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Phone: 021.330.79.00, 021.330.79.11,
021.330.79.14
Fax: 021.330.87.74
E-mail: cogito.ucdc@yahoo.com

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TILLICH AND NAGEL: A METAETHICAL COMPARISON

Majid Amini*

mamini@vsu.edu

Abstract*: To pass moral judgment about others as well as ourselves is a common custom and a significant trait in our lives. Indeed, such an attitude and activity undergird the foundation of much of human social relationships and transactions. But, are we truly in a position to engage in such ethical evaluations? Paul Tillich and Thomas Nagel deliver a negative response to the question and counsel their respective readers and audiences to refrain from engaging in moral assessment of others as well as ourselves. Although the two thinkers come from diverse, if not diametrically opposite, backgrounds and pursue different intellectual and theoretical objectives, they seem to converge on this counsel and the groundings for it. The purpose of this paper is, therefore, to examine their respective reasoning from a comparative metaethical perspective to note their underlying reflections on human condition and, more importantly, to trace the ramifications of such a comparison.*

Keywords*: Determinism, Divinity, Events, Free Will, Inequality, Moral Judgment, Moral Luck, Nagel, Selfhood, Tillich*

Forbear to judge, for we are sinners all.
William Shakespeare, *Henry VI*, 2.3.3.31

Two thinkers may not possibly be as disparate and distant as Paul Tillich and Thomas Nagel for a comparative examination of their views on an intellectual issue: one a committed and activist Christian theologian with a consistent concern for pastoral care and the other one an avowed atheist with a deep dexterity in detached analytical and argumentative insights and illuminations. Indeed, if anything, they would be more suitable for a study of contrasts and dissimilarity than commonalities and similarities. Nonetheless, the two thinkers seem to converge on an interesting subject matter in metaethics concerning an important prerequisite for making any moral judgment.

It is a common practice in our daily lives that we sit in judgment on actions, intentions, ideas, and motives of others as well as our own – whether the ethical evaluations in question turn out to be positive or

* **Professor of Philosophy, Department of History and Philosophy, Virginia State University.**

negative. Engaging in moral assessment and appraisal appears to be woven into the warp and weft of the web of human existence. Yet, Tillich and Nagel seem to question the authenticity of this tapestry of human situation. That is, can we truly pass moral judgments on ourselves and others? It is in response to this question that Tillich and Nagel counsel hesitation and ultimately refrain, though not on Shakespearean grounds.

In a sermon with the tantalizing title, 'The Riddle of Inequality', delivered in 1958 at the Union Theological Seminary in New York, Tillich argues that when it comes to moral assessment of our fellow human beings as well as ourselves, '*We cannot judge*'.[1] For Tillich, this emphatic statement is the outcome of an unbiased and unambiguous observation and recognition of the conspicuous presence and prevalence of inequality in the fabric of the universe. In virtue of the existence of inequalities in the world, agents are not genuinely in command of their actions and thereby the epistemic and intellectual sustainability of moral approbation and disapprobation of their deeds are thrown into doubt. Inequality, in Tillich's view, tilts the balance against the remit of responsibility and consequently against the viability of the attendant ethical judgments about it.

More specifically, Tillich thinks that the conclusion that we cannot judge is underwritten by considering the impact of the inordinate inequalities stemming from 'heritage or environment' where the former refers to the innate or inborn biological and psychological traits of an individual.[2] To illustrate his point, Tillich writes,

> We cannot tell somebody who comes to us in great distress about himself – "Make use of what was given you," for he may have come to us precisely because he is unable to do so! And we cannot tell those in despair because of what they are – "Be something else," for the inability to get rid of oneself is the exact meaning of despair. We cannot tell those who failed to conquer the destructive influences of their surroundings and thence were driven into crime and misery – "You should have been stronger," for it was just this strength of which they were deprived ...[3]

Thus, for Tillich, there are two fundamental factors that interfere with the agency of humans and thereby invalidate the cogency of action ascription and attribution of responsibility which in their turn prevent the propriety of moral judgments.

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[1] P. Tillich, *The Eternal Now*, New York: Charles Scribner's Sons, 1963, p. 43. (Emphasis added)

[2] *Ibid*., p. 43.

[3] *Ibid*., p. 43.

Almost twenty years later, in a reply to Bernard Williams' paper under the title of 'Moral Luck' at the Joint Session of the Aristotelian Society and the Mind Association in 1976 at the University of Warwick in England, Nagel is similarly preoccupied with the question of whether we can sit in moral judgement at all. To set up his argument, Nagel methodically starts with a metaethical observation about the quintessential condition for making moral judgments: 'people cannot be morally assessed for what is not their fault, or for what is due to factors beyond their control.'[4] This paves the way for Nagel to pivot his reasoning for dissuading us to engage in ethical evaluations on the core concept of *moral luck* that he defines thus: 'Where a significant aspect of what someone does depends on factors beyond his control, yet we continue to treat him in that respect as an object of moral judgement, it can be called moral luck.'[5] (*Ibid.*, p. 26) And, it goes without saying that such luck can be either good or bad.

Thus far, Nagel's metaethical move is just to highlight an analytical prerequisite or condition for the very possibility, or for that matter the impossibility, of making moral judgments. So, the question that arises at this juncture is the empirical evidence for the relevance and applicability of moral luck to human life. Here Nagel contends that the things for which people are morally judged are determined 'in more ways than we at first realize by what is beyond their control' such that ultimately 'nothing or almost nothing about what a person does seems to be under his control.'[6] Indeed, 'in view of a more complete and precise account of the *facts*', the erosion of moral judgement emerges as the natural outcome of the very metaethical precept underwriting the idea of moral assessment.[7]

To substantiate his 'account of the facts', Nagel then draws attention to the abundance and prevalence of a variety of moral lucks in our daily lives. He identifies four different types of moral luck that seem to sculpt the entire body of each individual's life over which no one has any control and command: namely, *constitutive*, *circumstantial*, *causal*, and *resultant* luck. Nagel traces the dictates of each of these kinds of luck over our lives through the following delineation:

> One is the phenomenon of constitutive luck – the kind of person you are, where this is not just a question of what you deliberately do, but of your inclinations, capacities, and temperament. Another category is luck in one's circumstances – the kind of problems and situations one faces. The other two have to do with the causes and effects of action: luck in how one is determined

[4] T. Nagel, *Mortal Questions*, Cambridge: Cambridge University Press, 1979, p. 25.
[5] *Ibid.*, p. 26.
[6] *Ibid.*, p. 26.
[7] *Ibid.*, p. 27. (Emphasis added)

by antecedent circumstances, and luck in the way one's actions and projects turn out.[8]

Thus, in the face of how disturbingly moral luck dominates our lives and adversely affects the naturel objects of ethical evaluation, Nagel counsels the impropriety of moral judgement.

Now, with this albeit too short of an introduction to how Tillich and Nagel come to the conclusion that in matters moral we are not in a proper position to sit in judgment, it is possible to sketch out some comparisons. The most striking point to note here concerns the *grounds* on which the two thinkers converge on the idea that we cannot engage in genuine moral assessment. Despite the disparity in their terminology, *viz.* inequality in Tillich and moral luck in Nagel, both refer to the same set of conditions that are absolutely outside the control of agents and yet have an inordinate impact on what they commit or, for that matter, omit. Tillich talks about inequitable factors arising from 'heritage or environment' that shape our selves and the course of actions we take, and Nagel notes that moral luck with its fourfold manifestation underscores existential elements that determine beyond our control what we do or fail to do.

In this comparative context, it is interesting to observe that Tillich's 'heritage and environment' can in fact be subsumed under the umbrella of Nagel's notion of 'moral luck' as they unerringly coincide with his *constitutive* and *circumstantial* varieties of luck. What Tillich means by heritage and environment is readily captured by Nagel's delineation of constitutive and circumstantial luck in terms of one's 'inclinations, capacities, and temperament' and 'the kind of problems and situations one faces' in one's life respectively. Yet, Nagel's fourfold division of moral luck offers a more comprehensive count of the components that skew our actions away from our control and command by including *causal* and *resultant* lucks in this larger set of conditions. Although textually there are some not very explicit indications in Tillich's sermon to allow one to extend his concepts of heritage and environment to include Nagel's causal luck, the expanded account still is not sufficiently sharp and sensitive from an analytical point of view and, furthermore, completely misses the fourth type of luck, namely, the resultant luck.

Nonetheless, whether the refrain to judge morally stems from the narrower Tillichian or the wider Nagelian grounds, as a matter of comparison one may wonder what else would follow from such grounds and outcome. In this respect, analytically Nagel's account seems to offer a much more detailed and nuanced insight into the topic of moral luck and its ramifications. For him, one of the first consequences of the recognition

[8] *Ibid.*, p. 28.

of moral luck as an undeniable fact of human existence is the emergence of what can be called the *paradox of responsibility*: 'A person can be morally responsible only for what he does; but what he does results from a great deal that he does not do; therefore he is not morally responsible for what he is and is not responsible for.'[9] As he emphasizes, strictly speaking, this 'is not a contradiction' but 'is a paradox.'[10] Nagel then thinks that once the significance of this paradox is fully appreciated, by the same extension the specter of determinism would loom large in our determination of what a free action is or should be and thereby how 'determinism obliterates responsibility.'[11] Either way, both responsibility and freedom of action fall victim to the ravages of moral luck.

However, in the wake of the inequalities arising from 'heritage and environment' and in consequence leading to the suspension of moral judgments, Tillich draws on a couple of theological dicta that appear to create a whole host of paradoxes, if not outright contradictions, at so many conceptual levels that threaten to throw his theoretical infrastructure into intellectual disarray and dysfunction. In the sermon, Tillich reminds the audience that those subject to the vagaries of the inequalities of heritage and environment certainly 'are all men, and freedom is given to them all.'[12] Now, judging by Nagel's attempt to highlight the paradox of responsibility and the advent of determinism arising from moral luck which the latter itself is in fact a generalized and more inclusive variant of Tillich's own reasoning, it becomes quite problematic how the existence of freedom can be reconciled with the caprices of heritage and environment. However, it should be noted that the case is not yet closed against Tillich's argumentation here as he might be able to embed free will within a broader theological canvass in which it can still play a role.

Yet not only there is nothing in the text to ameliorate and clarify this conceptual confusion but also the theoretical troubles are compounded by the addition of another theological dictum to this melee. Apart from assuming that humans have been given freedom, Tillich states that 'they are also all subject to *destiny*.'[13] A few points are worth observing here: first, the two concepts of freedom and destiny by any appearance undermine each other and point in diametrically opposite directions. So, this seems to generate quite an unstable conceptual setting in Tillich's system of thought. And, secondly, the very idea of destiny by itself is sufficient to sustain the earlier edict to withhold moral judgments without

[9] *Ibid.*, p. 34.
[10] *Ibid.*, p. 34.
[11] *Ibid.*, p. 38.
[12] P. Tillich, *The Eternal Now*, New York: Charles Scribner's Sons, 1963, p. 43.
[13] *Ibid.*, p. 43. (Emphasis added)

there being any need to appeal to the inequalities of heritage and environment. In fact, the combination of destiny and inequalities overdetermines the reasoning for abstaining from moral judgments. Seemingly, the zeal of theological theorization gets the better of conceptual coherence and consistency.

There is also another angle that presents a fascinating feature in the comparison of Tillich and Nagel with regard to a ramification of their reasons for desisting moral judgments. For his part, Nagel points out that subscribing to the idea of pervasive moral luck in our lives threatens the *dissolution of the self* in virtue of the absorption of the self's acts and impulses into the class of events taking place outside in the world: 'The effect of concentrating on the influence of what is not under his control is to make this responsible self seem to disappear, swallowed up by the order of mere events.'[14] That is, against the backdrop of moral luck, nothing remains that can be attributed to the responsible self, and thereby 'we are left with nothing but a portion of the larger sequence of events'.[15] The existence of moral luck thenceforth 'leaves us with no one to be.'[16]

As for Tillich on the phantom or illusion of the self in the manner that Nagel narrates, it goes without saying that there is nothing in the text to indicate any inkling of such a concern or worry resulting from his idea of the inequalities of heritage and environment. Yet, in the remaining part of the same sermon, there is an intriguing reference to a third theological dictum that may unwittingly, though tentatively and possibly very tenuously, provide such a link and connection. Tillich's third theological dictum appears to appropriate a pantheistic perspective and reads thus:

> There is an ultimate unity of all things, rooted in the divine life from which they emerge and to which they return. All beings, non-human as well as human, participate in it. And therefore they all participate in each other.[17]

For him, this plays a pivotal role in that once 'we become aware of this unity of all beings, something happens to us.'[18] This happening, in Tillich's view, is the liberation 'from seclusion in ourselves' which heralds the realization that 'the divine participation' is 'in the life of all of us and every being.'[19] In other words, instead of being 'swallowed up by the order of mere events' in Nagel's secular and naturalistic expression of the

[14] T. Nagel, *Mortal Questions*, Cambridge: Cambridge University Press, 1979, p. 36.
[15] *Ibid.*, p. 37.
[16] *Ibid.*, p. 38.
[17] P. Tillich, *The Eternal Now*, New York: Charles Scribner's Sons, 1963, p. 45.
[18] *Ibid.*, p. 45.
[19] *Ibid.*, p. 46.

dissolution of the self, under the pantheistic permutation of it *à la* Tillich, human as well as non-human selves disappear by being "swallowed up by the order of divine events". But would such a Tillichian treatment of the self and divinity comport comfortably with the Nagelian narrative? Since, as Nagel lays out the conceptual contours of the issues involved here, the idea of agency is incompatible with actions as events, and it therefore follows that there will be 'no one to be.' That is, being a self either in human or non-human incarnation is a matter of illusion and impossibility. Thence, given such an analytical framework, can a Tillichian worldview countenance the conception of divinity merely as an event?

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ARE PHILOSOPHICAL PROBLEMS PUZZLE OR REAL? FOCUS ON WITTGENSTEIN AND POPPER DEBATE

Muhammad Ateeq*

muateeq@uok.edu.pk

Abstract: *Wittgenstein believes that there is no foundation of 'philosophical problems'. 'Philosophical problems arise as a result of misuse of language. He believes that when one is unclear about the correct use of a word, he is puzzled and trapped in a 'philosophical problem'. Wittgenstein suggests a rational inquiry into the correct use of language. Karl Popper is not satisfied with this claim. He argues that 'philosophical problems' do not arise as a result of misuse of language. Most of the philosophical problems are real and have a foundation in science. For Popper, the criterion of genuine problems is its practicality. If there is a practical context of a problem, then the problem will be genuine. He suggests a proper understanding of the extra-philosophical context of 'philosophical problems'. This paper explores that the disagreement between Wittgenstein and Karl Popper over the issue of the nature of 'philosophical problems' is because of their contrary views about reality. Wittgenstein limits himself to mere linguistic analysis. He believes that language is autonomous and prior to reality. But for Popper truth or falsity of proposed theories is the real aim as he believes that reality is prior to language. This study concludes that Popper's approach provides a plausible ground to bridge the gap between science and philosophy. Popper's idea of extra-philosophical context of 'philosophical problem' is a convincing idea that can save philosophy from mere meaningless verbiage and abstraction.*

Keywords: *Language-games, Grammatical analysis, Form of life, Problem situations, Extra-philosophical context*

Introduction

Wittgenstein believes that the misconception of meaning and sense of a linguistic expression results in mistaken knowledge. In order to avoid mistaken knowledge, Wittgenstein suggests a rational inquiry into the correct use of language. In his earlier work *Tractatus Logico-Philosophicus*, Wittgenstein looks for an ideal language. Here, he is of the view that 'picturing reality' is the essence of language. Earlier Wittgenstein believes that the meaning and sense of a proposition lies in its 'picturing

* **PhD. in Philosophy, Assistant Professor of Philosophy Department University of Karachi, Pakistan.**

realty'.[1] Later on in his *Philosophical Investigation,* Wittgenstein comprehends that language is constructed in human activities and has no single essence. Later Wittgenstein believes that the meaning and sense of a proposition lies in its use in a specific human activity.

The central thesis of *Philosophical Investigation* is that to imagine a language means to imagine a form of life.[2] Language is constructed in different human activities. The meaning of a linguistic expression is determined by the rule of language which is structured by human conventions. Wittgenstein explains his thesis by an analogy of 'games'. Games are different kinds of activities and have different rules. We understand a game when we know how the game is played. Similarly, language is a different kind of 'language-games'. We understand the meaning of a linguistic expression when we know the rule of 'language-games'.

According to Wittgenstein for understanding of correct use of rules of 'language-games', we require 'grammatical analysis' of 'language-games'.[3] Through 'grammatical analysis' we recognize the correct rules of linguistic expressions. If we recognize the grammatical rules of a 'language-game', then there will be no confusion regarding clarity and certainty of sense and meanings of a word. Confusion arises if we do not recognize grammatical rules and misuse the language. Wittgenstein conceives that when one is unclear about the correct use of a word and does not apply an appropriate grammatical rule, he is puzzled and trapped in a philosophical problem. In Wittgenstein's words, "A philosophical problem has the form: I do not know my way about".[4]

Karl Popper dismisses the Wittgensteinian approach. He is of the view that 'philosophical problems' are not merely puzzles. In his essay "The Nature of Philosophical Problems and Their Roots in Science", Popper analyzes Wittgenstein's thesis.[5] He argues that linguistic ambiguity may be there in all kinds of studies. For Popper, the criterion of genuine problems is its practicality. If there is a practical context of a problem, then the problem will be genuine. Popper is of the view that 'philosophical problems' arise in the context of the problem situation of science. He explicates that a philosophical theory and its associated problem cannot be

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[1] *Ludwig Wittgenstein, Tractatus Logico-Philosophicus (TLP)*, Translated by C.K. Ogden, London: Routledge &Kegan Paul, 1922, sec. 2.221.

[2] Ludwig Wittgenstein, *Philosophical Investigations,* Translated by G.E.M. Anscombe, Oxford: Blackwell, 1953, sec.19.

[3] Ibid., sec. 251-252.

[4] Ibid., sec. 123.

