a spectrum of answers which gave a clear idea about how the participants thought of politeness use when it got out of truthfulness and many of them related this fact to hypocrisy.

The use of politeness insincerely does have an effect on the feelings and interpretations of people in general and the participants in this study in special. This, in its turn, seemed to have influenced the positive/ negative markedness of the use of polite/politic behavior insincerely of the individuals under study when they got involved in such experiences. When I asked the question, a number of results appeared. Table 1 shows interesting results about the feelings and interpretations of the subjects in question. Surprisingly, more than four fifths (83.33%) of the responses showed negative social markedness about this kind of untruthful polite behavior. The answers ranged between describing this kind of behavior as being hypocritical (36.66%), selfish (20%), exploiting (23.33%), and impolite (3.33%). All those showed a clear negative markedness about someone behaving in this way. On the opposite side of the coin and interestingly enough, it is only less than one fifth of the answers which showed positive markedness considering this behavior to be normal (3.33%), unimportant (6.66%), and understanding that those people might be in need of help (6.66%). Therefore, the results display clear negative of markedness about the use of polite behavior when used out of sincerity although it is socially politic and appropriate. See table 1

Table 1: Elicitation of social markedness about judgement 'c' of relational work

The question	The answers	The rates
What do you think of people who use politeness for their own benefits?	Hypocrisy	36.66%
	Taking advantage	23.33%
	Selfishness	20%
	Impoliteness	03.33%
	Normal	03.33%
	Unimportant	06.66%
	Might need help	06.66%

5. Discussion

As mentioned earlier, we can consider this investigation as a first order politeness elicitation. The question was about how one would consider others if they used politeness for their own benefits; that is insincerely. The spectrum of answers varied from hypocrisy with the highest percentage followed by the idea of exploitation and the take of advantage and then followed by selfishness with a high rate too. We have to note here that approximately 83.33% of the responses carry negative perceptions of the use of politeness insincerely leading to labeling this kind of behavior different names other than politeness. Only a small proportion of the informants (6.66%) understood the situation and claimed that those acting in this way might need help. The remaining answers of the informants can be seen as neither positive nor negative. The results at hand give us an important idea about social evaluations of (im) politeness use. It urges us not to ignore the intentional side existing between participants in interactions. This is because the intentional aspect that sits behind the use of (im) politeness can influence the evaluations of politeness and hence affect the relationships existing between individuals of the same interaction.

According to this culture under study, these different perceptions do, certainly, not originate from vacuum. They come from complex social environments that exert power on the general thinking of the individuals of this culture and other cultures in general. If we analyse the spectrum of answers, we might come at important conclusions. So, the first answer of hypocrisy originates certainly from society and the culture of these individuals that affects most of them in the society. We have to note that the cultural thinking influences the thoughts of individuals due to the load of discourses and metapragmatics about the use of politeness insincerely. These thoughts are injected in the thinking of individuals of this society since an early childhood stage of life and accompany them to more developed stages of adulthood in life. Thus, it is at an early age that children start to be taught lessons that include the relation of (im) politeness to hypocrisy, selfishness, etc. Most of culture discourses, metapragmatic views are certainly against the use of politeness hypocritically and for one's own benefits. So, this kind of cultural thinking does have a crucial effect on the way my informants think

about polite behavior use insincerely. Hypocrisy has been referred to in one of the previous works of Watts (2003, 2) in saying, 'There are even people who classify polite behavior negatively, characterizing it with such terms as 'standoffish', 'haughty', 'insincere', etc. So politeness relationship to hypocrisy, selfishness, etc is a human universal fact found in all cultures and which takes place in a lot of interpersonal interactions along with sincere polite behavior that is truthful. This generally propagates negative evaluations and markedness of individuals behaving in such a way. So, although some polite behavior appear to be appropriate in the sense of being politic so as not to be negatively marked (according to the notion of relational work), negative evaluations will surface once untruthfulness is noticed whether at the time of interaction or when lately discovered.

In this respect and according to the results at hand, judgment (c) is negatively marked with a high degree in the context under study. This fact can be seen as first-order politeness views of the community practice members under analysis. So, although this polite (politic and appropriate) behavior, which is judgment (c) in the spectrum of relational work supplied by Locher and Watts (2005), can be seen superficially as positively marked, it is in reality negatively marked in this context, and especially at an interpersonal level.

6. Conclusion

All in all, one can conclude that polite behavior which can be used insincerely by some individuals affects social markedness to make it negatively evaluated although that kind of behavior is politic and superficially appropriate. One can conclude also that the intentional (sincere ore insincere) side sitting behind the use of (im) politeness should not be ignored for it plays a role in (im) politeness evaluation and can cause relationship damage if it is insincere. This also helps to develop a more and contextual approach to (im) politeness study which has to adopt the intentional aspect between participants in addition to the context of situation. Another conclusion we can draw from this study is that the diagram introduced in Locher (2005) should be revisited.

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Public Service Management in Some States Members of the European Union

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ABSTRACT: At a lower hierarchical level, they face the challenge of managing a large workforce from which efficiency and effectiveness are expected. States have responded differently to these challenges, depending on administrative tradition and current political priorities. However, there are common elements in the latest developments identified in civil service management in the member countries. We started from the classical distinction between the two main types of public office.

KEY WORDS: democratic regimes, public administration, political affiliation, equitable treatment, civil servants

Introduction

In their desire to ensure their legitimacy, democratic regimes are in a position to find a balance between two values, which may be in relative tension: ensuring fair and politically independent public services and, in the limit of the law, the receptivity of civil servants to the policies of the government in power. (Androniceanu 2000, 165)

The neutrality of public administration, in the sense of the absence of political affiliation, is, of course, a precondition for ensuring that, regardless of their political orientation, citizens will receive fair and equitable treatment. At the operational level, neutrality is maintained by emphasizing the professionalism, merit and competence of civil servants.

These values are important for the level of equity and continuity, which is a key format for citizens' trust in the administrative system. At the same time, civil servants must be accountable to the government for the effective development of the program, and the prompt response of the administration to requests from the ruling government, within legal and constitutional limits, is a key element in implementing government policies. In the states of the European Union, the requirements addressed to senior civil servants come from two directions. At the higher hierarchical level, they face the challenge of responding promptly to government priorities, while ensuring the provision of public services impartially and equitably.

First, a career-based civil service system, in which inclusion in a recruitment base, which includes potential senior civil servants, takes place after graduation or early professional career and often uses competitive examinations. Subsequently, the pass rate is managed by that body.

In this system, resources are invested in the development and careers of civil servants selected to prepare them for senior civil service. Secondly, a "civil service" system in which candidates for a certain senior civil service are recruited from the public service in the broadest sense and from the private sector, leading to a possible recruitment base. older candidates. A subcategory of the "available jobs" system is the "intradepartmental system" of the civil service, in which there is no well-developed career system for the entire administration. Appointments tend to be made taking into account the seniority in office and merit within the department in question (Alexandru 2007, 760).

The importance of developing civil service management is highlighted by the fact that all countries have undertaken civil service reforms. The general tendency in the community states is to focus attention on the development of managerial capacity. While the performance management of the civil service is a central concern in all countries, to this is increasingly added the attention paid to leadership and change management, as well as human resource management. Community Member States have decentralized management tasks in various proportions, together with mechanisms to ensure the individual responsibility of management. In this context, the following typical elements for the evolution of the civil service can be identified: measures to promote greater mobility.

Mobility in the public sector and the experiences gained in the economy are increasingly considered as a beneficial element of continuous training; appointments to senior public posts are made for a limited period (or through short-term contracts) in an increasing number of EU Member States; the existence of a specific civil service management system in some countries (Belgium, the Netherlands, the United Kingdom); elements of a more flexible remuneration system or a performance-based remuneration system have already been introduced in some countries; the major importance of training for the personal development of civil servants.

Some states have developed specific civil service management systems by creating specialized departments whose objectives are: to improve the management of the civil service at the highest level; selection and development of a category of highly competent executive managers with leadership skills and managerial expertise; adequate accountability of managers for individual and organizational performance; use of performance-based payment and employment systems; guarantees for executive managers to act to ensure the public interest and without political pressure. In most European Union countries, most civil servants have the status of civil servants. This means that they are governed by a civil service law, which is a public law, and not by labor law, which consists of private or civil laws applicable to the relations between employees and employers of the private sector. However, the importance of trade unions should be noted through collective commitments made with the government in public relations, for example, in France, Spain, Portugal, Greece, Ireland, the Netherlands, Belgium and Sweden. In Sweden, the Civil Service Law is minimalist, because it regulates specific rights and duties, as well as disciplinary measures, while labor law and collective agreements regulate other conditions of employment.

The United Kingdom is a special case: civil servants have specific regulations, giving them civil servant status, but there is no general civil service law. In the countries of the European Union, the rule is that a public employee is a civil servant, and the exception is to have an employment contract with the state. The same is true of local government employees (except in the United Kingdom, where local officials are subject to labor law).

Based on this situation, the management of the civil service in the EU member states has a number of peculiarities. In France, the Ministry of

Civil Service and State Reform is the public institution that manages the central and territorial civil service. The General Directorate of Civil Service Administration, established within the Ministry in 1945, is the structure that manages the human resources of the state, making an important contribution to social regulations regarding the remuneration of civil servants, their working conditions, working time fulfillment of service tasks. It exercises tutelage over inter-ministerial administrative schools and is responsible for social dialogue with trade unions. This direction is at the disposal of the Minister of Civil Service, State Reform and Territorial Administration.

The Minister chairs the Superior Council of the State Civil Service. For civil servants, who are part of the category of senior civil servants, there is not yet a body to manage senior civil servants. The General Directorate of Civil Service Administration monitors the career development process of civil servants and, in this context, also manages the careers of civil servants in the category of senior civil servants. In the process of reforming the civil service in France, starting with 2003, the Interministerial Services for State Reform were created, which have competence for: modernizing the management of the civil service and state structures; simplification of administrative procedures; development of e-government.

Within the career system, the civil servant enters the service of the administration as a beginner, at the lowest level of a career for which sufficient knowledge and training are required; the official is promoted according to a regulated system. The civil servant generally pursues a career until retirement. Several states regularly hold open competitions. After certain oral and / or written tests, the lists of candidates' results and performances are published. The best candidates are recruited in the order of ranking until all positions are filled. In the interval between two competitions, the vacancies are assigned according to the reserve lists from the recruitment. Competitions are the most widely used selection method in France, Germany, Ireland, Italy, Luxembourg, Portugal, Spain and Belgium.

In France, there are three main types of competitions organized at the level of the state civil service, the territorial civil service and the hospital civil service. The competition organized by the state civil service is an external competition, open to candidates who are not part of the civil service and who meet the minimum criteria of age and training. These competitions are

organized in order to recruit staff from outside the civil service for access positions to a career in a certain body (group).

For example, in order to have access to a category A career, candidates must have a university degree. These competitions are organized every year by the competent ministry or departments according to the level of the vacancy. The territorial civil service competition is an internal competition organized for the recruitment of staff already employed in the public service and who wants to join other groups or want to obtain a high-level position. Internal competition is certainly an instrument of internal promotion. It has a reputation for being more accessible than external competition. In addition, wishing to open the civil service to civil society, special laws have provided a new type of competition for admission to certain schools (ENA, IRA, ENM), accessible to persons who can demonstrate their ability to pursue a professional activity in the sector. private or to fulfill a mandate as an elected member of an assembly of a local or regional authority.

In Germany, there is a typical distinction between civil servants who are employed holding public authority or state powers (around 40% of civil servants) and the rest, who are subject to labor law and specific collective agreements. German law provides criteria for distinguishing between Beamte (civil servants) and Angestellte (civil servants), namely the ability to hold public office. Civil servants are seen as the executing arms of the state, agents of public power, although they have the capacity to serve any government, regardless of orientation (the principle of political neutrality) and are accountable to the law. The concept of "exercise of public authority" is related to issues related to the national interest, law and order, state sovereignty, law enforcement, etc. However, university teachers and teachers at all levels, including primary school teachers, and almost all local government employees are civil servants.

Those who are not civil servants are seen only as performing a profession in the public sector or in the economy, or in public services financed from the state budget. Austria and Luxembourg are approaching the German model. The management of the civil service and of the civil servants is carried out in Germany - federal state - at the level of the Länder, in a decentralized way. In order to achieve administrative flexibility, the initiative to decentralize human resources management was concentrated in the Länder. Thus, in

view of the Government's main reform strategies, the general civil service and services were transferred to the federal authorities (Eymeri 2000, 134).

In Germany there is no central authority to manage the management of the civil service and civil servants, the structure of the body, the terms, the conditions of employment being standardized by the federal administration and the administration of the Länder. In this sense, the public services of the ministries are responsible for the recruitment of civil servants, as well as for ensuring the conditions for their career development.

In Germany, the basic criteria for a career of a certain level are set by law. As for the other criteria, they are set by the Bund or by the Länder and the departments, depending on the specific requirements of the publicly announced vacancies (Stellenausschreibug). The selection criteria are represented by previous skills, knowledge and experiences. German selection methods are considerably decentralized. During the reforms, the open recruitment procedure was moved. The key principle is that civil servants are recruited for a specific position rather than for a specific career. In order to be recruited, candidates must meet the conditions set by the department and/or the competent agency.

In this case, the specific skills required for a job are more important than a diploma required for a specific career, as is the case in countries that apply the career system. The important difference from other groups is that in this case there are no universally applicable official procedures. In fact, the selection methods are comparable to those in the private sector. The law specifies the training criteria only for certain positions with a high level 185 Management of the civil service in some Member States of the European Union or for positions in the civil service held in a career system (diplomat, police officer, military).

In Sweden, the Ministry of Justice is responsible for coordinating public management reforms. The Swedish Agency for Administrative Development has responsibilities for public sector review as well as reform in this sector in general. It also has the role of implementing public management reforms at the agency level. This highlights the fact that in Sweden a progressive decentralization of human resources management to agencies has been achieved, with the aim of increasing efficiency and effectiveness in this sector. The government has thus delegated responsibility to ministers and heads of

agencies, with the Agency for Government Employees becoming the central body for negotiating collective bargaining agreements.

In Sweden, the selection criteria are stipulated by the Constitution and the Public Employment Act. In this context, staff are recruited in the same way as in the private sector. Different selection methods are generally applied to interviews. In the Netherlands, personnel policy has been centralized and the public sector has been the subject of administrative reform. The Office for Senior Officials was established in 1995, with the aim of professionalizing and integrifying the public service by implementing government policies, investing in human resources, quality and mobility (Hinescu, Pavel and Hinescu 2004, 25).

Its role is to establish links and relations between ministries, as well as to develop the public service in order to increase its quality. This institution is subordinated to the Ministry of Interior, which in turn has important responsibilities and responsibilities in the field of general personnel policy. In Denmark, one of the most important objectives of public administration reform is to achieve a legislative framework for the civil service. To coordinate this effort, the Government has set up the Directorate for Regulations within the Ministry of Finance. The same ministry has competences in carrying out the personnel policy within the public service by elaborating programs, instructions and recommendations both for the civil servants and for the high civil servants. The Danish civil service is managed in a decentralized manner by ministries and agencies, separating political from administrative functions.

The reforms in Denmark in 1969 and in Italy in 1993 followed the German model. In Italy, only a few thousand high-ranking officials are subject to the Civil Service Law, while others are subject to labor law. Thus, it can be said that only Denmark (since the 1969 Act) and Italy (since the 1993 Act) have redefined the civil service by resizing it in the last fifty years.

In Sweden, such a redefinition has led to an expansion of the civil service dimension by including the majority of civil servants, due to labor law reform and trade union pressure. In Denmark and the Netherlands, the department and / or agency concerned shall provide a specific description of the post and choose the applicable selection methods according to the importance of that post and the tasks to be performed. In the Netherlands, recruitment is often carried out through evaluations. The first step in the

recruitment procedure is to implement the selection process within your own body. The vacancy is not advertised unless there are no valid candidates or if a person from outside the organization is specifically wanted. In general, there is no difficulty in being able to predict vacancies due to internal staff. Typically, a new official is first appointed on a temporary basis, for a probationary period of up to two years. At the end of this period he can be appointed definitively. In Finland, personnel policy reform is constantly evolving. The main purpose of this action is to achieve a competitive, fair and responsible personnel policy, together with the development of a high level of ethics of civil servants. The public authority responsible for carrying out human resources management for the Finnish public administration is the Personnel Department of the Ministry of Finance. Also, the competence regarding personnel policies and changes in the structure of salary policies were delegated and decentralized to ministries and agencies. In Finland, recruitment decisions are often based on the evaluation of external consultants, and administrations organize complementary interviews.

In Spain, the management of the civil service and civil servants is carried out by the Ministry of Public Administration, through the General Directorate of the Civil Service. Another public authority with competences in the matter of the civil service is the Superior Council of the Civil Service, which represents the superior body of coordination and consultation regarding the civil service policies. It has the task of debating and proposing measures to coordinate personnel policies for all levels of public administration and, in particular, on personnel records, access systems to the civil service, relations between positions related to public positions.

In Greece, the Ministry of Interior, Public Administration and Decentralization within the general policy of the Government coordinates the planning of human resources in accordance with the needs of public services. The filling of vacant public positions is governed by the principles of equal opportunities in order to fill public office, selection by merit, objectivity, transparency, social solidarity and publicity. The management of the system is entrusted to a central and independent administrative authority: the Personnel Selection Committee. The Staff Selection Committee is a central jury that allocates vacancies, this jury can be assisted by decentralized juries. Qualifications obtained from the competition can be increased taking into

account social, regional (disadvantaged regions) or merit criteria (for example, a doctoral student) (Cardona 2000, 67).

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In the United Kingdom, the method of selection is laid down in the Code of Recruitment of Public Service Commissioners. Departments and agencies are themselves responsible for organizing staff recruitment (calendar, needs, criteria to be met, etc.). A specific career scheme, referred to as a „fast stream" for academics, is an exception to this system, with different structural characteristics. For these careers, the selection is coordinated by the civil service office and is carried out by the recruitment and evaluation service agency. The term „fast stream" indicates that persons with competent university education are promoted, in particular, through a training program after their entry into the civil service, in order to acquire as soon as possible the knowledge necessary to exercise positions of responsibility or framing functions.

For most candidates, the selection process follows three stages:
1) an evaluation paper through a questionnaire of a working day;
2) a two-day evaluation center comprising a series of papers, group exercises and interviews, related to the selection committee of the London Civil Service. In the second study, interviews can take any form. They can be based on the intellectual capacities of the candidates, on the probing of their specialized knowledge and skills or on the coverage of interests and on a wider experience;
3) a meeting of almost 40 minutes with the final selection committee. The qualification test consists of 4 aptitude tests scored objectively and based on a questionnaire.

Conclusions

The aptitude test allows the assessment of verbal and mathematical skills, as well as the ability to reason logically. The questionnaire includes questions about the candidates, their interests and their experience. The marks obtained in the aptitude test and in the questionnaire are combined from a statistical point of view to obtain a general standard employed to select the candidates. In the context of the general evolution of the management of the European civil service, there is a tendency towards an even greater decentralization, on the one hand, and an increased importance of the European dimension, on the other hand. The decentralization process involves the transfer of competencies from the central administration to the regional one. This also involves the transfer of officials from central administrations to regional entities (Belgium, Ireland, Spain, Italy). The growing influence of the European dimension is another key element (Document SIGMA 1997, 83).

　　　This influence is particularly noticeable in the field of European exchange programs for officials in the Member States. However, it should be noted that in two of the new Member States, Austria and Finland, mobility in relation to other EU Member States and other European institutions is very rare. In fact, EU accession imposes high demands on public administration, and other public services play an increasingly decisive role in choosing economic operators when deciding to locate their activity. All major forms of mobility (geographical, professional and / or functional) can be observed in

various public positions. But a distinction is often made between voluntary and compulsory mobility. In general, mobility is encouraged for the following reasons: from an administrative point of view, mobility is a means of increasing the flexibility of the functioning of the ministry, office or agency; from the point of view of the civil servant, mobility allows the familiarization with other fields of work, the development of new skills, the extension of the horizons, the progress on professional level.

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The Difficulty of Understanding Complexity and Simplicity in Moral Psychological Description

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ABSTRACT: The social intuitionist approach to moral judgments advanced by social psychologist Jonathan Haidt presupposes that it is possible to provide an explanation of the human moral sense without normative implications. By contrast, Iris Murdoch's philosophical work on moral psychology suggests that every description of morality necessarily involves evaluative features that reveal the thinker's own moral attitudes and implicit philosophical pictures. In the light of this, we contend that Haidt's treatment of the story about Julie and Mark, two siblings who decide to have casual, protected, and in his view harmless sex, provides a too simplistic picture of what is involved in understanding human morality. Despite his aim to explain the roots of moral judgments, he fails to provide a deeper understanding of morality in two different respects. First, he does so by suggesting that his story contains all the relevant information needed to take a moral stand on it, and by rejecting as irrelevant the wider human context in which questions about sexual and family relations arise. Second, he simplifies the responses of the people who are subject to his experiment by disregarding their various reasons for disapproving and by equating understanding human morality with explaining an impersonal psychological process.

KEY WORDS: understanding, moral psychology, moral description, Iris Murdoch, Jonathan Haidt

Introduction

How difficult is it to understand human morality, and in what does this difficulty reside? Present attempts to explain the workings of morality within empirical moral psychology, often presuppose that it is possible to give a description of the human moral sense without normative implications (see e.g. Haidt 2013, 316; Haidt and Pinker 2016). Thus, they suggest that the matter of explaining the roots of morality, although it may be improved by theoretical and methodological reconsiderations, does not itself pose to us any potentially ethical questions about what is involved in reaching an understanding of what is entailed in moral reflection. This runs contrary to more phenomenological and hermeneutic stances in continental philosophy. According to these the question of understanding different forms of human thought and practice poses a crucial challenge to any academic discipline attempting to describe aspects of human life, since it requires us to address the question of what it means to understand another person and her experiences (see e.g. Dilthey 1922; Spranger 1980; Scheler 2017; Winch 2008). From such a perspective, considerations as to what is involved in understanding the moral lives of persons are not reducible to, but rather prior to any form of explanation of a general sub-personal system (see Backström et al. 2019).

Here, we will supplement the approach offered by phenomenology and philosophical hermeneutics with the viewpoint of philosopher and novelist Iris Murdoch. Murdoch is an early, but often not fully appreciated, interpreter of the philosophical and ethical issues concerned when exploring questions regarding our moral psychology. Attending to the evaluative features of the language present in our descriptions of human psychology, Murdoch proposed that no philosophical or psychological description of morality can ever be purely descriptive. It is by necessity expressive of the thinker's own moral attitudes and implicit philosophical pictures about what characterizes human life and thought. These considerations extend to how we understand a particular person, and how we construe understanding human beings more generally. They also surface in the analysis of moral understanding and the difficulty of understanding we find illuminative and satisfactory. Therefore, a central feature of moral reflection is to explore the conceptual frameworks we use to investigate the thoughts and actions of other people,

to make ourselves aware of the philosophical pictures that implicitly lead our descriptions of the central features of morality and moral reasoning. (See Bagnoli 2012 and Diamond 1996; 2010 for an overview of what such an exploration could entail).

In the light of this more complicated vision of what is involved in understanding human morality, we contend that the simplified thought experiments used in empirical moral psychology to garner results that help explain the foundations of morality (cf. Huebner 2011), involve a reduction of the moral character of our reflection and reasoning. We exemplify this attitude by analyzing the theoretical perspective and methodological starting points of social psychologist Jonathan Haidt, as they take shape in the story about Julie and Mark, two siblings who decide to have casual, protected, and in his view harmless sex.

We bring out two respects in which Haidt's underlying picture of morality circumscribes his description of moral reflection and underplays the evaluative features of his language use. The first concerns his treatment of the story, the second his treatment of the responses of the research subjects to it. In the first part, we submit that Haidt simplifies what is happening in the fictive relationship between Julie and Mark, by treating a richer context as irrelevant to understanding the characters of his story. This makes it difficult for the readers to take a moral stand on the story. In the second part, we show that Haidt simplifies what is involved in giving reasons for thinking that something is morally wrong, by treating the reasons the persons subject to his experiment give as irrelevant for gaining moral understanding. This, we argue, is a consequence of him taking understanding "the human moral sense", or "human moral life" (Haidt 2001, 829) to consist in explaining the psychological process of an intuitive approval or disapproval.

By contrast to Haidt's view of what is involved in understanding other people's moral responses and actions, we suggest that the failure to understand someone is not merely an intellectual failure. Murdoch's suggestion that the one who does not take into consideration how people think of their own actions is inattentive to their vision of life, rather introduces the matter of understanding in a way that is constitutively moral.

1. Taking examples too easily

The story about Julie and Mark originates in an unpublished study in social psychology (Haidt, Bjorklund and Murphy 2000). It is cited by Haidt on several occasions (2001, 814; 2006, 20–21; 2013, 45), with slight variations in the wording of the final question. The variation of the story we focus on appears in his widely cited article, "The Emotional Dog and its Rational Tail: A Social Intuitionist Approach to Moral Judgment" (2001), in which Haidt uses the results from the study to argue for what he terms a social intuitionist approach to moral judgments. This approach is a form of present-day sentimentalism, in which Haidt defends the Humean claim that our moral judgments in the end are based on emotional reactions. The story with which he begins his more theoretical discussion reads,

> Julie and Mark are brother and sister. They are traveling together in France on summer vacation from college. One night they are staying alone in a cabin near the beach. They decide that it would be interesting and fun if they tried making love. At the very least it would be a new experience for both of them. Julie was already taking birth control pills, but Mark uses a condom too, just to be safe. They both enjoy making love, but they decide not to do it again. They keep that night as a special secret, which makes them feel even closer to each other. What do you think about that? Was it OK for them to make love? (Haidt 2001, 814)

When confronted with the story, Haidt says, most people immediately react to what Julie and Mark did as wrong. When they try to give reasons for thinking so, however, they point to possible harms of incest, harms that the story states are not involved. This leaves the research subjects in a state of what Haidt calls "moral dumbfounding". Many say things like "I don't know, I can't explain it, I just know it's wrong." (Haidt, Björklund and Murphy 2000; Haidt 2001, 814; Sommers 2005; Haidt and Björklund 2008, 197–198; Haidt 2013, 29, 47).

On the bases of these reactions, Haidt rejects the rationalist models of morality that, according to him, dominate philosophy and psychology (Haidt 2001, 815–816). The rationalist models, he submits, presuppose that moral judgments are caused by a "process" of "moral reasoning" (Haidt 2001, 818). However, since there, to him, is no acceptable reason for objecting to the story

of Julie and Mark, that is, a reason that points out that their actions cause harm, the research subjects can give no reason for thinking it was not OK. This leads him to conclude that moral judgment is not caused by a "process" of "moral reasoning", but rather by a "process" of "moral intuition" (Haidt 2001, 818, see Stanley et al. 2019, 121, fn 3, 126, for a criticism of depicting this as a causal relationship). Intuition to Haidt is a "kind of cognition, but it is not a kind of reasoning" (Haidt 2001, 814. Cf. Haidt and Björklund 2008, 200; Haidt and Kesebir 2010, 802; Haidt 2013, 56.) In this social intuitionist approach, "moral reasoning" is a form of post-hoc rationalization generated after the moral judgment has been intuitively made (Haidt 2001, 829).