[5] Karl Popper, "The Nature of Philosophical Problems and Their Roots in Science", *The British Journal for the Philosophy of Science* 3(10), (1952), pp. 124-156.

properly understood without an understanding of its extra-philosophical context.

In order to elaborate on Wittgenstein and Popper's perspectives about the nature of 'philosophical problems', I have divided this paper into two sections. In the first section, I focus on Wittgenstein's 'language-games' theory. Here, I discuss how his theory leads him to maintain that 'philosophical problems' arise as a result of misuse of language. In the second section, I focus on Karl Popper's view. Here, I analyze Popper's view that 'philosophical problems' arise in the context of the problem situation of science. I discuss how Popper tries to establish that 'philosophical problems' have practical context. They are not mere verbiage.

The Nature of 'Philosophical Problems' in Wittgenstein's Viewpoint

Wittgenstein has been of the view that 'philosophical problems' arise as a result of the misuse of language. He is interested in a philosophical inquiry into the correct use of language. He believes that the misconception of the meaning of a linguistic expression results in mistaken knowledge. In *Philosophical Investigation,* he explains that the meaning of a linguistic expression is determined by the rule of language which is structured by human activity or form of life.[6] In other words, he maintains that meanings are always conventional and can only be deciphered by a proper understanding of the context of human activity. In elucidating Wittgenstein's *Philosophical Investigation,* Grayling explicates that there is no single essence of language. Language is constructed in different human activities each of which has its own logic.[7] The meaning of a linguistic expression is its use in a specific human activity. We know the meaning of an expression or word by an understanding of its use in specific human activity. For instance, a child does not learn the words 'No', 'Help' and 'Fine' by a reference to some specific objects, but learns them in the context of activity as Wittgenstein explains.[8] Therefore, for Wittgenstein meaning of a word implies how it is used in human activity.

Language-Games Theory' and Grammatical Rules

As Language is constructed in various human activities, therefore language is complex. Wittgenstein explains the complexity of language by an analogy of 'games'. Different games are different kinds of activities.

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[6] Ludwig Wittgenstein, *Philosophical Investigations,* Translated by G.E.M. Anscombe, Oxford: Blackwell, 1953, sec. 23.

[7] A.C. Grayling, *Wittgenstein*, New York: Oxford University Press, 1996, p. 67.

[8] Ludwig Wittgenstein, *Philosophical Investigations,* Translated by G.E.M. Anscombe, Oxford: Blackwell, 1953, sec. 27-28.

There is no essential similarity between different games. We understand a game when we know how the game is played. Similarly, language can be conceived as a combination of different kind of 'language-games' each of which has its own rules. We know the meaning of the expression when we know how the expression is used in a specific 'language-game'. Wittgenstein explains that 'giving order', 'describing an object', 'reporting an event', 'asking questions' and 'telling a jock' are some examples of countless human activities which have their own sense and meaning. We comprehend a 'language-game' when we know how linguistic communities play them. For Wittgenstein, speaking of language is a part of human activity or a 'form of life'.[9] All activities have corresponding languages or 'language game' in the Wittgensteinian sense. A language can be conceived as a combination of different types of language-games.

Moreover, games have rules and are played according to the rules. If there is an incorrect use of the rules of a game, the game cannot be correctly played. Consequently, it results in confusion in the game. Similarly, different 'language- games' have their own rules which are important in order to understand the workings of language. In elucidating Wittgenstein's 'language-games' theory, Munitz explicates that grammatical rules play a central role in his treatment of language. Rules of 'language- games' determine the meaning of the linguistic expression.[10] If rules are not used correctly, there will be confusion about the meaning of an expression.

For an understanding of the correct use of rules of 'language-games', Wittgenstein suggests 'grammatical analysis' of 'language-games'. According to Wittgenstein, grammatical analysis differentiates between 'surface grammar' and 'depth grammar' of a linguistic expression. By understanding 'depth grammar', we can probe the correct use of rules of linguistic expressions.[11] According to Wittgenstein, an inquiry into grammatical rules of linguistic expression is required for the understanding of correct rules of 'language-games'. He suggests that the grammatical rules ar9e grasped by differentiating 'depth grammar' from the ordinary grammar of linguistic expressions. In order to clarify the notion of 'depth grammar', Munitz explains that the grammatical rule of a linguistic expression is a specific characteristic by virtue of which we differentiate it from other expressions. For example, the expressions, 'I have toothache' and 'he has a toothache' are the same in the ordinary

[9] Ibid., sec. 23-24.

[10] Milton K. Munitz, *Contemporary Analytic Philosophy*, New York: Macmillan Co, 1980, p. 287.

[11] Ludwig Wittgenstein, *Philosophical Investigations,* Translated by G.E.M. Anscombe, Oxford: Blackwell, 1953, sec. 64.

grammatical sense for the reason that the verb 'have' or 'has' have the same use in the expressions. But according to Wittgenstein, in-depth 'grammatical analysis' makes explicit that the use of the verb 'have/has' is different in both expressions. When I say 'I have a toothache', I express inner sensation. But when I say 'he has a toothache', the basis of my claim will be different. In other words, it is absurd to say that 'I do not know whether I have a toothache, whereas there is no absurdity if I say 'I do not know whether he has toothache'.[12] The use of the verb 'have/has' is different in both of the expressions. That is the difference of grammatical rules of expressions. Both of the expressions have different senses or logic. In Wittgenstein's view, both expressions are different 'language-games' having different grammatical rules.

Wittgenstein upholds that 'grammatical analysis' clarifies the rule of 'language-games'. The grammatical rule of an expression deciphers the meaning or sense of expression. For instance, in the proposition that the sum of all angles of a triangle is 180 degrees, we do not conceive of measurement of angles in the ordinary sense. This proposition is a theorem of geometry that is derived on the basis of axioms of geometry.[13] Axioms of geometry have their specific rules due to which geometry is regarded as a distinct 'language-game'. In another proposition that the sum of the length of two rods is 12 meters, we conceive measurement in the ordinary sense. This proposition shows a specific situation or an empirical fact; therefore here the grammatical rule is different. In both of the above examples the literal meaning of the term 'sum' is the same but its sense is different. Grammatical analysis probes the grammatical rules of the expressions that clarify the meaning and sense of the expressions.

It may be concluded here that grammatical rules govern the language. Linguistic expressions can only be understood if grammatical rules are grasped. As far as the question of the origin of grammatical rules is concerned, we have seen that they are conventional in Wittgenstein's view. They are constructed in various human activities. They are not determined by any other source. They are autonomous.

Autonomy of Grammatical Rules

Wittgenstein's *Philosophical Investigation* argues about the autonomy of grammatical rules. Here the main argument is as follows. Grammatical rules are the correct use of a 'word' and the correct use of 'word' is not determined by what is external to human activity. It is determined by human activities or customs. For Wittgenstein rules are nothing but the

[12] Milton K. Munitz, *Contemporary Analytic Philosophy*, New York: Macmillan Co, 1980, p. 288.

[13] Ibid., p. 290.

agreement in a community as we learn the use of a word in the community.[14] Therefore, grammatical rules are autonomous. One clarifies whether he is applying or opting correct rule by knowing how relevant human activity applies these rules. For instance, one learns the rule of arithmetic by participating in a 'language-game' of arithmetic with other members who are masters of the rules of this 'game'. The criterion of the correct method of arithmetic is the practices of arithmeticians. Similarly in all verities of 'language-games', the source of understanding of correct rules of 'language-games' is human activity. There is no external ground or source for the justification of rules of 'language games.[15]

What Wittgenstein wants to explicate is that grammatical rules of 'language -games' are not justified by something external to human activity. We cannot justify rules by referring them to reality, since reality is also described in language. Description of reality presupposes grammatical rules which are determined by human activities or practices.[16] When one claims that his language game derives grammatical rules from reality, he uses propositions that already have some linguistic or conventional content. A neutral description of reality is impossible. Therefore there is no absolute reason in reality to justify a grammatical rule.[17] Grammatical rules rest upon agreed practices of a linguistic community. They have their own justification. In this way, grammatical rules are autonomous.

As there is no external criterion for justification of grammatical rules of a 'language-game', we cannot prefer one 'language-game' over another. All games have the same status. If something is prior, it is human activity. Human activities are diversified. There is no external reason to prefer one activity over another. All games are equally preferable as all are the product of human activity. However, if there is any rule to prefer a specific language game, it will also be based on custom and cannot be derived from reality. What can be said in present consideration is that rules are constructed by men. Language is constructed by men, not by reality.[18] There is no essence of language in reality. Consequently, there is no objective or external reason for the justification of grammatical rules. Even a sense of external reason or a sense of objectivity is developed through the agreed rules of a linguistic community. Thus meaning, understanding and

[14] Ludwig Wittgenstein, *Philosophical Investigations,* Translated by G.E.M. Anscombe, Oxford: Blackwell, 1953, sec. 223-224.

[15] Ludwig Wittgenstein, *On Certainty,* Edited by G.E.M. Anscombe, Oxford: Blackwell, 1969, sec. 204.

[16] Milton K. Munitz, *Contemporary Analytic Philosophy*, New York: Macmillan Co, 1980, p.296.

[17] Ibid., p. 297.

[18] Ludwig Wittgenstein, *Philosophical Investigations,* Translated by G.E.M. Anscombe, Oxford: Blackwell, 1953, sec. 355.

learning all are because of linguistic activity. All kinds of explanations exist within the 'form of life'. The ultimate truth that is supposed to be to be found beyond the 'form of life' is irrational for Wittgenstein.

'Philosophical Problems' as linguistic traps

The idea of the autonomy of grammatical rules leads Wittgenstein to argue that clarity of meaning and sense of linguistic expressions are grounded in the specific 'language-game'. If we recognize the grammatical rules of a 'language game', there will be no confusion. Confusion arises if we misuse the language.[19] Following this principle, Wittgenstein has been of the view that 'philosophical problems' are the result of the confusions which arise when language is like an engine idling, not when it is doing work.[20] What Wittgenstein clarifies here is that when one is unclear about the correct use of a word and does not apply an appropriate grammatical rule, he is puzzled and trapped in a philosophical problem.

To elucidate the nature of 'philosophical problems', Wittgenstein gives an example from Augustine. In conceiving the notion of 'time' Augustine is puzzled and declares that time cannot be measured. He argues that the past cannot be measured as it has gone by. Similarly, the future cannot be measured as it has not yet come. Likewise, the present cannot be measured for the reason that it has no extension.[21] Wittgenstein explains that Augustine was unclear about the correct use of the word 'measurement' and he did not apply an appropriate grammatical rule. The use of the term 'measurement' is different in different cases. When the term 'measurement' is used for the length of a thing, what we mean by 'measurement' is a space between two points. Here grammatical rule for the understanding of the term 'measurement' is a specific one. But when the term 'measurement' is used for 'time', then the grammatical rule is entirely different. Time cannot be measured like the length. Augustine wrongly applies grammatical rule and is trapped in problem.

The mistaken concept of 'certain knowledge' is another 'philosophical problem' which arises because of the linguistic trap. Wittgenstein elucidates that Philosophers do not recognize the correct use of the word 'know' and declare that the proposition 'I know I am in pain' is a knowledge claim with certainty. While 'I know he is in pain' is a knowledge claim without certainty. Philosophers argue that private sensations are doubtless therefore they constitute 'certain knowledge'. Wittgenstein is of

[19] A.C. Grayling, *Wittgenstein*, New York: Oxford University Press, 1996, p. 68.

[20] Ludwig Wittgenstein, *Philosophical Investigations,* Translated by G.E.M. Anscombe, Oxford: Blackwell, 1953, sec. 131-132.

[21] Milton K. Munitz, *Contemporary Analytic Philosophy*, New York: Macmillan Co, 1980, p. 288.

the view that knowledge claims cannot be without doubt. "I am in pain' is merely a sensation. It is doubtless. It is absurd to use 'I know' with 'I am in pain'.[22] Knowledge claims are always formulated in language and grammatical rules of language have no absolute justification. Therefore, there is always the possibility of doubt in knowledge claims.

In elucidating Wittgenstein, Munitz analyzes that when one claims that 'I know I am in pain' is certain knowledge, he does not recognize the correct use of the word 'know'. In other words, 'I know I am in pain' is not a knowledge claim at all. The sense of proposition 'I know I am in pain' is 'I have pain'. For Wittgenstein, 'I have pain' is a self-ascription of an inner state. It is an expression of inner sensation. Self-ascription is not a statement or proposition.[23] Knowledge claims are propositions. There are criteria on the basis of which such propositions are justified or unjustified. If it is asked how one knows that he is in pain and what 'pain' is, he must give a criterion that is publicly justified or unjustified. Even his knowledge of inner states rests upon public language. He uses the word 'pain' for his inner state because he shares a 'form of life' with the linguistic community. The linguistic community use the word 'pain' through publicly shared rules. These rules have no external or objective criterion of justification. Criteria of certainty and doubt lie in language games. Certainty and doubt are judged by grammatical rules which are autonomous and have no ultimate justification. Our acceptance of these rules constitutes a criterion of certainty.

What Wittgenstein makes clear here is that when one claims that he knows something with certainty in the absolute sense, he misuses the term 'know'. He just believes that he knows it with certainty in the absolute sense. Knowledge claims cannot be certain in the absolute sense. There is always a ground on the basis of which claims are judged. Rules of judgment ultimately lie in the 'form of life' and have no ultimate justification. Absolute certainty does not exist. What Wittgenstein concludes is that 'absolute certain knowledge' is a mistaken idea and it arises because of misuse of language.[24]

In order to further explain the nature of 'philosophical problems', Wittgenstein elaborates the role of a philosopher. He compares a philosopher to a fly who is trapped in a bottle. Like a fly, the philosopher has to find the way out.[25] 'Philosophical problems' are like a knot in our

[22] Ludwig Wittgenstein, *Philosophical Investigations,* Translated by G.E.M. Anscombe, Oxford: Blackwell, 1953, sec. 246.

[23] Milton K. Munitz, *Contemporary Analytic Philosophy*, New York: Macmillan Co, 1980, p. 314.

[24] Ludwig Wittgenstein, *On Certainty,* Edited by G.E.M. Anscombe, Oxford: Blackwell, 1969, sec. 173-181.

[25] Ludwig Wittgenstein, *Philosophical Investigations,* Translated by G.E.M. Anscombe, Oxford: Blackwell, 1953, sec. 309.

thinking. They are puzzles. The role of the philosopher is to untie the knot and find the way out. According to Wittgenstein knot can be untied by the correct interpretation of the form of language.[26] A philosopher has to analyze the use of language and recognize the correct use of rules of language-games. When he understands the correct use of language, he identifies linguistic traps or puzzles and dissolves them.

The idea that 'philosophical problems' are merely puzzles leads Wittgenstein to imply that 'Philosophical problems' are not about facts. They are not empirical.[27] He explicates that philosophers should not produce explanatory theory, as it is produced in empirical sciences. He differentiates between 'scientific problems' and 'philosophical problems'. For Wittgenstein scientific problems do not arise because of misuse of language. They are genuine problems. They are about facts. Scientists respond to these problems and propose hypotheses or explanatory theories. The activity of empirical science is a distinct language game. 'Philosophical problems' arise as a result of the misuse of language. They are not solved by proposed theories. They are a linguistic trap. They are dissolved if we recognize the correct sense of language.[28]

The Nature of 'Philosophical Problems' in Popper's Viewpoint

Karl Popper in his essay "The Nature of Philosophical Problems and Their Roots in Science" responds to Wittgenstein's viewpoint of the nature of 'philosophical problems'. He is of the view that both scientific and philosophical problems are genuine. The job of a scientist and a philosopher is to solve scientific and philosophical problems.[29] What Popper wants to explicate is that philosophical problems are not merely puzzles. They are not a linguistic trap. Philosophical problems are not dissolved but are resolved.

There has been a confrontation between Popper and Wittgenstein over the issue of the nature of 'philosophical problems'[30]. Popper has

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[26] Milton K. Munitz, *Contemporary Analytic Philosophy*, New York: Macmillan Co, 1980, p. 318.

[27] Ludwig Wittgenstein, *Philosophical Investigations,* Translated by G.E.M. Anscombe, Oxford: Blackwell, 1953, sec. 109.

[28] Milton K. Munitz, *Contemporary Analytic Philosophy*, New York: Macmillan Co, 1980, p. 319-320.

[29] Karl Popper, "The Nature of Philosophical Problems and Their Roots in Science", *The British Journal for the Philosophy of Science* 3(10), (1952), p. 124.

[30] Popper delivered a lecture on this issue in Cambridge Moral Science Club in the presence of Wittgenstein who was the chairman of the club. Both were face to face over this issue. The story of events of arguments between Popper and Wittgenstein is narrated by David Edmonds and John Edinow in the book, *Wittgenstein's Poker*. Later on, Popper explains his view about 'philosophical problems' in his essay, "The Nature of Philosophical Problems and Their Roots in Science".

reservations about Wittgenstein's rigid demarcation between philosophy and other studies. Popper clarifies that there are various studies or disciplines which are differentiated on the basis of subject matter. Some of these studies or disciplines are linked to each other on the basis of similarity or techniques. But the distinction between studies or disciplines is not important. What is important is that all studies and disciplines are problem-solving activities.[31] Popper identifies that Wittgenstein segregates philosophy from other studies. His claim that philosophical statements are vague or ambiguous is not justifiable for Popper.

The viewpoint of Popper is that if there are no genuine problems in philosophy, philosophy will no more be attractive. Popper argues that linguistic ambiguity may be there in all kinds of studies. They can be clarified. He explains that ambiguities and vagueness have been there in some studies at the earliest stages but due to the growth of our knowledge, these things have now been removed. Our continuous efforts have clarified the vagueness of their language. He gives an example from mathematics that in its earlier forms differential and integral calculus were supposed to be paradoxical. But as a result of the efforts of mathematicians, differential and integral calculus now have become reasonable and sound.[32] Moreover, Popper argues that one can show that there are pseudo propositions even in science or mathematics by skilful application of techniques of language. What Popper wants to clarify here is that we can identify pseudo propositions in any discipline. But by merely showing pseudo propositions in any discipline, we cannot infer that the discipline has no genuine problems.[33] Popper is of the view that the criterion of genuine problems is its practicality. If there is a practical context of a problem, the problem will be genuine.