Haidt's model, and the setup of his experiment have been criticized from different perspectives both within psychology (Royzman et al. 2015; Stanley et al. 2019) and philosophy (Huebner 2011; Jacobson 2008; 2012; Jusaszek 2016). Alternative models for explaining the system underlying our moral responses have also been suggested (Greene et al. 2009; Hennig and Hütter 2020; Tetlock et. al. 2000). What interests us here, however, is not possible flaws in the empirical design of his study (Royzman et al. 2015), or alternative ways of fitting his empirical results to some pre-existing philosophical theory (Stanley et al. 2019). Neither do we take a stand on how one philosophically should consider the role of emotion, or intuition in moral judgment (Kronqvist 2017). What interests us is rather the philosophical and ethical ramifications of the telling of this story, as well as the philosophical presuppositions about morality guiding Haidt's choice and use of it.

Haidt's interpretation of the results of this study stirs debates about how empirical psychological research should matter for philosophical conceptualization (Kauppinen 2014; Sie 2014). He offers them as evidence for and against different philosophical positions, and thus assumes that the facts he and his colleagues present should matter for theory. By contrast, we emphasize that results produced by an empirical study are already determined by theory. They suggest deeply held philosophical positions that often go unacknowledged. Therefore, when Haidt presents his results as facts of human moral life, he fails to acknowledge that these facts are not simple products of our life. They are as much products of his theoretical and methodological framework, his definitions and operationalizations. Given that we accept these as legitimate, there is of course nothing stopping us

from considering his results as facts. It is, however, not these facts that give him his methodology.

Many have remarked on the utilitarian strand in Haidt's thinking, in its focus on harmful consequences for determining the right action (Jusaszek 2016). Haidt himself also advocates a form of Durkheimian utilitarianism on a political level (Haidt 2013, 316). More central to our concern, however, is his general emphasis on moral reflection as a means of passing judgments on actions and consequences of actions, and on other judgments and their underlying mental causes. Attending to these underlying assumptions about morality and the role they play in the creation of empirical facts, is necessary to think lucidly about what may be philosophically gathered about our moral psychology on the basis of this and similar empirical studies. Reconsidering the language offered by standard normative and metaethical theories to capture what is central to moral reflection, may as well prove necessary to account for diverging aspects of our moral psychology. (Landy and Uhlman 2018 offer a similar criticism of moral psychological accounts as being action centered. They suggest that moral judgmentss serve to characterize virtues. Cf. Crary 2007; 2016; Diamond 1988; 1995abc; 2003; Gaita 2004; Winch 1989, especially chapter 4-5, for expositions of what is central to moral reflection that lie close to what our alternative would be to focusing judgment on action.)

The story of Julie and Mark is intentionally set up to fend off any of the standard objections one could raise against sexual intercourse between two siblings (Haidt 2013, 46; Sommers 2005). In response to the argument that the siblings may be hurt in some way, perhaps emotionally, Haidt even asserts that "the story makes it clear that no harm befell them" (Haidt 2001, 814). For Haidt, there are no reasons people can give why it is harmful, except their feelings of its being so. Haidt, thereby, invites us to think of the story as one containing all the relevant information that is needed to judge whether a sexual relationship between brother and sister is OK.

Yet, it is precisely on this point that one can question the story. In our ordinary life, the reflection on what is relevant information, and how to determine whether we do indeed have all the relevant information, is itself a moral issue. Even more, we are often challenged to see just what the moral issue is in a specific situation, or whether we do indeed face a moral problem

(cf. Rosaldo 1997, 143–144). Thinking through the following imagined situations may clarify these moral features of the story about Julie and Mark. They also bring to the table some tensions that unintentionally appear to be introduced in it.

Imagine that Julie and Mark are not brother and sister, but friends. They are also friends of mine (Kronqvist). Suppose that Julie one day confesses to me that she and Mark have made love, on similar premises as the ones in Haidt's story. She wonders whether it was OK for them to do it? Now, the most obvious response on my part would be to ask why she raises that question. This is an obvious response since there are several contexts in which this question would not arise. If she, for instance, tells me this as part of a story of how they came to fall in love, the worry that this was not OK is already precluded. We may, however, imagine several possible situations in which the question does arise, and gives Julie reason to worry.

Scenario 1. She tells me that Mark had been a tender lover in all possible respects, but that he, during love making repeatedly, had made a sound that from the first moment struck her as ridiculous. This had distracted her and made it difficult for her to take the act seriously. Even if they had agreed that everything was fine afterwards, she now kept hearing that sound every time she looked at him. It made her want to laugh. She was afraid this might create an unbridgeable gap in their friendship.

Scenario 2. She tells me that the love making started in a tender way, but that Mark at a point had turned rougher. He started to say "dirty things" to her, and at some point, also slapped her. She had been surprised and had not said anything about it during the act. In part, she said, she had also enjoyed it, although she admitted feeling ashamed to confess it now. Afterwards, however, she noticed that she could not stop thinking about what happened. She felt, she said, degraded. This, she added, was not only an effect of what he had done, or how she had felt. Rather, she thought it had revealed an unexpected side of him that she had trouble accepting. The thought that precisely he had believed that she would appreciate such language and behavior both unnerved and appalled her. Especially, it brought to mind previous conversations they had had where both had agreed that mainstream pornography is very often misogynic in its representation of what men and women want from sex. She could not make sense of his behavior in the light of these remarks.

Scenario 3. She tells me that although she had taken the decision to have sex quite lightly, partly induced by considerable amounts of alcohol, something had changed after the act. When he, quite casually, had put his arm around her, she had felt a warmth and longing she was not expecting. When the next morning he had suggested that although the sex was good, it was probably for the best not to do it again, she had readily agreed. When he started talking, however, she admitted that she first had wished him to suggest that they would be something more than only friends. She did not know what to make of her feelings.

If I am Julie's friend and she tells me one of these stories, there are many things for me to say, and many things to feel. Indeed, if I imagine Julie's story as one being told by my real friends, I can imagine quite different reactions, depending on which of my friends it concerns, their personal histories and relationships, the relationship I have to them, the occasion when I would learn about it, and so on. I can also think of more or less appropriate reactions. I hope, for instance, that I would not be too disturbed by what I am told, to be able to listen to the story as a true friend. A more awkward response would be feeling jealous about Julie's sexual experience with Mark.

How I would react to any of these stories in a real situation, is an empirical question, as is the question how anyone else would react. Our interest in these scenarios, however, is not in determining the range of possible responses that may be revealed in an empirical study. Neither is it in the ethically more normative question about whether it was OK for the Julie of our stories to enter a sexual relationship with Mark, or whether some of my envisioned reactions are more appropriate than others according to some moral norm or standard. Our concern is rather with the role the evaluative features of the descriptions used in explicating the experiences, actions and reactions of the particular sexual relationship have in these three cases, as well as with the evaluative features of the possible re-descriptions I, or someone else, may offer against the backdrop of them.

Suppose, for instance, that I, in the first scenario, tell Julie off for being "foolish" for "getting hung up on something so silly". Compare this with urging her to see that in the second one "he was being abusive", or just "acting like a jerk". Consider the argument that may ensue when I, in the third scenario, tell her that she was perhaps "falling in love with him", at the same time as another

friend rebukes her for only "telling herself it might be something more". All these descriptions and re-descriptions of what happened suggest various paths our thinking morally about these scenarios may follow. They suggest different evaluations that may actualize in thinking through the stories.

The sheer possibility of making such varied descriptions of their situation, we here suggest, with Murdoch, invokes "the great *variety of the concepts that make up a morality*" (1997c, 73). They *d*raw attention to how critical the words we use to describe or re-describe a situation is for our moral evaluation of it. If in the concrete contexts of our life, we are asked to respond to whether it was OK for someone to do something, considering such questions about how best to describe what happened, is critical in order to make sense of what it means for them to be raising this question as well as the kind of question they are raising. Is it, say, really a moral question, and if so what could serve as a morally appropriate response to it? Listening to their answers, and the terms in which they frame their answer, even realizing that they do not have an answer, is as critical to this endeavor.

Thus, we cannot exclude as a matter of principle that these concerns about how to describe what happened between our Julie and Mark, are of no relevance to the kind of study that Haidt wishes to pursue. Attempting to judge whether what they did was wrong, or not OK, only gives a limited view into the kind of moral questions the different scenarios may raise. The questions, in any of the envisioned scenarios, whether what happened between them would harm their friendship, or whether she or he in different ways had betrayed their friendship require different kinds of judgment than the mere judgment that their act under a certain description was wrong. The uncertainty surrounding whether Mark's way of acting was, for instance, abusive is quite different from the acknowledgment that saw as a form of abuse it was not OK. (Cf. Hertzberg 2013, 163, who rejects the suggestion that someone may not know that abuse, or in his case betrayal, is wrong as a "philosopher's fantasy.")

It might be objected from someone sympathetic to Haidt's aims, that what we are doing in suggesting these scenarios is altering the original story in such a way that they are no longer comparable. In our scenario, we introduce doubt and hesitation, mixed feelings and emotions, whereas such hesitation is lacking in the original story. Does not Haidt's story "make

clear" that they enjoyed having sex? That their decision not to do it again was mutual? And that they grew closer after this? We are aware of this. Yet, that is precisely our problem. By contrast to saying that we know enough about how two people, not to say two siblings, felt about their love-making if we are told that they enjoyed it, we suggest that we actually know too little to be able to make a moral judgment. (See Strandberg 2020, for a similar criticism of the unclarities called forth by the suggestion that we take this as a moral question.)

One thing we do not know is how we are supposed to determine that this is the case. Haidt's story introduces an omniscient observer, someone who states with certainty what they felt. "They enjoyed it." "The decision was mutual." Nevertheless, it is not clear what underlies these general descriptions. Who says this, and how does that person know? Does he base such a claim on observation or on hearsay? Suppose I hear the story about my friends from another friend, saying the same thing as in Haidt's story. Then I may take my friend's word for it, but I may also be skeptical about what my friend says and call it into doubt. I may go on to raise other questions. "How did Julie look when she said it?" I may even refuse to take my friend's word for it. "Yes, I know she might have said so, but what if she only did it to end the conversation, or because she couldn't admit to herself what she felt." "She says such things all the time, but then she reacts differently." I am not obliged to accept one description of what happened as the best description, just because my friend or Haidt told me so.

There are also features of the descriptions making up the story that introduce reasons to doubt what we are being told. The mere fact that the story does not end with the more open-ended question "What do you think about that?", but by asking "Was it OK for them to make love?", cautions us to think that there may be reason for us to worry about what happened. Why raise the question in any other case? The fact that what we are consequently told is aimed at subduing any such worries augments this impression. We are not told that they enjoyed it and that they grew closer by it for the sake of reaching a deeper understanding of how such an episode may affect the relationship between brother and sister, as well as their relations to family and friends. On the contrary, what we are told serves as a rhetorical device to block all possible objections we are imagined to have in relation to it.

Mark and Julie's decision not to make love again, although they enjoyed it, and to keep their love-making a secret, also suggests that *by their own lights*, there is something that is not OK with their situation. We may have several reasons not to do something although we enjoyed doing it. We may not have the occasion to do it again, we may not be in the mood, etc. Expressly deciding against it, or keeping it a secret, however, is a different matter. If we enjoy doing something, and do not see anything wrong with it, it is intelligible and even expectable to think that we want to do it again, and do not mind telling others about it. Our enjoying it is in that case reason enough for us to do it.

Haidt, in an interview, suggests that the main point of the story is to present a picture of consensual sex between adults where no harm is involved, but where we are nevertheless caused to act with disapproval (Sommers 2005; see Haidt 2013, 45–48). The story is set in France where there are no legal prohibitions against incest between consenting adults (cf. Sommers 2005; Singer 2014.). The decision "not to do it again" (Haidt 2001, 814), is meant to fend off the possible complication of having a brother and sister involved in a longer sexual relationship, including issues such as having to explain it to their families, and possible offspring. Assuring the reader that they will "keep that night as a special secret" (Haidt 2001, 814), targets the emotional harm Julie and Mark could experience by others' judgmental attitudes, considering that everyone would tend to react to what happened as not just not OK, but wrong in fundamental ways they may not be able to explain.

Thus, he assumes that "consensual sex between adults" is the most salient re-description of their situation, with the common, or liberal, understanding in the background that as such it provides no reason for moral concern. We suggest that this redescription can be disputed, and that the descriptions used to tell the story themselves already signal a potential harm in what we are told. (Cf. Stanley et al. 2019, who therefore suggest that moral judgment rather target the likelihood of harm). Even using Haidt's own terms, it is not clear that "consensual sex between adults without harmful consequences" necessarily overrides the description of the case as one of "incest", with the common understanding of this as wrong. Just as little as "consensual sex between adults that does not involve harm", in a different case, it must not be seen as overriding the description "cheating on a spouse".

Summing up, the example underwrites the notion that understanding human morality is simple on two accounts. First, it does so, by suggesting that the story contains all the relevant information to judge it morally. Here, we have shown that as it stands, it does not provide adequate grounds for thinking about its moral meaning, since it is still open to what the morally relevant description is. Second, it does so by disregarding that the framing of the story itself – the question of whether it was OK, as well as the words used to describe Julie and Mark – offers occasion to think of what they did as wrong. It does not only present us with a row of events and actions that we should take a moral stand on, but already involves us in a common understanding of a much more complicated communicative landscape set within the context of our lives with other human beings. Within such a context, we are asked to take a stand on a range of questions about what is involved in being brothers and sisters going on vacation, enjoying something, having secrets, and having sex. (Cf. Diamond's remark that being "able to use the concept 'human being' is to be able to think about human life and what happens in it", 1988, 266, as well as her suggestion that a life with the concept of a "brother" involves the understanding that a brother is not someone about whom one should entertain sexual fantasies, 1995b, 325).

Attending to such conceptual questions about how to describe our actions and relationships alert us to a moral dimension of meaning beyond the kind of "moral judgmentss" that Haidt is interested in explaining. Considering this dimension of meaning, however, is utterly important for reaching a richer understanding of the human context in which the moral concepts he is discussing come to matter to us (cf. Rosaldo 1997, 148–149; Scheler 2017, 222–223). Intentionally neglecting these features of moral life and thought, or disregarding their significance, then, leads to a simplification of what is involved in the description of moral reflection, turning it into a matter of merely registering an intuitive reaction.

2. Taking the understanding of the research subjects to the test too easily

In the three scenarios above, a central feature of our argument was to show that depending on the different contexts we imagine, we are not faced with the same question when asked whether it was OK for Julie and Mark to make

love (cf. Scheler 2017, 222–224). We also stated that a central difficulty is knowing what we are to imagine in the given case. Haidt's discussion, by contrast, hinges on the suggestion that we can regard the question "Was it OK for them?" as the same question regardless of context. It also presupposes that every reason given by the research subjects for disapproving can be treated as a rationalization of the same kind of affective response, an intuitive "no".

What allows Haidt to disregard individual differences between the research subjects, is his conviction that they can give no relevant reason for objecting to the story (Haidt 2013, 45–46. Cf. Haidt 2001, 814; Haidt 2006, 21; Sommers 2005. See also Jacobson 2012, 297–298.). The only reason Haidt would accept for thinking that Julie and Mark's actions are not OK, is if they were connected with causing harm, and his story is intentionally designed to exclude that option. Therefore, if people allude to potential harmful consequences of incestuous action beyond what is mentioned in the story, or disapprove for other reasons, say, religious ones, he thinks we can discard these apparent reasons, and only look to what causes them to disapprove, the underlying process of "moral intuition" (Haidt 2013, 44–47). In a related text, Haidt writes:

> Moral arguments are much the same [as spontaneous aesthetic judgments]: Two people feel strongly about an issue, their feelings come first, and their reasons are invented on the fly, to throw at each other. When you refute a person's argument, does she generally change her mind and agree with you? Of course not, because the argument you defeated was not the *cause* of her position; it was made up after the judgment was already made. (Haidt 2006, 21, emphasis added.)

For Haidt, the negative moral judgment is caused by a feeling of disapproval, which he perceives as a psychological process of moral intuition (2001, 817–818). It is immediate, unreflective, and in important respects, non-verbal. It is, Haidt says, "made automatically (i.e. without intention, effort or awareness of process)" (Haidt 2001, 819).

Haidt's definition of a "moral judgment" departs from more ordinary as well as philosophical understandings of what is involved in making judgments. In the more ordinary understanding, making judgments, is not simply to be equated with having any kind of reaction. Rather it is a well-

reasoned response; related to the sense in which we can show judgment, and even more good judgment, by making well-considered judgments. Such good judgments, philosophers have been keen to point out, do not only appeal to *explanatory reasons*, my individual, historical reasons for having a certain opinion, but to *justificatory reasons*, bringing into view relevant considerations as to why we should look at a situation in a particular way (cf. Juzaszek 2019, 62).

The philosophical question, therefore, is whether Haidt has good reason for treating the unarticulated processes the research subjects undergo as moral judgments. Is he justified in describing the registered responses of a spontaneous "yes" or "no", as judgments in the first place? Think of how differently people may respond to Haidt's story. Whereas some people say something spontaneously and may thus say things they do not necessarily mean, others think carefully before they say anything at all. Why should we say that these people are making judgments, and furthermore, the *same* judgment? Could we not rather say that the first ones are only expressing their emotions, the second trying to please the experimenter or just find a way of ending the experiment (cf. Royzman, Kim & Leeman, 2015, 299), and only the third are attempting to articulate a judgment?

Reflecting on such differences in how articulate and well-considered a response is, is necessary to determine whether it is (a) a judgment, and moreover (b) the same kind of judgment. Two persons, as it were, might answer "no" to Haidt's question, although their reasons, and whether they do have reasons for it, differ and even conflict. Furthermore, deciding whether a judgment is (c) a moral judgment, raises additional questions. What reasons are we to regard as *moral* reasons, by contrast to, say, legal or genetic considerations? How serious, sincere, or engaged does a judgment need to be to express a genuinely moral stance?

Our point here is not to offer definite criteria for what should count as a judgment, or a moral judgment, in the concrete case. It is rather a reminder that taking what someone says as a (moral) judgment itself involves an evaluation; it constitutes a judgment as to what a (moral) judgment is. Such evaluative judgments can be questioned and challenged. On account of our ordinary understanding of what a judgment, or a moral judgment, is, Haidt's use of the word can thus be contested.

Haidt is aware that he is departing from ordinary and philosophical usage in his depiction of moral judgments (Haidt 2001, 817). In fact, he endorses such a departure. He says: "To really understand how human morality works, […] it may be advisable to shift attention away from moral reasoning and toward the study of intuitive and emotional processes." (Haidt 2001, 825). Rather than engaging in the study of morality as a question of the meaning of normative statements and sensible action in the context of people's lives, his suggestion is thus to study it as a matter of a uniform psychological process. "Moral sentiments", as he sees it, are "[...] built into human nature as a set of moral emotions that *make us* want to return favour for favour, insult for insult, tooth for tooth, and eye for eye." (Haidt 2006, 50, emphasis added). Moral emotions, in turn, "make sense only as products of evolution." (Haidt 2006, 98).

This notion of "understanding how human morality works" is problematic in at least two respects. First, it presupposes that "human morality" *works* in some definite way and thus serves as a possible object for observation and explanation. Second, it treats understanding "human morality" as reducible to "understanding" an "emotional process". By contrast, we contend that a fundamental feature of what it means to talk about understanding "human morality" or moral judgments is lost if we do not know *whose* moral judgments we are talking about, or if we are completely disinterested in the lives of the people who actually make them. Here we lean, among others on Max Scheler, who suggests that understanding "whether of an *act or of its objective significance, is a basic type of participation*" (Scheler *2017, 224). It is through understanding that "one essentially spiritual being can enter into" or realize her involvement with "the life of another one" (2017, 224). Seeking an understanding of morality is thus not to be perceived as an explication of "potentially objective mental realities" (Scheler 2017, 225). Rather it involves us in the illuminative search for experiential significance and depth in an interpersonal relationship, in the search of "knowledge of actual persons and the significance of their actual trains of thought" (Scheler 2017, 225).*

Imagine an ethnographic study in which our interest is to understand how people think about incest among adult siblings. How could we go about answering this question? A first step is to ask them what they think, and not just by asking the closed question of whether it is OK, but rather by inquiring

more openly into their thoughts. This involves paying attention to their more spontaneous reactions, expressions of emotion, possible confusions and hesitation, as well as the reasons they give. It is therefore to be expected that we ask follow-up questions, such as, "What do you mean?" or "What makes you say that?" (see e.g. Winch 1964, 316; 1972, 178; Phillips 2001, 9). In the process of such a conversation, we imaginatively try to enter the other person's life-situation. (Cf. Clifford Geertz 1997, 124, who argues that the historical and anthropological sciences should provide thick, *experience–near*, descriptions of the lives of the people they study. He suggests that whatever use "the imaginative productions of other peoples" which scientists offer "can have for our moral lives, […] it cannot be to simplify them." Geertz 1993, 44.)

What we inquire into here is not just the kind of value judgment a person is willing to make when faced with a thought-experiment. We need to consider, as Murdoch says,

> something more elusive which may be called their total vision of life, as shown in their mode of speech or silence, their choice of words, their assessments of others, their conception of their own lives, what they think attractive or praiseworthy, what they think funny: in short the configurations of their thought which show continually in their reactions and conversations. (Murdoch 1997d, 81)

Our interest is in that sense not only their reaction to a specific example, the act of passing judgment, but more wide-ranging questions concerning the role of sex and sexuality, gender, intimacy, love and family life in their thought.

We also enter into questions about how one person responds to others. Suppose a person rejects incest out of religious conviction. She then finds out that two of her family acquaintances, an actual Julie and Mark, have had sex. Must we assume that she would also condemn them if she met them in the street? Would she refuse to talk with them, or perhaps go as far as taking some kind of action against such "sinful" behavior? Or, should we imagine that she talks with them as usual, but condemns them when they are not around, perhaps thinking that "they will go to hell anyway"? What about a person who answers "no" intuitively when confronted with the story, although this response fundamentally conflicts with his liberal and progressive attitudes? Can we not imagine that such a person would not condemn an actual Julie or Mark if they were to meet? That person might even struggle with

himself and not understand why his original answer played out to be "no". He might experience a conflict in his own vision of life and find his reaction an unwelcome and not particularly likable feature of himself. (cf. Murdoch on M, 1997b, 313; Rosaldo 1997, 143–144, 148–149.)

Seeking to understand what a person means by "no" here, is seeking to understand how this word enters another person's world; and thereby also how one relates to that other person's world and may be challenged by it. If we take "understanding" to include such features, Haidt's experiment hardly has the potential of offering us an understanding of "human moral life" (Haidt 2001, 829). We know too little about the people in question in order to understand them or their "moral judgments". The disinterested, impersonal position we are invited to take, is a hindrance to reflecting about morality in meaningful ways. It is, by contrast, a personal, engaged perspective that allows us to speak of understanding in the first place. It enters in two significant senses. First, as long as we are not speaking of the mere transmission of information, a personal background is needed to understand what someone says. Second, entering a personal relationship with the one we want to understand, requires that we take that person seriously. (Cf. Geertz 1997, 124, 128.) It is one thing to ask what reasons a person has for saying or believing incest is unacceptable, quite another to dictate what the acceptable reasons for saying this must be, or that a person has no reason for saying it.

Seeking understanding in the sense we have sketched, is seeking a growing complexity; not the ultimate mechanisms of a causal network. It is here, that the conceptual resources of Haidt's account reveal their simplicity. By discarding how people themselves think of what they say and do, as well as the significance it has for them to do it, or to refrain from doing it, Haidt removes essential aspects of human morality. The question then becomes whether providing an explanation of a causal network can be equated with understanding another person. If it cannot, we should ask what Haidt gains by reconceiving understanding the human moral sense in line with offering an explanation of "how morality works".

Haidt is just one among many who have tried to psychologize what is involved in understanding human beings. There has long been a philosophical cleavage between those desiring to explain human behavior by reference to general laws, and those emphasizing the importance of understanding individual experiences in the context of the human being and her social

world, particularly since the advent of "positive philosophy" (see e.g. the logical works of Comte 1839; Mill [1843] 1974; Spencer 1855). At the turn of the 20th century two significant attempts to depsychologize logic were made by mathematican and logician Gottlob Frege (1884) and founder of phenomenology Edmund Husserl ([1913] 2014). Their attempts were in part a continuation and in part a departure from the tradition of German idealism. This tradition started with Kant's transcendental idealism, trying to formulate the conditions of rational thought, the bounds of the world as we know it, and ended with Hegel's absolute idealism, identifying the world with logic and Reason, the movement of thought through History. These thoughts were carried over into the phenomenological tradition through Husserl, and the analytic tradition through Frege. A central movement seeking to find ways of making philosophical sense of psychological experience was the German neo-Kantian and hermeneutic *Verstehen philosophies*. They emphasized the notion of understanding over explanation within the humanities, and particularly understanding in the form of interpretation being significantly guided by empathy *(Einfühlung)*. As a method in interpretative human studies, Einfühlung referred not only to non-psychological attempts to grasp another way of thinking (Max Weber), but also to explicitly psychological identifications with another person's point of view and feelings by emotionally seeking the same mood (Stimmung) as the ones to be understood (Theodor Lipps). (See Stueber 2006 for an overview. For a phenomenological critique of *Einfühlung* see Stein 1989 and Scheler 2017.)

Reacting against the tradition of positivism, Eduard Spranger as one representative of this hermeneutic philosophy, remarks, "We understand *only* persons. An impersonal event is not understandable. We can explain it and calculate with it; but we can only *understand* what grows out of the *meaningful* actions among persons" (Spranger [1918] 1980, 31, our translation). The picture Spranger criticizes resembles Haidt's vision of "human morality", in which there are no people as spontaneous and reflective individuals, but only people as impersonal minds, which are assumed to function in certain ways (cf. Haidt and Björklund 2008, 186–187). Where Haidt talks about understanding as a matter of explaining an impersonal and general causal network, Spranger links understanding to meaningful action. This does not render impersonal events inexplicable. There is thus no decree against the attempt to encircle events in explanatory terms. The explanations we may garner in this way, however, lack

the feature of entering into another person's world that is a presupposition for speaking about understanding on Spranger's terms (see also Dilthey [1883] 1922, 30–31; Scheler [1923] 2017, 222–224; Vendler 1997, 205). Reducing the question of one's personal involvement in understanding to the impersonal stance seeking explanation risks disregarding people's visions of life. The privileging explanation at the expense of understanding, on this account, is therefore not merely an intellectual failure to distinguish understanding from explanation, and an action from an event. It is a moral failure to take another person seriously.

Two ways of understanding moral judgments and moral reasoning have emerged in our discussion. The first, chosen by Haidt, search for a causal mechanism that explains why someone says something. The second seeks to understand how people's words have meaning in their life. By highlighting the questions that arise when considering people's moral judgments in the light of their different visions of life, we contend that Haidt treats the research subjects as too easy to understand in two fundamental respects.

First, his treatment of their negative answers is too simplistic in taking them as the same, regardless of how they substantiate them. If understanding "human morality" is our aim, we have claimed that the question of whether two negative answers should be understood as the same is something we need to reflect on. It is not something we can presuppose. The only sameness we can take for given, is that people answered "no" on a yes or no question. This is a very shallow similarity if our aim is to understand people and their meaningful actions.

Second, Haidt identifies understanding "human morality" with explaining a uniform process and its cause. In other words, he presupposes a common cause, which is thought to go beyond people's personalities and what they themselves say. On this basis, people's reasons are discarded as irrelevant, and understanding persons, oddly enough, becomes a matter of explaining something impersonal. There remains no question of entering the world of another human being on terms that could come to challenge how we ourselves think and lives our lives. In this way, very little of what may be entailed in understanding human morality, a morality that centrally concerns personal understanding as it develops in relationships between human beings, is left in his picture.