Popper argues that philosophy is not merely meaningless verbiage. 'Philosophical problems' have practical context. For Popper, nothing is philosophized in a vacuum. When one philosophizes about some issue, he philosophizes in the context of the real existing problems which arise in science, or in politics, or in social life.[34] Popper dismisses the traditional method of philosophy that tries to solve 'philosophical problems' in abstraction. This is the reason why 'philosophical problems' are mistakenly regarded as mere verbiage. In order to elaborate this point, Popper puts forward his two theses.

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[31] Karl Popper, "The Nature of Philosophical Problems and Their Roots in Science", *The British Journal for the Philosophy of Science* 3(10), (1952), p. 125.

[32] Ibid., p. 129.

[33] Ibid., p. 130.

[34] Ibid., p. 130.

Popper's Two Theses Regarding Nature of 'Philosophical Problems'

In his first thesis, Popper asserts that most of the philosophical problems are rooted in urgent problems outside philosophy.[35] Philosophers raise a philosophical question in a response to the crisis of mathematical, or scientific, or social and political knowledge. As science, mathematics and social life obviously have practical context, therefore Popper believes that such philosophical questions and their associated problems are genuine. He identifies that the Problem begins when philosophers try to solve philosophical problems with their highly abstract theories, they make philosophy merely verbiage. For Popper, unless philosophical theories are not capable of being rationally discussed, philosophy cannot be attractive. Rational discussion can only be possible if the philosophical problems are treated in the context of vast disciplines outside the philosophy where philosophical problems are rooted.[36] Popper has been of the view that the urge to problem-solving is the main objective of any rational method.[37] This objective can only be achieved if we probe the roots of the problem.

The problem that arises here is that if one probes that a 'philosophical problem' is rooted in science, he must regard it as a scientific problem rather than a philosophical problem. Popper does not agree with it. For him, it is a dogmatic approach to believe that there is a borderline between various studies and they cannot help each other. He gives an example from the history of physics that the problem of the structure of atoms is resolved with the help of pure mathematical calculation. The problem of atomic structure traditionally belongs to physics rather than pure mathematics. Here mathematics helps physics.[38] Similarly, various disciplines can help each other in order to explain or reduce problems situation. What Popper wants to make clear is that it is not rationally acceptable to assert that if philosophical problems are rooted in factual issues, they must belong to science rather than philosophy.

Popper's second thesis is about the traditional method of teaching philosophy. He argues that we traditionally start teaching philosophy by introducing the works of great philosophers to beginners who do not aware of history of mathematical, cosmological, scientific and socio-political ideas. Consequently, the learners begin to assume that philosophy is an

[35] Ibid., p. 130.

[36] Ibid., p. 131.

[37] Karl Popper, *Objective Knowledge: An Evolutionary Approach*, Oxford: Clarendon Press, (1972), p. 258.

[38] Karl Popper, "The Nature of Philosophical Problems and Their Roots in Science", *The British Journal for the Philosophy of Science* 3(10), (1952), p. 133.

abstract study.[39] Popper explains that without knowledge of a proper context of the work of great philosophers, most of the students of philosophy mistakenly regard 'philosophical problems' as verbiage and linguistic tricks. He believes that the misconception regarding the nature of philosophy and 'philosophical problems' can only be removed if students of philosophy understand philosophy in the context of 'problem situations' in science and socio-political ideas.

For Popper, 'Problem situations' in science and social science are not abstract situation. They are directly or indirectly related to facts. Therefore, he contends that knowledge of extra-philosophical context can enable students of philosophy to understand that the 'philosophical problems' of great philosophers are related to factual situations. Through this knowledge, they would realize that philosophical problems are genuine problems.

Extra-Philosophical Context of 'Philosophical Problems' and their Genuineness

As for Popper, philosophical problems are rooted in science and they arise in the context of the problem situation of science. Therefore he contends that a philosophical theory and its associated problem cannot be properly understood without an understanding of its extra-philosophical context. In order to establish his thesis, Popper gives two examples from the history of philosophy.[40]

In his first example, Popper asserts that there is an extra-philosophical context of Plato's theory of forms. He believes that Plato's theory of forms is rooted in the problem situation of the Greek theory of matter.[41] Popper explicates that Plato develops his thought in the context of the debate on the nature of matter. In this regard, Plato's theory of forms is dialectically developed from the debates of Pythagoras' theory of numbers and Democritus' atomism. Pythagoras' theory states that all things are numbers in essence. Numbers are the essence of things as shapes of things are based upon natural numbers or their ratios. For example, geometrical shapes are formed by specific ratios of numbers. If a right-angle triangle has sides of 3 and 4 units, then by using Pythagoras' theorem[42] we can show that the ratio of the hypotenuse to the sides is 5:3:4.[43] While

[39] Ibid., p. 131.

[40] Ibid., p. 134.

[41] Ibid., p. 135.

[42] The square of hypotenuse of right angle triangle is equal to sum of the squares of its sides; either $c^2 = a^2 + b^2$.

[43] Karl Popper, "The Nature of Philosophical Problems and Their Roots in Science", *The British Journal for the Philosophy of Science* 3(10), (1952), p. 138.

atomism responds to the problem of rational understanding of change and states that world consists of indivisible atoms which are separated by space. Atomists assert that atoms do not change. All change is because of the arrangement of atoms in space. Space and motion are real. All change is movement.[44]

Historically, Pythagoras' theory of numbers faces a 'problem situation' when it is discovered that the diagonal 'd' of a square of side 'a' cannot be shown by any proper ratio. By using Pythagoras' theorem, the value of the diagonal is obtained as *√2 a. Because of the irrationality of the square root of two*[45] *the diagonal cannot be characterized by proper ratio. That is the problem situation which is generally known as the problem of 'irrationality of the square root of 2'.Popper believes that the discovery of the 'irrationality of the square root of two' is the result of a long history of Greek mathematics and science that resists Pythagoras' theory of numbers* (Popper 1952: 140).[46]

Like Pythagoreanism, Greek atomism has been of the view that measurement is the counting of natural units (natural numbers). Therefore, for atomists, every measurement must be reducible to pure number. Popper explains that like Pythagoreans the atomists also face the same problem. If two atoms are there on the ends points of the diagonal of a square, then the atomic distance cannot be a pure distance. The atomic distance involves √2 which is not a pure number.[47] *Consequently, atomists' claims of the rationality of space (distance) and motion become problematic*[48]*. It ultimately problematizes the notion of change also.*

According to Karl Popper, early on Plato recognizes both the Pythagoreans' and atomists' view of pure arithmetic (which was based on counting or measurement) and regards them as the true explanatory theory of nature. But later on, he realizes the 'problem situation' of the 'irrationality of the square root of two' and concludes that the problem of 'irrationality of the square root of two' defeats their views.[49] *Popper asserts that Plato's theory of forms is developed in the context of the*

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[44] Ibid., p. 144.

[45] *The value of √2 is 1.414...., that is not a natural numbers.*

[46] Karl Popper, "The Nature of Philosophical Problems and Their Roots in Science", *The British Journal for the Philosophy of Science* 3(10), (1952), p. 140.

[47] Ibid., p. 146.

[48] If space is real, then it must be measured in pure numbers. In this case, atomic distance involves *√2 which is not a pure number. Therefore space becomes non-real. As motion requires space, therefore motion also becomes non-real, which is problematic situation for atomism.*

[49] Karl Popper, "The Nature of Philosophical Problems and Their Roots in Science", *The British Journal for the Philosophy of Science* 3(10), (1952), p. 146.

frailer of the arithmetical theory of nature. He explains that the problem of the 'irrationality of the square root of two' ultimately leads Plato to the idea of the unchangeable world of 'forms'. Plato's theory of forms explains the visible world of change through the invisible world of unchanging forms, as Popper mentions.[50] *What Popper wants to make clear here is that Plato's philosophical theory of forms has an extra-philosophical context. It emerges out as a solution to 'the problem situation' of Greek science. Popper shows how a philosophical theory can be rooted in factual science and cannot be regarded as merely abstract.*

In his second example, Popper asserts that even an insoluble philosophical problem may not be regarded as a pseudo-problem. In this regard, he puts forward the problem of Kant's Critique of Pure Reason. According to Popper, Kant's problem arises in the context of Newtonian Physics.[51] *Newton's laws were supposed to be true in the contemporary world of Kant. But Kant was influenced by David Hume who had been of the view that the certain knowledge of universal laws could not be possible as it was derived by observation of particulars. Hume developed his thought in the context of the problem of induction. He argued that universal could not be drawn on the basis of particular. Popper explains that Kant was convinced by Hume's argument and consequently faced the problem that if Hume was right, how we could have got hold of the universal explanatory theory (universal laws) of observable facts. In other words, "how is pure natural science possible?" was the central problem of Kant's Critique of Pure Reason.*[52]

Popper argues that Kant tries to solve this problem. Kant believes that natural laws are possible because our mind's outfit makes them possible. The mind is not a passive receiver of sense data. Mind actively transforms sense data into universal law. In other words, Kant is of the view that our minds impose regularity upon nature. For Kant, it is a fact that our intellect plays an active role in the possibility of purely natural science.[53] *But Popper raises the objection that if we impose our own laws on nature, laws of nature cannot be an absolute or universal truth. They can only be approximations of facts of observation. They can merely be our hypothesis.*[54] *Thus Popper concludes that Kant's problem is insoluble. Hume's problem does not leave any room for the possibility of pure natural science.*

[50] Ibid., p. 149.
[51] Ibid., p. 153.
[52] Ibid., p. 154.
[53] Ibid., p. 155.
[54] Ibid., p. 154.

Even though Popper regards Kant's problem as insoluble, he does not mark it as a pseudo-problem. Popper believes that there is an element of truth in Kant's idea. Kant's idea that 'we are not a passive receiver of sense data' is epistemologically significant for Popper. According to Popper, Kant's idea ultimately promotes a theory of knowledge whose central point is that men have thirst for an explanation. They react to their environment actively and put forward hypotheses for explanations of phenomena that they observe. Popper explains that being active receivers' men see whether hypotheses work or not. In the case of falsification of the hypothesis, they may propose other hypotheses. Thus for Popper, Kant's problem can rationally be reduced to the question that 'how are successful hypotheses possible' (Popper 1952: 155).[55] *What Popper makes clear here is that Kant's problem is not a pseudo-problem.*

Conclusion

What follows from Wittgenstein and Popper's inquiry into the nature of 'philosophical problems' is that for Wittgenstein Philosophical problems are not factual. They arise as a result of misuse of language. For Wittgenstein, correct use of language can only be possible if we recognize the grammatical rules of a 'language-game'. Confusion arises if we do not recognize grammatical rules and misuse the language. When one is unclear about the correct use of a word and does not apply the appropriate grammatical rule, he is puzzled and trapped in a philosophical problem. Thus for Wittgenstein, 'philosophical problems' are not genuine. They are not solved by proposed theories. They are a linguistic trap. They are dissolved if we recognize the correct sense of language.

Whereas Popper argues that 'philosophical problems' are mistakenly regarded as mere verbiage. He believes that the criterion of genuine problems is their practicality. He shows that most 'philosophical problems' have practical context. 'Philosophical problems' are rooted in factual science. Popper suggests that misconceptions regarding the nature of philosophy and 'philosophical problems', can only be removed if students of philosophy understand philosophy in the context of 'problem situations' in science and socio-political ideas. Thus for Popper, philosophical problems are not merely puzzles. They are not a linguistic trap. Philosophical problems are not dissolved but are resolved.

Finally, we can conclude that the disagreement between Wittgenstein and Karl Popper over the issue of the nature of 'philosophical problems' is because of their different approaches. The analysis of meaning and concept is the aim of Wittgenstein. He limits himself to linguistic analysis as he believes that language is autonomous and prior to reality. For him

[55] Ibid., p. 155.

'philosophical problems' arise as a result of the misuse of language. But for Popper truth or falsity of proposed theories is the real aim as he believes that reality is prior. For him, a philosophical activity is philosophizing something in the context of real existing problems. That is why in order to show the genuineness of 'philosophical problems' Popper probes the extra-philosophical context of 'philosophical problems'. We can say that Popper's approach provides a rational ground to bridge the gap between science and philosophy. Science is not mere verbiage. It always has a practical context. Popper's idea of extra-philosophical context of 'philosophical problem' is a convincing idea that can save philosophy from mere meaningless verbiage and abstraction.

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ACTING PERSON AND THE QUEST FOR INTEGRAL HUMANISM IN THE *CRISIS OF TRUTH*

Philip Osarobu Isanbor*

osarobuisanbor@gmail.com

Abstract: *The pragmatic recognitions of the developmental contents of lived experiences necessarily shape and reshape our world of developmental values and ideologies dependably on the phenomenology of one's actions. Such praxis specifies that the sustainability of human world is hinged on the values we placed ourselves as persons, as subjects of lived experiences and as agents of development. This is the existential valuation of integral humanism where our beingness is directed towards defining and reforming the ontological wholeness of the person in terms of valuing the Culture of Peace rather than the fuelling of the Culture of War. This paper, adopting the phenomenological method, analyses Karol Wojtyla (Pope John Paul II)'s phenomenology of the person as the ontologised ethics of living, Such philosophy recognises that both Culture of Peace and Culture of War are solely products of human actions dependably on the valuation of lived experiences, and it is regarded as the core of Wojtylan Existential Personalism as the philosophy of integral humanism. The paper recognised that both Culture of War and Culture of Peace are occasioned by the valuations of truth, and when improperly managed, engender the Crisis of Truth due to human freedom expressed through actions. For Wojtylan Existential Personalism, if lived experiences are properly interpreted, employed and managed, necessarily shape the present and then, more importantly, the future of the human person, as an active agent of development. The paper concludes that, away from the influences of the crisis of truth inherent in our modern, economic-driven world of values and ideologies, the values of Culture of Peace remain strongly and inevitably indispensably in achieving integral humanism.*

Keywords: *Acting Person, Culture of Peace, Integral Humanism, Culture of War, Wojtylan Existential Personalism, Crisis of Truth.*

Introduction

Philosophy of integral humanism recognises that it is in peace that the effects of war are understood, promoted and sustained, and for sake of development, the discourses of war and peace are indispensably inseparable especially in the contemporary civilization. These developmental concerns remain in the minds and works of many ethicists,

*** PhD. Department of Philosophy, Seminary of All Saints, Ekpoma, Nigeria.**

existentialists and social thinkers mostly directed to achieving secular humanism rather than integral humanism.[1] For some others, the possible achievements of integral humanism indispensably will lead us to the phenomenological understanding of the person as a true and rational agent of development.[2] The developmental existentiality of self-authenticity and self-subjectivity, especially as an active agent of development and mainly as a subject of lived experiences remains an ethical engagement over all philosophical eras, including our contemporary times, whose sense of humanism is guided by what science and technology can render to the human person, especially as an abject of development.[3] With the purposefully directed actions and valued choices, integral humanism is met to change the world through moral or ethical management of the effects of past experiences for the betterments of the present and then ultimately, for the future, simply by the employment of the human values inherent in human social institutions.[4]

The ethical concerns of all social institutions posit some difficulties in understanding developmental motifs behind actions, especially when such actions are purposefully driven away from the operation of natural law principles.[5] The endpoint of all social and political institutions is supposedly the morality of wills, derivatively, also serves the purpose of promoting personal well-being of members of a society where ethical norms are well ordered.[6] Thereby, the achievement of proper moral development in any society demands that the drives for self-authenticity and self-dynamism are to be philosophically made possible through the phenomenological assessment of oneself as an *Acting Person*. This owes to the oneness of creation through the sustainability of creation by

[1] See, P.O. Isanbor and P.A. Edema, Environment and the Emergence of Dehumanised Future. *Cogito: Multidisciplinary Research Journal*, Vol. XIV, No. 3, Sept., 2022[a], pp. 28-42; P.O. Isanbor and P. A. Edema, Integral Humanism and the Social Logic of Morality. *Euromentor: Journal Studies About Education*, Vol. XIII, No. 1, 2022[b], pp. 139-155.

[2] Paul Oredipe, Integral Humanism: An Ethical Challenge in Faith and Reason In P. Iroegbu and A. Echekwube (eds). *Kpim of Morality*. Ibadan: Heinemann Publications, 2005, p. 60.

[3] See, Karol Wojtyla, *The Acting Person*. Dordrecht: D. Reidel Publishing Company, 1979, p. 3.

[4] Cf, J. Babic, Ethics of War and Ethics in War. *Conatus Journal of Philosophy,* 4(1), 2019, pp. 9-30.

[5] P.A. Edema and A.V. and Bukete, Social Dependency and Conflict Resolution: An Application of Karol Wojtyla's (Pope John Paul II) Philosophy in Nigeria, *Albertine Journal of Philosophy and Related Disciplines*, Vol. 2, 2018, pp. 18-39, see, p. 19.

[6] P.O. Isanbor and M.M. Uzomah, Douglas Roche on Cultures of War and Peace: The Global Ethics for Human Rights, Social Order and Development. *EPHA: Ekpoma Journal of Religious Studies*, Vol. 11, Nos. 1&2, 2016, pp. 86-104, see, p. 90.

responsible and ethical human actions. This societal understanding of the person socially and developmentally calls for the ethical values of integral humanism based on the social, political and religious values for the "truth in right conscience and freedom."

From all indications and analysis, Pope John Paul II's *Veritatis Splendor* has a central focus on the indispensable nature of "truth" in the understanding the nature of the person. In it, we understand the social and theological conditioning that the nature of the person must be redeemed in and by the same truth- the splendour of human history. The philosophy of *Veritatis Splendor* suggests that the human history and society can only be sustained in the expression of lived experiences truly enlivened by truth. It suggests that without truth, the individual will be animalistic and his or her development will be mainly cosmological and materialistic. But Wojtylan Existential Personalism within the purview of the valuation of the *Acting Person* posits that integral humanism is only possible through ontologised *ethics of living* and directs human conscience to judge human actions on the basis of normative and personalistic valuations.

The employment of existential phenomenology of truth here is based on the analysis of the lived-experiences of the *Acting Person*. In Wojtyla's book: *The Acting Person;* the consideration of lived experiences are taken as existential-dispositional factors built on personal responsibility that informs the contents of "truth in right conscience and freedom."[7] Existential phenomenological tools employed here help to put matters of development straight in analysing the valuation of truth in the exercises of actions in order to achieve integral humanism.[8] The social, ethical and transcendental placements of lived experiences are to discover the ultimate sources of truth for the validity of whatever is experienced by the individual as an *Acting Person* is to be the objectively binding course of development; despite the vicissitudes of its subjective apprehension.[9] This effort of Wojtylan existential personalism has been supported by and through collaboration of existential evaluation of some of his major encyclicals: *Veritatis Splendor* on moral restitutes of truth for the realization of integral humanism, *Fides et Ratio* on the interaction of faith and reason for the development of human knowledge, and *Laboren Exercens*, *Solicitudo rei Socialis* and *Centisimus Annus* on the social valuation of the person and his or her quest for integral humanism. Other

[7] Hans Kochler, "Karol Wojtyla's Notion of the Irreducible in Man and the Quest for a Just World Order." In N.M. Billias, A.B. Curry and G.F. McLean (eds). *Karol Wojtyla's Philosophical Legacy*. (pp. 166-182). Washington: The Council for Research in Values and Philosophy, 2008, p. 168.

[8] Paul Oredipe, Integral Humanism: An Ethical Challenge in Faith and Reason, p. 61.

[9] Karol Wojtyla, *The Acting Person*, p. 6.

related existential-phenomenological materials are analytically consulted and referenced to achieve meaningful results on the understanding of the individual as an *Acting Person*.

With true conscience and freedom, for Karol Wojtyla, the *Acting Person* understands that the moral foundation and relevance of actions in achieving *Culture of Peace* is independent of the dilemmatic promotion and the problematic agitations for the employments of human ingenuity and creativities.[10] It demands wholly that we should consciously realise that the ultimate end and rationale of the sociality of the person as a subject and object of development is the attainment of his or her authenticity and subjectivity through responsible actions. Such conviction owes that the universal aspiration of the human person is the basis of the realization of happiness, not pleasure.[11] True human happiness cannot be attained outside the framework of society that is occasioned by the *Crisis of Truth*, and this in turn, within the context of the realization of his or her personhood. This is the foremost presupposition of the social nature of the human person. Therefore, human sociality is only meaningful in the context of the actualization of human authenticity and subjectivity, which in turn is the proper ground of achieving integral humanism.

Basis of Integral Humanism in Wojtylan Existential Personalism

It is on the basis of realising integral humanism through the true exercises of the human nature that, as a philosopher, Karol Wojtyla developed an ethics of social dependency: ontologised *ethics of living*.[12] Wojtyla's idea of social dependency is strongly expressed in one of his works titled: *Sollicitudo Rei Socialis*, and where he says, "those who are more influential because they have a greater share of goods and common services, should feel responsible for the weaker and be ready to share with them all they possess."[13] Following this conviction, for the basic possibility of *Culture of Peace,* especially through the instrumentality of common

[10] Cf, D. Stagaman, "The Implications for Theology of the Acting Person." In J. M. McDermott (ed.). *The Thought of Pope John Paul II: A Collection of Essays and Studies*. (pp. 213-220). Rome: Edirtice Pontifica Universita Gregoriana, 1993.

[11] See, F.C. Aghamelu, The Human Persona and Social Order: A Moral Perspective. *Journal of African Studies and Sustainable Development*, Vol. 2, No. 3, 2019, pp. 91-108, cf, p. 19; S.C. Chukwujekwu, "John Paul II and the Human Person." In S.C. Chukwujekwu (ed). *Personalism and humanism in the philosophy of Pope John Paul II*. Annual Memorial Lecture Series, No. 1. Okpuno-Awka: Pope John Paul II Major Seminary, 2007, p. 110.

[12] P.A. Edema and A.V. and Bukete, Social Dependency and Conflict Resolution: An Application of Karol Wojtyla's (Pope John Paul II) Philosophy in Nigeria, p. 20.

[13] Pope John Paul II, *Solicitudo rei Socialis*. Vatican City: Libreria Editrice Vaticana, 1987, no. 39.

good and solidarity, he further reiterates that; "those who are weaker, for their part, in the same spirit of solidarity, should not adopt a merely passive attitude or one that is destructive of social fabric, but, while claiming their legitimate rights, should do what they can for the good of all."[14] This *ethics of living* demands that social fabrics should remain the seat of hope and care which engenders *Culture of Peace* rather than *Culture of War,* for the latter has been based on the misguided freedom and sentiments.[15] Hence, Wojtylan idea of social dependency of persons is essentially developed in his theory of inter-subjectivity and authenticity through the principles of self-participation, self-dynamism and self-governance. With these principles, the human person as a subject of lived experiences is not to be separated from *others*; rather he or she exists and lives in relation with *others*.[16] This is an imprint that the human nature carries within itself the values of its self-identity and self-authenticity, and then presupposes that the future generations are wholly dependent on the developmental consciousness of what happen at the present from the past.

Hence, the ontological valuation of peace presupposes no truth in war, as human actions and then valued directed towards the valuation of war are factors of dehumanised nature.[17] For this, Wojtyla sustained the socio-philosophical conviction on the possibility of *Culture of Peace* by stating that the dynamic correlation of acting with the development of the society. This is a result of the claim that the person as an agent of development lives and acts together with other persons in order to develop integrally.[18] This fact could also be defined as self-cooperation with others which, in extension, equally defines one's self-participation, self-liberation and self-dynamism.[19] This understanding of the person as an acting agent of development is based on the difference that exists between the pragmatic meanings of the two expressions of self-dynamism: cooperation and acting. For there is a clear semantic difference: for, "to cooperate" is not the same thing as "to act together" with others. He or she is aware of the different meanings that might exist in view of the fact that the person acts in relation and in common with other persons, but he or she does not explain all of them. "To cooperate" is to recognise that one exists to advance the world which does not belong to individual alone, rather, acts to promote the courses of the unity of existence.

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[14] Pope John Paul II, *Solicitudo rei Socialis*, no. 39.

[15] See, P.O. Isanbor and P.A. Edema, 2022[a], p. 40; P.O. Isanbor and P.A. Edema, 2022[b], p. 150.

[16] Karol Wojtyla, *The Acting Person*, p. 261.

[17] P.O. Isanbor and M.M. Uzomah, 2016, p. 96.

[18] Karol Wojtyla, *The Acting Person*, p. 261.

[19] Karol Wojtyla, *The Acting Person*, p. 12.

It is understood that the person is the only creature with such mentality of marrying existence and morality, and sensibly, he or she has the capacity to claim to be the only creature with the capability of knowing realities critically, especially to demarcate what is right from what is wrong.[20] The *Acting Person* is capable of answering any questions and by acting and sustains the resulting natures of such answers. The *Acting Person* has to ability to know that he or she knows, and he or she indispensably, therefore, needs to be interested in the real truth of what he or she knows.[21] Such the ethics of *otherness* is in relation of one's ability (capability and capability of human cognition) to acquire such development purely dependent on the socio-epistemological compositions of lived experiences: a linkage where the past effects both the present and the future. Therefore, the knowledge of oneself becomes communally based, since two or more persons can have the same lived experiences, hinged on the common human ecology of political and economic relevance and interests of development- as no one really live alone, and no one really suffer alone, as we are in the web of human relationships: *Communio Personarium.*

Acting Person and the Quest for Integral Humanism in the *Crisis of Truth*

Truth as human's search for self-authenticity, self-subjectivity and self-fulfilment requires the benefits of politics, religion, economy, education and culture as the institutional right ordering of the society confer or offer.[22] In search for authentic living beyond the effects of secular humanism, the human's thought should be greatly affected by his or her experiences in life. For the person is a subject who lives alongside different human subjects rather than as human objects, and he or she ready to grow and develop as a person among others, as he or she interacts with those that are around him or her.[23] The human fulfilment is something which requires an active interaction with the world. This is because, it is through one's interaction with the world that one's is called upon to perform specific actions which inevitably form the individual as a person. For Wojtyla, just like many other theistic existentialists, motivated by the influential, growing and imposing nature of secular and evolutionary humanism, advance the developmental conviction of integral or Godly

[20] P.O. Isanbor and P.A. Edema, 2022[a], p. 30; 2022[b], p. 140.

[21] P.O. Isanbor and M.M. Uzomah, Natural Law Philosophy and the Quest for Social Order, Justice and Development. *AJORAS*, 5(2), 2017, pp. 62-72, see, p. 68.

[22] K.M. Sabastine, Nigeria and the Culture of Post-Truth Politics. *Nigerian Journal of Religion and Society,* 10, 2020, pp. 1-12, see, p. 9.

[23] E.A. Mejos, *Against Alienation: Karol Wojtyla's Theory of Participation, Kritike*, 1(1), 2007, pp. 71-85, see, p. 71.

humanism on the basis of what the persons can do by themselves with due references to God and on the existential recognition of His presence in the experiential global humanism.[24] With such recognition, the possibility of integral humanism presupposes the proper social valuations and exercises of the contents of actions in "truth." In truth, the limits of the effects of social stereotypes, misconceptions, beliefs, dogmas and errors resulting from bad or wrong actions, the human rationality has been intelligibly demarcated. Although, there has been some trends of truth drifting away from the o*therness of living*, but, the values of truth remain what they are across developmental histories.

Hence, the *Crisis of Truth* is strongly occasioned the love of falsehood engineered by the forces of relativistic and hedonistic convictions for secular humanism.[25] It is a culture of institutional lies and the enduring technical principle of lying as against the true nature of the persons as purely materialistic being of development. For Almond, "While there have been special defences of lying in context... it is more commonly and traditionally been regarded as morally wrong. So, the question that has been widely discussed is not whether lying is wrong, but whether it is always wrongs. Or can the duty to tell the truth be ranked against other duties? Many thinkers have taken an absolutist position on this, insisting that there can be no circumstances in which it is right to lies."[26] Away from the absolutist position, the drifting natures of truth surged from the misunderstanding of the workability of natural law- where the persons are putting the economy of truth under the commerce of relativistic, emotivistic and post-modernistic cultures (in these cultures of development and socialization, the truth is what individual says it is). Such *ethics of living* is away from the working and consideration of the natural law principles. In the consideration of natural law through actions, the society as a whole remain epistemically positive when truth is fully and reasonably expressed in truth in right conscience and freedom, in her pursuits of the *Culture of Peace* rather than the *Culture of War*.[27]

Through John Paul II's notion of the interrelation of faith and reason for the reliability of true knowledge, Paul Oredipe assessed the inevitability of the *Culture of Peace* for the realization of integral humanism in fate of the *Acting Person* in the paradox of the modern self that;

> In the judgement of the Pope, at this time in history, one of the most serious threats to the well-

[24] Paul Oredipe, *Integral Humanism: An Ethical Challenge in Faith and Reason*, p. 62.

[25] See, E.A. Mejos, p. 73.

[26] B. Almond, "Ethics and Aesthetics." In David Papineau (ed). *Reference Classic: Philosophy*. London: Duncan Baird Publishers, 2004, p. 144.

[27] P.O. Isanbor and M.M. Uzomah, 2017, p. 70.

> being of humanity is a profound *crisis of truth*, a loss of confidence in the very great fundamental truth of the meaning of human life, the existence of some Ultimate Reality, transcending our limited human experience, in which we can anchor our hopes for authentic human fulfilment. A final result of this crisis is that many people have given into cynicism and not infrequently various forms of nihilism, affecting especially the young who should be the hope for the future.... throughout *Fides et Ratio*, a precise evaluation of philosophical modernity, the Pope makes firms statements about the philosophical, theological, and cultural roots of our crisis. However, he acknowledges the positive aspects and great merits of philosophical modernity as including, for examples, the development of attention to man, to history, and to the problem of knowledge, concern for the world of learning, and so on.[28]

The *Crisis of Truth* is an ethical or moral challenge in realising integral humanism in our society so engrossed in the values and ideologies that promote secularist and relativistic humanism. Such development makes the human person believes that the truth is what he or she considers to be what it is. In such situation, anything is right to the person as far as he or she judged it to be. But the thrust values for the courses of integral humanism are always to be based on the operation of natural law, based on the consideration of the wholeness of the human person in every human dealings and affairs, indispensably in relation to the wholeness of the society and the belief in God.[29] The courses of integral humanism are religiously moral or ethically social in evaluating actions based on the consideration of human wholeness of body and spirit, especially in the formulation of developmental policies and ideologies. According to Malcom Muggeridge;

> The truth is, of course, that any order achieved by human beings is valid only to the degree that is *expresses* the divine or transcendental order which pervades the universe. Men, that is to say, can only know order to the extent that they know God; on their

[28] P.K. Oredipe, Faith and Science: Reconciliation- Synthesis. A Review of the Papal Challenge. *Ekpoma Review*, Vol. 3, 2017, pp. 71-89, see, p. 72.

[29] N. Megoran, War and peace? An Agenda for Peace Research and Practice in Geography. *Political Geography*, Vol. 30, 2011, pp. 178-189, see, p. 170.

> own, they are prone to chaos as the beasts in the jungle.[30]

For instance, the operation of divine illumination as the personality of God is made possible in the presence of the ecology as a foundation of revelation and manifestation. It is ecologically-seated, as the operation of divine illumination remains the tower of revelation of God through natural phenomena.[31] It is about the power of love which binds the past to the present, and then the present to the future. It is the clarity of human neighbourliness on the values of universal nature of creation, as the philosophical and theological assertion of creation presupposes the divine nature of God. It is about the understanding of divine illumination been based on the knowledge of the person as the image of the invisible God, the image of creation- the fruit of justice, peace, equity, equality, solidarity and common good. It owes that the human ecological values presupposes the presence of invisible God, where God is known and being expressed in truth and awesomeness through human actions in right freedom and conscience. Such ecological values are about the divine plan in sustaining the human family through actions on the same ecology, as the divine illumination is impossible outside the ecological values. Hence, the local, regional and global intentions for the sustainability of ecological, cultural, social and political values calls for the recognition of the presence of God-the divine illumination in the life of Jesus Christ, who died to save humanity from eternal destruction. It is by saving humankind that the ecology is also redeemed, for human redemption is possible because of the ecological reality. Such process of redemption demands on humankind to value the gift of truth made possible by divine illumination through actions been expressed in right freedom and conscience.

Although, due to some subjugated and unbridled management of human freedom, the longing for unjust *Culture of Peace* has become the indispensable contemporary avenues and imperialistic tendencies to generate the viruses of evils in the increasing inventions of warring technological hardware and software, even the political capacities to produce and sustain the *Culture of War* within the *crisis of truth*.[32] But; even with these evils, peace remains what it is; as the indispensable product of truth, for war is that of the *crisis of truth*, as the divided

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[30] Confer this thought as quoted in Paul Oredipe, "Integral Humanism: An Ethical Challenge in Faith and Reason." In Pantaleon Iroegbu and Anthony Echekwube (eds). *Kpim of Morality*. Ibadan: Heinemann, 2005, p. 61.

[31] See, P.K. Oredipe, *The Interrelation of Faith and Reason in the Search for Truth: An Appraisal of John Paul II's Fides et Ratio*. Rome: Pontifical University of Holy Cross, 2002, p. 12.

[32] J. Babic, p. 17.

conscience of good will toward evil. This concern for the power of truth was further collaborated with notion of existential ontology of human conscience for the realization of integral humanism in his *Veritatis Splendour*, where Pope John Paul II posited that;

> As it is immediately evident, *the crisis of truth* is not unconnected with this development. Once the idea of a universal truth about the good, knowable by human reason, is lost, inevitably the notion of conscience also changes. Conscience is no longer considered in its primordial reality as an act of a person's intelligence, the function of which is to apply the universal knowledge of the good in a specific situation and thus to express a judgment about the right conduct to be chosen here and now. Instead, there is a tendency to grant to the individual conscience the prerogative of independently determining the criteria of good and evil and then acting accordingly. Such an outlook is quite congenial to an individualist ethic, wherein each individual is faced with his own truth, different from the truth of others. Taken to its extreme consequences, this individualism leads to a denial of the very idea of human nature.[33]

For Wojtylan existential personalism, the *crisis of truth* remains with the modern self as far as there are poor exercise of freedom in respect to the values of human life and dignity. Whereby Wojtylan existential personalism recognises that the lack of the *Culture of Peace* is on the lack of the true knowledge of the person, and then, the problems of life are dependent on the level of knowledge that the human person has about his or herself. Such knowledge is about the applications of truth of existence, and understanding the limitations associated with such existence. With such knowledge, the nature of the human person has generated and then continually generating a lot of heated debates among philosophers and social thinkers, considering its analysis from human composite nature and as a biological process; through physical as well as metaphysical perceptions. For Wojtyla, "the dignity of the human person is to know the truth, adhere to it and live according to it."[34] Such act of living is hinged on the growing tradition of natural law that has an underpinning interest on

[33] Pope John Paul II, *Veritatis Splendor*. Vatican City: Libreria Editrice Vaticana, 1993, no. 32.

[34] S.F. Nolan, *The Philosopher Pope: Pope John Paul II and the Human Person,* www.philosophyandculture/PDFs/08_18/thephilosopherpope/sf nolan.pdf, 2018, p. 11.

both moral and metaphysical knowledge in exacting the true human nature within the reach of ordinary human reason and values. The dynamic culture of knowledge is that of exacting the truth, but away from it, just to be human who want to be free. In secularised freedom occasioned by the pools of questionable knowledge or information of morality and development, the person cheats his or herself in the economy of the truth, even beyond the influences of philosophical reasoning. But, in an authentic or integral freedom, the person places his or herself above the values of knowledge acquired by sustaining the indispensability of truth been expressed in right freedom and conscience.