3. Conclusion

At the end of the article "Vision and Choice in Morality", Murdoch writes,

> There is perhaps in the end no peace between those who think that morality is complex and various, and those who think it is simple and unitary, or between those who think that other people are usually hard to understand and those who think they are usually easy to understand. All one can do is try to lay one's cards on the table. (Murdoch 1997d, 98).

She here forms a link between thinking about morality as "complex and various", and perceiving people as "usually hard to understand", by contrast to thinking of morality as "simple and unitary" and people as "usually easy to understand". Taking up this linkage, we have shown how morality and moral reflection appear when it is thought of as "complex and various" (Murdoch 1997d, 98) rather than theorized as "simple and unitary" (Murdoch 1997d, 98). We have rejected the idea that one could discern a "certain rationality, universality, consistency" in the "form of morality irrespective of its content" (Murdoch 1997a, 177), and shown how such an understanding comes out in Haidt's research.

There is evidence for such a view of morality in his seeking to explain moral judgment as a uniform process of moral intuitions, and regarding moral reflection as centrally concerned with passing judgments on easily discernible facts. Assuming he can establish that there is nothing objectionable in his story is only one way in which he fails to acknowledge the deeply normative character of his descriptions of moral life. Committing himself to the idea that all good reasons for condemning an action morally need to be concerned with potentially harmful consequences is another. Assuming moral judgments are of the form, it is OK, or not OK, to do this, and that moral reflection centrally involves passing judgments on actions are other substantial moral philosophical commitments that we did not have the space to fully address here.

Both Haidt and Murdoch are interested describing human moral life, particularly our moral psychology. Murdoch's philosophy shows an acute attentiveness to the moral struggles and challenges that providing such descriptions evince. Haidt's work exemplifies an aspect of today's ethics that, according to Nora Hämäläinen, shows "too little appreciation of the *philosophical* import of descriptive work and the *philosophical* hazards involved

in such work" (Hämäläinen 2016, 3, emphasis added). The emphasis is on the philosophical here, since part of the problem in Haidt's account is the idea that understanding human morality can be psychologized.

Now, if there is indeed "no peace" to be found among those who, as we do, think that there is a need to pay closer attention to the descriptions that moral philosophers, as well as moral psychologists give of morality, and those who in their work hurry past the intricacies of such descriptions, not sensing how hazardous it is, one may ask what this exercise will accomplish. If these differences indeed point to a difference in how one views the task of moral philosophy, and moral psychology, that is not limited to thinking about the disciplines, but also reveals a difference in one's attitude to life, one's total vision, it is unlikely that our counterparts will be impressed by what we say.

Although we do not hope for a conversion in the ones who think that "people are easy to understand", as a result of our discussion, there are two things that can be said in support of it. The first has to do with clarity when it comes to descriptions of morality. The work we have done here can itself be seen as a way of clarifying the issues at hand by giving a more detailed picture of where our problems lie in reflecting on the story of Julie and Mark, rather than presenting an alternative normative argument as to why incest can be both felt and thought of as wrong. The second, connected point, is concerned with the power of argument in moral philosophy. (See Diamond, 1995ac).

Haidt's outspoken ambition to leave rationalist models of moral reasoning behind for the sake of an intuitive approach was motivated by what he took to be a realization that moral arguments cannot be, or are only seldom, refuted by reasoning. This he took as proof that intuitive responses guide moral judgments. Something similar can be said of deep-seated intellectual commitments, "configurations of […] thought", as Murdoch (1997d, 81) would say. These are not the products of reasoning and argumentation, but expressive of the way in which we see the world. Thus, as Haidt may agree, they are difficult to target by reason and argument. Nevertheless, any form of philosophical reflection, including the one in neighboring scientific disciplines, should strive to bring forth such unquestioned assumptions to reach a point where proponents of different visions of morality lay their "cards on the table" (Murdoch 1997d, 98).

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Waiver of Prosecution

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ABSTRACT: The institution renouncing the prosecution was a novelty element introduced in the Code of Criminal Procedure, which entered into force on 1 February 2014 for the relief of the criminal courts with various minor cases. Initially, it was provided for the waiver of the prosecution ordered by the prosecutor under the conditions laid down by the law, and subsequently because of the decision of the Constitutional Court No 23/2016 on the admission of the exception of the non-constitutionality of the provisions of Article 318 of the Code of Criminal Procedure, the legislation has been amended to the effect that the order ordering the waiver of criminal proceedings after it has been verified by the superior prosecutor of the prosecution where the measure was ordered is confirmed by the judge of the chamber of first judges who would be responsible to him according to the law, jurisdiction to hear the case at first instance. The judge of the pre-trial chamber may accept or reject the prosecutor's proposal that the prosecution be dropped, the judge's conclusion being final and a further waiver can no longer be ordered for any reason.

KEY WORDS: prosecution, order, public interest, prosecutor, judge of the pre-trial chamber, suspect or accused

General concepts

The waiver of prosecution is a new institution, introduced by the legislator in the Code of Criminal procedure which entered into force on 1 February 2014, with the aim of relieving the courts of the possibility of settling criminal cases relating to acts provided for by the criminal law which do not present a high social danger, implementing the procedural criminal law specific to the anglo-saxon law system on the principle of opportunity in this way.

Moreover, in addition to separating judicial functions in criminal proceedings (prosecution function; person's function of disposition of fundamental rights and freedoms in the prosecution phase, function of verifying whether or not he is sent to court; office of trial) the principle of mandatory automatic release and prosecution has been introduced where there is evidence of a criminal offense and there is no legal way of preventing the criminal proceedings from being conducted.

In the cases and under the conditions expressly provided for by law, the prosecutor may waive the exercise of the criminal proceedings if, in relation to the factual elements of the case, there is no public interest in the realization of the subject matter of the case. Thus, according to Article 318 Code Penal procedure *in the case of offenses for which the law provides for the penalty of a fine or sentence of imprisonment of 7 years at the most, the prosecutor may give up criminal prosecution when he finds that there is no public interest in pursuing the deed.*

This procedure is next to the filing (where the criminal proceedings are not exercised or, where applicable, the criminal proceedings are extinguished if there is one of the cases provided for in the Code of Criminal procedure), one of the solutions for non-prosecution and non-referral to court where the prosecutor may dispense with the prosecution.

The classification may be ordered when one of the following situations is found: The act does not exist; the act is not provided for by criminal law or was not committed with the guilt provided for by law; there is no evidence that a person committed the offense; there is a justification or no imputability; the prior complaint, authorization or referral to the competent body, or any other condition provided for by law, necessary for bringing the criminal action in motion; the amnesty or prescription, the death of the suspect or defendant natural person, or the removal of the suspect or defendant legal person has been ordered; the prior complaint has been withdrawn in the case of offenses for which the withdrawal of the complaint disclaims criminal liability, reconciliation has occurred or a mediation agreement has been concluded under the terms of the law; there is a cause of non-punishment prescribed by law; there is a judge; there was a transfer of procedures with another state, according to the law (Code of criminal procedure, 2010, Article 16).

The waiver of the criminal prosecution is made only after the administration of evidence which would show that the act is committed by the suspect or accused, having fulfilled the conditions laid down in Article 318(1) and (2) Code of penal procedure.

In Romania, when a person is sent to court, in the resolution of the criminal action, the court rules on the accusation against the defendant, by pronouncing, where appropriate, the sentence, the renunciation of the penalty, the postponement of the penalty, the acquittal or the termination of the penal trial.

The waiver of the penalty is done by the court in accordance with Articles 80 to 82 of the Penal Code if the following conditions are met: the offense committed is of low severity, having regard to the nature and extent of the consequences, the means employed, the manner and circumstances in which it was committed, the reason and purpose for which it was committed; in relation to the person of the offender, the conduct before the offense was committed, the efforts made by the offender to remove or mitigate the consequences of the offense and its possibilities of rectification, the court considers that the imposition of a penalty would be inappropriate because of the consequences it would have on his or her person; the penalty laid down by law for the offense committed is a prison term of no more than 5 years.

Postponing the application of the penalty is pronounced if the court, beyond any reasonable doubt, that the deed exists, constitutes a criminal offense, was committed by the defendant, applying the conditions laid down by Articles 83 to 90 of the Penal Code, that is: The established penalty, including in the case of the contest of offenses, is a fine or imprisonment of up to 2 years; the offender has not previously been sentenced to prison terms, except where the acts are no longer provided for by criminal law or the offenses have been amnesty or rehabilitation has taken place; the offender has agreed to provide unpaid work for the benefit of the community; in relation to the person of the offender, the conduct before the offense was committed, the efforts made by the offender to remove or mitigate the consequences of the offense and its possibilities of rectification, the court considers that the immediate enforcement of a penalty is not necessary, but that its conduct should be supervised for a specified period; the punishment prescribed by law for the crime committed is imprisonment of up to 7 years.

The evolution of the institution of renunciation of prosecution

After the entry into force of the Code of Criminal procedure in 2014, the provisions of article 318 concerning the waiver of prosecution contained seven paragraphs in which the prosecutor could order the waiver of the prosecution of offenses for which the law provided for the penalty of a fine or imprisonment of 7 years at the most, in relation to the content of the deed, the manner and means of the commission, for the purpose pursued and with the actual circumstances of the commission, the consequences which were or could have been caused by the commission of the crime, it found that there was no public interest in pursuing it.

When the offender was known, the person of the suspect or defendant, the conduct prior to the offense, and the efforts made to eliminate or mitigate the consequences of the crime were taken into consideration in the assessment of the public interest. The prosecutor could order that the suspect or defendant fulfill certain obligations, and if he did not fulfill them within the established term, the order to waive the criminal investigation would be revoked, and no further waiver would be possible.

This new institution could be applied to a number of 198 offenses out of a total of 236 offenses regulated by the Criminal Code, as well as many other offenses regulated by special laws, which was the consequence of implementing in the criminal procedure legislation the principle of opportunity, taken over and in the system of continental law in the jurisprudence of the European Court of Human Rights for reasons of streamlining the work of the judiciary.

In order to comply with the law on criminal proceedings, the quality of the legal provisions must meet certain conditions, including predictability, which must specify with sufficient clarity, the extent and manner of exercising the discretion of the authorities in this area, taking into account the legitimate aim pursued, in order to provide the person with adequate protection against arbitrariness. As for the institution giving up the penal prosecution, the Romanian Constitutional Court was referred to it in order to verify the constitutionality of this Article, the criticism concerning the term 'public interest' which was judged to be ambiguous and not defined in the Code of Criminal procedure or the Criminal Code, Being in contradiction with the

principle of the legality of the penal trial, regulated in Article 2 of the Code of Criminal procedure and with the provisions of Article 1(5) of the Constitution which provide for the obligation of observance in Romania of the Constitution, its supremacy and laws.

In the recitals of Decision No 23/2016 on the admission of the exception of non-constitutionality of the provisions of Article 318 of the Code of Criminal procedure, published in the Official Gazette of Romania, Part I No 240 of 31 March 2016, it is shown that the criminal prosecution is regulated in the provisions of Articles 285 to 341 Code of Criminal procedure, And the prosecutor has the powers provided for in Article 55(3) of the Code of Criminal procedure (supervises or conducts the criminal prosecution; refers the matter to the judge of rights and freedoms and the court; exercises the criminal action; exercises the civil action, in the cases provided for by law; concludes the agreement to recognize the guilt, under the conditions of the law; has the power to direct and control directly the prosecution of the criminal police and special criminal investigation bodies, provided for by law and to carry out any prosecution in the cases it conducts and supervises.

The stage of the trial is provided for in Articles 349 – 4771 of the Code of Penal procedure, having as its purpose the resolution of the substance of the penal case. In that respect, the Court found that the determination of the defendant's guilt and the application of criminal penalties fall within the competence of the court, which enjoys exclusive jurisdiction from juristico and the imperium, i.e. the power to 'state' the right and to impose the enforcement of criminal penalties by means of criminal decisions.

The Court has therefore found that, by regulating the institution giving up criminal proceedings in the manner provided for in Article 318 of the Code of Criminal procedure, the legislator has not achieved an appropriate balance between the application of the principle of legality specific to the system of continental law in Romania and the application of the principle of opportunity, specific to the anglo-saxon law system, giving priority to the latter, to the detriment of the former, by regulating in the powers of the prosecutor certain acts specific to the judicial power. Thus, according to the provisions of Article 318 of the Code of Criminal procedure, the prosecutor has the possibility to waive the criminal prosecution and, consequently,

to replace the court in the execution of the act of justice, In the case of approximately three-quarters of all offenses provided for in the Penal Code and in the special laws in force.

Moreover, the Court also found that the prosecutor can give up prosecution for more serious acts (with prison sentences of up to 7 years), as opposed to a judge who can give up the sentence for less serious acts with prison sentences of up to 5 years.

In the same sense, the Court also found that the agreement on the *recognition of guilt*, covered by Article 478-488 of the Code of Criminal procedure, which, like the waiver of prosecution, also constituted a form of negotiated justice based on the principle of opportunity, It can also be concluded with regard to offenses for which the law provides for the punishment of a fine or prison of 7 years or less (now 15 years), according to Article 480(1) of the Code of Criminal procedure, but, unlike the waiver of prosecution, it, on the one hand, It is subject to the control of the court which would have jurisdiction to judge the case in substance, and on the other hand it always involves the application of a penalty, even if its enforcement is individualized, in accordance with the provisions of Article 80-106 of the Penal Code.

The Constitutional Tribunal has also found that the waiver of prosecution by the public prosecutor, without being subject to the control and the consent of the court, is equivalent to the exercise by him of powers which fall within the scope of the courts' competences, Regulated in Article 126(1) of the Constitution, according to which justice is carried out by the High Court of Cassation and Justice and by the other courts established by law. For that reason, the Court finds that the waiver by the prosecutor of the penal prosecution, under the conditions laid down in Article 318(1) of the Code of Criminal procedure, is contrary to the previously stated constitutional rule.

Following the decision of the Constitutional Court, by Emergency Ordinance No 18/2016 to amend and supplement Law No 286/2009 on the Penal Code, Law No 135/2010 on the Code of Criminal procedure, as well as to supplement Article 31(1) of Law No 304/2004 on the judicial organization, Published in the Official Gazette of Romania, Part I No 389 of 23 May 2016, the provisions on the institution giving up the penal

prosecution have been amended, providing for the way public interest is analyzed, and the order by which the waiver of the criminal prosecution was ordered should be checked in terms of the legality and the validity not only of the prosecutor of the prosecutor's office, but also of the judge of the pre-trial chamber, who decides by reasoned conclusion on the legality and the validity of the solution to give up the criminal prosecution.

The procedure for waiving prosecution

a. Order waiving prosecution

The institution of renunciation of the criminal prosecution shall apply to offenses for which the law provides for a penalty of a fine or a penalty of a maximum of 7 years, where the prosecutor finds that there is no public interest, as provided for in Article 318(2) Code of Criminal procedure.

The public interest is viewed from an objective point of view, by the following criteria: The content of the deed and the actual circumstances of the deed; the manner and means of the deed; the purpose pursued; the consequences which were or might have occurred through the Commission of the offense; the efforts of the prosecution bodies necessary for the conduct of the criminal proceedings by reference to the seriousness of the offense and the time elapsed since the offense was committed; the legal attitude of the injured person; the existence of a clear disparity between the costs involved in carrying out criminal proceedings and the seriousness of the consequences caused or likely to have occurred through the commission of the crime.

From the point of view of subjective criteria, in situations where the perpetrator of the offense is known, the person of the suspect or defendant, the conduct which was taken prior to the offense, is also taken into account in the assessment of the public interest, the attitude of the suspect or defendant after the crime has been committed and the efforts made to remove or mitigate the consequences of the crime.

The legislator also provided the situation in which the offender is not identified, and then it is possible to order the waiver of the criminal prosecution by reference to the content of the deed and the concrete circumstances of the deed being committed; the manner and means of committing the deed; the efforts of the prosecuting bodies necessary to

carry out the criminal proceedings in relation to the seriousness of the offense and the time elapsed since the offense was committed; the existence of a manifest disproportion between the costs involved in carrying out the criminal proceedings and the seriousness of the consequences which were or might have occurred through the commission of the offense.

This procedure is exempted, even for offenses that are punishable up to 7 years but have resulted in the death of the victim (example: The offense of willful killing provided for by Article 192 Penal Code, the offense of killing or injuring the new born committed by the mother as provided for by Article 200 Penal Code, the harm to the unborn child provided for by Article 202 Penal Code if it resulted in the death of the child).

Renouncing the prosecution involves starting criminal prosecution of the act committed when the perpetrator of the act is not known, and if he is known to continue the criminal prosecution against the suspect or even to bring the criminal action into motion when the suspect becomes the defendant in question and a party to the trial. Here the institution of renunciation of the criminal prosecution shall be different from the classification, where, according to Article 294 Code of Criminal procedure, upon receipt of a complaint of the Commission of a criminal offense, if it meets the legal conditions for admissibility, but within that, any of the cases of impeding the criminal proceedings result, the criminal investigation bodies submit the acts to the prosecutor together with the proposal for classification, which has the *ranking order*.

If the offender is identified, the prosecutor may, after consultation with the suspect or defendant, order that the offender fulfill one or more of the following obligations: To remove the consequences of the criminal offense or repair the damage caused, or to agree with the civil party a way of repairing it; publicly apologize to the injured party; to perform unpaid work for the benefit of the community for a period of between 30 and 60 days, unless, because of his state of health, the person is unable to do so; to attend an advisory program, setting a time limit within which they are to be fulfilled, which may not be more than 6 months or be 9 months in respect of obligations under a mediation agreement with the civil party, which shall run from service of the order. This consultation of the prosecutor with the suspect or defendant must be seen in the sense that it is the prosecutor who

establishes the obligations, without negotiating anything with the suspect or defendant, and the latter must be subject to the obligations established by the prosecutor by the order, because otherwise the prosecutor will order the submission to court.

The order waiving the prosecution must include the provisions of Article 286(2) Code of penal procedure (name of the prosecutor's office and date of issue; name, forename and capacity of the person who draws it up; the act which is the object of the criminal prosecution, its legal classification and, where appropriate, the data relating to the suspect or defendant; the subject-matter of the procedural document or measure or, where appropriate, the type of solution and the reasons in fact and law; where applicable, an indication of the appeal available, stating the time limit within which it may be exercised; Data on the precautionary measures, the medical safety measures and the preventive measures taken during the prosecution; other notices prescribed by law; signature of the person who prepared it), the obligations imposed by the prosecutor according to Article 318 Code of penal procedure against the suspect or defendant, particulars of the lifting or maintenance of protective measures, the return of lifted property or security, if any of the security measures provided for by law have been taken, particulars of the termination of the preventive measures if the case has been ordered, the time limits within which the obligations ordered by the prosecutor and the costs of legal proceedings in question must be fulfilled.

Any failure to fulfill in bad faith the obligations ordered by the prosecutor within the period prescribed by law, he may revoke the order, and the proof of fulfillment of the obligations or presentation of the grounds of non-fulfillment shall be the responsibility of the suspect or defendant.

After the order in question renouncing the criminal prosecution has been issued, it shall be subject to verification as to the legality and validity of the first prosecutor of the prosecutor's office or, where appropriate, of the Prosecutor-general of the prosecutor's office of the court of Appeal, and when it has been drawn up by him, the verification shall be done by the superior prosecutor. When it was drawn up by a prosecutor from the Prosecutor's Office of the High Court of Cassation and Justice the order is checked by the chief prosecutor of the department, and when it was drawn up, the check is made by the general prosecutor of this prosecutor.

As there is also a structure of prosecution departments established by special laws (national Anti-corruption Directorate; organized crime investigation and terrorism Directorate), the order for the waiver of prosecution is verified according to the hierarchy of functions within that structure.

An order ordering the waiver of prosecution after having been verified shall be communicated in copy, as the case may be, to the person making the complaint, to the parties, to the suspect, to the injured party and to other persons concerned, and shall be transmitted, for confirmation, within 10 days of the date on which it was issued, *the judge of the chamber of first instance of the court* to which it would be entitled under law to hear the case at first instance.

As regards the 10-day time limit, the question has been raised in practice whether this is a limitation period (within which the act must be effected, under the sanction of revocation of the right in the event of failure to do so within a period of time), by a recommendation (within which an act must be effected, however, the failure to do so may not have consequences for the act) or a prohibitive period (in the sense that the act can only be fulfilled after the expiry of the time limit). As it emerges from the practice of law, the legal nature of this term, starting from the fact that the solution of waiving the prosecution is favorable to the suspect or defendant, and on the other hand, having regard to the solutions which the Judge of the Chamber of first instance may give if he rejects the confirmation of the order waiving the prosecution, i.e. those referred to in Article 318(15)(a) and (b) of the Code of Criminal procedure, it follows that this term is a recommendation and not a revocation term. Moreover, the text of the law does not provide for the application to be rejected as a belated one (High Court of Cassation and Justice - Decision No 11/2018 on a preliminary ruling for the settlement of a point of law in principle, published in the Official Gazette, Part I, No 907, of 29 October 2018).

b. Confirmation of the order waiving prosecution by the judge of the preliminary chamber

After receipt of the order waiving the prosecution, the judge of a preliminary ruling shall fix the time limit for the settlement by quoting all the persons

to whom the order has been communicated, where the prosecutor will also participate.

The non-presentation of the legally cited persons does not prevent the settlement of the request for confirmation (the participation of the prosecutor is mandatory according to the law - Article 281(1)(d) Code of Criminal procedure), and the judge by reasoned termination in the Council Chamber (without the presence of the public), it will decide on the legality and the soundness of the solution to give up criminal prosecution. This check is made on the basis of the works and material in the prosecution file, as well as new documents if submitted and, by termination, allows the request to confirm the solution (if sent to a non-competent court it will decline the case of the competent court) or reject the confirmation request made by the prosecutor.

It should be made clear that legal assistance must be provided when the suspect or defendant is a minor, admitted to a detention center or educational center, detained or arrested, even in another case, when the measure of safe medical admission has been ordered to him, even in another case, as well as in other cases provided for by law; where the judicial body considers that the suspect or defendant could not defend himself; Legal assistance is also compulsory where the injured party or the civil party is a person with no exercise capacity or limited exercise capacity.

With regard to the documents submitted (resulting in facts or circumstances which could contribute to the truth being known), the legislator refers only to that document and not to other means of evidence which would constitute new elements with regard to the confirmation of the order giving up the criminal proceedings.

According to Article 318(15) Code of penal procedure, if it rejects the request for confirmation of the order, the judge of the pre-trial chamber: A) disbanes the solution of giving up the penal prosecution and sends the case to the prosecutor in order to start or complete the criminal prosecution. We note that where the judge of the Chamber of first Judges considers that they are evidence which requires the criminal proceedings to be brought and the criminal proceedings to be completed, he shall reject the request for confirmation of the solution, And the prosecutor should be subject to these provisions since, as set out in Article 335 Code of Criminal procedure in case of reopening of the criminal prosecution, the provisions of the judge of

a preliminary chamber are binding on the prosecution body and in this case they must be binding. The decision to refuse the application shall be notified to the High Court of Justice of the European Union. (B) abolish the solution of waiving prosecution and order the classification in the event of any of the situations referred to in Article 16 of the Code of Criminal procedure.

The termination by which one of the solutions provided for in paragraph 15 of Article 318 Code of Criminal procedure has been given is a final solution, and in situations where the Judge has rejected the request for confirmation of the solution, no further waiver may be ordered whatever the reason invoked.

Comparative law issues

The institution of renunciation of prosecution is also covered by other legal systems or by the legislation of other European States.

Similar to in Romania, in Germany, the Code of Criminal procedure shows that the prosecutor's office can give up prosecution with the consent of the court competent to judge the main procedure, but only in situations where the offender's guilt is minor and there is no public interest in his prosecution. In the same country, the waiver of court proceedings and the termination of proceedings where there is no public interest in the criminal prosecution are regulated as the institution of renunciation of the sentence in Romania.

In the French Code of procedure, in order to apply the principle of opportunity, we have a kind of justice negotiated through criminal composition which is an intermediate institution between the agreement on the recognition of guilt and the waiver of prosecution (in order to apply this institution, the offender must recognize the offense before the criminal action is brought into action.) By applying the institution of the criminal composition, the prosecutor has the power to order security obligations and to order a fine in question, without a judge having verified those matters. Also, in France, when there are circumstances of serious crime, the personality and material situation of the accused, and financial resources, a transaction can take place with the perpetrator of the crime.

In Belgium, according to the judicial Code, it is the prosecutor of the King who decides on the appropriateness of prosecution, *whereas in Finland*

it is only the prosecutor who can decide whether to refer the case "*unless the public or private interest requires it*".

Public interest considerations can also be found in the *Netherlands Code of Criminal procedure*, when such a non-prosecution decision can be taken, and in the Austrian Criminal Code criminal prosecution can be waived if certain conditions are met, Similar to those provided for in Article 318 of the Romanian Code of Criminal procedure.

In the United Kingdom of Great Britain and Northern Ireland, when a decision is taken on the charge, it is provided in the Code for Crown prosecutors that they, the police or other investigating agencies, decide whether the accusation for a perpetrator is taken on the basis of the public interest and the possibility of taking evidence leading to a possible conviction.

This is also the case in *Canada*, as in the English procedure, where the initiation and conduct of criminal proceedings on behalf of the crown also refers to the reasonable likelihood of conviction based on evidence that could be administered in question and whether a prosecution would best serve the public interest.

Similar chameers looking at the public interest are found in the United States of America, where in the Justice Manual at 9-27.230 — initiation and decrease commissions — Substantial federal interest (*Principles of federal persecution*), it is stated that in order to determine whether a criminal prosecution would serve a substantial federal interest, the government lawyer should weigh all relevant considerations, including:

- Federal law enforcement priorities, including any federal law enforcement initiatives or operations aimed at accomplishing those priorities;
- The nature and seriousness of the offense;
- The deterrent effect of prosecution;
- The person's culpability in connection with the offense;
- The person's history with respect to criminal activity;
- The person's willingness to cooperate in the investigation or prosecution of others;
- The person's personal circumstances;
- The interests of any victims; and
- The probable sentence or other consequences if the person is convicted.

Nature and Seriousness of Offense. It is important that limited federal resources not be wasted in prosecuting inconsequential cases or cases in which the violation is only technical. Thus, in determining whether a substantial federal interest exists that requires prosecution, the attorney for the government should consider the nature and seriousness of the offense involved. A number of factors may be relevant to this consideration. One factor that is obviously of primary importance is the actual or potential impact of the offense on the community and on the victim(s). The nature and seriousness of the offense may also include a consideration of national security interests.

The impact of an offense on the community in which it is committed can be measured in several ways: in terms of economic harm done to community interests; in terms of physical danger to the citizens or damage to public property; and in terms of erosion of the inhabitants' peace of mind and sense of security. In assessing the seriousness of the offense in these terms, the prosecutor may properly weigh such questions as whether the violation is technical or relatively inconsequential in nature and what the public attitude may be toward prosecution under the circumstances of the case. The public may be indifferent, or even opposed, to enforcement of the controlling statute whether on substantive grounds, or because of a history of non-enforcement, or because the offense involves essentially a minor matter of private concern and the victim is not interested in having it pursued. On the other hand, the nature and circumstances of the offense, the identity of the offender or the victim, or the attendant publicity, may be such as to create strong public sentiment in favor of prosecution. While public interest, or lack thereof, deserves the prosecutor's careful attention, it should not be used to justify a decision to prosecute, or to take other action, that is not supported on other grounds. Public and professional responsibility sometimes will require the choosing of a particularly unpopular course.