Acting in Truth for the Realization of Integral Humanism in a World of Conflicts

Through human actions, the human values have been devalued when truth is excluded, especially with the trending *Culture of War*.[35] This is mostly owing to the pursuance of capitalistic and imperialistic model of development associated with the social and economic embraces of secularised humanism that stifles humanity from the truth, and been engender by the avenues of distrust.[36] But, we know that, with right employments of actions and valued choices in truth, humankind fashions histories and controls the future from the present and holding to the understanding of the past. Outside the influence of conscience, such actions may be motivated by greedy and selfish interests and desires when their valued choices are not properly managed and directed. But, the interests in the *Culture of War* interrogate the motifs on which some developmental policies and actions are exercised, and for the modalities of which such policies and actions are directed away from the avenues in which human life, rights and dignity are respected, promoted and protected.

Over times, the culture of secular humanism as against the reign of integral or transcendent humanism presents a traditional-methodic verification of truth in the contents of faith and reason, especially in ascertaining the moral/ethical values of lived experiences.[37] The culture of epistemic verification of the truth in faith especially, as demanded of one's authentication of the societal valuation of lived-experiences, will always lead to another culture of insatiable desires for knowledgeable divine truth. But, existentiality of integral or transcendent humanism within the ethics of *otherness* and that of social recognition of God in achieving integral humanism in the interaction of faith and reason does not demand for such scientific verification of the truth in the contents of lived experiences.

[35] P.O. Isanbor and M. M. Uzomah, 2016, p. 97.
[36] P.A. Edema and A. V. and Bukete, p. 31.
[37] See, P.K. Oredipe, 2002, p. 12.

Through the power of self-possession and self-subjectivity, the ethical and social imports of lived experiences make the *Acting Person* more human in the world of veritable and transcendental knowledge and truth, irrespective of the levels of one's epistemic and scientific civilization.

We obviously live in a world that has been christened and defined by the *Culture of War* due to some misguided human interests and desires.[38] With the social forces of globalization and technological advancement, there are seemingly extensive recognitions of the world inhumanity engendered by selfishness, wickedness and greed.[39] There have been litanies of threats of nuclear wars and the active morphologies of terrorism, homicides and banditry, especially occasioned on the misguided religious, cultural and political convictions and ideologies.[40] Following Wojtylan Existential Personalism, the integral valuation of one's authenticity and subjectivity becomes indispensably important and fittingly inevitable in the faces of modernization, industrialization and relativistic cultures towards the values of human life, rights and dignity. Such developments become very problematic, demeaning and challenging, especially in the manners in which the human individuals should and could have express or exercise their rights and freedom, for the sustainability of one's authenticity and subjectivity in the faces of increasing *Culture of War*.

For Pope Francis in his social encyclical, *Fratelli Tutti* ethically recognised the social indispensability of truth for the development of the human person as a subject of lived experiences and as an agent of authentic relationships, by asserting that;

> Truth, in fact, is an inseparable companion of justice and mercy. All three together are essential to building peace; each, moreover, prevents the other from being altered… Truth should not lead to revenge, but rather to reconciliation and forgiveness. Truth means telling families torn apart by pain what happened to their missing relatives. Truth means confessing what happened to minors recruited by cruel and violent people. Truth means recognizing the pain of women who are victims of violence and abuse… Every

[38] A.B. Ekanola, Towards an Enduring Social Peace in the Violence Ridden Society: From a Culture of War and Violence to a Culture of Peace and Non-Violence. *West African Journal of Philosophical Studies,* 8, 2005, pp. 93-112, see, p. 93.

[39] See, P.O. Isanbor and M.M. Uzomah, 2016, p. 96.

[40] Cf, I.F. Ngale, "Reverse, Knowing and Doing Triangle of Corruption in Africa: From the 'How' to the essentially 'Why'" In B.O. Igboin (ed). *Corruption: A New Thinking in the Reverse Order*, (pp. 38-65). Oyo: Ajayi Crowther University Press, 2018, p. 64.

> act of violence committed against a human being is a wound in humanity's flesh; every violent death diminishes us as people… Violence leads to more violence, hatred to more hatred, death to more death. We must break this cycle which seems inescapable.[41]

Within the *crisis of truth*, the duties of the *Acting Person* demand that his or her actions are to be ethically creative and innovative by respecting the courses of human common survival. For creative and innovative actions have the social and ethical connotations and commitment for all personal and public resources for the sole purpose or objective of the realization of integral humanism. By the adoption of these ethical obligatory roles, we understand that to act responsibly is beyond the act of exacting one's act of freedom and self-giving. To see oneself in acting is to by recognising the commonness in existence, of which such actions promote, protect and preserve the life of human community where the individual belongs.[42] Such acts of responsibility solely depend on the revealing power of one's conscience which is known as morality of self-completion and self-cognition, which then direct the nature of human togetherness and establishes a proper relationship between the human person and the nature or community of persons.

Conclusion

From the understanding of Wojtylan Existential Personalism, the normative vision of the person is based on the understanding of the *Acting Person*, and being determined by the kinds of actions and valued choices he or she exercises. Human actions being exercised in true and authentic freedom enliven the world.[43] Such morality in relation to the sustainable courses of one's society is about developing the non-violent consciousness for security and peace by "living and letting others live."[44] This crystallizes the phenomenology of *otherness* through the valuation of our actions in love, sincerity, continence and justice. Contrary to the valuation of the *otherness* of living, in the midst of contemporary conflicting developmental values and ideologies, the exercises of misconstrued and false freedom are defining and directing our world of values.[45] As such, this conviction has

[41] Pope Francis, *Fratelli Tutti*. Vatican City: Libreria Editrice Vaticana, 2020, no. 227.

[42] Cf, I.F. Ngale, p. 64.

[43] Anthony Akalue, "Man, Religion and Philosophy: Towards a Normative Vision of the Human Person." In G. Ogbenika and F. Ikhianosime (eds). *Formation of the Human Person in the 21st Century,* (pp. 229-246). Benin City: Floreat System, 2021, p. 243.

[44] Cf, A.B. Ekanola, p. 99.

[45] Anthony Akalue, p. 243.

been breeding the *Culture of War* and other forms of dehumanization from the acts of imposing one's ideas, values, and personal or sectional moralities or values on the other persons, groups or even nations, suggests the weakness of the *Acting Person*, rather than accommodating or tolerating the views of others through the media of social or political compromise, integration, assimilation and dialogue in order to institute the *Culture of Peace* which defines the true meaning and operation of integral humanism in truth. According to Benedict XVI (2009: no. 228):

> Through this close link with truth, charity can be recognized as an authentic expression of humanity and as an element of fundamental importance in human relations, including those of a public nature. Only in truth does charity shine forth, only in truth can charity be authentically lived. Truth is the light that gives meaning and value to charity. That light is both the light of reason and the light of faith, through which the intellect attains to the natural and supernatural truth of charity: it grasps its meaning as gift, acceptance, and communion. Without truth, charity degenerates into sentimentality. Love becomes an empty shell, to be filled in an arbitrary way. In a culture without truth, this is the fatal risk facing love. It falls prey to contingent subjective emotions and opinions, the word "love" is abused and distorted, to the point where it comes to mean the opposite.

In all, the fact remains that the possibilities of the *Culture of Peace* are through human responsive actions and desire for collective happiness and justice, as C. S. Lewis opines that, "the possibilities of anything may be embedded in the desires to achieving it, just as when one is thirsty, there is water, hungry, there is food, as all natural desires have some corresponding natural objects." Therefore, the ethical operation of the principles of self-realization, self-participation and self-dynamism suggests that the human authenticity and subjectivity rest on the phenomenology of *otherness*. It is about the consideration of the other selves in oneself. It is about the power of one's generosity that rests in the values of listening to the needs of *others*. Hence, the basic understanding of the human person can be achieved only when our present actions and valued choices are expressed in truth that defined the true human authenticity and inter-subjectivity.

With such consciousness for truth in charity, we understand that it is by listening to others that we know the true meaning of living, and ultimately,

'living with others' and 'living for others.' With listening to *others* becomes a powerful tool for the realization of integral humanism rather than the desire to talk to *others*. The act of listening brings someone equal with *others*, and with it, one feels the consciousness of common needs for common survival and development. With the power of listening, poverty and suffering succumb to common feeling that can be overcome by and with truth, charity and genuine solidarity- and it becomes our common food for our common survival and development. The power of listening to the needs of *others* submerges the influences of greed and selfishness, for greediness and selfishness are the causes of poverty and suffering in the world. They create emptiness in the hearts of a dehumanised world. Only in truth can one considers his or her very self and the *other* selves, and this can heal our world of the influences of greed and selfishness. It is only in truth that can make the world to sit on the foundation of common good and solidarity through the principles of responsibility, participation, neighbourliness and transcendence. It is on this consciousness that the world created, which is the true nature of God remain sustainable and lovable. With such consciousness, what you have as a person become that of *others*, and what other persons have become yours.

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THE HUMANOCENTRISM OF PROTAGORAS, POSTMODERNISM AND THE CONSTRAINTS OF EXISTENTIAL ANARCHISM

Nelson Udoka Ukwamedua*

ukwamedua.n@dui.edu.ng.

Abstract: *Philosophical humanism was evident in the system of one of the most controversial traditions in the history of western philosophy; the sophisticated few- The Sophist. And one of the major currents of this tradition is humanism. This humanism is at the instance of Protagoras, the most foremost, one of the most respected and wealthiest of the sophists. For him, man is the measure of all things and this position informed the intention of this paper being an existential analysis of the humanism of Protagoras. While this paper after analysis was able to appreciate the expediency of the humanocentric disposition of Protagoras, it also keenly pointed out that when this mode of humanism is taking to its logical conclusion, human existence will not only be plagued with lots of challenges but also could be misunderstood and misdirected and it will berth humanity into a sort of existential anarchism.*

Keywords: *Humanism, Sophist, Skepticism, Protagoras, Man.*

Introduction

In the history of philosophy, the fifth century BC appears to be one of its most important periods. The reason is because, before this time, philosophers preoccupied themselves with cosmological speculations towards understanding the nature of reality. However, there was a sharp deviation from this philosophical predisposition and this took place with the emergence of the sophist. The sophists rather than argue about the cosmos, were worried about the nature of man and its mode of operation and existence. They even opted to treat man as part of the universe and man became the gate-way through which the universe can be known.[1] Sequel to the shift from cosmology to anthropology and finally to humanism was the concern about the nature of human knowledge. And this drive gave rise to the emergence of epistemological schemes and postulations particularly as a result of the skeptical disposition and inclinations of the sophist. This account for the fact that the philosophy of

* **Department of Philosophy, Faculty of Arts Dennis Osadebey University Asaba Delta State, Nigeria.**

[1] Ignatius Brady, *A History of Ancient Philosophy,* USA: The Bruce Publishing Company, p. 70.

many philosophers that came after this period paid great attention to man, even those that came during that period were also fully influenced by this thriving philosophical tradition. This explains the philosophical postulations of scholars like Socrates when he talked about the theory of *man know thyself*, which smacks of humanism in its pristine form, also this drive continued in Plato as he talked about the society as being *man writ large* and it could be said that these were the foremost postulations as far as core philosophical humanism is concerned. It is consequent upon these that one can think of building a reasoned link between the humanistic disposition and postulations of the sophists and most modern, postmodern and contemporary philosophical movements, traditions, schools of thoughts and other schemes which are humanistic in orientation and in perspective too, the list includes but not really restricted to; subjectivism, relativism, existentialism, individualism, humanism, pragmatism and lots more.

However, one of the notable and outstanding sophists that championed this humanistic tradition was Protagoras. Protagoras seems to be the first ever ancient western philosopher to attempt to develop a form of philosophical humanism. And this also made it easy for others to join in the fray either as opponents of disciples. Protagoras was of the opinion that man is the measure of all things. And he even placed the nature of man above that of the gods which was quite an expensive postulation to make during his time in ancient Greece. And this paper prefers to term this theory and postulation, humanocentrism atimes, it could be interchanged with homocentrism just for the sake of this paper. As man was the centre of everything for him. It is based on the nature of this postulation of Protagoras and its implications and rippling effects that this paper intends to interrogate the theory from the existential point of view especially as it concerns the disposition and postulations of the postmodernist and how it intends to sustain the humanocentric impression of especially against the backdrop of the real possibility of *existential anarchism*, which could portend a serious concern and also threat to the actualization of this theory and impression of his, humanocentrism.

Skepticism

This is the capacity to doubt any claim that has been taken for granted. As a system, it holds that absolute knowledge is not possible. Etymologically, it is gotten from the Greek *skeptikoi*- meaning *seekers* or *inquirers*. In philosophy, there are basically two forms of skepticisms; absolute skepticism and partial skepticism. For the former, *it is impossible for man to know anything at all*. Hence, the skeptical conclusion of the absolute skepticism is that knowledge is impossible, no one does know,

because no one can know.[2] *Thus nothing is knowable*. This point of view has received serious flaks for its inherent contradiction, hence it is self-refuting and it calls to mind the position of Wittgenstein that a doubt without an end is not even a doubt. Partial skepticism on the other hand, denies the possibility of attaining absolute or certain knowledge but however, posits that we can atleast acquire knowledge of something. Instructively then, skepticism has flavoured the development of philosophy in that it has helped to free philosophy from dogmatism.

Protagoras and Sophism

Protagoras a contemporary of Socrates was a Greek philosopher who lived around 410-485 B.C. For Plato as evident in his dialogue *Protagoras*, Protagoras originated and typifies the spirit of the professional sophist. According to Diogene Laertus, he was the first to introduce '*sophisms*.[3] Eduard Zeller refers to him as 'the most gifted and original brain among the sophists.'[4] Consequently he was the first to admit students, instruct them and collect financial reward. Most early scholars called him a disciple of Democritus but Ignatius Bradly doubts this and rather stated that 'it is probable that Protagoras taught Democritus or both learned from Leucippus.'[5] He trained his students to argue both sides of each legal case. Hence, Robert Brumbaugh referred to him as 'the great legendary lawyer of the sophist school'[6] for his ability to win either side of any case in a jury trial. He gave instructions in grammar, rhetoric and the interpretation of poetry. His chief works, of which only a few fragments survived, are *Truth* and *On The Gods*. For an appreciable apprehension of Protagoras humanism and skepticism, it is expedient to slightly explore the standpoint of the sophists.

The Greek word *sophiste* was derived from the Greek noun Sophia which stands for *wisdom* or *learning*. It also stands for someone who exercised enough wisdom and learning. Hence, in its original usage it means expert, master craftsman, man of wisdom.[7] However, when used historically, it refers to certain Greek citizens in the fifth and fourth centuries B.C who became famous as itinerant teachers, men like Georgias,

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[2] Jonathan Dancy, *An Introduction to Contemporary Epistemology,* New York: Basil Blackwell Inc., 1985, p. 7.

[3] Dario Composta, *History of Ancient Philosophy,* Rome: Urban University Press, 1988, p. 105.

[4] Eduard Zeller, *Outlines of the History of Greek Philosophy, 13th ed*. London: Routledge and Kegan Paul Ltd, 1931, p. 81.

[5] Ignatius Brandy, Ibidem, p. 70.

[6] Robert Brumbauge, *The Philosophers of Greece,* New York: University of New York Press, 1981, p. 117.

[7] Jonathan Dancy, *Ibidem,* p. 10.

Protagoras, Hippias of Elis, Podicus of Ceos, Thrasymachus etc.[8] But before this period the range of people to whom the term was actually applied suggests strongly that it was more or less confined to the seers, prophets, and sages of early Greek communities, men like Orpheus, Musacus, Pythagoras, and those of the group known as the seven wise men.[9] The sophists are generally known as 'itinerant teachers who provided instruction in several higher branches of learning for a fee.'[10] In other words, they accept money for their services and this is in sharp contrast with the practices as at that time, hence sophists found their selves in a position of heavy criticism especially in the hands of Socrates, Plato and Aristotle. It is particularly through the opposition of Socrates and Plato that the Sophists have come into such disrepute.[11] It is instructive to remark here that the practical submissions of the sophists were not geared towards the establishment of any objective norms that is founded on necessary truth.

The older Greek philosopher were mainly concerned with objective truth about the world, hence they were mainly seekers of truth. While the sophist, on the other hand, were not primarily interested in objective truth, for them truth is relative. Among the various themes they instructed people on was rhetoric, which was absolutely necessary for political life as at that time, unfortunately, rhetoric was too often a means of persuasion rather than a vehicle of the truth a means to 'get across' a notion or policy which is unjust to appear just and this helps to put the sophist in bad repute.[12] The sophist movement was generally accused of three specific faults; admitting and teaching their students on monetary basis rather than intellectual ability, ready to talk on all things and persuading others, whether what they say is true or not and not pursuing knowledge for knowledge sake but for practical purposes and teaching other men's doctrines rather than theirs. The sophists are generally skeptics, they deny objectivity, and in fact they were the first known skeptics in the history of philosophy. They answered the needs of the times and actually prepared the way for Socrates, Plato and Aristotle.

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[8] "Skepticism," *Encyclopedia of Philosophy*, Paul Edwards (ed.), Vol. 7., London: Macmillan Publisher Co. Inc., 1967, p. 495.

[9] Martin J. Walsh, *A History of Philosophy,* London: Geoffrey Chapman, 1985, p. 17.

[10] Ignatius Brady, *Ibidem,* p. 70.

[11] Frederick Copleston, *A History of Philosophy Vol. 1.,* New York: Doubleday Publishing Group, 1993, p. 83.

[12] Ignatius Brandy, *Ibidem,* p. 70.

The Skepticism of Protagoras

As a thorough-going sophist Protagoras was definitely a skeptics and this can be seen clearly in his famous doctrine of *homo mensura*[13] which means that 'man is the measure of all things of those that they are, of those that are not that they are not.'[14] This well-known position of Protagoras has been very controversial as it remains vague what Protagoras meant when he used the words 'things' and 'man'. The question begging for answer is; does the word 'things' stands for only physical realities like; humans, animals, plants or does it includes abstract realities and ethical values? Eduard Zeller, asserts that 'with 'thing' we are not only to think of concrete things but also of abstract qualities; and what is more not only of sensual qualities such as warm and cold, sweet and bitter but also of concepts like good and bad, beautiful and ugly, right and wrong.'[15] Hence, going by this assertion we can conclude that by 'things' Protagoras meant "all things that there are" or invariably 'being' in its generic term. However, his usage of the word 'man' is also problematic. This stems from the fact that the word 'man' has been interpreted in two different senses.

First it can be understood to mean man as an individual and secondly, 'man as a species'. When used in the first sense then the Protagoras dictum can be interpreted to mean, 'that appears to you to be true is true for you and what appears to be true for me is true for me.'[16] But this relativistic sense is the way Plato interpreted it as is obvious in the Theaetetus.[17] This stand-point could explain perfectly issues of sense-perception but as Plato pointed out it is not applicable to 'ethical values and judgments. The reason is simple, issues of sense perception are subjective but when it comes to ethical values and judgment it is not applicable. This takes us to the second interpretation of the word 'man' where it is viewed in a general sense. This means men or the community or society. Thus, when we apply this to the dictum of Protagoras, it would be that the community or group or the whole human species is the criterion and standard of truth. However, this cannot be applied to issues of sense-perception. Thus, we are faced with the question of which of these two views best explains Protagoras dictum. For if we accept that the word 'things' in the dictum stands for physical, abstract sensual qualities and concepts, then we are

[13] Kenneth Gallagher, *The Philosophy of Knowledge,* New York: Sheed and Ward, 1964, p. 11.

[14] William Lawhead, *The Voyage of Discovery*, 2nd ed., USA: Wads Worth Group, USA 2007, p. 31.

[15] Eduard Zeller, *Ibidem,* p. 81.

[16] Frederick Copleston, *Ibidem,* p. 88.

[17] Eduard Zeller, *Ibidem,* p. 81.

faced with the question; which of these two views best explains the Protagoras dictum?

Hence, Copleston insists that if we accept any of these views in regard to the object of sense-perception, it should also extend to ethical values and judgments, so where do we go from here? In the *Theaetetus*, Protagoras stated that 'whatever practices seem right and laudable to any particular state are so for that state…'[18] This simply implies that no one culture is 'the Culture.' Thus, the question of right or wrong does not just arise in any way. This could also mean that there is no wrong way of thinking. Hence, Protagoras recommends 'that the wise man should attempt to substitute sound practices for unsound.'[19] Consequently, one thing that is certain here is that if and when the man-measure dictum is viewed alongside his view on right practice of a state then we may be right to conclude that in the man-measure dictum 'man' could be taken to mean the community or the society. However, this is very uncertain hence some scholars believe that 'man' in the dictum stands for both the individual and the society, where the society sets the standard for ethical and moral values while the individual sets the standard for sense-perception and concepts. In whichever way, the most important fact which Protagoras stressed in his dictum is subjectivism and relativism. And these two have the primary interest and wellbeing of man as its fulcrum. Therefore, it is highly humanistic in perspective.

Existential Analysis of Protagoras' Humanocentrism

The implication of the skepticism of Protagoras is very palpable today starting from relativism which is the view that every belief on a certain topic or perhaps about any topic is as good as every other.[20] This belief ranges from moral relativism to cultural relativism. And moral relativism as a doctrine states that ethical standards, morality and positions of right or wrong are culture based and also subject to individual choice. In other words, we can all decide what is right for ourselves. Hence, moral relativism says, 'it is true for me, if I believe it'. Most persons today believe that right or wrong are not absolutes, but can be determined by each individual. Hence, morals and ethics can be altered from one situation, person or circumstance to another. Consequently, words like 'ought' and 'should' are rendered meaningless. In this way moral relativism is morally neutral. This state of affairs is not difference when it comes to cultural

[18] William Lawhead, *Ibidem*, p. 31.

[19] Frederick Copleston, *Ibidem,* p. 88.

[20] Richard Rorty, *Consequences of Pragmatism,* USA: The Harvester Press Limited, 1982, p. 166.

relativism. This is because the conception of right and wrong differ from culture to culture. In this light Jemes Rachels rightly affirmed that;

> To many thinkers, this observation – "different cultures have different moral codes" seemed to be the key to understanding morality. The idea of universal truth in ethics, they say, is a myth. The customs of different societies are all that exist. These customs cannot be said to be "correct" or "incorrect" for that implies we have an independent standard of right and wrong by which they may be judged. But there is no such independent standard; every standard is culture-bound.[21]

Leaning on the strength of the submission of Jemes about cultural relativism, William Grahan Sumner reasons that, "the 'right" way is the way which the ancestors used and which has been handed down. The tradition is its own warrant. It is not held subject to verification by experience.'[22] And taking this point of view serious and normally, evokes lots of existential implication for those concerned and for their environment too. And it just apriori to restate it here that this mode of reasoning is in line with the impression of Protagoras about what a "good thing" especially against the backdrop of the fact that Protagoras reasons that a thing is good only in so far as it is good for something. In other words, any practice that is acceptable to the people is good for that people, hence Protagoras belief that 'the laws and customs of a city could be learned and these were in themselves an education in good behavior.'[23] In other words, laws and customs are human made and can be learned and also acquired. Just by the way, it is good to juxtapose this with the position of Heraclitus that all human laws are nourished by one divine law. But that notwithstanding, it is stating the obvious that the humanocentric model of skepticism of Protagoras is strictly speaking culture bound, relative, subjective and individualistic and this ordinarily would suggest some sort of existential anarchy when these are seen exactly the way they appear and also the way are for real. And it is interesting to mention here that this is also the point where that theory seems to enjoy some strong bond, correctness and alliance with one of the most progressive and human-conscious philosophical movement in the contemporary era, the movement of the postmodernism. This is sequel to the fact that post-

[21] Jemes Rachels, *The Elements of Moral Philosophy, 3rd ed.,* New York: McGraw-Hill College, 1999, p. 22.

[22] William Grahan Sumner, *Folkways*, Boston: Ginn and Company, 1906, p. 101.

[23] T.A. Sinclair, *A History of Greek Political Thought,* New York: Routledge and Kegan Paul Ltd., 1961, p. 46.

modernism as a philosophical doctrine of position restates the point that whatever we accept as truth and even the way we envision truth is dependent on the community, in which we participate, there is no absolute truth: rather truth is relative to the community in which we participate.[24] And this justifies the claim that postmodernist thinkers view justification of knowledge as context-dependent.

And we can fully see this postmodernism orientation, disposition and culture in the philosophical theories of Thomas Kuhn, Wilfrid Sellar, Quine, Feyarabend, Richard Rorty and very many others. Take for instance and in the same spirit of this culture, Feyerabend opposes any form of method, contending that, methodologically or epistemologically, anything goes. That is why; he proposes epistemological anarchism which will make the existential anarchism suggested as the end point of this system of Protagoras germane, and the intention of this orientation is the restriction and restoration of the freedom of decision in matters of knowledge and justification. Rorty on his own part proposes epistemological behaviorism and this for him, is a pragmatist position that is relative to societal agreements. The epistemological and existential implication of this is that an assertion is true and justified if and only if it is warranted by the epistemic norms of the relevant society or the individual concerned. Therefore, epistemic justification and knowledge are matters of social practice.

For them, justification is based on the pristine principle of some postmodernist scholars; who hinged the justification of knowledge claim within the context of social practices prevalent, beneficial and relevant in the human community within which the particular epistemic claim are made and used.[25] Furthermore, the skepticism of Protagoras influenced not only philosophy but also other disciples like politics and law. Protagoras' homo-mensura appears to be saying something in relation to political theory. In that though the individual citizen is free to make his choices, those choices must be in accord with the laws of the state. Hence, the state regulates the individual's freedom. Protagoras mode of arguing both side of any case has been, as it were, a procedure that has since had its value recognized in the teaching of law. He was also the first sophist to openly accept the name sophist hence it could be right to say that he was the first to advocate for professionalism. However, is should be stated that despite his disposition to double speak which is part of the schemes that the sophist tradition is known for, -rhetorics, it is blatant that when the

[24] S. Grenz, *A Primer on Postmodernism,* New York: Cambridge University Press, 1995, p. 5.

[25] Nelson Udoka Ukwamedua, "Epistemological Behaviorism: Justification for African Epistemology," *Truth, Knowledge and Society,* eds. Asiegbu M and Chukwuokolo J. C, Abakaliki: Pacts G.M. Press, 2012, pp. 76-86.

fulcrum of his theory of homomensura is interrogated and analyze as this paper attempted to do above especially within the prism of the disposition and core tents of postmodernism, it is barefaced that the theory of homocentrism of Protagoras seems to throw up a novel scheme which this paper prefers to call *existential anarchism*. This is drawing strength from the premise of Protagoras about humanism and its semblance and seeming connection with the schemes and postulations of the foremost postmodernist and of course, postmodernism in general. And it is blatant that from homocentrism in its pristine format, one or the society embraces and comes to terms with the reality of *existential anarchism*.

Culminating Reflections

Furthermore, it is flagrant that notwithstanding the novelty, ingenuity and the humanistic dispositions and speculations of Protagoras, his view was greeted with some polemics and flaks. And chief among those who criticized Protagoras were mostly his contemporary and associates; thinkers like Socrates, Plato and even Aristotle. Now, the impression and concern of Plato is that Protagoras seems to allowed knowledge to enjoy the same status as perception. For Plato, the danger is that if perception is the same as knowledge then appearance and reality cannot be demarcated and it implies that no one can ever err about what they say they know. For instance, when a person is in good health, an orange may taste sweet, but when the person is ill, that same orange may taste bitter or sour. Following the standpoint of Plato, the orange is neither sweet nor bitter in itself, as it is sweet or bitter only in relation to the perceptive disposition of the perceiver, this is simply the typical example of *existential anarchism* that this paper is trying to highlight. And it is so because it then means that there is no fixed reality. Little wonder, Socrates contended that the *homo mensura* theory of Protagoras and the constant flux of Heraclitus are just the same, implying that there are no stable existing objects with stable enduring qualities. In his man-measure doctrine, it seems that Protagoras is not merely reporting how things appear to him or to a certain group of people nor is he referring to some particular experience or phenomena. Rather, it appears that Protagoras was making a philosophical statement about the entire structure of reality and this was the flip in his postulation.

However, this is where the problem lies. For if the position of Protagoras is correct, then what could it mean for a position like that to be true? The reason for this is that, in a system that is relative, can any general statement be true? It will only be true for some and not true for others. But in the case of Protagoras one can perceive something that looks like an absolute claim in which all things are subjected to the measure of man and this can only bring about a situation of *existential anarchism*.

This might have prompted Socrates to comment that, while we were reverencing him (Protagoras) like God for his wisdom he was no better than a tadpole. This would have been said bearing in mind the overall implication and import of the *existential anarchism* that the postulations of Protagoras usher in. From another existential perspective, if the position of Protagoras is correct then we will not have fools or insane person anywhere in the world. As nobody would need to be taught anything as anything we know should be correct. This seems to query Protagoras' profession of teaching and instructing people even for monetary reward. Now the point is, if no one can interpret another's impression and feeling better than the feeler, or has any man any overriding right to determine whether the opinion of the other man is true or false, it means that each man is his/her the sole judge and what is this if not *existential anarchism*. And if this is the case, why then should Protagoras be preferred in terms and in place of wisdom and instruction, and even to be paid well for that, the tentative submission here is that the activity(ies) of Protagoras belies his point of view as it concern man and measurement of things.

Pulling through the scheme of *existential anarchism*, it is pertinent to note here is that Protagoras makes a claim that appears self-defeating. Now, if man is the measure of all things then there is no need for the existence of any form of false belief or knowledge and what we will rather have around will rather be series of truer beliefs or 'knowledges'. And that leaves humanity with the option and question of which belief or knowledge is truer. And this makes the existence of false beliefs inconsistent with the homo-mensura doctrine, and on the long run, if at all there are false beliefs, then, the truth of Protagoras could also be seen as false. Nevertheless, it is barefaced that Protagoras affirms the human capacity to know unlike his colleague Gorgias who preferred an agnostic disposition. This is the point where skepticism attained a much deeper stage with Protagoras. With this, we can say that Protagoras was a partial skeptic while Gorgias an absolute skeptic or some will also group him among the agnostics. Nonetheless, one challenge with the position of Protagoras is that his points are not explicit thereby leaving room for ambiguities and it is these ambiguities that give room for an *existential anarchic* scenario. Some scholars would want to excuse this situation and ambiguities replete in the position of Protagoras, stating that it could be attributed to the fact that only fragments of his works survived. Aside from the characteristics of skepticism which we can see very evidently in the claim of Protagoras one can also find some humanistic characteristics explicit in human interests, values and dignity. He seems to express so much and even an ultimate faith in humankind as he believes that man possess the power or

potentiality of solving their own problems. It is an optimistic attitude to life whose ultimate goal is human flourishing. It affirms the dignity and worth of all people and their ability to determine right and wrong purely.

It searches for truth and morality through human means in support of human interests and focuses on the human capacity for self-determination. It endorses universal morality based on the commonality of the human condition and that it is up to humans to find the truth. This relativist cum humanistic view has shaped the outlook of our world today, most especially in the western world were the issues of morality are left to the individual caprices and discretion however, with it costs. And the costs of this ultimate believe in the human person and human freedom has exposed the reality of an *existential anarchism* and that seem to be the prize to be paid for these freebies. And this has thrown humanity into a great confusion as to what is true and false and/or right and wrong. It is relatable to state that the never ending debate on gay right, lesbian mode of operation, weapons of mass destruction, sex roles, fidelity in relationships and marriages, the variegated ideas and religious ideals etc are pointers to the level of confusion which humanity has found itself and this seem to underscore the existence and reality of *existential anarchism* as the aftermath and seeming new normal.[26] Although moral relativism, cultural relativism and the postmodern context dependence theories seem to explain the diversity we find in different cultural practices today. On the other hand, we find also so many similarities in moral and cultural practices, for instance the issue of respect is morally right in every culture. Hence, it brings up the question; if there are really no absolute moral standard or something else. No doubt, the submissions of Protagoras and his discourse should be appreciated on the premise that it has opened up novel panorama for the interrogation and appreciation of the fancies of human life and the mode of operation of man. And if for anything, it draws the attention of the human person and humankind to the reality and possibility of an *existential anarchism*. And this call also involves a call to critical reflections on our mode and model of operation and understanding so that humankind would not be destroyed by its own set rules and dictates.

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PHILOSOPHY OF LEGAL ACTIONISM

Eduard Kalnytskyi,*

kalnitsky@ukr.net

Yuliia Meliakova,**

melyak770828@gmail.com

Inna Kovalenko,***

kinna087@gmail.com

Svitlana Zhdanenko****

svetlana.zdanenko@gmail.com

Abstract: *This study is carried out in the sphere of the anthropological field of culture, focusing on the artistic and political practices of actionism as a special manifestation of individual's subjectivity. The philosophy of action and intersubjectivism allow us to consider a person as a singular agent living in a performative space of interaction. Therefore, the purpose of this article is to analyze various types of actionist practices and the subsequent logical justification of the performative paradigm in modern philosophy, the new concept of the body and the phenomenon of agency characteristic of it. Also, the purpose is a comparative analysis of actionist and judicial practices in terms of their forms, means and goals. The question of the attribution and conceptuality of body in legal proceedings is investigated, the performative nature of law-as-event is substantiated. In the course of the work, the authors turn to the theory of criminal procedure law in the aspect of performative actionism as a tactic for the implementation of right. In this study, the concept of intersubjectivism of legal bodies in the metamodern paradigm is further developed.*

Keywords: *performativity, act, situationism, court proceedings, intersubjectivism of legal bodies, legal performative actionism, agent of law, law-as-event.*

*** PhD. in Philosophy, Associate Professor of Philosophy Department, Yaroslav Mudryi National Law University, Kharkiv, Ukraine.**

**** PhD. in Philosophy, Associate Professor of Philosophy Department, Yaroslav Mudryi National Law University, Kharkiv, Ukraine.**

***** PhD. in Philosophy, Associate Professor of Philosophy Department, Yaroslav Mudryi National Law University, Kharkiv, Ukraine.**

****** PhD. in Philosophy, Associate Professor of Philosophy Department, Yaroslav Mudryi National Law University, Kharkiv, Ukraine.**

Introduction

Performative actions of political will, social activity and struggle for one's rights demonstrate the optimal way of human self-determination in the world of cognitive capitalism. Performative actionism is becoming a topical tactic of individual self-realization in art, politics, legal and economic activities as a natural compensation for one's online existence in these areas.

The human body acquires many meanings and functions: from a biological resource to a semiotic means, an artistic instrument, a commercial enterprise, a legal entity and, finally, a political power in relations with state power. The popularity of the concept of the body is due to the fact that the concepts of performative subjectivity, agent realism and precariousness have replaced the discourse on the subject of communication and the hermeneutics of narrative, as well as visual culture has replaced communicative-semiotic culture. The symbol of the neoliberal-transhumanist era of metamodernism is no longer language and dialogue, but body and act.

In turn, the trend of digitalization and quarantine measures to remove the body from social, labour, educational, legal, political and commercial processes is turning into a rapid increase in the number of precariats - vulnerable, infringed in their rights and opportunities agents of the market community. Precariats are deprived of social guarantees of health, safety, well-being and ensured old age for their body by the state, and therefore are forced to create various spontaneous alliances (situational, functional, industrial, commercial and others) by themselves in the interests of legal and professional self-realization and to avoid their unmourned social death. Therefore, the performance, or performative act, becomes the main place of bodily communication within the precariat environment.

Performativity is a feature not only of mass culture, but also of the civic, social, economic and legal spheres of human activity today. Fukoldian theory of biopolitics[1], the last forty years accompanying the development of liberal capitalist society, in the spirit of neo-materialism explains the *growing importance of the human body* in all spheres of life as a deficit of reality and the realization of the right to pleasure. However, modern, equally biopolitical strategy of *removing the body* from living social practices (education, art, sales, service, relations with the power) results in the spread of various theories of solidarity and local communities, also developing by the precariat and to protect its interests.