Conclusions

The principle of opportunity specific to Anglo-Saxon law has also been taken up by continental law in the case-law of the European Court of Human Rights and in the law of other States. The Romanian legislator, when adopting the current Code of procedure, considered that in order to

avoid criminal proceedings in *minor cases* where there is *no public interest*, the obligation to pursue the criminal action was alleviated by introducing the subsidiary principle of opportunity, on the basis of which, in such cases, the prosecutor will be able to waive criminal proceedings under the conditions laid down by law.

A direct consequence of this new principle, which has been operating for several years in Germany, Italy, Spain, France, Serbia, Slovenia, and Bulgaria would have led to a reduction in the volume of criminal cases pending before the judiciary.

Prior to the adoption of Decision, no 23/2016 of the Constitutional Court, as well as the legislative changes ordered by the UG no 18/2016, there were sufficient legal provisions to control the prosecutor's solution of waiving the prosecution by the judge of the pre-trial chamber.

Thus, according to Article 319 Code Penal procedure, prior to the modification, regarding the continuation of the penal prosecution at the request of the suspect or defendant, this could be done also in case the prosecutor's renunciation of the penal prosecution within 20 days after the receipt of the copy of the order for the settlement of the cause, continue prosecution.

Since any person could make a complaint against the measures taken or acts performed by the prosecutor, there was in Article 339(4) Code of penal procedure, prior to the modification, their right to make a complaint within 20 days of the communication of the act by which the waiver of the penal prosecution was ordered. There was also a situation where, if this complaint was rejected by the Prosecutor of the prosecutor's office, the person should address the case within 20 days of communication to the judge of the Chamber of first Instance of the court which, according to the law, would have jurisdiction to judge the case at first instance.

Since the prosecutor is the holder of the prosecution, *exercising his function of prosecution*, he alone is able to judge as to the waiver of criminal proceedings, where there is no public interest, we consider that there were sufficient legal provisions for the existence of judicial control over the acts of the prosecutor, in such a way that the application of the principle of appropriateness is exercised in accordance with legal provisions.

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Communication Difficulties of the Elderly in Case of Receiving Bad News in Old People's Homes in Romania

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ABSTRACT: The elderly is a special category, and communication becomes difficult in terms of bad news. To maintain a good emotional state of the elderly, the specialist will have to appeal to communication skills. Good communication is a condition without which the elderly cannot receive this bad news under normal circumstances. Thus, by communicating well, it is possible for the elderly to ease their emotional state by encouraging them and training them with knowledge and skills to deal with bad news. Correct communication means that the specialist will find a way to make them listen with gentle words. Regardless of the bad news that the elderly person is supposed to receive, the responsibility lies with the person giving the news. It is very important to know that the impact of bad news is equal to the effect they have on the elderly. In conclusion, a practical definition of bad news is: "any news that seriously affects and negative perception of the individual on his future (*** 2012).

KEY WORDS: bad news, communication, elderly people, good communication

Introduction

Communication is vital for everyday living, especially for elderly people. Lisa Millraney the specialist in speech pathology from Vanderbilt University said, communication is not limited to listening and speaking. Reading and writing are also vital modes of conveying information, and as noted above, these too

can be negatively affected by elements of aging. Most communication changes of elderly people are gradual (Millraney, study.com/academy).

As for our communication with the elderly around us, our ignorance is very great. We often do not know how to communicate with our parents and grandparents. Usually, stress makes us forget and how to communicate nicely with our partner our elderly man who also has various needs and desires. The communication of bad news is an area of special expertise long studied and researched.

Content

No matter where we are in the presence of the elderly, we need to be careful not only about how we convey the bad news to them, but also about our body language. There is no middle ground here. In social care homes for the elderly it is important to speak to them in their mother tongue. It is very difficult to communicate with them in a secondary language. Then there would be a limit to communication.

The shortage of careers for the elderly in homes is very high in most European countries. There is also a lack of people with the ability to communicate with the elderly. There are no college programs that teach how to care for the elderly. If these disciplines existed in the curriculum and were thoroughly studied, perhaps these communication difficulties would disappear from the social care rooms of the elderly suffering from old age and loneliness or from so many chronic, neurological and mental illnesses.

Gary Chapman states that "in order to express ourselves, we need to use gestures, onomatopoeias, drawings. We can communicate but very hard. Linguistic differences are a component part of human culture. If we want to communicate effectively across cultural boundaries, to learn the language of those with whom we want to interact" (Chapman 2019, 11). Currently, in Romania, there are homes for the elderly licensed on 19.07.2021 in number of 676 public and private homes for the elderly, with a capacity of 29,452 beds, under the methodological coordination of the Ministry of Labor, Social Solidarity and Family (Mmuncii 2021); Most public homes are located in Neamt and Vrancea counties. We must admit that the number of beds is insufficient for the elderly with needs for permanent supervision and special

care. A real assessment of the current situation regarding all social service centers for the elderly, institutions that offers assistance and hosting, or home care services, located in public or private administration, could not be performed because they were missing coordination of the approach, specific evaluation methodology, as well as legislative levers to ensure the provision of information you are right and their transmission, from the local level to the central administration (Roș 2012, 86).

If in Romania are officially registered in July 2021, 676 public and private homes, how many specialists in communication with the elderly would we need?! Andrei Pleșu said that you cannot refuse any form of participation in community life (Pleșu 2014, 43). Then how will we get involved in the communication difficulties of our parents, grandparents and our elderly life partners, what methods and techniques will we use and last but not least what communication recommendations will we give to help them more?!

The authors of *Communication and Aging* said, "People use communication to perform many functions in their day-to-day activities, including employment, social and leisure activities, community involvement, personal relationships, and meeting needs for daily living". Many of these functions change with typical aging. People withdraw from careers. Their social circles and personal relationships may change as they adjust their life roles and change their activity patterns (Yorkston, Bourgeois and Baylor 2009).

Many elderly people often suffer more from isolation, ignorance, marginalization, and lack of communication with others than one disease or another. Talking to an elderly person in a hurry, angry, bored, indifferent, without making sure that you have adapted to his understanding, level of culture, ability to receive, ability to hear, can hurt him, deepening his suffering.

Abuses against the elderly include psychological, emotional, or verbal abuse that refers to inappropriate language mentioned above, which is stressful and is added to others that an elderly person is forced to endure. This can mean a condemnation to psychological and social isolation, to the precipitation of psycho-intellectual regression, constituting at the same time an overload stress.

Effective communication is key when providing quality life care. The dynamics of communication of the team of specialists with the elderly people and family can be challenging. These challenges stem from the sharing of

complex information, highly emotional topics, and life literacy barriers (O'Toole, Alvarado-Little, Ledford 2019).

It should be noted that in all the concepts regarding the theory of needs, communication is included among the fundamental needs of a person, in general, of a person suffering and elderly even more so. It has been said that the complex human being is an indivisible type, whose existence involves psychological needs, communication needs and spiritual needs. They personalize the human being. Every person is a human entity whose needs and resources are individual and specific.

Therefore, human needs are presented as multiple and complex, the purpose of satisfaction being to obtain a state of well-being, comfort, and increase in quality of life protection. For example, healing or recovery may no longer be possible, but the quality of life is always a difficult goal to achieve when we want to live our lives with dignity. I have seen communication become so specific and intricate over time that family members and caregivers feel as though they've developed a new language, one that only they and the person with dementia can understand (Miller 2008).

In several nursing homes in Romania, religious assistance - another form of communication with them is provided by a priest who officiates weekly religious services and of the Holy Communion.

Socializing activities are a priority for communication recommendations. Here the elderly are advised to avoid situations of conflict with other beneficiaries, given that they have to live with another elderly person, a foreign person, with different interests and degrees of tolerance. It also intervenes to resolve conflict situations. Communication with relatives, the family is encouraged, through visits but also by telephone, thus reducing the feeling of family abandonment.

In Romania, there are specialized centers that deal with a large number of beneficiaries and the Ministry of Education, through its Institutions, train's elite specialists in the difficulties of communication with the elderly. According to Order no. 73/2005 on the approval of the model Contract for the provision of social services, concluded by social service providers, accredited according to law, with the beneficiaries of social services, a Contract for the provision of social services is concluded with each institutionalized elderly, which will include at least the clauses provided in the model contract.

The coverage of the full amount of the monthly contribution shall be as follows:

a) the elderly who have income and are cared for in the home owe the monthly maintenance contribution in the amount of up to 60% of the value of the monthly personal income, without exceeding the approved average monthly maintenance cost for each home;

b) the difference up to the full amount of the monthly maintenance contribution will be paid by the legal supporters of the elderly cared for in the home, if they make a monthly income per family member in an amount higher than the net value of the minimum gross basic salary in the country guaranteed payment, established by law (mmuncii 2018, 1).

According to the Institute for Human Resource Development, the course with Nomenclature Code of 5133.1.2, the occupation of Nursing Home Care involves a wide range of skills for carrying out the care activity.

Because the specific activities are carried out in permanent collaboration with the assisted person/family/medical team, the communication at the workplace contributes to the good development of the specific activities.

Workplace communication includes:

- Receiving and transmitting information
- Information structure
- The role and importance of communication
- The basic role and typology of communication
- Communication techniques
- Particularities of the assisted person
- Psychology of ages

The competencies acquired after graduating the course are first of all the communication at work and then the application of the norms of safety and health at work and PSI; ensuring hygienic-sanitary conditions; ensuring professional development; completing the care sheet of the assisted person; management of allocated resources; planning the daily activity of the assisted person; providing hygienic care for the assisted person; providing first aid to the assisted person; ensuring the comfort of the assisted elderly person; assistance with feeding and food administration; mobilization and transportation of the assisted elderly person; mobilization and transport of

immobilized assisted persons; compliance with and application of medical prescriptions; monitoring the health of the assisted person (IDRU 2018).

Alexandr Galitsky, a well-known painter, elaborates 10 rules of communication with the elderly parents:

1. Under no circumstances should you engage in controversy or quarrel with the elderly, do not try to convince them of anything.

2. Take matters into your own hands.

3. Do not remind the elderly about problems and pain.

4. Accept the elders as they are.

5. Put yourself in your parents' shoes.

6. Forgive.

7. Don't blame yourself.

8. Don't expect satisfaction from communication.

9. Show genuine interest in the elderly.

10. Analyze the technical characteristics of the elderly person (Galitsky, fasingur.info).

Conclusions

Before concluding, I would like to point out that we must not forget that each of us has grandparents, parents and partners who will one day grow old, and some of our loved ones may get into trouble, just like the people in front of us. To paraphrase the play on words above, let me say that just as children, we used to listen to our grandparents hear our childhood stories, we should now have the same patience with them when they tell, in a few words, the story of their lives.

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Unqualified for Knowledge: When Dissent Ruins Everything

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ABSTRACT: The art of the world is a mirror of the souls of its people. The art of a specific time is a mirror of the people's souls in those times. This is how the author understands the impressive difference between the contemporary arts and those of the past. The movies of the 21st century, for instance, respond to the momentary needs of the soul of our fellow friends. They shape the inner needs of the viewers by indulging them with violence and many kinds of depravations, which ultimately lead to the loss of wisdom. The paintings also have a vague message, giving the viewer freedom to participate in the cultural act of interpretation with his imagination. This paper attempts to show that we are under attack using the means of the natural affections, and we become therefore weaker spiritually and physically every day. To annihilate this attack, we need to re-learn the discipline of the "excellent ones", of the "worthies" of the past. Otherwise, our knowledge and judgment will be harmed by our affections and our spiritual values will also suffer accordingly.

KEY WORDS: knowledge, epistemology, indulging, contemporary art, affections, excellent ones, affective epistemology

Introduction

The paper will focus on affective epistemology, and more specifically about the relationship between the effects of art on the human affections, and how can knowledge be distorted by the wrong way of doing art. The author argues that there is a strong relationship between affections and knowledge

or wisdom, because they are intrinsically related. This used to be common knowledge. But as with time, much valuable information has been rejected by humanity, and this fate happened to this axiom too.

The first part of the paper will show that there is an obvious change in the way art is produced, compared to the former centuries. The art in the 21st century has got rid of the limitations imposed by the common sense. The language, content and message of the movies have degraded. Images that are not acceptable by everybody have invaded the media. There is also a new and strong propagandistic dimension of the art. They seem to inspire violence, dissension and strife. They also weaken the morality of the viewer, even if the movies are rated for a general audience. Being morally accepted by the large majority, this rating is still fallacious because, in the long term, it changes the moral attitude of the viewer, stealing his peace of mind. According to James K. A. Smith, "the problem, however, does not reside primarily in plays' immoral content but rather in the effect of drama on the soul's development" (Coulter 2016, 43).

The second part of this paper argues that this change is taking place slowly in time, after the vexation of the affections, with chaotic effects on the mindset. Generally accepted rules are not followed and principles of life are abandoned. As soon as contention and strife come in life, wisdom – as little as it can be – will be lost.

The author pleads for a rational attitude towards life and art, as humanity settled it—the rational means constant vigilance towards the apparently innocent habits, or towards those habits that we lack.

Licitis perimus omnes - we all perish by lawful things

In the twenty-first century, a certain change became obvious in the narrative arts. In the past, the main characters were, at a certain level, seminal ones. They were models worthy to follow. They impressed with their allegiance to the truth, good and beautiful. The "El Cid" has continued to inspire his people on the horseback even after his spirit departed from him. The story of the two friends Damon and Pythias is famous because one of them offered himself to become a prisoner, putting his life in danger, in exchange for allowing his friend to go home and take farewell from his wife and children. Baucis and

Philemon are an example of *xenia*, hospitality towards the strangers, because they were the only ones from their town willing to host the disguised gods. They were φιλοφρονως, of a friendly mind. Even an anti-model as Ivanhoe's foe said something that remained after centuries a principle to follow: I have broken many a law, but I have never broken my word. The priest whose jewelry was stolen by Jean Valjean chose to show the thief that love is more valuable than justice, and justice without love could become cruelty. When the Turks have sieged the fortress of Eger, and most of the men gave their lives for protecting it, their wives and widows overtook their role, and fought against the enemy, for the protection of their community.

These are not characters who lived in exceptional times, which is irrelevant for us. On the contrary, they inspired many generations of readers and movie fans because they tried to do their best for their friends' interests or a larger community, although they were normal people. They became, in time, after exercising many years, hospitable or brave, the so-called "excellent ones," "the worthies." It was not a gift that others do not have, something unusual that would make them extra-ordinary. There were ordinary things transformed in their duty. And this is the kind of persons appreciated even by emperors, as Tertullian said about Augustus, that "gratius ei fuit nomen pietatis quam potestatis" (he prized more piety than power),

And still, they disappeared from the media, and their places have been taken by superheroes with nine lives and ten sizes, well versed in violence (even if they are apparently siding the good) and debauchery. The Latins would say about a change like this, that "*Nec quod innovatum, fuit simper melioratum*" (The innovation is not necessarily an improvement) (Lubac 1965, 13). There seems to be nothing natural, earthly in them, people that we meet every day. They are a mixture of supernatural force, luck and intelligence under the guise of normality. They are attractive from a worldly perspective because of their physical look, their skills in fights, and their worldly success. They are extraordinary, but not similar to any human. They are not even geniuses, because geniuses are still human. They are more than that: a mixture of gifts that did not need any practice to develop. This lack of practice makes these models unrealistic.

As the author pleaded above for a rational attitude towards life, including art, there are two questions that James K. A. Smith is asking

regarding the consumption of art. „What is expected from a theatrical performance? What effects are the actors intending to produce?" (Coulter 2016, 43). As art has become a tool out of many that distract the attention from the essential issues of life, having a (de)formative aim, we need to evaluate carefully our interaction with it.

The vexation of the affections

Common sense and history teach us that the way to the stars is difficult and that it takes time. So is the attempt to reach the virtues. According to the New Testament, "the kingdom of heaven suffereth violence", or heaven is not to be had "*sine sanguine et sudore*", without pains, patience, violence. In the same spirit Ovid said "*sic petitur caelum*", thus is heaven sought. Being superhuman means that there is no bridge between the movie characters and humans. In this context the Latin saying "*Non ignara mali, miseris succurrere disco*", not myself unknowing of misfortune I learn to help the distressed, is not applicable.

This shift in what humans ordinarily would call "qualities" are the affections that were studied by scholars since antiquity. The change in the affections we resonate with is a sign of the change of affections in ourselves as well. So the large-scale shift of the affections in the media is a proof of the change in our mentalities. This change doesn't represent just another perspective about life, but it mirrors the fundamental change in life itself. In other words, if we would call the right conduct ortho-praxy, and the right feelings orthopathy, than the orthopathy gives birth, or greatly influences ortho-praxy. This is also true conversely, as they are intricately related. And it is also true that defective feelings give birth to a defective praxis. It is impossible to have good practical results without a strong foundation. And it is not possible to reject thousands of years old principles, and still have a successful life.

Affections are forces of the human psyche that develop during a lifetime. Some of the affections are good, such as love, piety, self-control. People will learn them after many years of practice. They are not necessarily called "natural" because these affections do not appear from nowhere. There are also other affections, negative ones, which develop without too many efforts, and which destroy people and relationships. Some of these kinds of affections are fury

and hate, which produce dissentment, strife, division and so on. Needless to say, humans are more prone to choose the easy way of negative affections, because the positive ones need perseverance, self-sacrifice and humility.

These negative affections are produced in time as a result of the continuous attack on personality, in order to *de-form* it. The correlated effort for deformation is called vexation, and its ultimate goal is the weakening of the human mind and soul. It is not in our scope to give examples of how is this weakening taking place. There are different portals that allow vexation to be effective, and one is through the hormones produced by the body. Vexation could have positive or negative connotations. If it is aimed at the mortification of the body (even from an outside source), or if it is a voluntary penance, it could build up a healthy thinking. But the vexation of the good affections, aimed at the deformation of character, happening stealthily for the unprepared mind, can damage with iremmediable effects the personality.

Moreover, this change of affections opens a dangerous and fallacious perspective for our knowledge about life. The overrated natural affections feed the natural affections in others, so violence will breed violence, and fallacy will breed obviously error.

Looking for knowledge at the wrong time

Knowledge can be explicit and handed down from one generation to the other, as the torchbearers do at the Olympic games. Professional knowledge, like that of the medical staff, mathematicians, chemists etc. are such explicit ones, because they can be easily transmitted to the new generations. Even skills, such as welding or carpentry can be taught to disciples.

There is also a form of knowledge that is almost impossible to express in words, that Polanyi called tacit knowledge (Polanyi 2013, 6). The features of somebody's face can be described, but it can be recognized with difficulty. The same is true about somebody's voice. If you heard it, you can recognize it. No description would guarantee that you can recognize it without hearing it. This knowledge that doesn't use words is called the tacit knowledge.

There is also an experiential knowledge that is neither explicit nor tacit. Some people restrict the term experience to what the Germans would call Erlebnis (Kim 2005, 47), a restriction of it to the five senses (Gelpi 1994,

2). I am referring now to more than that, the Erfahrung kind of experience, accumulated in time and connected to society as a collective memory (Benz 2020, 10). Knowing somebody's love needs more than words, and is not tacit, because it is easily recognized by third parties when authentic. True wisdom, or, on the contrary, folly, have similar features. Wisdom needs more than words to develop, and it is easily noticeable for those who are not simple-minded. But only the experience of the good is profitable and safe. The experience of the dark side, or its' shades of gray, could expose the person to risks. The persistence in the shades of gray is still between dangerous limits, as it can feed the negative affections manifesting themselves as stressful agents, and develop them. For example, it is a general knowledge that stresses of different kinds affect the good functioning of the body. If, for instance, the body doesn't get enough water, it produces a hormone called cortisol, whose role is to keep all the remaining water in the body. Its' side effect is that it also produces insulin resistance, which results in high concentrations of glucose in the blood. That is the first step towards diabetes.

Negative affections, or those from the shades of gray, are obviously agents of stress for the body. They not just affect the mental well-being of a person, but the physical one as well. This last one than affects the comfort zone of the person. They also inter-relate with each other, the physical and the mental, becoming detrimental for the good development of one's personality. This was well known since the Roman times: "*Satietas parit ferocitatem*", fullness breeds fierceness.

Self-indulgence (a euphemism of self-love) of all sorts is detrimental to physical and mental health, and it is heavily fed by today's consumerism. It has been noticed by the same Romans that "*Licitis perimus omnes*", that is, we all perish by lawful things. Gluttony is manifest in the ever-rising number of obese people. It is distasteful to some, and not noticeable for many. In the sexual dimension, the correspondent lack of balance could be pointed not in the continuous involvement in illegitimate sexual acts, but in the continuous indulgence in innocent "window-shopping", which ultimately will manifest in an unfaithful outcome of some sort. This was noticed by the ancient Greeks, who symbolized the excess of self-love by Narcissus, who entered in a state of narcosis (from Narcissus) which ultimately led to his death. It is this state of narcosis that is obviously dangerous for the ever-indulging postmodern

human. Healthy, logical thinking is replaced by information far from being relevant, as long as it serves the self-indulgence. And self-indulgence of any sort is viewed as foolishness and lack of wisdom, because they affect the health of the body and of society.

Indeed, it is the lack of unity and agreement between persons that seems to be the reason for the negative shift in knowledge and wisdom. History has proved that the greatness of a nation lasts as long as its unity is preserved. The Early Jewish literature and wisdom tradition, by ascribing an ethical dimension to wisdom, have noticed this relationship between the disappearance of wisdom and the problem of division. As Williams Drake stated regarding the way this kind of literature deals with the absence of human wisdom, "the outbreak of strife and division is also found in conjunction with this judgment." (Williams 2001, 92). Williams is founding his opinion on apocryphal books suc as II Baruch, IV Ezra, I Enoch, III Maccabees (Williams 2001, 73). For instance, IV Ezra 5:9-13, concerning the end of times, reads: "Salt waters shall be found in the sweet, *and all friends shall conquer one another; than shall reason hide itself*, and *wisdom shall withdraw into its chamber*, and it shall be sought by many but shall not be found, and unrighteousness and unrestraint shall increase on earth […] you shall hear yet greater things than these."

Another apocryphal book, I Enoch, speaks about the loss of wisdom as an effect of an act of judgment (Williams 2001, 66). If humans are found unworthy, it is still because of their hypocritical nature which deserves condemnation: "After that in the sixth week those who happen to be in it shall all of them be blindfolded, and the hearts of them shall forget wisdom" (I Enoch 93:8a).

Division and strife happen in places where there is no genuine love. Love is, obviously, the fundamental affect that guarantees the attainment of true knowledge which leads to genuine wisdom. Love manifests itself mainly by self sacrifice. It is putting the other's interest before your own. But not just that. It also means building and maintaining a solid foundation of moral principles that were handed down by the former generations. We have to be honest, and acknowledge that to love is not easy, and it challenges in many ways. Some have spouses with medical conditions, or whose mental health is deteriorating. Others have natural affections that make them difficult to

live with. We succeed in love only if we are determined to make them happy despite the hardships we endure.

Genuine love is in no way an instant feeling, but an affect – as I stated above - that is built with lots of perseverance, and tested over and over again. It is the love that ultimately stands the test of time and life itself. Time seems to have an important role in the equation of affections, love, strife and wisdom. If the need for unity and love is neglected, and the time resources decrease at the expense of wisdom, there are small chances to still have enough clarity of mind and recover the loss of wisdom.

Conclusions

In James K. A. Smith's words, "theater is but another lure away from Being toward nothingness" (Coulter 2016, 45). This happens on a wide scale through our exposure to art, and the interaction of our affections with it. We have seen that the cultivation of the affections is what makes or breaks life. The cultivation of the positive affections, such as love or piety has a good effect on the relationships, while the negative affections, such as anger, are obviously damaging them.

There are affections that have a great influence on human personality, despite the fact that they are acknowledged as so. The appetite for good food can be as dangerous as the sexual appetite. And the sexual "window shopping", in the media or in real-life, as harmless as could seem, arousing the wrong passions, will become a habit that on the long term can harm relationships. Self-indulgence towards apparently small pleasures can lead to destruction, as the Latins observed thousands of years ago. There is a strong relationship between time, love, and wisdom (or the lack of it). Where hypocritical love endures, dissensions endure also. Dissension is causing the loss of wisdom. Ultimately, lack of love is producing folly.

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Sharpening Perspectives on Character and Virtue in Theological Education

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ABSTRACT: Championing the cause of virtue literacy in theological education has often been an exercise in frustration. Though instruction in virtue might seem to have fit most comfortably in theological education, attitudes toward the subject of character in seminaries often have included a significant portion of confusion or conflicting perspectives. Thus, those schools that have intentionally educated for the character have been inclined to approach the process nonspecific or subjective. In spite of a growing body of literature in character development in education, there was still a need for the clarification of what education for virtue and character actually was, and how it was necessary, so that it could be implemented in a more straightforward manner. This paper sought to clarify the current state of character education and the most helpful initiative theorized to implement it. The book *Character and Virtue in Theological Education* by Marvin Oxenham was used as a primary supporting reference for this investigation.
KEY WORDS: character, virtue, theological, education, Oxenham, formation

Introduction

Education for character is not a novel topic in theological education, having roots at least from the early 20th century (Eversull 1930, 11-14). Though its presence is not new, it is taking a renewed focus in the realm of Christian theological education. This is likely because the endeavor for character instruction in theological education can often lead to a breakdown in

implementation as this subject can quickly become troublesome for some educators and administrators, or mundane for others. Although usually acknowledged as a necessary objective by seminaries, virtue literacy has inherent impediments that can result in the issue being checked off the list of significant school initiatives without being comprehensively developed. This may partly be due to the labor-intensive nature of the task which does not yield explicitly recognizable results. Attitudes toward the subject among educators often include a significant portion of confusion or conflicting perspectives. Thus, schools which have taken the mantle of responsibility of educating for character may be tempted to approach the process in a subjective or independent fashion. Reasons given for this include the lack of a uniform agreement on the amount of attention a school should give to character development and, more importantly, a set of standard definitions around which curriculum designers can gather. There still remains a need for a disentanglement of character education from the jumble of inconsistency that has limited its implementation in any sort of universal methodological fashion. Consistent, homologous guidelines are needed to be set for instruction in character at the level of higher education if it is to be advanced in the lives of students in a way that impacts communities and ministries.

To meet this need there has more recently been a resurgence of books, research, websites and even online tools which seek to fill the demand for revitalization of character and virtue in theological education. Though encouraging, the resources are still insufficient for the subject to be considered exhausted. However, some resources are more focused than others in their assessment of the situation. For example, Oxenham has explained his vision for a new ordered perspective on character education in his book *Character and Virtue in Theological Education* (CVTE). The driving motivation for CVTE is that "Christian theological education should reclaim character and virtue education" (Oxenham 2019, 607). This statement simply starts the conversation on familiar ground, yet then proceeds to show how educating for Christian character cannot be simply physically included into the latest list of subjects lobbying for place in the requirements of theological students. It is to be a foundation stone that affects all of education. One major hurdle that is addressed by Oxenham's book is the need for clearing the path of confusion as to what truly constitutes character and virtue, particularly correcting the

conflation of character education with other non-academic subjects such as spiritual formation, spiritual discipleship, or Christian counseling. This paper will use as its foundation the endeavor made by Oxenham to help decipher the perplexity surrounding the development of character education programs. Additional research will add to his analysis.

Approach to Understanding Character Education

The CVTE approach begins with establishing the provenance of education for character as an integrated yet exceptional category of instruction. Oxenham argues that virtue education should not be confused with moral behaviourism, nor entangled in the catch-all theological grouping of spiritual formation. The timing of this call to advance character and virtue in education is important, lest the current tendency to subsume character and virtue under courses in general spirituality takes permanent root in higher education. The muddled state of affairs would then continue to be the pattern of behaviour we now have. CVTE's voice in the subject is certainly a qualified one since the research stems from first-hand experiences of theological schools and leaders from around the world. In seeking to add clarity to the subject, the first step in establishing programs for character in theological school is establishing clear working definitions of the terms at play.

What is Character Education

The study of character traits naturally lends itself to lists of virtues, which have varied throughout time. Aristotle held to 18 main virtues which he believed would enable a well-lived life (Bartlett 2012). The Romans numbered at least twenty-four, while Prudentius in the fifth century matched the main virtues with the church's view of the seven deadly sins (Pelttari 2019). The organized church as early as the 3rd century divided virtues into the four cardinal virtues of prudence, temperance, fortitude, and justice, with three theological virtues of faith, hope and charity (Catechism 2019). These days organizations which have been formed around character and virtue education list the number of virtues from forty to as many as one hundred (McCarthy 2018; Popov 2020). Not all sources for character are tabulation-driven however. Educational initiatives such as the Jubilee Center for Character and Virtues

are hesitant about lists and prefer to concentrate more on the principles and implementation of virtue (Birmingham 2020). Utmost of sources for theological schools, and most logical, are the Christian Scriptures containing various listings of virtues and character traits; the most pronounced pericope listing the traits of goodness, knowledge, self-control, endurance, godliness, brotherly kindness, and love [2 Peter 1:5-8]. For education in virtue, none of these can be isolated and imposed out of context, for the danger in relying only on lists is that it can quickly default to prescribed external behavior without a corresponding personal substantive change, resulting in knowledge without character. CVTE even reminds us by way of example of those who have recognized piety yet underdeveloped character (Oxenham 2019, 848). For an egregious example, Nero who had been tutored in character by Seneca himself had knowledge yet without corresponding heart change (Oxenham 2019, 3502). Indeed, character education cannot be merely a matter of higher knowledge, as this would entail a gnostic approach to spirituality. To start the de-gnostification of character education, it is important to know how to define character education. The scope of the CVTE work connects character with virtue for uniformity, but intentionally separates both by what may be labeled as spiritual formation (Oxenham 2019, 720-725). Thus, the scrutiny of the evaluation has been turned to the direction of the distinctiveness of virtue and character, and they have been fashioned as a single cause which advocates being viewed as a necessary component of a four-fold model of theological education (Oxenham 2019, 615). By way of definition, CVTE advocates that character education has a distinct focus which "overlaps with a Christ-centered, discipleship-oriented focus", imitating Christ, fulfilling our purposes, and authentically responding virtuously with the world (Oxenham 2019, 903-907). Spiritual formation, alternatively, is proposed to be the "theocentric and Spirit-centered activities that are aimed at cultivating a relationship with God" (Oxenham 2019, 903-907) Keeping these categories in complimentary yet differentiated tension gives credence to the suggestion that centers for theological educational should not assume that character development is being addressed in its students simply because a course has been offered in a spiritual discipline or formation, nor because it is part of the ideas which the school may value as good for students.

CVTE presses the issue in that while it promotes the separation of character education from other disciplines, it also warns against the trap of a specialized class becoming so isolated as to be considered a fringe addendum to curriculum as can often happen. CVTE is not alone in this fear that character instruction can be confused with other subjects as well as remain unintegrated into the whole of theological education. Theological educators can have a deep assumption that "character development and spiritual formation are one thing, while academic study is another…and that academic study is not (equal to) spiritual formation" (Smith 2007, 7). Therefore, two injustices are committed, those of joining character development with spiritual formation and of separating them from academics. After differentiating between character and spiritual formation, it is useful to discuss misconceptions about educating for character by explaining what character education does not include. The purpose behind this discourse is not only for purposes of definition, but also because these misconceptions strike at the heart of the confusing landscape of what passes for character and virtue education in theological schools today.

Current Practices in Character Development

CVTE spends a deserving amount of time reviewing current predispositions and practices in schools with regard to character development. Seminaries generally embrace the idea of a plan to inspire and grow character and virtue in theological students. Historically and globally, education has had two great goals: "to help young people become smart and to help them become good" (Shields 2011, 247). Surprisingly there are some detractors to educating for character even amongst theological educators, in part or in whole. Those opposed to virtue formation in schools believe this type of education is hegemonic or abusive, is unnecessary, or even is a promotion of works-based righteousness. The idea of an abusive aspect to character education may indeed have roots with Plato who argued that the "first stages of education should involve deliberate exposure to suffering, on the ground that the first childish sensations of pain and pleasure are the means by which awareness of goodness and badness come to the soul" (Parsons 2015, 5). Those who reject the necessity of institutional character education can base their beliefs

on the rare research suggesting that character traits are established and even cemented in childhood, and therefore unlikely to change with any form of intentional teaching in higher education (Grant 2010, 286, 287). Whether learned in childhood or later, there exists among some a conviction that "the manner in which one's character is originally acquired is predominantly nonvoluntary", and therefore a fruitless pursuit for seminaries (Eshleman 2004, 65). The final group of those who repudiate character education fear that it too easily defaults to a legalistic theology, and therefore think that the matter is best left up to the individual lest the school be guilty of teaching a false gospel. All of these attitudes, it must be remembered, are the exception among existing attitudes toward education for character.

Schools are evolving in the implementation of programs to foster the spiritual life of students, usually incorporating elements of chapel, worship, prayer groups, fasting, and mentoring, to name a few of the activities Christian schools utilize (Oxenham 2019, 804-809). This reflects a true desire on the part of the schools for spiritual formation in its students (Oxenham 2019, 813). While encouraging, this may ironically be contributing to a problem. Personal devotional activities may contribute to character development, but they cannot comprise the totality of character development. Instead of actually advancing students' growth in character, many schools may be simply focusing more heavily on devotional activities and labeling it education for character (Oxenham 2019, 2540). As Oxenham has pointed out in CVTE, the problem in virtue pedagogy is not entirely due to a lack of attention to the subject in theological education. The problem is that the subject is confusing and conflated. It is considered synonymous with almost anything that falls outside of academics or ministerial training. Therefore, actual virtue education is in effect being conducted very little.

Confusion with other disciplines

CVTE contributes a practical contribution to the topic of virtue education by positing several analogies of schools which vocally tout their programs for character yet prove shallow upon inspection. The most common affliction besetting schemes for character development in schools is that of designating all courses that do not belong to the sphere of academics or focused

ministerial training as education for character. The result of this practice can be character education that is generalized and simply considered a part of supplementary subjects that are outside the realm of strict academics, such as spiritual counseling, discipleship, mentoring and spiritual disciplines (Oxenham 2019, 912-920, 1206-1213). The content and goals of these subjects are either too indeterminate or too broad to be properly seen as character development subjects (Oxenham 2019, 920). Usually, however, when describing programs for character, educators will most often return to the language and ideas which more properly fall into the realm of "spiritual formation" (Oxenham 2019, 833-876). In fact, it has been demonstrated in CVTE that the most common way in which character is weakened by imprecise language is by linguistically associating it with spiritual formation (Oxenham 2019, 848).

A foundational problem in relation to the tendency to confuse character with other disciplines occurs when there is no particular language around the idea of what character education actually is (Oxenham 2019, 720). Character and virtue can have different definitions, and if the practice of theological schools is any indicator, these definitions appear to be almost subjective. This subjectivity is the reason why so many can agree on the importance of character education while differing on its implementation. It is somewhat easy to agree about a subject when the contents are not conclusive or self-evident. This leads many schools, when assessing their curriculum for character, to gravitate "back to the same extra-curricular activities that they had just described for spiritual formation, mainly, chapel, prayer and relationships" (Oxenham 2019, 833-837).

The problem of standardizing language and tactics in character education lies in its emotional and subjective aspects. Who can quantify what goodness actually looks like, in low or high amounts? Who can assign a perfect score for patience to a student? Intellect is quantifiable to a degree, and to the same degree cannot be falsified. However, "integrity, devotion to mankind, and other virtues are much less easily measured and are often successfully feigned" (Thorndike 1936, 321).

Responsibility and Planning

In some schools, character development is indeed encouraged, but it may be considered a strictly personal pursuit and left up to the individual Christian's responsibility. It is acknowledged that many character traits are indeed internal and individual traits, as exemplified in 2 Peter 1. Yet, growth in character and virtue can never be developed solely individually by personal and private devotion to God. It is in the community as an outworking of personal faith that character is recognized, and especially, proven. What benefit is brotherly kindness, patience, or love if there is no recipient of those attributes? There is, to be sure, individual responsibility, but personal accountability and actions cannot be the repository of all things related to character and virtue without the corresponding parallel necessity of community (Oxenham 2019, 729-735). The end result of the confusion, misplaced responsibility, and imprecise language with regard to education for character and virtue is the lack of a clear plan of action that is consistent, measurable, and actionable in concrete terms. Schools are left to approach the subject in uncertain and hesitant ways, which can result in initiatives being perfunctory or even superficial. As long as it is addressed at all, educators may feel that they have done due diligence and can therefore move on to more quantifiable, serious academic goals. As in the schools, so in the literature, the time devoted to research in character education reflects the serious reflection given to the topic in faculties. The matter of character education is occasionally focused on in articles or even chapters in books, but usually as a "side motif in support of other subjects" (Oxenham 2019, 2533)

A lack of strategy always means that programs for the development of character in theological institutions will receive short shrift in the design of the curriculum. The cause of virtue in education, without a scheme, tends to be subjugated to the seemingly more urgent task of academics and practical preparation for ministry. However, no more crucial focus exists in the choosing and preparation of someone for ministry than that person's character, for if character is lacking or if it fails, no amount of knowledge or skill will be able to overcome that (Oxenham 2019, 656-2550). An apathetic or careless attitude toward the uniqueness of character education may lead a school to label all things under the descriptor of character. Instead of being

interactive, however, this tends to weaken the initiative, as when everything is character education, then nothing is character education (Oxenham 2019, 848-852).

Application and Recommendations

Most theological educators claim a commitment to character development in students, yet there remains a haze surrounding the implementation of this education in schools. The exasperation that can come when educators grapple with developing programs for character is understandable. The word character itself suffers from a lack of identity, as it has been associated with concepts such as personality traits, leadership styles and learning styles (Oxenham 2019, 723). The burden and duty of educating for character is felt by all educators. The problem faced in virtue education now lies in oversimplification, overgeneralization, or abdication. Merely consigning character and virtue development in students to a three-credit course, as would happen in subjects like Church History or Apologetics, would unduly focus the subject on the cognitive. Overgeneralizing character education to include all non-academic courses would cause it to lose its identity and therefore its impact. Returning the duty of developing virtues back to the private domain of the individual students is a surrender of school responsibility and contributes to future problems in students and ministries. Without a specific, intentional plan for character development, theological schools run the risk of producing pious people without virtue, and leaders without integrity.

To help solve this, CVTE advances a four-fold model of education including academics, ministerial training, spiritual formation, and character education (Oxenham 2019, 615-852). This is a move away from the classic three-category model and is due to the palpable absence of a systematic delivery of character and virtue in theological education (Oxenham 2019, 5674). Most importantly, CVTE insists that character education is more than the promotion of adherence to rules, an idea which should be communicated effectively to both school and staff (Oxenham 2019, 744). In this way, the most crucial aspect of the application of character training in schools is realized, that of the differentiation of character and virtue to all other disciplines

(Oxenham 2019, 903-907, 911, 1198). This differentiation, in the form of "virtue literacy", should "appear specifically in the aims and outcomes of the academy's programs, in the course syllabi, in the vision and mission statements and in the publicity materials, on the website and on the application forms" (Oxenham 2019, 4854-4861) Not only for the use of administrators, the teaching faculty should also use the language of virtue "in lectures, mentoring, placements and essay topics" (Oxenham 2019, 4854-4861).

   To conclude, research recognizes that measuring a student's growth in character may be the most challenging and confusing aspect to virtue education, and therefore possibly serve as the largest barrier to implementation. CVTE redistributes a set of five design elements of genuine character growth that can be helpful to remember as a school sets its virtue curriculum. These include the concepts of *attention* (teaching students to notice virtues within situations in life), *emotions* (feelings that can be aroused by virtue as well as vice), *desire* (eliciting a real change in the heart of the student for character growth), *actions* (in the form of experiences), and *expression* (how a student presents themselves to their community) (Arthur 2017, 28). As a practical extension of character implementation, CVTE has also developed a practical online tool to aid theological schools and churches which can be found at virtueeducation.net. Published in five languages, the tool covers topics such as the definition and importance of virtue, the contexts of practice, and how change can look. The main feature of the tool involves the application of four stages or steps of virtue education on an individual or corporate level. The first of these is *understanding*, that is, becoming aware of the definition and importance of virtue or character. The second step focuses on *testing* (or, self-assessment), in which the participant can evaluate themselves on the site against 13 virtues. *Habituation* is the third step and involves a plan to facilitate intentional growth in a chosen virtue. The fourth step is *reflection*, involving a re-taking of the virtue test in step two and evaluation of its results for future strategies. By being purposeful, mindful, systematic and careful about instituting character and virtue development in theological schools, the current and future landscape of helping students become both smart and good can be actualized.

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Married Couples' Perception of Unfaithfulness

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ABSTRACT: The postmodern society finds itself now more than ever, under the sign of sexuality, people becoming more and more "open" to everything that implies "sex". Temptations are more and more explicit both on the level of fashion, makeup, music, and on the level of leisure and holidays. Sex has become so present in our culture that it became a part of the air we breathe in (Weeks 1986, 4). Moral and legal constraints that once made unfaithfulness a sin, shameful or a felony, are now gone. Today's society almost does not constrain you to be faithful, only the love for the spouse being able to do so.

KEY WORDS: marital couple, faithfulness, unfaithfulness, sexuality, typologies of unfaithfulness, explanatory theories

Introduction

Although today we decide when, where, and most importantly, whom we want to get married to, the extramarital relations have become more numerous than ever, contemporary unfaithfulness producing an unsuspected power. The postmodern couple gives an increasingly greater importance to sexual performances, the main talk, now more than ever, being "sexual satisfaction" or "sexual appetite". In general, when talking about the life partner, unfaithfulness is seen as an especially important and very serios matter, but when talking about our own self, the postmodern individual is more permissive.

This article's main intent is not to prejudge, stating if the love affairs are good or bad, nor to discuss people who are affected by unfaithfulness as

"betrayed" or "betrayer." Nor do we want to give suggestions about remaining together or divorcing after discovering unfaithfulness. We have intended to explore some typologies that capture the problem of unfaithfulness from the perspective of a dysfunctional couple, accentuating some explanatory theories from a bio-psycho-social perspective.

1. Typologies of unfaithfulness

Sexual unfaithfulness appears when the intimacy and/or sexual needs of one or both spouses are not satisfied in the said relationship and when the constraints on unfaithfulness are either weak or missing (Rasmusen, Kilborne 2007, 11).

1.1. Typologies focused on the individual

From the **individual's** point of view, Tordjman has outlined a micro typology of people "prone" to unfaithfulness from the perspective of unconscious mechanism of the self and his "Oedipus" fixations.

"The Neurotic" cannot detach himself from his past, the infantile pleasure demanding for a repetition, and the unsatisfied desires demanding for satisfaction (Stekel 1997, 82). Such people cannot accept a stable relationship being unable to differentiate lust from satisfaction. So, for them, unfaithfulness is just a mere desperate try to find the childhood emotional climate, which explains their complacency in platonic relationships. Neurotics avoid sexual situations that seem difficult to them, because they cannot withstand these.

"The Bovarist" reveals herself as an unfaithful typology by engaging in numerous love affairs, hoping that the illusion will correspond to reality (Mitrofan 1989, 126-128).

Feeling over neglected by the spouse, **"the narcissist"** wants to find in the extramarital partner the mirror that amplifies the facets of his personality. Such people do not search for a sexual act that much, but more of an impermanent love, the compliments and the partner's libido being essential, thus helping to reinforce the self-value. When a narcissistic personality falls in love, the idealization of the subject of their love may focus on physical beauty, power, wealth, or fame (Kernberg 2009, 239).

"The Masochist" (as psychological structure not as a sexual abnormality) is constantly unhappy with herself and with the other, cultivating the inferiority complex and the culpability feelings in adulterous experiences, without a future. Falling in love, as a teenager, with an idealized but unavailable man, shall influence the entire love life of the woman. Thus, the masochist enters, with predilection, in relationships with married man, situation that satisfies her need to suffer – by sharing the "object of her love" with another woman. Other times just offers herself to any wanting man, being a sure pray for seducers (Kernberg 2009, 224).

The exacerbated manifestation of sexuality may be the expression of an attempt to overpass an inferiority or inadequacy feeling, this taking the shape of the **"Don Juan"** complex (Cristea 2001, 417). „Don Juan" is often a tragic character, that frantically looks for the divided maternal image, and, as none corresponds to his ideal image, he despises all the "successors" whom he abandons. His feminine correspondent searches, in her successive partners, for the inaccessible ideal of the paternal image. Although she manifests tenderness towards her husband, this type of a woman reaches climax only in an adulterous relationship.

1.2. Typologies depending on the type of affair

Following the pattern of the affair, John Cuber has pointed out three types of such relationships. **The unfaithful relationships with a "compensating" character** are those that appear because of a conflictual marriage, frequent misunderstandings, and incompatibilities between partners. Relationships as such, most often imply, emotional involvement and may become the starting point for a divorce and, respectively, entering a new marriage with the new sexual partner. **The unfaithful relationships with a "replacing" character** develop as a result of a long period separation between spouses (imprisonment of one of the spouses, military service, extended travelling), without emotional involvement, being only on short term. Last but not least, **the "polygamic" unfaithful relationships** ("open" marriage) appear as a result of the satisfactory companionship between spouses but are due to one or the other's inclinations to go beyond the strict frame of marital sexuality. Often, such relationships presume an agreement between spouses who are free to choose the sexual partners they want, provided that they keep the unity of

the marriage (Rădulescu 1999, 314 – 316). From O'Neills viewpoint, the "open" couple means "an earnest and open relationship between two people, based on a freedom and identity equal for both partners", involving a verbal, intellectual and emotional agreement from both partners (1972, 41). Their research has indicated that a major problem of modern marital couples is the incapacity to reach intimacy and grow in a marital environment. In conclusion, the solution is the "open couple," a relationship characterized by realistic expectations, seizing the moment, respecting personal intimacy, the flexibility of roles, open and honest communication, equality, and trust (O'Neill & O'Neill 1972, 76).

"The one who opens the door" affair is another typology focused on the type of affair that, usually, appears when a relationship reaches the end. Since one spouse does not feel emotionally attached anymore to the partner, the spouse looks towards ending the initial relationship and lays the grounds for the new one. Sometimes, the betrayed partner is relieved that the relationship has ended, other times one may consider that the relationship was normally functioning and is shocked by the fact that the partner wants to end the marriage. The unfaithful have this type of affairs as they find it difficult to tell the partner they want to end the relationship. Sometimes the drive to escape a relationship, without facing the problems, is the one pushing a person to start an affair (Cole, Relate 2005, 83-84).

"The three-legged chair" affair is a long-term affair. In general, most relationships can be compared to a two-legged chair. If the burden in a couple becomes too large, one of the spouses may look for an affair that acts as "a third leg", that stabilizes the situation. It is even possible that both partners know about the other's unfaithfulness, but remain together, usually complaining about the other's unfaithfulness. In fact, the couple needs the affair, as this relieves the pressure of solving problems (Cole, Relate 2005, 87-88).

"The revenge" affair is a short term one, and, in general, is not kept secret. It is associated with gross dishonesty and betrayal (Glass, Wright 1997), the unfaithfulness of one of the spouses may, unconsciously, push the faithful partner towards extramarital relationships for revenge, revenge generated by the unfaithful partner being one of the most frequent reasons for adultery (Rădulescu 1999, 314). The main condition for such an affair is that one of the partners to have already had one and the other to desire to get back what was his. Usually, the affairs come to be regretted, as the betrayed

one realizes that he is doing what he hated in his spouse. Occasionally it is kept secret becoming "a warm coat, emotionally charged, wore to keep away the coolness of an unhappy partnership" (Cole, Relate 2005, 93).

In the case of **"notice me" affair,** adultery becomes a way of communication, being the emotional equivalent of a shouting in a loudspeaker, after the normal tone conversation seems to not have been heard. It is a one-night stand, sometimes not even being a sexual affair. It usually occurs in relationships where partners do not notice the important issues or have tried to solve them and failed. It may also occur when there are problems related to the sexual side of the relationship, the unfaithful giving clues so that the affair be discovered. However, the extramarital relationship might not be sexual, the other person just being used to perform an emotional threatening (Cole, Relate 2005, 96 – 97).

The couple who deals with **"the avoidance" affair** is caught in a situation in which the affairs repeat themselves, the cause being the lack of intimacy and involvement. Those who have such affairs fear attachment or emotional connection to their spouses. The unfaithful ones feel trapped, the affair being described as a "vice": they know they should not have an affair, but they are uncapable to stop (Cole, Relate 2005, 99 – 100).

The "experimental" affair is the most connected to sex and it takes place in the couples in which the sexual experience is limited. The unfaithful usually searches to experience sex with someone else. For a man, such an affair may signify nothing more than sex. For a woman, in return, this might signify the intention of having a more profound relationship (Cole, Relate 2005, 103). When talking about unfaithful relationships, Lawson uses the term "adultery" to limit the discussion to heterosexual extramarital relationships. She identified three types of adulterous relationships: **parallel, traditional,** and **recreational**, arguing that each of these types may be a support relationship, a dangerous and transitional relationship from one existing marriage to another (1988, 27). The differences between these types of adultery refer to, on the one hand, the degree of knowing a partner as opposed to the other, and on the other hand, to the significance the spouses give to relationships. Thus, traditional adultery is a secret relationship without the spouse's knowledge, while parallel adultery is more open. The recreational adultery is a short "hit", the accent being put on immediate pleasure and risk.

1.3. Typologies depending on the temporal factor

Considering the temporal factor, Gagnon and Greenblat differentiated several types of adulterous relations. **"The accidental" relations** occur only once, during some tangential, unexpected, and unplanned meetings and do not involve emotional attachment. **"The temporary" relations** have a longer life, also involving some emotional attachment, these are, in general, secret, clandestine, and may affect the marriage the more so because any long-term satisfactory sexual relation may determine some attachment and involvement feelings towards the new sexual partner. Such relations may be abruptly interrupted, because of the intervention of the spouse or because of a conflict between the two sexual partners. **The strong relations** are of a different quality and a longer life, due to a certain view of the future (a possible marriage). Such relations may carry on for years, enhanced by a long illness or disability of the spouse, as well as the spouse's long absence from the family (Rădulescu 1999, 317-318).

A particular sexual relation is **the relation with prostitutes,** the most frequent clients being middle aged married men, seeking sexual practices (oral and/or anal sex) which cannot be performed with their wives. Prostitution thus becomes a sexual socialization institution, but also a compensating means for the absence of erotic satisfaction in the family. There are also men who are potent only when with prostitutes (Stekel 1997, 149).

2. The Couple and the response to unfaithful relations

In general, most people react to unfaithfulness according to their **gender**, both men and women give different meaning to the spouse's affair. Women tend to rebuild their relationship and keep it alive, although this sometimes happens with depression and self-blaming. Women justify the affair by considering they are unworthy; this is why they need more time to recover. On the opposite side are men who tend to end a relationship and find someone else when finding out that their wife was unfaithful. Although angry and accusing the others around them, men justify the affair by their sexual inadequacy (Spring 2009, 58).

Moreover, the way in which a **couple** reacts to marital unfaithfulness unveiling, depends on the way in which they have confronted, in the past, the

difficult moments; most couples create a sort of a response pattern which they tend to follow each time they face something difficult in their relationship. **"Volcano eruption" couple** faces difficult situations in a loud and visible manner. Following an affair, the violence of arguing may be so big so that the spouses themselves get scared of the emotions they unleash. Explosive scandals occur because the two spouses express their annoyance instead of trying to let it cool and discuss afterward. Some couples have scandals around the same problems; these couples may be described as "**circular contradicting" couples**. In the case of unfaithfulness, trying to discuss about it may prove to be not only painful but also difficult to approach. The couple shall not solve its problems, but the spouses shall wait to dig them up on the next session of fighting and arguing (Cole, Relate 2005, 144 -147). **The "hide problems under the rug" couple** finds itself, in general, in difficult situations as the partners avoid addressing the issues. When a problem appears, the couple stops communicating and focuses on other subjects. In the case of a sexual extramarital relation, partners not only find it difficult to communicate about it, but the lack of communication may lead to some unrealistic assumptions regarding the consequences of such an affair (Cole, Relate 2005, 148-149).

3. Explanatory theories for unfaithfulness

Marital unfaithfulness raises numerous questions, from the attempt to discover what happened in the relationship to finding the guilty one. Moreover, the explanations given by the betrayers are of great variety, from "conquests" and "rebellion" to the desire to make the other one jealous and drawing his/her attention.

3.1. The inter systemic perspective

From an inter systemic viewpoint (Weeks 1989), the factors which contribute to unfaithfulness may be grouped around three areas of vulnerability: the issues of individuals that form the system, the relational disagreement, and the intergenerational impact. Some of the most frequent vulnerabilities include:

- The inability to have intimacy in the couple relationship;
- Issues with the commitment in marriage;
- Lack of passion in the marital relationship;
- The inability to manage anger and conflict;
- Sexual addiction;
- The transitions in the life cycle;
- Mental illnesses;
- Fears of intimacy, addiction and trust;
- A system of values that gives priority to pleasure and fun at the expense of loyalty and faithfulness (Fife, Weeks, Gambrescia 2007, 86).

3.2. Biologic reasons

Starting from evolutionist premises, some specialists claim that the basis for unfaithfulness lies within **the distant "hereditary" reasons.** In the animal kingdom, free love occurs, males having multiple female partners, and the female accept multiple males as partners. They claim that this biologic imperative lingers in the man.

There are also reasons that come from **human nature**, every person keeping, deep down, a tendency to explore, tendency which may push them to get close to their peers, touch them and want to know them even with the risk of dying (the possibility to get HIV/AIDS, the risk of being executed). This is due not just to the organic needs, but also to **the sexual restlessness** specific to every person. Furthermore, as we are the sum of our **own contrasts,** we may become unsteady, wishing for a thing but also its opposite. Consequently, depending on the direction given by the personal forces of cohesion or dispersion, an individual shall be faithful or not. Moreover, people have multiple **facets,** each one carrying a certain sensitivity, desires, and personal capabilities. Virtually, every facet awaits for the right person that will know to discover it, but as it is seen only from one angle, it may not be visible for one partner but discovered by another. Our mental life is **"a river",** the flow of thoughts, feelings and preferences happens in time. Hence the idea that what connected and bonded us with our partner may change. The lack of permanence is, therefore, a reason for unfaithfulness, being more often the

phylosofic alibi for giving up the responsibilities (Leleu 2003, 75 – 79). When talking about men, some sexologists see **the polygamous sexual instinct** as the cause of unfaithfulness. For women, on the other hand, the extramarital relations do not concern just the sexual aspect, but love itself, women having the ability and tendency to love two men at the same time (Rădulescu 1999, 306. 319). **The everyday life** may also impact, fraying feelings, wearing out the desire (sexual routine) and even demythologizing the partner (you know everything about him/her), marriage becoming the routine which drains the desire and reduces the pleasure to nothing (Bataille 2005, 123). Love fades, the relationship gets stuck and happiness dies. This transition, from the ideal to routine is often accompanied by a shock. So, unfaithfulness comes as a mutiny against monotony, as a desire for new, for regeneration.