It is performativism with its principles of procedurality, radicalism, situational actionism, publicity and bodily presence that justifies recourse to the practice of justice as related to it from the methodological point of

[1] M. Foucault, *The birth of biopolitics*. Trans. from French by A.V. Dyakov. Saint-Petersburg: Nauka, 2010.

view of human epistemological activity in search of the truth. The form of political, civic, artistic action in performative actions and judicial proceedings – both are experiences of direct and demonstrative promotion of their participants to knowledge of social, cultural, legal situation, establishing artistic or legal truth through personal reflection of reality by agents.

The philosophical and legal paradigm of intersubjectivism has always been based on hermeneutic understanding and phenomenological reflection, but in the postmodern era it applied them in discursive, narrative and semiotic practice. Now, in the field of metamodernism, legal intersubjectivism needs qualitatively new forms and means of understanding the law and the existence of justice. The same court proceedings is no longer seen as a discourse, a linguistic environment of reconciliation, but as a space of bodily act in which just legal *action is exercised*.

Theoretical basis

To develop an actual model of intersubjectivism of legal bodies in the paradigm of metamodernism, the authors turn to two vectors of research: criticism of actionism and criminal procedural law.

Various historical practices of artistic and political actionism are analyzed in detail in the works of Russian artist and art critic P. Mitenko[2]. He notes the distinct spirit of European cynicism in the traditions of modern era activists, as well as the truly ontological role of the body in legal action.

The experience of radical art, including in political spaces, is deeply studied and used in the scientific work of the French situationist of the 60's G. Debort[3], who introduced into philosophical discourse the concept of "performance society", as well as in the work of American philosopher J. Butler[4] who developed the concept of political performative actionism on the examples of meetings and demonstrations of precarious bodies.

The philosophy of action, which is based on the principles of dynamism, process, corporeality, performativity, the theory of interactive cognition and intersubjective reflection, considers actionism as one of the most relevant phenomena of our time. It is within the framework of the philosophy of action enactivism developed, the progressive ideas of which

[2] P. Mitenko, *Bolshevism, situationism, actionism: about the formation of a revolutionary situation*. 2021. Available at: https://doxajournal.ru/texts/actionism/

[3] E. Debord, *Society of the spectacle*. 1994. Available at: https://royallib.com/read/debor_gi/obshchestvo_spektaklya.html#0

[4] Dzh. Batler, *Notes on the performative theory of the assembly*. Trans. from English by D. Kralechkin. Moscow: Ad Marginem Press, 2018.

substantiate the epistemological aspect of bodily actionism. One of those who develops this direction is Czech philosopher G. Dierckxsens[5].

The conceptuality of the human body in the public space of intersubjective existence is revealed with reference to M. Bakhtin's[6] existentialist experience in his fundamental analysis of the material-corporeal principle in the grotesque realism of the Renaissance and European laugh and carnival culture.

The significance of bodies in performative intersubjectivism is also discussed in a study by European authors A. Matozzi and L. Parolin[7], where they substantiate the hermeneutic mediation of bodies/things, deriving the concept of "bodies that translate bodies".

The issue of the performativity of the judicial process today is little studied and deserves more in-depth philosophical research. Until now, the philosophy of law has considered the phenomenon of court only as a semantic space of public discourse within the legal intersubjectivity of P. Ricoeur[8]. The communicative philosophy of postmodernism, including M. Foucault[9] in his theory of punishment, saw in the judiciary a humane mechanism of reconciliation of subjects of law at the level of language, serving as a memetic alternative to violence.

The paradigmatic features of metamodernism led to new principles of subjectivity (more precisely, agentivity), the foundations for social communities, new functions and forms of activity of bodies, and other criteria of human rights. During the comparative analysis of performance and court the works of foreign and domestic specialists in the field of criminal procedure law were involved: C. Kruse[10], N. Manova &

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[5] G. Dierckxsens, *Introduction: Ethical Dimensions of Enactive Cognition – Perspectives on Enactivism, Bioethics and Applied Ethics*. Topoi, 2022, 40(5). Available at: https://doi.org/10.1007/s11245-021-09787-6

[6] M. Bakhtin, *Creativity of Francois Rabelais and folk culture of the Middle Ages and the Renaissance*. Moscow: Hudozhestvennaja literature, 1990.

[7] A. Mattozzi, & L. Parolin, *Bodies Translating Bodies: Tackling "Aesthetic Practices" from an ANT Perspective*. Science & Technology Studies, 2021, 34(4), pp. 2–29. Available at: https://doi.org/10.23987/sts.79694

[8] P. Ricœur, *The triumph of language over violence. Hermeneutic approach to the philosophy of law*. Problems of Philosophy, 1996, 4, pp. 27–36.

[9] M. Foucault, *Supervise and punish. Birth of the prison*. Trans. from French by V. Naumov. Moscow: Ad Marginem Press, 1999.

[10] C. Kruse, *Attaining the Stable Movement of Knowledge Objects through the Swedish Criminal Justice System: Thinking with Infrastructure*. Science & Technology Studies, 2021, 34(1), pp. 2–18. Available at: https://doi.org/10.23987/sts.80295

M. Baranova[11], O. Blinova[12], V. Kholodenko[13], V. Vapnyarchuk[14], who focus on the problem of *proving* the circumstances of the crime and the role of court in it. Proving introduces elements of situationality, materiality, real experience, presence, which are important for confirming the performative nature of *law-as-event*.

The purpose of the article is a comparative analysis of actionist and judicial practices in terms of their forms, means and goals; research of the question of attributiveness and conceptuality of the body in procedural legal measures; substantiation of the performative nature of law-as-event in the modern paradigm of intersubjectivity.

Results and Discussion

Physical and social essence of the action. Derived from the Latin *action* (action, activity, struggle), the concept of "actionism" in this context is used in its broadest sense – as a general name for various forms of individual or group social activity: picket, meeting, strike, rally, demonstration, flash mob, event, happening, performance and others. Actionism – from avant-garde art forms to political situationism – is always a provocation of an event, a radical demonstration of "action", often with elements of kitsch. Actionism blurs the line between creativity, simulation, creation and harsh reality, the banality of material life, so its activities are often anarchic, provocative and accompanied by an area of destructiveness. It is for this reason that the art critic, researcher of actionism and active participant in Moscow actionism of the 1990s P. Mitenko[15], following M. Foucault[16], considers modern European actionism as a continuation of the tradition of ancient cynicism.

P. Mitenko considers the activities of the Situationalist International of 1968 (Student Revolution in France) in the pan-European context of cynicism, which permeates Western culture and politics, in particular, all

[11] N.S. Manova, & M.A. Baranova, Principles of criminal justice as an embodiment of the moral foundations of criminal procedure. *Bulletin of the Perm University. Legal Sciences*, 2019, 45, pp. 564–593.

[12] O.G. Blinova, The court as a participant in criminal procedural evidence. *Evidence and proof in criminal proceedings: History, modernity and development prospects.* Materials of the international scientific-practical conference dedicated to the 95th anniversary of the birth of Ts. M. Kaz (pp. 19–20). Saratov: Izdatel'stvo FGBOU VO "Saratov State Law Academy", 2020.

[13] V.D. Kholodenko, *On the improvement of the mechanism of legal regulation of the activities of the court in collecting and verifying evidence.* Judicial Branch and Criminal Procedure, 2019, 1, pp. 170–176.

[14] V.V. Vapnyarchuk, *The content of evidentiary activity of the court in criminal proceedings*. Scientific Bulletin of Kherson State University, 2014, 1(3), pp. 134–138.

[15] P. Mitenko, 2021, *op. cit*.

[16] M. Foucault, *The courage of truth. Managing oneself and others II*. Trans. from French by A.V. Dyakov. Saint Petersburg: Nauka, 2014.

European practices of activism. The actions of the 1968 cultural revolution combine artistic, political and ethical elements. Cynicism has always been a critique of culture. It portraited what was being pushed out of culture as something shameful and unworthy, exposing the hypocrisy of the cultural sphere[17].

Any kind of action is a public action of supporters communities, which aims to express a certain position, to attract attention here and now. Often without a strategic goal, they are single, not systematic and fragmented, focused on the universal participation of bystanders, the organization of the immediately experienced moment. The moment, accessibility, effectiveness, incompleteness of the process and the opportunity for witnesses to take part in it are important in the action. People gather in some space, and an *event* happens that creates something new between them. At the same time, this activity, like any art, is inseparable from the context, the semantic field, that is, the *situation* that gave rise to this impulse. The art of relations between people, their participation in the political, aesthetic, legal process, critical analysis of society, culture, situations – this is what any activist practice seeks. In this sense, actionism is often called practice without theory.

The concepts of "radical artist" and "radical politician" are largely identical, at least quite integrated. The art of action is in itself political, because it is always protest, it is critical, paradoxical, on the verge of kitsch. By destroying traditional stereotypes of aesthetics and morality, it automatically criticizes social norms, legal standards, the hierarchy of social values, the presumption of power. At the same time, artistic techniques of happening and performance are often chosen as the most optimal form of political expression of will. At the same time, their key difference from banal vandalism and hooliganism, whether it is the burning of tires, officials in effigy, the destruction of monuments or costumed staging of lustrations, is their metaphoric character.

Actionists often choose political open spaces (the area in front of the parliament, etc.), i.e. those where the government asserts itself directly. Thus, thanks to the radicalism of its forms, actionism always demonstrates a conscious civic abundance and guarantees the indifference of the audience. No wonder it has gained special popularity among opposition public associations and is encyclopedically defined as a tactic of extremist social groups[18]. Situational tactics of actionism are also favourably implemented in the field of advertising and business – in the form of event projects in event marketing. Such large-scale public events to promote the

[17] P. Mitenko, 2021, *op. cit.*

[18] Y. Meliakova, I. Kovalenko, E. Kalnytskyi, & H. Kovalenko, *Performativity and self-exploitation: body significance in late capitalist era*. Cogito, 2021, 13(4), pp. 15–17.

interests of the company are aimed at manipulating the views of the target audience and therefore also involve the participation of guests, openness, accessibility, action.

However, most theorists tend to characterize actionism as a truly revolutionary tactic of resistance to tradition and power, a form of human struggle for their rights. One of them is G. Debord – a participant in the French situationism of the 60's, who introduced the description of society as a "spectacle", meaning "consumer society", alienated from production and paralyzed by the unfolding spectacle before it[19]. Although the Situationist International (1957–1972) activity did not lead to the creation of a single centralized organization, it was marked by protests of solidarity chains and youth alliances capable of opposing itself and its demands to the government that was called the "actionist revolution"[20].

Like revolutionary agitation, actionism also declares its plan, but for it the *action* is more important than words (appeals, slogans, leaflets, manifestos). Agitation conveys its ideas through narrative, and the lives of the revolutionaries themselves are sacrificed to these ideas. For actionists, everything starts with the *body*, its needs, its opportunities, which they endlessly experience, opening new horizons of sensuality, thought, activity. It is not the declaration itself that is political in the action, but the collective intentionality, the transgressive action in public space. According to J. Butler[21], actionism destroys the "theater of legitimacy", which is imposed on the public space by the government, that is, removes the illusion of recognition and justification of power. It disrupts the functioning of this "theater", freeing up space for free action, for human rights.

In the process of realizing natural freedom, man chooses between possible actions. The content of choice is numerous and varied aspirations. Every choice already presupposes freedom of action, that is, the ability to do what we choose, and the knowledge of the chosen possibilities is important for the choice[22]. These obvious arguments about freedom bring our scientific discourse to the horizon of a philosophy of action that is inconceivable today without the topical concepts of the body, enactivism, autopoiesis, and the theory of interactive cognition.

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[19] E. Debord, *op. cit.*

[20] P. Mitenko, 2021, *op. cit.*

[21] Dzh. Batler, *Notes on the performative theory of the assembly*. Trans. from English by D. Kralechkin. Moscow: Ad Marginem Press, 2018.

[22] O.G. Danilyan, A.P. Dzeban, Y.Y. Kalinovsky, E.A. Kalnytskyi, & S. B. Zhdanenko, *Personal Information Rights and Freedoms within the Modern Society*. Informatologia, 2018, 51(1-2), p. 28. Available at: https://doi.org/10.32914/i.51.1-2.3

Similarly, H. Arendt[23] argued that freedom does not exist outside of action, outside of its embodiment, outside of material history. M. Bakhtin[24], in turn, also distinguished between formal freedom (as a potential right), actual freedom (actual opportunity to exercise this right) and real freedom (actually realized), or "carnival freedom" derived from popular laughter culture of the European Middle Ages. In the grotesque realism of the Renaissance, M. Bakhtin saw the justification of the "material-bodily beginning of life", the grotesque, naturalistic and vulgarized conception of the body and its liberation through laughter[25].

Returning to the topic of the philosophy of action, we note enactivism, which emerged relatively recently as a group of theories of consciousness in the framework of cognitive science, it touches on the problem of complex forms of intersubjectivity, as well as active ethics. According to enactivism, cognition is not a reflection in the consciousness of the subject of the external world in relation to it, but the process of formation of the world through interaction between brain, body and environment, and as a result of dynamic interactions between subjects in their physical environment. That is, cognition is the embodiment of action – inactivation – the construction of the world. Enactivism presents a reading of the world in the following characteristics: dynamism, holism, processualism, naturalism, activity of the bodily mind and the cognizing body. The Czech philosopher G. Dierckxsens[26], who takes the position of enactivism, states that we know the world precisely because we behave in a certain way in the environment and with it, for example, we look, touch things, contact with others. Knowledge in its essence is regarded as physical and embodied, as well as essentially social, that is, other people affect how we know the world, we learn from them[27]. The key concept is experience.

European scientists E. Matozzi and L. Parolin[28] also pay great attention to the social, ethical and epistemological role of experience, developing body semiotics and actor-network theory in the categories of body, material, artifact, substance, environment, form, sensory dimension of technology and others. Embodied knowledge of the material world

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[23] H. Arendt, *Vita Activa, or About an active life*. Trans. from German and English by V. V. Bibikhin. Saint-Petersburg: Aletei'ja, 2000.

[24] M. Bakhtin, *Creativity of Francois Rabelais and folk culture of the Middle Ages and the Renaissance*. Moscow: Hudozhestvennaja literature, 1990.

[25] M. Bakhtin, *op. cit*.

[26] G. Dierckxsens, *Introduction: Ethical Dimensions of Enactive Cognition – Perspectives on Enactivism, Bioethics and Applied Ethics*. Topoi, 2022, 40(5). Available at: https://doi.org/10.1007/s11245-021-09787-6

[27] G. Dierckxsens, *op. cit*.

[28] A. Mattozzi, & L. Parolin, *Bodies Translating Bodies: Tackling "Aesthetic Practices" from an ANT Perspective*. Science & Technology Studies, 2021, 34(4), pp. 10–11. Available at: https://doi.org/10.23987/sts.79694

reveals itself through artifacts as intermediaries. The authors explain the factor of mediation of bodies/things in mutual relationships and mutual understanding with the help of a visual example with a heavy key tag on the keys to a hotel room. The key tag weight mediation in this case will reformulate the potential requirement or the need not to forget to leave the key on the hotel desk, against the desire to leave with the key. Indeed, when the weight is attached to the keys, customers, according to the authors, subconsciously want to get rid of it, not to carry it in the pocket. The weight of the artifact is able to perform this mediation, continuously affecting the client's body, the actors influence each other. With this unpretentious situation, E. Matozzi and L. Parolin clearly describe the theoretical model of "bodies translating bodies" in actor-network theory[29]. Here, the semiotics of the body, which can be compared to hermeneutics, explains that contacts, relationships, and mutual understanding between bodies are often accomplished through artifacts and practices.

Practices are important for actionists. As if following the tradition of festive and fair laughter culture, practitioners demonstrate the existential circle of life and death through the hyperbolization of bodily abilities and capabilities, rather than sacrificing their bodies for the sake of an idea, like political revolutionaries. By revealing the suppressed capabilities of the body, actionists and performers thus discover in it the ability to have an idea. The idea itself is worthless to them without its physical, material, situational, public embodiment[30].

Actionists ask the public questions in the language of their bodies. The semantic space of the action is always open for reflection. According to S. Žižek[31], we do not have enough language to articulate our lack of freedom. For example, the performer Yves Klein in "The Void", or "Vacuum", when the exhibition gallery space, painted in white, contained absolutely nothing, proves that the imagination and sensitivity of the artist, that is, elements of his inner intangible world, thanks to which the art is born can itself be the art objects included in the museum context and measured in monetary terms. Russian actionist Marina Abramovich in the performance "Naked with a Skeleton", warming the human skeleton with the warmth of her body, calls for metaphysical human compassion in memory of the victims of the Balkan conflict[32]. Rejecting the mimetic act of creativity as an atavism, actionist artists focused on concepts. Ideas, of course, have remained a mouthpiece of art, but the object that conveys them can be

[29] A. Mattozzi, & L. Parolin, *op. cit*.

[30] P. Mitenko, 2021, *op. cit*.

[31] S. Žižek, *Welcome to the desert of the Real,* 2002. Available at: https://booksonline.com.ua/view.php?book=94947

[32] A. Glagoleva, *Contemporary performance: Political gesture and/or social criticism,* 2015. Available at: http://gonzotronica.blogspot.com/2015/01/blog-post.html

extremely simplified, vulgarized, symbolic (like the ready-made "Fountain" by Marcel Duchamp[33]). Actionism creates only the appearance of decay and destruction, seeking to identify, to exterminate the rotten in man and in society. It "cures" with shock therapy. This is a living embodiment of the method of deconstruction in the performance of social bodies.

Not only the actionist, performer, inventor (subject of art, politics, business, law; artist, picketer, protestant), but also the surrounding reality (situation, environment, background, audience, time moment) acts as the subject of the work (representation, action, picket), which is no longer limited to the art space of the canvas, workshop, stage or legal space of the polling station, courtroom, chamber of the representative body of power. Actionism, like the real art of action, has virtually no boundaries: audience boundaries and understanding boundaries. The action contains a direct bodily *gesture* that provokes a scandal and refers to the immediate experience of a particular moment of reality.