3.3. Psychological reasons

The occurrence of unfaithfulness in a couple may also be caused by **elements connected to childhood.** As the child is born as a sexual being, his first sexual objects are the persons who take care of him. From pampering to kissing, all may create an erotic atmosphere which the child will later long for. So, by only seeking the wellbeing of the children, many parents make them unfit for life, as they cling to their parents for the rest of their lives (Stekel 1997, 86 – 88). Also, the discoveries made in childhood about our parents' sexual lives contributes to the creations of the sexual scenario of the future adult (Haavio – Mannila, Kontula, Rotkirck 2002, 26). Also linked to childhood, **"the great absence"** forces to a continuous search for a partner who knows to fill in for the missing parent. When the spouse is no longer enough, a search begins, of course, outside the couple. There are also situations in which unfaithfulness is nothing more than a program directed by the figure three: **"the Oedipus" trio**. The childhood experience when the child "desires" the opposite gender parent, leaves an indelible mark in the subconscious, confronting this, at maturity, with a couple, may induce to some a tendency to enter a triangular relationship (Leleu 2003, 82-83). There are also specialists who consider the idea that, in theory, there are always six persons in bed: the couple, their "oedipal" rivals, and the "oedipal" unconscious (Kernberg 2009, 153). Moreover, through the **dialectics virgin-tramp,** unconsciously, the husband associates the image of his wife with the untouchable image of his

mother. By giving him children, she is even more sacralized. Out of duty he shall make love to her, but for refinements, positions, excesses, or records, he shall look elsewhere. But, when lust pushes men towards their wives, they destroy the respectability, and transform their wife into a prostitute and treat her as such (Leleu 2003, 84). It may also happen that the wife offers the lover what she refuses the husband, behaving, with the lover, as a prostitute, being thus happy to be able to set aside culture and ethics. Therefore, sometimes the respect for the marital partner is the one that pushes to unfaithfulness. At the same time, **the immatures** are fundamentally unstable, their emotional routing being chaotic, they accumulate separations and divorces, and they collect unfaithfulness. Also, when **choosing a partner,** a great deal of people start from a parental pattern, while others choose a negative partner, thinking they can transform him/her.

It is also worth mentioning the **reasons that are linked to the unsatisfied emotional needs. The dissatisfaction** generated by the routine represents a factor that explains adultery. On the one hand, either the needs of the unfaithful are normal and the spouse's response is not enough, or the unfaithful's needs are extreme and the spouse's answer relatively insufficient (Mitrofan, Ciupercă 2003, 68). In some couples, there are partners with **excessive needs**, huge, insatiable, who must be fervently and permanently loved. No matter how much the spouse might strive, in the end the crisis shall come amid breakdown, the "insatiable" feeling abandoned. On the other hand, there are people less sentimental, and less expansive by nature, **being cheap on giving affection.** Thus, partners who invest feelings in the relationship come to hide their needs for affection, up to the point they find someone willing to give them love. The shock or **the loss of someone dear**, may determine a person to look for support to overcome the crisis, and the person may grab the hand that is extended for help (Cole, Relate 2005, 107-108).

Unfaithfulness may also be generated by **reasons connected to the lack of sexual satisfaction,** entering an extramarital relationship is much more probable if the frequency and quality of a couple's sexual life is poor. Without being pathological, some people have **considerable sexual needs,** they are some sexual "gourmands". Even if the partner has desire for pleasure, one may not always match the expectations. So, these persons turn to other partners. To the other extreme, there are persons whose **sexual capabilities**

are obstructed, due to temperament, illness, or even wear of desire. Partners whose sexuality is normal, might feel frustrated. That is why some give up the sexual life, choosing a life of sacrifice, while others discharge of their sexual tension in extramarital relations (Leleu 2003, 98 – 99).

From the perspective of the two sexes, adultery takes on different nuances, and numerous studies indicate that the unfaithful husbands' mistresses are usually unmarried women. Psychologically speaking, these women can accept to be "courted" by a married man, either because they have low self-esteem ("It's good enough to have half of a man"), or because they have an exacerbated sense of their own superiority ("I'm entitled to any man"), or as they want to have a carrier this is the easiest choice. When looking at this from the unfaithful wives' viewpoint, most partners are married men, preferring those, especially from precaution (as he also has a family, he shall be discreet) (Mitrofan, Ciupercă 2003, 70-71). To the profile of unfaithful wives, we can add age, both young wives and middle-aged wives have extramarital relationships (Rădulescu 1999, 308-309). Women who have a carrier have high rates of extramarital relations by comparison to the wives in the traditional couples (Collins 1988, 342). Although they suffer more than men, women also look for love when having an affair, considering that unfaithfulness is justifiable if love is involved. According to studies, married men are excessively valorized as lovers, which feeds their ego and oversize their image of self. The main cause for which men have more extramarital relationships than women, is the "double standard", according to which they have more sexual privileges than women (Rădulescu 1999, 312). In case of men, adultery is easier to forgive than in the case of women, them being severely sanctioned in case of unfaithfulness (Buunk, Dijkstra 2004, 106). Although they suffer less, men are pleased with a sexual relationship if love is not involved.

It is also worth mentioning the **reasons due to the lack of satisfaction of the needs of growing.** The need to grow and develop is specific to humans. Growing means reaching adulthood and wisdom. Feeling accomplished means developing your talents and skills. Developing means offering yourself a transcending that gives a superior purpose to your existence. If, unfortunately, the spouse is rigid, the spouse in evolution shall seek refuge outside the marriage (Leleu 2003, 103).

3.4. Psychosocial/ sociological reasons

Social status is an important variable, which seem to condition the marital sexuality. In general, the tendency to sexual liberty is more specific to higher social classes, such as the ones in the artistic environments (Rădulescu 1999, 313). Nevertheless, irrespective of the social class, men have adulterous relations, those from the lower classes starting immediately after marriage. Simultaneously, the working women are more prone to extramarital relations (Collins 1988, 341).

There are also **reasons linked to the financial possibilities,** as to have mistresses or lovers, one needs time and money. Those who cannot afford the luxury of an adultery, throw themselves in short term loves, settling with short and frustrating sexual intercourses (Raoul-Duval 2000, 106).

The extramarital sexuality is tightly connected to **man-woman relationship,** research showing that, if someone experiences **premarital sexual relations,** shall be more prone to do so afterwards as well, finding applicable more to women. Those who have premarital relations may also be wrong, as they get married, based on sexual premises, with the wrong person, thus the premarital relations lacking objectivity (Băran-Pescaru 2004, 97). **Forced marriage** is also one of the main reasons for adultery. Predominantly, in the pre-modern age, what mattered for the public opinion was just being married and not the quality of the marital life, extramarital relations sweetening the banality of conventional sex. As long as marriage was based on gift or theft, or financial interests, as long as the two did not know each other before the wedding, physical and psychological differences being frequent, unfaithfulness was **a necessity,** something normal. Sexual extramarital relations became "emotional solutions to emotional problems" (Moultrup 1990, 15).

Although the woman needs, faithfulness, dedication, she often uses **unfaithfulness** to send a **message** (Gray 1998, 107). She wants her partner to listen to her, to be affectionate, to have sexual relations in a different manner and to understand her. If the husband does not fulfill his role, she turns to a lover to make him reflect and give access to her desires, this could be a test ("Do you still love me?"), a punishment ("I will teach you a lesson!"), or a way to self-evaluate ("Am I still attractive?"). When men are dissatisfied, they acknowledge this clearly and faster look outside the marriage for

what they lack. Yet another typically feminine attitude is **unfaithfulness to assert herself;** in this case, the woman, probably after years of routine and submission to the husband and family, pushed by the feelings of dissolution and being stuck, decides to have an affair to discover all dimensions of her personality (Leleu 2003, 89 – 90). According to some other research, there were highlighted the feelings of validation and enthusiasm the affair generates in the life of the unfaithful. Clandestine dates, illicitly going out to the restaurant or to the movies, being involved in a romantic relationship, makes them feel special, interesting, and sexually attractive. This is mostly true for women, the extramarital relation adding an intriguing element and a new dimension to their lives (Graham 2004, 130). The affairs may also come after **an important change in the lifestyle,** as a result of changing house, loosing or getting a job, recovering after an illness, in fact anything that may induce a form of stress, the unfaithful wanting to see himself in new and strange situation (Cole, Relate 2005, 111-112). Although it looks like a contemporaneous cliché, around the **midlife age** people make significant changes. Around 45 years old, both men and women, evaluate their lives and the result of these reflections might be that they want to give up some old clichés and experiment something new. An affair is the symbol of the desire to have a new lifestyle.

Not in the least, we mention the **reasons linked to the current civilization.** Never before sex has been so forefront. Under thousands of shapes, sex dominates literature, theater, cinema, advertisements, and the entire contemporary life. We live during a real **sexual revolution,** when sexual pleasure has become a right, everyone benefits from his own body to their liking, and unfaithfulness is no longer seen as a felony, the religious interdictions are applied only on paper most of the times (Leleu 2003, 92 – 93). To this adds **the diversification and enrichment of the interpersonal relations network.** Post modernism has facilitated the interaction between individuals, and the probability for them to meet at least one person to feel attracted to is very high. Clearly, since the marriage is no longer subject to religious leading, it has been **emptied of its meaning,** the disappearance of this cohesion factor weakens the marriages even more. **Nonconformism** has taught us that we have nothing to lose if we are blunt and tell people around us we want a "non-strings attached relationship", the "hints" gaining coherence

(Mitrofan, Ciupercă 2002, 67-68). The only important faithfulness is the one towards oneself and personal needs. The increasing number of extramarital relationships, becoming comfortable with the idea of being betrayed, the ease in obtaining forgiveness in case of adultery, all these are indicators for the modern **autonomy and individualism.** Our society transposed its **consumerism mindset** to the sexual-emotional plan: we "consume" human beings. It is not enough to have one partner, but the more, the better (Leleu 2003, 94-95). Thus, in the published literature, has appeared the phrase "human poaching", by this expressing "a behavior meant to attract someone already involved in a romantic relationship (Schmitt, Buss 2001, 894). So, those who are "taken from their stable relationships" have received the label "poached" and the others who force persons out of their relationships were labeled "poachers" (Schmitt, Buss 2001, 895). Last but not least, **cinema** has created, through films, the myth of the ideal man, lover, and friend, who puts his life and faith in the hands of that who makes his heart beat faster. "A century of cinema has created maybe more adulterous romances than many more centuries of literature" (Raoul-Duval 2000, 27-28).

Conclusions

No matter the circumstances that often justify the violation of the marital vow, unfaithfulness is always wrong. It is one of the most painful things for most people to discover that their spouse is unfaithful. Unfaithfulness produces a series of distortions, mostly on the marital socio-emotional level, the most frequent being the jealousy crises, hostility, grudge, or reciprocal teasing. The spouse who remained faithful to the marital oath, often develops depressed moods, which prevent him/her from fulfilling the daily family chores, or lives under a continuous stress, and this nourishes his/her aggressivity. The betrayed one may also plan to revenge, to follow and check and interpret the elements which, most often, amplifies the experience, this being seen as an offence or even a threat to oneself.

Deep down, all people entering a marriage swear love and complete faithfulness for eternity. Even today, when we are aware of the precarity of marriages, this hope resides deep down in our souls. Unfaithfulness is the search for means to heal our wounds and to assert that we have not worked

enough to find it in ourselves. We may be looking for satisfaction outside the marital couple because we have not tried hard enough to support the relationship so that we may feel accomplished. Faithfulness is a desire carved in human's hearts, at least as deep as the desire to have extramarital affairs. Once we accept this, one realizes that true love is, in fact, a duty towards faithfulness. Even more so! True love is the only protection against unfaithfulness. True love is always monogamous, a social phenomenon which may seem to be the only solution for the problem of unfaithfulness.

When there is no faithfulness, it should be invented, and, maybe, it would be a real revolution to give it value, this is possible only if the marital relationships involve the spouses' faith in God before Whom people exchange vows of faithfulness. Thus, spirituality may be both a source of inspiration for a faithful relationship and the means to keep it alive.

Acknowledgment

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Ethics and Academic Integrity – Conceptual Aspects

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ABSTRACT: The present society promotes the individual or of group values. In the academic environment, the axiology – as science of the values – is based on two important pillars: the ethics and the integrity. The applied ethics and the academic integrity are complementary, interdisciplinary in a university environment, capable of elaborating principles, of nominating values and norms staying at the basis of the professors' conduct and, equally, at the basis of the conduct of the students engaged in the educational process. The main specific concepts of the academic ethics and integrity, including their applying, are important for the didactic and research career, for the moral posture it has always been a central landmark of the professionalism.

KEY WORDS: integrity, ethics, academic integrity, professional deontology, plagiary

The Ethics

The university ethics comprises all the moral conduct norms of the individual. Being a moral man it means respecting the basis principals of the collectivity which you are living in, and which you are unfolding your activity in, principles (like dignity, responsibility, liberty, solidarity, justice, and charity) comprising right and obligations, cohabitation and behavior norms, enforced by the legislative system and upholded by the public opinion. **The ethics** (*Lat. "ethica"*), according to the *Explicative Dictionary of the Romanian Language ,*

it is defined as being: "*the science studying the moral principles, with their laws of historical development, with their social class content, and with their role in the social life; the totality of the norms of moral conduct corresponding to a certain class or to the society*". Understanding the ethics is critical to us as individuals, for a sane ethics represents the essence itself of a civilized society.

The ethics represents the foundation of our relations' quality, in the frame of the society which we are in. Imposing in practice the values accepted by a as broad as possible community, through the *applied ethics*, it has brought a very important contribution in both domains of the law and of medicine, in which the legal ethics – or the jurisprudence -, and, respectively, the medical ethics are very well established subjects. Considered from ethical perspective, the integrity is equally an attribute of the character and a facet of the person's autonomy and dignity. As virtues of the character, the integrity belongs to the domain of the *moral psychology*. A virtue has moral value only in the context of a harmonious moral character.

Integrity as personal autonomy, it supposes, according to the German philosopher Immanuel Kant, to act "so that always to treat the humanity, both your personal humanity and the humanity of others, always as a purpose as such, and never only as a means" (Kant 1969, 71). From this perspective, the integrity becomes a restrictive necessary condition applied to the systems of institutional rules. The integrity as facet it is founded on the reality that each human being has a dignity (a moral status) (Rotaru 2016, 29-43) as human being; in other words, it is a self-standing whole. One way to assure an ethical behavior it is to adopt an ethical code, or a code of professional deontology.

Deontology (Fr. deontologie) it represents the doctrine referring to the conduct norms and to the ethical obligations of a profession (cf. DEX, ed. 1998). The syntagma of *deontology* it comes from the Greek words *deontos* meaning *what it is due* and *logos* meaning *science*. In a general acceptation, M. Oroveanu defined the notion of deontology as being: "*what one has to do and it comprises the obligations to fulfill, the norms of conduct, and the moral duties of a profession*" (Oroveanu 1/1993, 35). In a special acceptation, referring to the civil servant, the same author defines the notion of deontology as being: "*the ensemble of the attributions, moral and juridical obligations of them, necessary to fulfill the missions implied by their positions, regarded as duties in the society's service, on the purpose of rationally, efficiently, operatively, and legally*

accomplishing the state administration, and of satisfying the legitimate rights and interests of the natural and legal persons. By the specific of its research object, the deontology is at the interference between law and morals, so that it can be defined as representing the ensemble of the norms referring to the professional and moral behavior of the public servants on and off duty" (Oroveanu 1/1993, 35).

The professional deontology, by and large, it designates the totality of the conduct norms, which the "*minima moralia*" is being made evident in, regarding the exercising of a profession (didactic personnel, physician, lawyer, attorney, judge etc.). The norms of professional deontology synthesize the experience of a profession and they prescribe rules regarding the exercising of the respective profession in society. These norms can be found in instruction books, statutes, codes etc. adopted by the designated international and national institutions. The professional deontological norms, in a broad sense, they do not prescribe sanctions; they are, in the last analysis, the expression of a profession's philosophy, the synthesis of the requirements formulated by society relating to that profession. The professional deontological norms are rather professions of faith, which confer the civil servants a special statute, and they are recommendations having in their substance juridical norms.

When the deontological norms are transgressed, and by disregarding them are affected the values defended by law, the transgressions are sanctioned by the state, so that they become juridical norms. The integrity can be born and it can be developed only in a climate which the human dignity is valued in, which the people can affirm their options in, and which the people are allowed to make choices in – where the truth, the justice, and the consciousness are unanimously accepted moral values. Paradoxically, though, the integrity is proven in an environment where these values aren't recognized in. More than that, only in extreme situations the leaders prove their integrity, by consciously choosing to sacrifice their own interest for the interest of the organization led by them. The term *morals* comes from Latin, *moralitas, tis* (Guţu 1983, 766) and it defines the way of being, namely a personal characteristic.

In the Romanian language the word *morală* defines: the form of the social conscience comprising ideas, conceptions, and convictions regarding the norms of cohabitation and of behavior of the people amongst themselves and in society (Marcu, Maneca 1986, 705). "The is a **personal morals** defines

and the equilibrium of the internal desires and of the external needs, along with a **social morals** understood as equilibrium between the own desires and the others' desires. There are **positive morals** (the morals of the good, telling us what we have to do) and **negative morals** (the evil's morals, telling us what we have not to do, or what us to abstains of doing). There are **minor morals**, of the small things (manners, politeness, esthetic morals) along with **major morals**, or of the important things which cannot be confounded, in the author's conception, to the law. There are religious morals and lay morals, and there are – from the point of view of extension – family morals, group morals, national morals, and international morals. Each social category has its specific morals: of the intellectuals and of the workers; of the masters and of the servants; of the professors and of the students; of the government and of the governed; of the men and of the women; of the adults and of the children; of the bosses and of the subordinates etc." (Voicu 2005, 136).

The professor and the student are two of the academic communication's factors. This type of communication must be done with honesty, namely the message's content has to be clear, both of the participants to manifest their sincere conviction for the treated theme/subject. The honesty supposes moral verticality, a state that can be distorted through false initiatives having as purpose the perpetuation of the feeling of malice. But the moral man can annihilate the state of malice for he is the straight edge of the concrete situation which he does not deviate from by any means.

"The morals represent the sum of the social virtues (justice, altruism, charity, kindness, mercy, generosity, devotion, truth, sincerity, modesty, respect for another etc.), it is the concordance between the own tendencies and behaviors and the others' tendencies and behaviors.

The morality is:
- The art of amplifying the individual forces by putting them in concordance with the social forces;
- Equilibrium between rights and duties;
- It is what conforms to the general interest; what is useful to the social life, to the society's majority.

The immorality is the opposite to morality, namely the sum of the social vices (egotism, evilness, hatred, pride, lie, hypocrisy, despise etc.), it is the state

of unbalance in the favor of the right and on the account of the individual's duties. The immorality harms the social life, being the one contradicting the general interest of the majority.

The amorality is a neutral intermediary state, or an undecided state between morality and immorality. It designates the lowest degree of morality and, meanwhile, the smallest degree of immorality: it means isolation, individualism, and social indifference" (Voicu 2005, 137). The communication's honesty supposes the recognition of our own limits (Bodea 2007, 305) because of the man still doesn't owe the absolute truth, no matter how highly prepared would he be, from intellectual point of view.

Integrity

The term of integrity comes from Latin, *integritas, tis* (f. s.) and it means *totality, whole, exemplary honesty, and correctitude* (Guțu 1983, 639). In the Romanian language, through the term *integritate* we understand: *honesty, probity, the quality as being whole, intact* (Marcu, Maneca 1986, 578). The human person has this capacity of feeling the sentiments: of justice, of honor, of correctness, and of dignity, in all his actions, related to all the members of the society which he unfolds his activity in. Etymologically, the term integrity expresses a human quality, a value of our being of preserving himself intact, vertical, and without imperfections.

The society isn't open to the progress except through interpersonal relationing. Thin, but easy to notice, the difference between the personal integrity and the individual integrity leads us to think at the importance of the manifestation of the human quality especially related to the other persons, without owing it strictly on subject level. An individualize value, which the collectivity cannot share it, it is an egotistic value, and egocentric one, incapable of generating values, all the more that in the higher education institutions there are leaders and managers on whose experience the whole academic collectivity is tied indestructibly. "An upright man is a man valuing his principles, a person acting without bias when evaluating cases which he is involved in, and who fulfills his duties with devotion, proving probity. In the same time, being an upright person it supposes to grant the others too, the presumption of integrity" (Șarpe, Popescu, Neagu, Ciucur 2011, 12).

The contemporary society is in full dynamism, and the universities' role within society it is a normative role. The educational domain is a priority both to Romania, and on European level, and that's why the academic ethics and integrity thoroughly uphold the university's mission in society, based on knowledge, and from here comes the need for some documents or codes, on institutional level, capable of offering norms and good practices in guiding the academic community. "In this way it would be contoured a *ethos* based on respecting the principles regarding the dignity and the physical and moral integrity of the people, their continuous instruction, the developing of the knowledge and the improving of the quality, the participation to the democratizing processes and to providing the equality of chances" (Șarpe, Popescu, Neagu, Ciucur 2011, 12).

The international conference concerning *Dimensiunile Morale și Etice ale Învățământului Superior și Științei din Europa* (The Moral and Ethic Dimensions of the Higher Education and of the Science from Europe, 2-5 September 2004, http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.128.6369&rep=rep1&type=pdf) - held in Bucharest in September 2004, it aimed to identify and to analyze the system of value and norms governing the academic life, and these ones are the followings:

a. The key values of an academic community are: the honesty, the trust, the discretion, the respect, the responsibility, and the hierarchical subordination. These values are, also, crucial for offering an efficient teaching and a qualitative research;

b. The tendency towards honesty it will be manifested by each member of the academic community, being extended toward the others, being avoided, systematically, any form of deceit, lie, fraud, theft or other dishonest behaviors negatively affecting the relations' quality amongst the members of the academic community;

c. Guaranteeing the honesty in: teaching, evaluation of the students, research, professional and functional promoting, and in any other activity related to granting titles and degrees, which must be bases on legitimate, transparent, equitable, predictable, consequent, and objective criteria;

d. The free exchange of ideas and the freedom of speech are based on the reciprocal respect manifested by all the member of the academic community, regardless their position in the professional hierarchy. The responsibility common to all the member of the academic community contribute to the free expression of the

opinions and actions (The Moral and Ethic Dimensions of the Higher Education and of the Science from Europe, 2-5 September 2004, http://citeseerx.ist. psu.edu/viewdoc/download?doi=10.1.1.128.6369&rep=rep1&type=pdf).

Ensuring the integrity in the process of research is based on the following principles:

- The intellectual freedom and the social responsibility are the basic values of the scientific research, and they must be respected and promoted consequently. These two values should reciprocally consolidate one another in the frame of the increasingly open systems of instruction and production of the knowledge characteristic to the XXI Century's society;

- The individual researchers and the groups of scientists are morally accountable not only for the research processes (the choosing of the subject, the research methods, and the integrity of the research), but also for their results. That's why, they must elaborate and observe rigorously codes of ethical norms which to regulate their activity of scientific research;

- Any conduct code must include ethical norms and implementing norms, thus being avoided: the superficial treating, the lack of content, the hypocrisy, the corruption, and the impunity;

- The scientific communities have to promote the international cooperation and to ensure an intellectual and moral solidarity based on the basic values of the culture of peace and on the imperative of orienting towards the welfare of the mankind through a sustainable development (Nicolescu, Verboncu 2008, 56).

Any organizational culture has at its basis a set of values, of behaviors, of principles, and of norms, expressing unequivocally the health of each organization in direct correlation to the level of its integrity. Professor Ovidiu Niculescu, in his work *Fundamentele managementului organizaţiei* (Şarpe, Popescu, Neagu, Ciucur 2007, 14) he defines the organizational culture as being "the ensemble of the values, beliefs, aspirations, expectations, and behaviors, contoured in time in each organization, which predominate within that organization, and which directly or indirectly condition its functionality and performances" (Nicolescu, Verboncu 2008, 57).

The notion of organizational culture defines therefore a system of values, of presumptions, of beliefs, and of norms, shared by the members of

an organization; it constitutes the basis of the organizational culture; they are a synthesis of the individual ones; they are reflected in symbols, attitudes, behaviors, and diverse structures; the significantly influence the organization's evolution and performances.

The Public integrity can be defined both from the point of view of the integrity of the processes in the frame of the organization – o making decisions, of implementing the decision, of managing the public funds – and from the point of view of the integrity of the personnel or of the public agents unfolding their activity in that organization (local authorities, public servants, contractual personnel from the public institutions).

From integrity perspective, the representatives of any public entity have the obligation to grant all the persons addressing that entity, an impartial and equitable treatment.

One of the public integrity's components is the **transparence** in unfolding the public institutions' activity, and it means the set of instruments which the administration (the institution and the authorities of the public local and central administration) are held accountable through, by the citizens/tax payers, regarding the activity unfolded to their service.

The concept of transparence of the decisional process unrolled in institutions it refers to providing the citizens' access to the documents in the management of state institutions, and it also refers to consulting the citizens related to adopting some regulations (Șarpe, Popescu, Neagu, Ciucur 2007, 14).

In order to be ethical, or moral, in what we write, we must avoid the main three forms of immoral conduct: falsifying the documents, forging the documents, and the plagiarism. It is not ethical to intentionally avoid the arguments which aren't on the line of our thesis, and neither is the selection of the bibliography only for justifying our hypotheses. We cannot ignore the suggestions, the completions, or the critical analyses of some already consecrated peer reviewers.

Regarding the falsifying the documents, of forging the documents, the plagiarism and even the self-plagiarism, these have been forbidden right from the beginning- and they still are -, because of sometimes the gravity of such forms of conduct determining their inclusion in the category of penal nature facts. The plagiary work is the written work, done and published by a person or by a group of persons declaring themselves as authors, a work comprising

integrally or partially a work of intellectual creation written, done, and previously published by another person. [...] The plagiary work in produced by copying, taking, translation and/or partial or integral unauthorized modification, and by omitting to indicate the provenance source in which the real author's name to be explicitly mentioned. According to the *law no. 318 from 8th of April 2003*, the plagiary and the self-plagiary are defined like this:

The plagiary – *it means presenting in a written work or in an oral communication, including in electronic format, of some texts, expressions, ideas, demonstrations, data, hypotheses, theories, results or scientific methods extracted from written works, including electronic format, belonging to other authors, without mentioning this fact and without indicating the original sources;*

The self-plagiary – *it means presenting in a written work or in a oral communication, including in electronic format, of some texts, expressions, demonstration, data, hypotheses, results or scientific methods extracted from the written works, including in electronic format, of the same author or authors, without mentioning this thing and without indicating the original sources* (ANSOR 2016, 4).

Since the apparition of the Internet, intensively used by students for copy-paste, the concept of "copy" relating to the "original" it being questioned during the two last decades, at least in the specialty literature (the Platonic vein regarding the "copy" has crossed, through Renaissance, until today). The moral basis of the "to copy" it is now brought to question and I believe that our students would benefit of the invitation to a re-fixing some moral fundamentals. The illicit copying from Internet, not only that fraudulently substitutes the own effort in writing a scientific work, but it also sacrifice the original aspect of that work. The plagiary by taking texts from Internet has become more facile and it has allowed the proliferation of the contractual cheating system, and there appeared sites specialized in providing, in exchange for money, the required product: license thesis, dissertation, articles etc. Named also as *Essay Mills*, such Internet sites have a legal situation intensely criticized currently. The Internet produces, thus, new challenges for the ideas of Plagiary, Authorship, Copy, Remix, Copyright etc. (Popescu 2016, 39). Ant this problem is felt today increasingly acutely, both on national and international level. As main remedy related to this distortion, it is necessary for our students to have a more insistent and consequent instruction during

their period of education so that the quoting, and also the referencing not to become a problem with unwanted consequences both upon their academic situation, and even upon the tutors and the academic supervisors. Through this it can be in the same time promoted the awareness of the reciprocal scientific moral responsibility between student and guide.

The plagiarism problem concerns the sphere of the academic deontology, namely it belongs to the forming of the conduct and of the morality of the academic communities on the virtue of some self-imposed values, principles, and standards. Although establishing these milestones of academic morality it doesn't mainly depend on the actions' consequences, these ones are determinant in judging and sanctioning the behaviors in the academic world.

Out of the way which the universities define and describe the plagiarism in, as also out of the politics of prevention and sanctioning the plagiarism which the universities implement, it results a few principles and values of the academic deontology, which the University of Bucharest adheres to:

- honesty and honor;
- equity (evaluating each individual according to his performances);
- research's originality and creativity;
- excellence in teaching and in the educational process.

The international and multicultural openness of the today's universities has led to comparatively understanding the deontological norms. The academic world has noticed that the acceptable practices, of the quotation and of the academic honesty, they vary, according to the study matter, to genre (discursive) and to the academic situation, but also from a culture to another. That's why the deontological principles and norms, including those related to plagiarism and to the conduct of quoting, they need to be contextualized and explained in detail (Popescu 2016, 48).

Speaking now about self-plagiarism, we must take heed to the fact that this differs from plagiarism and it consists of misunderstanding the concept of originality. The self-plagiarism appears when somebody claims that his contribution is original, but that's not true, because that author has already published the respective contribution in a previous work. We have so the same author who has published the first work in an original mode,

but by publishing the same contribution in a later work he commits the self-plagiarism.

"The problem of the self-plagiarism is important because of the individuals from many domains receiving rewards on the basis of the number of proven original contributions. Thus, a student receives a license diploma for graduating the license studies and for finalizing a license thesis. If the student will forward his own license thesis (or parts of it) also under the form of a dissertation thesis, he will receive a diploma of master studies on the basis of the same work. Thus, he will be twice rewarded for the same work. This double award deceits the trust of the communion and of the public following to judge the student's abilities according to his diploma, being in the same time wrong to the colleagues who have composed an original dissertation thesis. Also, if a person promotes in the scientific hierarchy on the basis of some publications which repeat contribution previously published by the same author, the supplementary benefits obtained (authority, financial rewards) are based on a deceit. The deceived ones are the evaluators who established the merits of the candidate, but also his contestants who presented only original contributions without repeating any. The self-plagiary represents so an illegitimate reusing of the own scientific contributions. There are also cases when the authors can legitimately reuse fragments from their previous works – usually, by explicitly mentioning where those parts have been published at. For instance, some descriptions of the research methods can be found in articles reporting different results of some own studies based on the same method, by indicating the fact that the method has been published previously too. An article published in a review can be published in a volume, by clearly mentioning the first publication. The key of the legitimate reusing it consists of the fact that it doesn't lead to an artificial inflation of the author's merits regarding his original contributions, because of being mentioned the original publication and, eventually, because of the original contributions from the second work need and justify the reproduction of some methodological, technical specification from the first work" (Popescu 2016, 64-65).

In the conditions of cultural and mentalities differences form the countries of other continents, we will refer to the member states of the European Union, comparatively to the situation from Romania. We have to mention here that in other educations systems, as for instance that from

The United States of America, there is a harsher approach when it comes about such practices. Maybe the most important demarche on European level concerning the domains of the plagiaries and of the academic integrity, it is constituted by the project *Impact of Policies for Plagiarism in Higher Education Across Europe* (IPPHAE), unfolded between October 2010 and November 2013. This project aimed to do radiography of the member states of the European Union, starting from the model propose by Irene Glenedinning and entitled *Academic Integrity Maturity Model* (AIMM). The project IPPHAE focused on highlighting the policies and the procedures referring to the plagiarism cases, to those policies and procedures functionality, to their mechanisms of prevention and identification, of monitoring of these ones, and on the perspective of the main actors from the each country's educational system regarding this subject. It aimed to examine at least 10% of the total number of the universities from EU member states, this desiderate not being accomplished due to the reticence which the academic communities had when approached regarding to the academic integrity. The situation on European level regarding the policies/strategies related to plagiarism and academic integrity it is one extremely diverse. There are many states excelling in this domain (Austria, France, Hungary, Ireland, and Germany), while others don't have coherent policies in this sense (Bulgaria, Romania, Italy, and Holland). By and large, we find the same states in antagonistic positions also when referring to the monitoring and to counting such type of derails. We must stress here the importance granted by state like Austria, Ireland, or Sweden, both in the higher education system and in some case even in the pre-university educational system (ANSOR 2016, 5-6).

The IPPHAE study regarding the situation of the plagiarism phenomenon in Romania highlights the fact that teaching methods used in our country discourage, by and large, the team work, fact that determines a preponderantly individual way of work. Consequently, there is actually created a situation which the plagiary of the works is facilitated in.

In Romania we don't have specific studies referring to the plagiarism phenomenon. According to IPPHAE study 51% of the students and 21% of the didactic personnel who answered the questionnaires admitted that they intentionally plagiarized. Considering that the law of the national education

sanctions correspondingly the plagiarism, the leaderships of the universities reckon that they adopt a rigorous policy in order to stop the plagiarism.

Consequently, 54% of the didactic personnel and 40% of the students confirm that the institutions have policies and procedures regarding the plagiarism. More than 41% from the didactic personnel reckon that the institution which they are affiliated to approach in a determined manner this problem, and 51% of them reckon that then information concerning this subject are available to the students. In exchange, only 42% of the students reckon that they can really access these data. Consequently, there is felt a lack of popularization amongst the participants to the process of the higher education, given that the notion of plagiarism was left at the appreciation of the ones who answered the questionnaires.

The absence of a well defined legislative frame, it automatically leads to a significantly difference concerning the optic of approaching this scourge. Anyway, starting from the national authority in the domain, and reaching the most part of the ethics and professional deontology commissions, the sanctions granted in the identified cases are either gentle or inexistent. This is not wonder as long as 60% of the students and 40% of the didactic personnel don't exactly know which the methods of prevention and identifications of the plagiarism are. Even more, 62% amongst students and 36% of the didactic personnel considers the regulations and the methods of identification as applied according to the "free will of the university personnel".

Despite some positive situations, as that one from West University of Timişoara, University of Bucharest, or the Academy of Economics Studies from Bucharest, which have purchased specialized anti-plagiarism computer software, the most majority of the universities from Romanian use anti-plagiarism software with free license, in the context that these software isn't prepared to access the specialty literature in Romanian language or certain international data bases.

Given the presented situation, it intrigues the fact that 86% of the student and 49% of the didactic personnel reckons that they have received the adequate training in order to compose works of academic nature, though 40% of the students and 74% of the didactic personnel want to read more on this subject.

The Romanian higher education system is composed of an ensemble of public and private institutions whose university autonomy leads to significant differences regarding their structure and operating mode. The main national structure having attributions in the domain of the academic integrity and ethics are: Consiliul Național de Etică a Cercetării Științifice, Dezvoltării Tehnologice și Inovării (CNECSDTI), Consiliul Național de Atestare a Titlurilor, Diplomelor și Certificatelor Universitare (CNATDCU) și Consiliul de Etică și Management Universitar (CEMU, The National Council of Ethics of the Scientific Research, Technological Development, and Innovation; The National Attestation Council of University Titles, of Diplomas, and of Certificates; The Council of Ethics and University Management) (ANSOR 2016, 9-11)

The Ethical Codes and Principles

In order to avoid these forms of deviation from an ethical and moral conduct in the university domain, a series of ethical or moral codes must be paid attention to, and thoroughly applied, by the responsible factors. According to the definition give by Valentin Mureșan, on institutional level, an ethics or moral code is "a coherent ensemble of moral *values, principles, and norms*, imposed or not, through punitive actions, applied by the institution, in order to ensure a social and professional successful life, and integer life, in order to increase the welfare of its members, of the institution as such, and of the society by and large, and in order to diminish or to remove any damages which could be suffered by the institution's members, and in order to observe the dignity, the integrity, and the autonomy, of all the ones affected by the activities of the institution and in order to ensure a legal, impartial protection, to all the institution's member concerning the reciprocal reports and in their reports with the society in ensemble" (Mureșan 2009, 102).

Some specialists in the applied ethics opinion that the role the ethics codes have, it could be diverse. For instance, they could have: a) a punitive role, or regulation, of *imposing* the moral values and rules promoted by society (and that's why such codes include a chapter of administrative sanctions; b) an *aspirational* role, indicative, observing the role being facultative (the codes of the journalists and of the Romanian university personnel specify that they do not aim to constrain anybody), or, finally, c) a purely *educative* role

(they do not prescribe rules and standards because of the individual must decide for himself and his moral conscience is the one to orient his behavior) (Mureşan 2009, 103-104).

Letting aside the diverse modes of establishing, both in the more narrow frame of an institution and in the wider frame of a society, what the people have to understand through the key terms: moral *values, principles, and norms*, as also overlooking some individual contradictory interpretations, in the university environment the basic principles of the ethic codes are based on some moral standards which, at their turn, have at their basis moral general and universal norms, but also special and individual norms. "The morals principles describe the *morality's sphere*. Some codes creators start with the so called morals principles of a *domain*, for instance with the principals of the university morals" (Mureşan 2009, 107). Amongst these ones we mention the followings, which can be found in the ethical sphere of other domains too:

1) **The Principle of Respecting the Autonomy.** We must recognize and must not impede the manifestation of the persons' capacity to freely decide their own choices and to act without the interference of others in their own system of values and beliefs.

2) **The Principle of the Benefaction (beneficence)**: The persons have the obligation of promoting those interests important and legitimate, by weighing in the benefits, the damages, and the risks in order to obtain the greatest benefit for all the involved ones, who must be treated impartially.

3) **The principle of not doing the malice (nonmaleficence)**: The persons mustn't do those acts which are probably to cause more damages than benefits, except in the situation which there is not a sufficient reason to not proceed like this.

4) **The principle of the justice**: We must distribute equitably (unbiased) the goods and the services from the evaluated domain, and not to discriminate the persons, and to appreciate them according to their merit, needs, contribution, and responsibility etc. taking in account the available resources.

5) **The Principle of Respecting the Dignity**: We must respect the human being as the supreme value in the natural world; namely, we mustn't ever treat the human being as a means, but to always treat a

person as the depositary of an intrinsic supreme value.

6) **The Principle of the Integrity**: We must protect against any external interference a sphere of intangible values and characteristics, which the human individuals identity though, their essential way of existing or of working and which, if affected, even the identity of the human individuals can be endangered.

7) **The Principle of the Vulnerability**: We must take care in a special manner of the vulnerable persons, i.e. of the ones whose autonomy, dignity, or integrity is possible to be threatened.

8) **The Principle of the Precaution**: We mustn't act in modes which can be damaging in the future and in the condition which we cannot exactly predict in, what the damages and the affected ones will be.

9) **The principle of the Double Effect**: It is moral to undertake an action having good predictable consequences, but also bad ones (so, to cause harm is morally justified) if there are fulfilled the following four conditions: a. the action is not evil in itself; b. the good consequence is intended and the bad consequences is unintended; c. the bad consequences isn't a means for producing the good consequence; d. there is a serious reason for accepting the bad consequence.

10) **The Principle of the Responsibility:** The persons on authority position must recognize the right of the subordinate persons (or communities) to participate to the decisions which affect them directly, in accord with the principle of respecting the dignity and with their responsibility for maximizing the common good.

11) **The Principle of the Publicity**: The acceptable moral rules, as also the reasons which justify these rules, they must be known and recognized by all the people involved (and to be public).

12) **The Principle of the Solidarity**: We must act so that to share both the advantages and the burdens, equally and fairly. The community has the obligation of participating to supporting the persons who cannot provide for themselves their social needs; the community has also the obligation to increase the social cohesion.

13) **The Principle of the Equality**: One must act for ensuring the equality of chances for all the persons and in order to eliminate any forms of discrimination.

14) **The Principle of the Happiness, or of the «the human being's good**»: We must act in order to support the cultivation of those virtues of the human being or of the professionalism which support the accomplishing of his defining function – of medic, of human being etc. The mechanical observing of the rules isn't either sufficient of safe" (Mureşan 2009, 109-115).

Although these principles, as one can deduce form their names themselves, they have value and validity wider and more extended than that strictly in the academic environment, one must take heed to the moral side specific to the academic life. Being socially widely accepted today, it is also the result of a tumultuous process and not lacking the asperities. The most often invoked are probably the academic autonomy, the intellectual autonomy of the researcher, and the need for accepting the diversity of opinions and conviction. The Ethics Code of the University of Bucharest lists as fundamental values the academic freedom, the personal autonomy, the justice and the equity, the academic merit, and the professionalism. To each of these one can provide a justification starting from general ethical principles, of the type of that one of Kantian inspiration of the respect for the dignity of the human person. Also, to each value and to each principle are usually attached certain *interpretations* or limitative conditions. For instance, the academic freedom cannot be invoked in order to justify the forging of the falsifying of the research results; in an analogue manner, accepting the diversity of opinions can have a limitative condition when comes about intolerant, racist opinions etc. The academic environment - both in the dimension of teaching and in that of researching - it assumes as ideal the free, rational, and critic discussion. The own moral values and principles are in a legitimate mode objects of this discussion. Their continuous reexamining and debating, their actualization and specification when needed, it keeps them alive and increases their force of generating moral behaviors (Socaciu 2017, 9).

There is, also, a variety of ethic codes, as there would be the ones of fundamental rights, or those based on a singular right, those bases on some specific moral duties of the diverse institutions, all these codes could have an international value, or an European value (in these cases we refer to ethical codes of wide professional domains), a national value (ethical codes of the professional domains: ministry, professional associations) or local

(firms, hospitals, research centers etc.). Regarding the local ethical codes, at their turn, they are classified in several categories: based on universal fundamental principles, based on responsibility types, based on principles "randomly chosen", or based on the defining moral values of the institution. One can ask, regarding this codes diversity: can it be reduced and can those codes be brought to a common nominator? "The diversity of the manner for structuring the ethical codes it is considered as natural, by some authors. Others consider it as a weakness characteristic for the beginning. The last ones have initiated attempts to create "guides for writing the ethic codes" meant to homogenize the guides' composing. There have been published, and they will probably multiply, experts in these matter. In this tendency it is inscribed the methodology of elaboration and adopting the ethics codes in university, written by Univ. Prof. PhD Mihaela Miroiu, and which has widely influenced a homogenous editing of those documents in Romania" Mureșan 2009, 129).

Let's see in continuation which the steps are in order to build up an ethic code. In this sense we must have in sight the following aspects established by C. Mac Donald:

1) Which the *purpose* of the code is? Will it *regulate* the universal behaviors of it just *inspire* certain attitudes?

And then, it is good to accept the fact that:

2) An ethic code must be founded on *universal values-principles*, which to justify its statute or *moral* code, and which to give the sense of appurtenance to a *common ethos*, but, in the same time, it must be tailored on the needs and on the values of the *organization* in cause. They form the code's center of gravity and that's why there are so important the specialists in writing it.

3) Many ethical codes have two components: one *aspirational* (usually, in *Preamble*, which sketches the ideals which the organization spires to) and the second one, formed of a list of *principles* and *rules* which the members of the organization are expected to adhere to.

4) We must decide if we introduce in the code some form of *constraint*, of imposing the moral values. If so, which those constraints are? Or, we can decide that the code's function is purely educative and respecting its rules it is optional. (Let's remember, though, Aristotle's words: "the good laws, if not observed, they won't form a good government").

5) Usually, the values and the principles are listed in the order of their importance for the organization, but the order mustn't be strict. The principles of a code are the first *facias*.

6) Who will participate to the code's creation process? There would be a small work group, or the entire organization, or both these ways? How will we separate the organization's interests from the ones of the code's creators? How will we spread the code? How will we act in order the code to be *interiorized* by personnel (intra-institutional moral education)?

7) How and when will we *revise* the code and who will do that? Will the developing of the code be done on the basis of the moral sense or it needs ethical-methodological competences? (MacDonald 2020, 5)

All these questions must be answered accordingly to the institution's circumstances.

Despite these, when speaking about institutionalizing of the ethics codes on the level of academic research in our country, we can notice a certain reticence regarding this process, both from managers and from the specialists in ethics. Thereby, since they say that "the Romanian was born poet", "they often speak respectfully about "morals", but they rarely exceed the level of the declarations or of the writing of the ethical codes, generally carefully kept in drawers, and very rarely facing the great themes of the small corruption or of the patterns of immoral behavior which entered the tradition are have been accepted as such" (Constantinescu, Mureşan 2013, 71). Having an ethical code isn't enough. We would be in the situation in which almost every institutions of a country have an ethical code, but none of the intuitions functions accordingly to its code. I think this is, widely, the Romania's situation today. The ethical codes are a paper forgotten in a drawer and pulled out only when conflicts between persons occur. In order to confer ethical code efficiency, we must take complex measures for implementing it. Otherwise, the failure is guaranteed, and its motifs could be the followings:

1. because of not having specified behavioral clear, explicit objectives;

2. because of not regulating the *specific* activities of that organization;

3. because of not having pragmatic objectives, and instead they promise too much;

4. because of not being leaned on a constant feedback from beneficiaries;

5. because of either generating unrealistic expectations or regulate too much and too firmly;

6. because of being the victim of political changes;

7. because of simply being outdated and they must be updated.

But the ethical codes fail mainly because of not being upholded by *implementation programs*; and these programs should be organized both under the form of a conformity program and under that of a developing program (Mureșan 2009, 138-139).

The situation in our country, regarding the ethics' institutionalization, one can notice the predilection for a model of the ethics' institutionalization stressing the rules, the norms, and the sanctions. This is the model of the "conformity". The organizations seem to reduce the management programs to writing, implementing, and monitoring an ethics code. Is this enough in order to speak about integer institutions? Even more, do the organizations from Romania understand the same thing through an "ethics code" and do they adopt a similar manner to write it? They speak about "writing" the ethics codes as about a new and promising profession. No matter how curious it would seem, this linguistic predilection proves an inadequate mentality. The ethics codes aren't written, but they are *inserted* in a device of *ethics' management* which the institutions cannot function without. If only "written", the codes will be simple pieces of paper without having any effect. Sadly, we are in a situation in which we do not have at least "professional writers" of ethics codes. Even less we have designers of "ethical infrastructures". These haven't yet reached to be professions in our country. The fight against corruption and for morality in the public life hasn't been institutionalized and professionalized yet, so that we mustn't wonder about the lack of results or about the skepticism of the majority. Instead of professional in the ethics' management there proliferated "the ethic officers" avid of Europeans funds and educated at "the grandma morals"; consequently, we will have to get used in continuation to the *mimicking* of preoccupations of institutional ethics (Constantinescu, Mureșan 2013, 71).

Promoting the academic integrity it is in imperative both on world/ European levels, and one national level. The ethics problems in the vision of the European Community embody two aspects, namely: applying the ethical principals in the scientific research, and the scientific research in the ethics'

domain. In this context, the year 2005 represented a reference date to the European Community. On 11th of March the European Commission adopted the European Charter of the Researcher and the Conduct Code for Recruiting the Researchers. These two documents are key elements of the European Union's policy in order to transform the research work, as profession - in an attractive career - this representing the vital characteristic of the European Union's to stimulate the economic development and the increase of jobs number. The Charter and the Conduct Code will attribute to each researcher, individually, the same right and the same obligations, no matter the place within European Union which they will activate at. This should help to counteract the fact that the research in Europe is fragmented on local, regional, national, or sectorial levels, and it would allow Europe to fructify at maximum its scientific potential (Pisoschi, Văcariu, Popescu 2016, 9)

Romania, by its position, it is and European country and it have been manifesting itself as such. The tradition of scientific research it is strong in Romania, and about this bear witness to this a long string of renowned personalities, recognized as such by the international scientific community. From the point of views of the ethical principles, Romania isn't an exception from the tendency manifested both on European and on international level, namely that of continuously specifying ethical norms of conduct and behavior, in very numerous activity domains, amongst which the scientific research is mentioned too. Even if these norms haven't been always present in the form of juridical documents on national level, this hasn't meant that, on the level of some groups, of profile societies, and of organizations, these norms haven't existed and that they haven't been observed. An important moment for clarifying the aspects of the ethics applied in the scientific research in Romania, it has been the promulgation of the Law no. 206/2004, regarding the good conduct in the scientific research, the technological development, and the innovation, issued under the Decree nor. 371/2004 and published in the Official Monitor, Part I, no. 505 from 06/04/2004.

The Law has four chapters destined to: General Provisions, The National Council of Ethics of the Scientific Research, Technological Development, and Innovation, the Ethics Commissions, and Final Provisions. This law, focused on the national traditions but also on the international experience - especially on the European one – in the domain, it establishes

the almightiness of the ethical principles in the scientific research, in the technological development, and in innovation, principles mentioned in the Ethics and Professional Deontology Code of the personnel from the domain of research –development, code elaborated by the State Authority for Research-Development.

The law defines the good conduct in the research-development activity which must exclude: hiding or removing the unwanted results, forging the results, replacing the results with fictive data, deliberately interpreting in a distorted manner the results and the deforming of the conclusions, plagiarism of other authors' results or publications, deliberately deformed presenting the results of other researchers, introducing false information in applying for grants or for financing, not unveiling the interests conflicts, embezzlement of research funds, not recording and not storing the results, as also the erroneous recording and storing the results, the lack of informing the research team before starting the project concerning the salary rights, responsibilities, co-authorship, copyrights upon the research results, financing sources and joint ventures, the lack of objectivity in evaluations and disregarding the confidentiality conditions, and, finally, repeated publishing of the same results as a scientific novelty (Pisoschi, Văcariu, Popescu 2016, 33).

There are established definitions for a series of terms which the law operates with, when the law is being applied. Thereby:

1. the fraud in science it is a deliberate action of forging, of falsifying, of plagiarism, or illicit changing of the owner of the scientific results;
2. forging the data means any recording and presentation of some data from imagination, data that aren't upholded by the work method uses in research;
3. the falsification means rigging the research materials, the equipments, the processes, of the results, and omitting some data or results which would distort the wanted research results;
4. the plagiarism means the impropriation of ideas, methods, procedures, technologies, results, or texts, belonging to a person, no matter the way which these ones would have been achieved in, while presenting them as personal creation;
5. the interests conflict is that situation of incompatibility which the

person is in, because of having a personal interest that influences the impartiality and the objectivity of his activities in evaluating, monitoring, accomplishing, and reporting the research-development activities.

Also, the law establishes the conditions for being founded and for functioning of the National Council of Ethics of Scientific Research, Technological Development, and Innovation it is founded and it functions in, as also its attributions regarding: establishing the ethical principles specific to the research-development domain, elaboration of the ethics codes on activity domains, establishing the specific procedures to be followed in case of the apparition of a improper conduct, supervising the applying and the observing by the research-development units and institutions, as also by the research-developing personnel of the legal provisions referring to the moral and professional conduct norms, formulating the opinions and recommendations related to the ethics problems raised by the science's and knowledge's evolution, analyzing the complain cases referring to the transgressions of the good conduct rules and elaborating the recommendations and/or applying the sanctions, and founding Ethics Commissions on each domain.

The Ethics Commissions can be founded, according to the law, along the Scientific Councils or along Administrative Councils, of the research-development units, units which lead research-development programs and those ones which ensure the valuation of the results. The Ethics Commissions' attributions refer to supervising the observing of the ethics codes specific to the unit's domain, and to the inquiring the cases of deviating from ethics and to establish the necessary measures. It is also established the modality of inquiring the transgressions, of solving the complaints, and of applying the sanctions. An important task of the Ethics Commissions consists of evaluating from ethical point of view the research-developing projects according to the applicable general ethics rules, and of intern and international specific ethics rules.

According to the provisions of the Law no. 206/2004, there have been appointed the members of the National Council of Ethics, on the domains: of the scientific research, of the technological development, and of the innovation from Romania. This Council followed to proceed to appoint the Specialty Commissions, to compose the Ethics Code of the researcher and

the Ethics Codes specific to each domain and to uphold the research units and institutions to appoint the Ethics Commissions.

Stimulating the good scientific practices and establishing some adequate measures when suspicions of inappropriate scientific conduct arise, it represents institutional task. The responsibility for implementing it falls to the executive managers of each research institution and to the corresponding leadership organs. This comes out, on one hand, from their role of employers or hierarchical superiors, and on the other hand, in the case of the higher education institutions, from their monopoly in granting university degrees.

The existence of a national legislation in the domain of the ethics, applicable to the scientific research, it is positively appreciated by the European Commission, in the context which they search in, for generalizing on European level the good practices in the so vast domain of the scientific research. In the same time, the people working in this domain mustn't neglect the recommendations of the European Commission regarding the applying of the European Charter of the Researcher and of the Conduct Code for Recruiting the Researchers, recently published, especially when it comes about project financed with funds of the European Union, projects which the Romanian participation must raise on the expected level, imposed both by the Romania's tradition in this domain and by the human and material existing potentials (Pisoschi, Văcariu, Popescu 2016, 33-35).

We have been using during this lecture, for several times, and I several situations, the terms of: "morals", "ethics", and "deontology". But, is there, besides the resemblances - or, better said, besides the connections amongst these three terms -, also some differences, bigger or smaller, more or less significant, amongst them? According to Gabriela Țigu, the three mentioned notions have rather common points than points to differentiate them, and this differentiation occurs only depending of the context which the respective notions are used in. Thereby: "While the morals is considered as a real phenomenon, belonging to the daily behavior, belonging to the practical-spiritual life of the individuals and of the human collectivities, the ethics designates the theory having as study object this real phenomenon. The ethics means therefore "the science of the good and of the bad". The deontology means the conduct norms and the ethical obligations in the frame of a profession. It is a theory of the duty, of the moral obligations in that

specific profession (i.e. the deontology of the physicians, of the lawyers, of the professors, of the accountants etc.). Thus, the deontology applies some moral specific norms" (Țigu 2016, 9-11).

From religious point of view, by and large, and from Christian-Orthodox point of view, especially, the domain "morals" has a specific spiritual meaning in this ecclesial environment, while the terms "ethics" and "deontology", form the same Christian perspective are used rather with a lay, mundane meaning. Besides all of these, approaching the ethics in the frame of a system of ethical analysis, it is being done also in the terms of an "Eternal Law". Thus, the Church's leaders and some philosophers (Th. Aquinas, Th. Jefferson) believe that there exists an Eternal Law incorporated in the mind of God, revealed in the Holy Scripture and that this Law is immediately accepted by the ones who allot their time for studying the Holy Scripture. Therefore, the golden rule is: "Do to the others what you want them to do for you" (Țigu 2016, 15). Or, if we consider the same rule from an inverse perspective and in a manner belonging rather to the Old Testamentary Judaic perspective: "What you don't like, do not do it to another". The moral laws are derived from the "Eternal Law", from the eternal teleological plan of God, valid both for the rational creatures and for the irrational (physical) ones. This law is sown within man, regarded as having a free will, being a universal, unchangeable, and without exceptions law. "**Do the good and avoid the evil**" – this is the moral natural basis law, which rather is a general form of any concrete, positive laws, promulgated in time by the entitled authority – be it God ("the godlike positive law") or man ("the positive human law"). The positive godlike law is divided in the law of the Old Testament ("the Ten Commandments") (Rotaru 2015, 318-322) and in the law of the New Testament ("The Blessings", "the Evangelical advices", the examplas, and the parables). The human law is gives by the Church (the churchly law) or by state (the civil law). In the Christian conception, both laws have their origin in God (Mureșan 2009, 257-258). In addition to this critic approach which also religious valences are involved in, other ethical approaches, with philosophical and juridical valences, are: the utilitarian approach, the deontological or universal approach, the approaching in the terms of the social justice or of the distributive justice, and the Confucianism.

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Communication, Business and Human Rights: The Current Challenges to Freedom of Expression

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ABSTRACT: Freedom of expression is a well-established basic right in the context of communication rights, as specified in Article 19 of the Universal Declaration of Human Rights (UDHR), which states that "everyone has the right to freedom of thought and expression." Despite the fact that communication has advanced to unprecedented levels throughout the globe, there are still instances in which prohibitions on speech influence communication rights in many nations. This article analyzes reports of international organizations evaluating how freedom of expression is restricted, highlighting how limitations may arise from different kinds of abuses, such as government control over the media, limiting the freedom of information, or imposing laws that criminalize defamation. It also explores how attempts to protect religious and philosophical beliefs, schools of thought, and certain ideologies affect the freedom of expression of the population, certain groups of people, or businesses. It is also important to note how certain kinds of speech restrictions, such as those prohibiting obscenity, fraud, speech that violates intellectual property rights, speeches that encourage imminent lawless action, and others, can help to create a social environment that fosters dignity, respect for the law, and the application of essential moral values in a society.

KEY WORDS: freedom of speech, business, communication, human rights

Current Considerations on the Right to Free Expression

Freedom of speech has long been recognized as a basic human right essential to the operation of a free civil society since it is both inherently useful to

people and necessary for a free community to operate. In the context of public engagement and discussion, accountability, sustainable development, human development and the promotion of other human rights, freedom of speech is seen as a necessary component. It is well recognized that freedom to express values and beliefs is a critical element when it comes to the implementation of multicultural principles, religious variety, and ethnic plurality, among other things.

On a wide scale, freedom of speech is interconnected and interdependent with other human rights, such as freedom of the press, association, assembly, thinking, conscience, belief, and religion, all of which are interconnected and interdependent with one another. This right to speech may impact other rights, such as the right to justice, education, equality, human dignity, and many other rights of vulnerable groups. Even though many steps have been taken to further enhance the notion of the right to express one's viewpoint, unfortunately, the complete implementation of the right to freedom of speech is becoming more difficult to achieve. There are still legal and political systems that restrict people's ability to express themselves freely, and there are growing disparities between rich and poor countries and between urban and rural areas in terms of access to technological tools, internet, and educational development.

Government's Role in Freedom of Expression

Broadly speaking, the government is seen as the most important decision-maker for the welfare of its population, making judgments in a competent manner to avoid fraud, discrimination, and harmful working conditions. In order to guarantee human rights, the government must ensure the preservation of natural rights, maintain public order, provide public services, protect national security, and provide economic support. In order for a nation to flourish and ensure the safety of its population, the government must set laws for society and react to crises.

Under specific situations, such as national security, public order, or public health, the regulations of this state may impose restrictions on freedom of speech. Even though the state may implement new regulations to restrict freedom of expression in crucial situations, according to certain reports from international organizations, some governments have been abusing the rights

of some groups during the past ten years. Numerous countries use political influence and media control as tools to limit freedom of speech, whether through print media, the Internet, or government control over radio and television licenses.

There are laws against the dissemination of false information, as well as defamation, insulting, and slander. Misuse of the laws about hate speech prevents disadvantaged groups from communicating. The case of Ilgar Mammadov could be an example of how the ECHR acts in cases that affect the right to freedom of expression, guaranteed by the European Convention on Human Rights (Corlatean 2021).

Even though restrictions on freedom of expression were justified in the name of national security, they were abused to impose excessively wide restrictions. Overreaching monitoring technologies cause a threat to freedom of speech by discouraging individuals from speaking freely or from addressing significant concerns to certain social or religious groups.

Global health crises in 2020 and 2021 have proven the critical need for accurate, trustworthy, and timely information. Some governments continued to use COVID-19 to justify limiting criticism and banning negative news. New laws or regulations govern how platforms treat content on the internet in at least 24 countries. Some problematic policies, particularly those affecting vulnerable populations, may increase censorship of political dissent, investigative reporting, and manifestations of ethnicity, gender identity, religion, or beliefs (Freedom House 2021).

Mass Media and Freedom of Speech

The right to freedom of speech encompasses seeking, receiving, and expressing information and ideas (UN General Assembly 1948). It has only lately been universally acknowledged that the right to information is a basic human right.

Despite the fact that numerous laws safeguarding the right to information have been enacted, there are still significant obstacles to ensuring that this right is protected. Freedom of expression may be limited due to lack of access to education or online restrictions on topics such as religion, politics, or other ideologies that do not line up with government policies. The 2021 World Press Freedom Index, published by Reporters Without Borders

(2021), evaluates how people have freedom of expression in 180 countries and territories. According to the report, 73 countries and territories restrict journalism completely or severely, while 59 others do so to a lesser extent. Journalists writing on social and political topics, such as organized crime and corruption, expressing their dissatisfaction with the administration, and reporting human rights abuses, have sometimes been targeted for intimidation. Although many nations' constitutions state that freedom of speech should be respected, the government continues to arrest individuals who expose their opinions in public. As of December 2, 2021, according to Statista Research (2021), 293 journalists were imprisoned.

The Internet and Freedom of Speech

In contemporary society, the Internet has developed as an important channel through which social groups connect with one another in order to exchange perspectives, seek opinions, and become more knowledgeable about one another's views. As a result of the Internet, communication capacities have significantly improved. New services such as digital newspapers and video streaming websites, online music, e-mail, Internet telephone, and Internet television have risen to new levels. In terms of political, religious, and lifestyle information, the Internet continues to be one of the most popular sources of information. Although the Internet has enabled unprecedented access to information and communication tools for more than 3.8 billion people throughout the globe, the vast majority of the world's population continues to either never have access to the Internet or has very restricted access to the Internet. Internet limitations restrict many people's ability to express themselves, access information, and create content to communicate their ideas.

People from marginalized communities, such as those who live in rural areas, those who are old, or those who do not have access to education, do not have the same rights to information as other people in the same situation. Worldwide, limitations on freedom of speech have never been more severe than they are now. According to Freedom House (2021), at least 55 nations have investigated, jailed, or convicted individuals based on their social media postings, the vast majority of which were connected to political, social, and religious issues, according to the organization. Since 2020, 48

nations have pursued laws to regulate technology corporations, intending to improve online environments' protection against harassment, extremism, and other criminal activities, among other objectives. Some new laws and regulations may have a negative impact on human rights, such as restricting free expression on the Internet and reducing transparency and accountability.

Business, Communication and Human Rights

Business communication is an essential process in the conduct of a business's operations, beginning with the formation of a business concept and the elaboration of plans and proposals and progressing through the dissemination of decisions. Some businesses' work is limited to a specific geographical area, whereas others are multinational corporations that require more advanced communication due to the need to communicate across multiple time zones using a variety of communication methods and taking into account a variety of laws and rules governing communication. By using effective communication strategies, greater trust and understanding can be allowed and community development can take place. Applying this on a larger scale, we can consider that freedom of expression can allow people to realize other human rights, such as the right to work, education, property, religious freedom, and social security, etc. (UN General Assembly 1948).

However, although effective corporate communication is critical to a company's performance, the requirement of the right to communication rights raises more concerns than only the issue of how to coordinate organizational operations.

Businesses have the potential to play a significant role in the protection of human rights when establishing the appropriate environment, providing different communication platforms that facilitate the wider dissemination of ideas and interactivity.

The activity of commercial companies may have a good or negative impact on people's enjoyment of their human rights. According to international human rights law (OHCHR 2021), businesses are expected to respect human rights; this means that they should avoid violating the human rights of others and should correct any detrimental human rights impacts that they are responsible for creating or producing.

Conclusion

In today's free societies, it is almost impossible to imagine what the world might be like without the freedom of expressing or with multiple restrictions on seeking, receiving, and sharing information. Freedom of expression must remain a fundamental right as stipulated in many international human rights instruments and treaties.

Although this perspective is achievable and noteworthy, the current realities show that freedom of expression is constantly under attack, whether because of government control, a lack of freedom of information, or through laws criminalizing defamation or hate speech.

Freedom of expression is an essential right, which needs to be maintained and protected to enable people to live decently and freely in a pluralistic society where different religions can coexist and where stigma, racism, xenophobia, and hatred should be avoided, and human dignity can be honored and valued.

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The Moral-Educational Role of Teaching Religion in School

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ABSTRACT: The universe is an unbroken abyss and an immense unknown, as God cannot be known in His Being, but His presence and work in our lives can be felt and cultivated through a high knowledge and living of the teaching of faith, through liberation from passions and the practice of Christian virtues. Science offers us a partial truth, while religion opens the horizon of our spiritual perfection, communicating eternal and divine truths concerning man's life and eternal destiny, which is fulfilled only in God only. It teaches us that "the world and its lust pass away, but he that does the will of God remains forever" (1 John 2:17).

KEY WORDS: religion, science, knowledge, Christian learning, morality, spiritual living

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Introduction

Before emphasizing the importance of the discipline of Religion in the didactic and educational plan of the profane education, it is good to specify, from the beginning, the fact that the Romanian school was set up and operated in the church tent, and the textbooks were the workbooks. "The history of the Church is the history of our culture. Our nation in its light has seen the light of the book and the path of salvation" (Felea 1994, 235), having the conscious awareness that "only through the religious growth of future generations, under the shield of the Church, can the world progress" ("Biserica și Școala" Magazine no. 28, 217).

Together with the family and the Church, the school plays a vital role in cultivating the religious feeling and in the spiritual ennobling of human creation. "The school is for each one a sun under whose rays one grows and warms." In its fruitful climate and under its vault of spiritual light, the young sprouts of the Church and our nation grow and develop. It is the sewer who casts into the souls of the innocent souls of children the nectar of the knowledge of God, to guide them the way of life, toward the knowledge and the living of the truths of faith. This is the purpose and mission of the hour of religion in our schools today: the uninterrupted maintenance of man's communion with God. The teaching of Religion in schools is a priority objective of forming the Christian religious-moral character.

In the current education system, each discipline has its purpose and its well-defined mission, namely to broaden and deepen the young the sphere of information in the field of culture and science, at certain levels and compartments, in order to open the horizon of knowledge and light, in this sense, the trajectory of life.

The exact sciences try to give the young man a clear picture of the material world and the surrounding nature, formulating axioms, theorems, and rules at the origin of its existence. These principles are argued on an empirical basis and experienced as laws subject to the senses.

The humanities have as their object and point the repertoire, its multimillennial history and its artistic, philosophical and literary creations. Therefore, we are not surprised that the great personalities of the Renaissance characterized man as "the model of the universe" or "the measure of all things" (Protagora, Leonardo da Vinci).

Compared to profane education, based on the results of researches developed by the human mind, religious education, without ignoring the conquests of science and technology, opens the world to another perspective, with a vertical dimension, without which the knowledge and life of mankind would be only partial and without sense. Science operates with the relative truth, and the religion with the absolute truth - God - the Supreme Good, the all-knowing, the creator and the supporter of the whole existence. "I am the Alpha and the Omega", says the Lord God, the One who is, the One who was and the One who comes, the Almighty (Revelation 1: 8).

Therefore, the great scientists and researchers, as they discovered the mysteries of the surrounding nature, realized that "this extraordinary system of the sun, the planets and the comets can only spring from the advice and mastery of an intelligent Being.... . This Being governs all things as Lord of all, "says Isaac Newton. The universe itself is an unfathomable abyss and an immense unknown, as God cannot be known in His being, but His divine presence and work can be felt and cultivated through high spiritual living, freed from passions and sins, and by practicing Christian virtues. "In order for us to see and to sweeten ourselves from here, from the unspeakable goddesses of the divine light, though not fully, but partly and as far as we can understand, as we are cleansed, we must win the broken heart, the humble mind and a heart cleansed of all the filth and filthiness of sin, through tears and repentance, "says one holy parent. Science offers us a partial truth, while religion transmits eternal truths to us concerning the fate of man, teaching us that "the world passes away, and the lust thereof, and he that does the will of God remains forever" (John 2:17). Religion presents the destiny of man and the true meaning of his earthly life, designed in the world of eternity, in the heavenly kingdom, for "we have no fortress here, but we seek what is to be" (Hebrews 13:14). Science coordinates man's relationship with the environment, while religion directs man's relationship with his Creator. Science opens man to the possibility of improving material life, and religion helps him to ennoble his spiritual life, by preserving the beauty of the soul in which the image of God is reflected. Science and culture highlight the value of earthly man, while religion reveals to us the original image of the despised and transfigured man, represented in the Person of God-Man, our Savior Jesus Christ-the absolute Good, the Source of holiness and perfect goodness. He is the model of moral perfection, according to the example of which we guide the steps of life, as the apostle of the Gentiles tells us: "Be followers to me, as I am a follower of Christ" (I Corinthians 4:16). Religion prepares us to enter into a free, personal, and conscious relationship with Christ and to participate in His divine life, to renew our souls from the burdens of sins and to be spiritually reborn to the new life in Christ. This is the essential object and purpose of the Christian religion. "Christianity was not a mere religion or sect, like many of those circulating in the Greco-Roman world; it was the manifestation of the great power of God in the world, in order to create a

new cosmos" (Bute 2013, 19). By obeying and learning the teaching of faith and by participating in the prayers and Secrets of the Church, accompanied by a clean and free life of passions, Christ enters into contact with us and, through the work of the Holy Spirit, penetrates us with His divine energies, with His saving grace. , with His holiness and love, uniting us with Him and restoring us to His divine image. "O my children, for whom I again suffer the pains of birth, until Christ will take image in you" (Galatians 4:19), exclaims the great teacher and pedagogue of the conversion of the pagan nations, St. Paul the Apostle. This is the purpose and object of religious education: to place Christ into the innocent souls of children, of young people and old people, because, this way, the moral image of Christ will shine in every believer. We are all created after the image of Christ God (Creation I: 26), and because we have this personal gift, He calls on all of us to share in His holiness, to reach the likeness of Him, through good deeds and clean lives, having His love, humility and sacrifice, which are the fundamental features of the beauty and perfection of the soul. This imperative was drawn by Himself, through the voice of His gospel, when He said, "Learn from Me that I am gentle and humble in my heart" (Matthew 11:29). The spiritual imitation of Christ is not a mere theoretical postulate, but must become a factual and constant reality, every day, of the Orthodox moral life from all places and times. "Salvation therefore consists in following Christ", because Christ, the Son of God incarnated, by His divine grace and by the word of the teaching of His Holy Gospel, has prepared for us all the conditions for the acquisition of salvation and the inheritance of eternal life. He "uses any means of care to call people to salvation". He, who wants to live as a Christian must practice what he learns. "Not everyone who says to me, Lord, Lord, will also enter into the kingdom of heaven, he who does My Father's will, the One in heaven" (Matthew 7:21), said the Savior of our souls. Therefore, the purpose of the Religion class is to maintain and develop the spirit of communion with God, according to the words of the Savior who said: "Not only shall man live with bread, but with every word that comes out of the mouth of God" (Matthew 4: 4), because "happy are those who obey the word of God and keep it" (Luke 11:28).

The words of the divine teaching are normative, constituting the handbook and guide of our Christian life. "By what will a young man correct

his way? By keeping thy words" (Psalm 118: 9), says Psalmist David. "If the good teachings are printed in my still tender soul, no one will erase them when they will be made as hard as printing, like wax" (Sf. Ioan Gură de Aur 2000, 108). The word of God is edifying, full of wisdom and transformative power that enlightens and directs man to the path of truth, justice and holiness. "The Lord created man from the earth and breathed on him a breath of life. The soul and the spirit are the breath of God. We must resemble the Lord through our lives; we must be His image and likeness. God, being good and holy, expects all kindness and holiness from us" (Rogoti 2008, 14).

This is the mission of the religion teacher: the shaping of the human soul and guiding it to God, "the Father of lights", from which "the entire good gift and the entire perfect gift" descend (James 1:17). "A people without God, is a people without morals, and a people without morals goes towards self-destruction", once said a great scientist. "It is easier to build a city in the air than to build a state without faith and without religion", (Felea, Ilarion V. n.d., 14.). Plutarch said, because religion brought man out of animality, it softened its instincts, cultivated the germs of its spiritual life, and opened its light dawns of scientifically, artistically and cultural progress. If religion is the matrix in which culture was conceived, then the religion teacher is a sage of culture. At the desk in the classroom, the religion teacher confesses Christ as "the way, the truth and the life" (John 14: 6), just like the priest preaches Christ in church, from the pulpit, showing the believers the way to follow, the truth in which they should believe and the ideal life they must live. The same Christian apostolate is fulfilled by the religion teacher. He drops into the souls of young people the balm of the word of God "alive and working and sharper than any two-edged sword, which penetrates to the separation of soul and spirit" (Hebrews 4:12), illuminating the mind and awakening the consciousness asleep by sin. So, the religion teacher is a missionary, an apologist, and a Christian catechist in the true meaning of the word. "The true catechist is the one who feels, within his soul, the exhortation, the vocation to teach the word of God to others, saying with all the power of his soul: for this I was born, to this God sent to me in the world, so that I teach my disciples, to perfect in them Christian characters, according to the model left to us by Jesus Christ" (Călugăr 1955, 201). This mission is quite delicate and sensitive. It requires love, passion and dedication and tenacity in

the art of transmitting the word of God and shaping the human personality. The modeling is done with pedagogical tact, within the classes of Religion, through the warm word, with all the power of inner conviction and feeling, with the tone of gentleness and sincerity and, above all, through personal example. "The Christian catechist is called to quench through the warmth of his soul, through the power of his life, through the flame of his pure and sacrificial enthusiasm for his neighbor" (Călugăr 1955, 199). In turn, the disciples must be conquered and touched by the beauty and sublimity of the divine word, so that they can speak like St. Peter the Apostle, who, when struck by the Savior's teaching, exclaimed: "Lord, to whom will we go? You have the words of eternal life. And we believed and knew that you are the Christ, the Son of the living God" (John 6: 68-69).

As a theologian and teacher of Religion, I live from the holy light that the teaching of the Holy Church projects on me, but I must display it increased by the warmth of my heart, saying, as did the Holy Apostle Paul (Galatians 2:20), what I know and what I feel, now, when Christ God prepares his dwelling place in the depths of my soul and penetrates me with his wisdom and divine grace. Therefore, Christ must dwell in us, so we may be able to reveal Him to others. "The kingdom of God is within us" (Luke 17:21), but it must also be extended around us, in the environment in which we live and work, making us all examples "by word, by conduct, by love, by spirit, by faith, by purity" (I Timothy 4:12), as St. Paul the Apostle urges his disciple Timothy. We can reach this desire only to the extent that we strive to actually translate in fact the word of God into our daily lives, living in the light of His holy commandments, as the psalmist says: "Light to my feet is Your law, God, and light to my paths" (Psalm 118, 105). Not everyone can become the messenger of God's word, but only the one who maintains a living and real relationship with God, authentically living a virtuous Christian life, in the spirit of prayer and sincere love for God and for his neighbor. "In order for the teacher to be able to share to his students a true religious education, his life, deeds and words will have to be at the height of the requirements, always and in all circumstances: in school, in family, in society and in the whole religious-moral life, and this is all the more so, as the students see, consciously, an ideal in their teacher" (Ghibu 1911, 9).

At the experience of a true spiritual life we cannot arrive without a clear and profound knowledge of the teaching of faith, acquired in the family, in the holy place of the church and in school. "This is eternal life: to know the only true God and Jesus Christ whom You have sent" (John 17: 3), but this knowledge does not come from the realm of pure reason, but from the realm of practical reason. In Orthodoxy, "the knowledge of God is not intellectual, but spiritual, meaning that it depends on man's relationship with God. In the teaching of St. Gregory Palama, the sight of the Light not created is closely linked to man's deification, man's fellowship with God, and the knowledge of God. Therefore, theology is one with the sight of God, and the theologian is one with the one who sees God" (Făgețan 2000, 157). Christianity has revolutionized the world by imposing a new way of thinking and a new ideal of spiritual life, in and with Christ, an ideal with personal existence in the God-Man. Therefore, it instituted the most brilliant system of education of the human soul (Bulacu 2009, 2), "the only one that answers all the life aspirations of the world" (Zamfirescu 1992, 24). This was due to the fact that from the beginning of the Byzantine era, "Christianity and the Church concentrated all the energies of that world and became the only realities called to print the stamp of their spirit in history. The most valuable heads of the pagan society deserted and enrolled among Christians" (Zamfirescu 1992, 24). Christianity produced a true cultural and spiritual revolution in the world, because" it is not only knowledge, but also feeling and seeking to learn firsthand the knowledge of the true God, and then to show His heart like a holy tent as His dwelling" (Grigoriu 2009, 43). The Christian morality launched the principle that "the essence of faithfulness consists of two things: from righteous teachings and from good deeds. Neither the teachings are not well received by God without good deeds, nor are the deeds done without righteous teachings received by God (Fecioru 2003, 50). This axiom summarizes the entire moral content of the Christian religious education system. This optimum result is essentially, targeted by the teaching of Religion in schools.

The Christian religion does not present the spiritual life on an empirical basis, because it is concentrated in Christ-God, the Supreme Teacher and the model of moral perfection, after Whose stature we realize our own personality. The knowledge and propagation of the religious-moral

life is based on the word of God preached in church and during the classes of religious education that are conducted in schools. Religion keeps man's consciousness awake in front of eternal truths and responsibilities that he has to fulfill in front of God. It "responds to the call of the soul after quietness, peace, happiness and divine love. It endorses the acquisition of the eternal values that we thirst for, our encounter with God which attracts us and the reconciliation of the soul with itself" (Felea n.d., 58).

There is no contradiction between science and religion, both harmonizing and complementing each other: the first opens our eyes to the horizon of the material world, and the second one directs our eyes to the sky, towards the nature of spiritual things, towards infinity. Therefore, the arguments of Scripture, as data of the Divine Revelation regarding the creation of the world and the evolution of earthly life, are verified and proved by science as real phenomena. The great astronomer, physicist and mathematician Galileo Galilei said that "Holy Scripture can never lie, or wander. Its truths are absolute and unquestionable" (Popovici 1966, 211), and about Isaac Newton it is said that "through its philosophy, he affirmed the greatness of God Almighty, and through its character, it expressed the evangelical simplicity" (Popovici 1966, 223).

Unlike science, religion seeks to bring man closer to eternal values, helping him to understand and live life as a journey to heaven, as a period of preparation for eternity, for full union with God, in future life, because man, through his psycho-physical nature, is immortal, being ordained to live on the other plane of existence. "With the image of God, man also received the command to raise the image to the likeness of God that is to deify himself, fact made possible only by grace. For this, man must submit to God the passionate power also, that is, his will to be the same as the will of God, as in Christ, his will as a man was, through full obedience the same as the will of the Father who sent Him. Thus, we also become sons of God through grace" (*Vademecum creștin orthodox* 2003, 85).

That is why, the religious education aims to plant in the soul of the students the seed of God's word, to prune from him the hazes of passions, and to make the flowers of the Christians virtues grow and bear in them, because "the soul is healthy when it has no passions". And the health of the soul is virtue" (Nuțescu 2003, 10). The object of religious education is the moral

education of the students, the modeling of the character to become people with sincere faith in God, able to live according to His will, to embody the virtue in their life and to discern the good from the evil and the truth from falsehood. "Therefore, we need divine grace, wide-awake mind, and watchful eyes not to eat the haze like wheat and to hurt ourselves through ignorance, neither to be torn apart by mistaking the wolf as a sheep, nor to see as a benevolent angel the losing devil and be swallowed by it" (Fecioru 2003, 49).

The Christian religion teaches children to be better, more generous and supportive of one another; teaches them to practice prayer and to fast, to regularly attend church services on Sundays and holidays, to listen to parents, to honor elders, to love and help one another, to be understanding and humanitarian, and to and build their life on the foundation of peace, justice and truth.

Religious education aims to remove the haze of the passions and wickedness of man and to root in their place the virtuous skills, to channel the will towards moral, noble, loyal, decent and generous behavior, to promote human dignity, superiority of spirit and spiritual delicacy, to restore the inner balance between the will of the body and the will of the soul, and to make the child and the adolescent aware of the fact that he must be gentle, forgiving and patient in his relations with the ones around him. In a word, the formation of the religious personality is the point of reference towards which the sustained efforts made for the purpose of religious education and education of our young generation are directed. "Only when the Christian becomes a man of Christ can a Christian personality be considered educated according to the teaching and deed of the Savior", (Călugăr 1955, 13) and the Savior has revealed to us His divine teaching not only to know it, but to follow Him; to draw near to Him with all the confidence and warmth of our heart. "The will of God is that we know God, and the knowledge of God is communion with incorruptibility" (Fecioru 1982, 249) in the sense of soullessness and purification of the soul, acquired through repentance, for "the return to the divine is done through change; the soul is changed to reach wisdom". (Fecioru 1982, 249). Christianity opened to man the possibility of his union with God through spiritual experience, "revealing the attitude of each man to holiness and that of the whole world to reflect holiness" (Stăniloae 1995, 63). The catechetical education that took place in the early Christian centuries was

not just about transmitting the teaching of faith and morals, systematically exposed to the catechumens, but also following their inner transformation. The seeds of faith had to sprout and develop fully and harmoniously in their individual lives. "It is my duty to say, yours, to take up work, and God's, to complete it. Let us strengthen our minds, tense our souls, and prepare our hearts! For the soul we run; we hope for eternal things" (Fecioru 2003, 16-17). With this exhortation addressed to his disciples, St. Cyril of Jerusalem began his catechetical action of initiation into the mysteries of the teaching of the righteous faith of the new converts to Christianity.

Focusing on the same pedagogical principle, another church parent addresses the same requests to his disciples whom he prepared for the reception of the Holy Baptism, saying to them, "We want you to show a great deal of rigor to the dogmas of the Church and to have them fixed in your mind, but those who show such a faith should also shine through deeds" (Hancheș 2003, 33).

Our ancestral Orthodox Church, as the spiritual mother of the Romanian people, translated this moral principle into fact, always remaining faithful to the tradition and patristic teaching, consistently observing the norms and criteria of Christian pedagogy and striving, through the catechetical schools and through established theological education institutions, to promote "an educational system that would boost the Christian faith and life and form Christian consciousness" (Bulacu 1928, 2).

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