Active presence engages the participant in a special collective experience of confrontation, in material discourse, where meaning is represented in the form of actions. The similarity of different types of performative actionism lies not only in the unity of their methods, but also in the commonality of their goal – *to be seen*, to be noticed. This is one of the fundamental rights of the subject of liberal democracy, after the right to be heard. Having got rid of the essential identity and transformed from a subject into an *agent*, it moves in the direction from linguistic discourse to visual activity, from the right to vote to the right of body, from "to be heard" to "to be seen". Actionism today is chosen as a form of activity that is most adequate to the agent of the neoliberal community.

Court as a space of legal performative actionism. Court proceedings are a multi-stage formalized act of regulating human relations, which has an institutional function. The court received special recognition, high democratic appreciation and law-making significance within the European tradition of legal intersubjectivity of the communicative paradigm of postmodern philosophy law. One of the key features of the institution of the court is its publicity. Publicity provides an accessible, open nature of discourse, a dynamic legal space, finally forms the subject of law as a universal agent of freedom – "any" of all the other "anys", as P. Ricœur wrote[34].

P. Ricœur considered the court in its immediate status as a legal institution, recognizing the primacy of its institutional public function.

[33] Art & Artists, *Marcel Duchamp. Fountain 1917, replica 1964*, 2020. Available at: https://www.tate.org.uk/art/artworks/duchamp-fountain-t07573

[34] P. Ricœur, *The triumph of language over violence. Hermeneutic approach to the philosophy of law*. Problems of Philosophy, 1996, 4, p. 35.

Following Ricœur, we will focus on the phenomenon of court, in particular litigation, mainly within the framework of criminal law, but not on the practice of the Constitutional Court, the Supreme Court, appellate courts or contract law. Because it is criminal proceedings that deal with the most direct form of conflict and violence.

Until now, philosophy of law has considered the court as a public space of legal debate (P. Ricœur[35], M. Foucault[36]), in which the conflict is removed at the level of language by conducting empirical research to achieve the truth. Hermeneutics and the theory of communication see in court the space of words and speech, in which interpersonal reconciliation takes place according to procedural norms and rules. Discussions, judgments of participants in the process, their effective decision – all this leaves room for verbal conflict, regulated by procedure, however, definitely replaces physical and psychological violence, puts an end to the dispute and revenge, prescribes appropriate compensation to the victim and punishment of the offender. Insisting on the humanity of justice, P. Ricœur even distinguishes between the meaning of the metaphors "sword of power" and "sword of Themis": if the former cuts off heads, the latter – strikes only with words[37].

Hence, the goal of justice is to establish the truth, a fair distance through a legal solution, the recognition of the victim and the guilty, but in no case a response to violence. Judgement, sentence, according to P. Ricœur[38], is the name of a specific legal situation and, ideally, reconciliation, as this decision should be recognized by judges, public opinion and the defendant himseilf, thus promoting peace and through the "triumph of language over violence".

It should be noted that since the "top" philosophical and hermeneutic conception of justice by P. Ricœur, legal intersubjectivity has undergone significant semantic and methodological changes in the horizon of metamodernism. The grammatolocal paradigm has been replaced by performative; hermeneutic discourse has shifted from semantics to the field of action and performance; the meanings of word and speech have been replaced by body and gesture; societies have been replaced by communities; the subject of law as a "subject of responsibility" has been replaced by an *agent of law* as a visible and active actor in the local situation. Based on this, this study provides a philosophical analysis of the court not as a space for public legal discussion, but as a public action of the bodily dynamics of law as a skillful provocation of situational justice.

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[35] P. Ricœur, *op. cit.*

[36] M. Foucault, *Supervise and punish. Birth of the prison*. Trans. from French by V. Naumov. Moscow: Ad Marginem Press, 1999.

[37] P. Ricœur, *op. cit.,* p. 36.

[38] *Op. cit.*

In the further course of the research, a rather ambitious goal is pursued: a comparative approach to two independent phenomena of completely different socio-cultural nature – court and performance – based on their common essential characteristics – procedurality, publicity and physical representation, which are considered the as key ones.

When starting a comparative analysis of court proceedings and performance, one should pay attention to the closeness of their models. Their common ground is actionism. The notion of "actionism" is taken here as a synthetic, summarizing artistic, political and legal performance, installation, happening, eventualists actions, monstration, practice of demonstrations, pickets and meetings of the precariat – that is, the positioning of unprotected bodies in public space as a non-discursive form of articulation of law[39].

The formalized structure of the court proceedings contains five main stages. Having omitted the preparatory stage, let us turn directly to the main part of it – the court investigation. It, in turn, is also subject to procedural conventions that ensure the performance of role functions by all participants in the proceedings: from the prosecutor to the final witness. At the same time, all procedural actions of the participants are subject to a single demonstrative regime of *publicity*, which contributes to the open interiorization of their own position outside. All statements of the participants in the trial are deliberately declarative, public, open, and staged – from the opening statements of the parties to the last word of the defendant. They carry not so much information as a performative gesture, action, direct experience of the reality of law. The trial is more like not a debate, but a staging that unfolds freely but naturally according to the canons of the legal "scene".

The presentation of evidence of prosecution and defense, and their further examination by the court leads directly into the performative space of things and actions – the legal situation of self-positioning of active agents. Loud cross-examinations by the parties of the defendant, witnesses, victims, experts and specialists, examination of physical evidence, identification and examination – all these procedures are mini-performances-provocations, demonstrating the process of simulating an illegal event and replacing it with a legal event of justice.

The trial is presented as an act staged by a situational alliance of vulnerable agents, whose activism is justified by their role personification and desire to be seen. The publicity of the process speaks of its openness to emotional complicity, the popularity of certain participants (lawyers,

[39] Y. Meliakova, G. Krapivnyk, I. Kovalenko, E. Kalnytskyi, & S. Zhdanenko, *Performance conceptualism: from semantics to body language*. Wisdom, 2022, 21(1), pp. 145–147. Available at: https://doi.org/10.24231/wisdom.v21i1.614

judges, defendants), especially because of the media broadcast of the hearings. Thus, in terms of its popularity, some demonstrative trials leave far behind many pop and dramatic productions.

The procedural adversarial nature of the actors of dialectical performance, in particular at the final stage of the debate of the parties, is categorically inseparable from the personified living presence of their bodies, visual influence, extraordinary public activism. This is a real manifestation of legal bodies in the actionist space of human rights. In this unplanned spectacle, the ideas are embodied in the form of desperate critical precariats (victim, defendant and law enforcement officers). Each of them demonstrates the fragility of life, social vulnerability or its risk, as well as the living through collective experience of precariousness in a single situational judicial community.

It is the bodily interaction of the agents of law in a single performative space of the court that determines the new nature of legal intersubjectivity "Self the Other". Justice exposes the substantial conflict of justification and accusation, immortality and oblivion, the primary struggle of life and death.

Performative tactics of defending human rights. Thus, in the middle of the twentieth century there was a radical revision of the purpose of art. It moved from museums and galleries to the streets. In their practice, artists (for example, the Viennese actionists of the 1960s) used to go beyond the existing norms of morality and law and order, shock the public, criticize the elite and deserve the name "creative extremism". At first glance, actionism is antisocial, but all is not so clear. Performance expresses motivation for freedom in human gesture, action, collective life experiment, connecting them with the liberated desire and feeling, which is possible only through play. We all start to "play" when we are in the spotlight. Direct public action here is not mediated by institutional links of the social space.

Action is a polemical commonplace, a phenomenon belonging to the fabric of direct and informal relations. Focusing on the dynamics of direct live connections, action spontaneously feels the unity of views and feelings of anonymous participants. It unceremoniously interferes in the ordinary state of affairs. Capturing the attention of many, action becomes the subject of universal discussion, thus becoming attributed by various forces of the public, the state, the media, the courts, the police, uniting with it in their interpretation. It demands to take a certain position in relation to it, does not leave indifferent. By affecting the interests of various forces, the action forces them to express themselves in emotions, feelings, actions, statements, which provoke consequences that are often unpredictable.

Action is reminiscent of a flash that illuminates the previously invisible and often ignites a fire[40].

Instantly overcoming distances with the help of supernova telecommunications and high-speed vehicles allows organizations and individuals to spend time together without direct spatial convergence, which includes them in plastic multidimensional structures that smoothly transit into existing and constantly updated networks[41]. That's why the seeming bacchanalia of actionism is the fairest struggle of man for his natural right to self-expression, to arbitrary identity, to a full life. Thus, on May 17, the International Day Against Homophobia, since 2017, performances in support of the visibility and security of the LGBT community were held in Kharkiv every year. The performers say: people are afraid of what they have not seen, our task is to make the queer community with its problems visible. In the summer of 2017 in Sevastopol, many ordinary and popular people gathered for a performance in support of journalists – victims of political repression in the occupied Crimea. On July 5, 2018, a mass performance in support of women, the victims of domestic violence, took place in Moscow. And these are all actions of presence in defense of your body and the right to be visible.

However, performative actionism is not always reactionary or nihilistic. For example, the permanent, indefinite and silent action "Silent Picket", initiated in 2016 by the young Russian poetess Daria Serenko, currently has thousands of participants from 60 cities and 11 countries[42]. What is the tactics of the Silent Picket? Performers are in public space – on the street, on public transport, in the office, at work, study – along with a poster with a concise inscription, text that may be different in form and content (slogan, quote, question, criticism, statistics, poetry, political slogan), as well as contain a picture, hashtag, additional subject, link to a source or resource. As a rule, the texts are of a socio-political nature – on human rights, feminism, genderism, discrimination. The picketers are open to constant dialogue, information and exchange of experiences, which can be continued on social networks, in the comments to the posts after the meeting. The silent picket amazingly combines bodies, actions, online and offline spaces and narratives. This is an original format of natural and legitimate

[40] P. Mitenko, *How to act in front of everyone? (Moscow Actionism and Community Politics)*. New literary Review, 2013, 6(124). Available at: https://www.nlobooks.ru/magazines/novoe_literaturnoe_obozrenie/124_nlo_6_2013/article/10702/

[41] A.P. Getman, O.G. Danilyan, O.P. Dzeban, & Y.Y. Kalynovskyi, *Modern ontology: reflection on the continuity of cyberspace and virtual reality*. Revista de Filosofia, 2022, 39(102), p. 84.

[42] A. Motovilova, *Silent picket: street actionism as a non-linear text*, 2017. Available at: https://artelectronics.ru/posts/tikhij-piket-ulichnyj-aktsionizm-kak-nelinejnyj-tekst

communication of people on political topics. It does not contain aggression, populism, provocations, usually inherent in actionism, does not cause media fever. This positive dialogue presupposes benevolence, peace-lovingness, competence, authenticity, interest, and delicacy, thus significantly changing the intersubjectivist paradigm of actionism.

However, an action always contains tension between law and lawlessness, will and duty, initiative and obedience. The actions of the actionists call into question the current policy, normativeness and universality of its interests. In turn, their desperate activity and collective will coming from below are truly political. An action is a staging tactic of breaking through personal freedom, a workshop of free-thinking, a zone of manifestation of human rights and the tragedy of their shortcomings. According to the canons of carnival culture, the action chooses for its public statements the language of satire, parody, dumb bodies and things, grotesque clown images. Actionism is a policy that produces change with the direct participation of everyone. This maxim of presence and participation, as well as publicity, distinguishes actionist politics from representation politics. After all, according to H. Arendt[43], committing an act in the public eye is a policy. According to the scientist, only politics is a sphere of gaining freedom, because it in proportion to the public action of each agent changes the fate of the common world. It is this policy (open participation policy) that is able to create the world that many care about.

Based on the general tendency of the body prevailing in the theory and practice of social sciences, legal *intersubjectivism* in its latest stage should consider as a source of law the situation of mutual relationships and claims of able-bodied agents based on the advantage of the right to pleasure and the right to pragmatic solidarity. Both legal conflict and legal justice are born from the actions and deeds of physical agents of mutual interest in a single problem area. The intersubjective nature of law is now determined not by discussion, consensus and agreement, but by a public act, the role activity of its participants and open access to it. Legal *justification* comes not as a result of being brought under the dominant idea, but as a result of material predominance, material and situational evidence, due to interaction with reality, active and emotional victory of one of the parties. *Intersubjectivism of legal bodies* is clearly presented in the trial, which contains the following elements of actionism: publicity, procedural role-playing, adversarial, proving the grounds and circumstances of the case, critical appraisal, actual application of the law, identification of guilty persons and acquittal of those who are not guilty, accusation, confession, remorse, passing of a performative sentence, and, finally, the triumph of justice.

[43] H. Arendt, *Vita Activa, or About an active life*. Trans. from German and English by V.V. Bibikhin. Saint-Petersburg: Aletei'ja, 2000.

Swedish law theorist C. Kruse[44] discusses the system of criminal justice in terms of the problem of cooperation of epistemological cultures for a stable understanding of many objects of knowledge (crime inspection protocols, forms of orders, forensic reports, traces, evidence, etc.). The author calls various services in the field of criminal justice – the prosecutor's office, criminal investigation departments, forensic laboratories, local courts, forensic scientists, investigators, defense lawyers and others – epistemological cultures (or infrastructure), on the succession of which the success of advancing the chain of objective knowledge of objects depends. The successful production of judicial evidence from the crime scene to the time of sentencing depends on the contextual cooperation of these cultures and communities. Thinking and cognition should be infrastructural[45].

Jurisprudence notes that modern criminal justice has significantly changed the vector of its development from a punitive orientation to law enforcement and restorative orientation, where priority is given to the individual, protection of his or her rights, freedoms and legitimate interests, in particular protection of victims of crime from illegal accusations, etc.[46]. The trial should be conducted on the basis of the adversarial principle of the parties – prosecution and defense, which, having equal procedural opportunities, presenting and examining evidence, seek to convince the court of the validity of their position[47]. The purpose of the court is to resolve their dispute, neither on the side of the prosecution nor on the side of the defense, providing the parties with the necessary conditions for the performance of their procedural duties. At the same time, the court is responsible for passing a lawful, reasonable and just sentence.

Theorists of law consider one of the central problems of criminal proceedings to be the problem of the role of the court in the process of *proving* the circumstances of a crime and, in particular, the guilt of the defendant. Thus, the Criminal Procedural Code of the Russian Federation, like many other countries, retains the right of the court to participate in proving important circumstances for the proper resolution of the case and, consequently, the right to collect evidence on its own initiative, along with the prosecutor, investigator and interrogator. In most European countries, the court has the right to conduct investigative actions, order a forensic

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[44] C. Kruse, *Attaining the Stable Movement of Knowledge Objects through the Swedish Criminal Justice System: Thinking with Infrastructure*. Science & Technology Studies, 2021, 34(1), pp. 2–5. Available at: https://doi.org/10.23987/sts.80295

[45] *Op. cit.*

[46] N.S. Manova, & M.A. Baranova, *op. cit.*, p. 567.

[47] O.G. Blinova, *op. cit.*, p. 19.

examination, inspect the area or premises, conduct an investigative experiment, insist on bringing to court for identification a person or object, conduct an examination, announce protocols of investigative actions, conclusions of experts and other documents, ask questions to participants in criminal proceedings after their interrogation by the parties, call and interrogate new witnesses on their own initiative, etc.[48]. The Criminal Procedural Code of Ukraine, in turn, also recognizes the right of the court to proving in criminal proceedings. In this regard, domestic lawyers, V. Vapnyarchuk, for example, at various stages of criminal proceedings distinguishes between proving-knowledge and proving-justification which are carried out by the court[49].

Thus, "proving" in criminal proceedings is understood as a process of cognition based on epistemological laws, as well as material and factual evidence, and seeking to achieve the truth, which is the guarantee of justice. From the point of view of methodology, it is proves that is an aspect that is equally characteristic of any kind of public action and trial. The stage of proving contains immediate moments of reality and personal stories, things from the cultural landscape, bodily experience, narrative testimonies, examinations, sensitive and interacting bodies, scenes of justification, protection, remorse, volitional tension between participants, observation, hearing and listening. All these elements of legal reality – things, objects, people, their presence, feelings and actions – are references to specific situations, non-discursive steps on the path to legal truth. In search of objectivity, justice has long sought to naturalize its object, to force the reality of the law to "speak" about itself in the language of events and actions. In this sense, the law of precedent demonstrates the same *gesture* towards a situation that happened before and had consequences, but which determines justice here and now. The reliability and obviousness of the precedent is that the event of legal bodies exceeds the force of epistemological justification, *presence* is better than any belief.

The performance repeatedly took on the function of arranging and reading the legal reality, using the technique of presence. For example, in March 2017, at the Gulag History Museum in Moscow, Canadian artist Judy Radul created an installation called “The World Rehearsal Court”, which included a multimedia project reproducing fragments of trials of the International Criminal Tribunal, as well as an exhibition of unique and typical for criminal proceedings artifacts[50]. A year earlier, in 2013, in Rome there was a performance by Italian artist Rossella Biscotti entitled "The Trial", a 6-hour reconstruction of court hearings based on audio

[48] V. D. Kholodenko, *op. cit.*, pp. 171–174.
[49] V. V. Vapnyarchuk, *op. cit.*
[50] Wikipedia, *Judy Radul*, 2022. Available at: https://hmong.ru/wiki/Judy_Radul

recordings, documents and items from the courtroom[51]. At the center of the performance was an act of reading (with specific judicial rhetoric) the deciphered records of the 1979 trial, which condemned Italian activists and members of the "Labour Force" union on charges of organizing terrorist attacks by the "Red Brigades". Artifacts of the trial itself were unveiled: wooden benches from the courtroom in Rome, a judge's gavel, a complete transcript of the trial and more. The purpose of the performers is to bring to the public court of independent observers the frank and ruthless prose of judicial formalism, to make witnesses of the installation witnesses of an abstract court session, introducing their bodies into the space of material history. The idea of human rights "gapes" here through the inside of overturned justice.

Conclusions

Thus, what's new about actionism in thought and action? It offers a new reflection, a different way of understanding and communicating, non-traditional logic, a form of activity and self-realization. In cultural history, the judiciary has traditionally declared actionist practices an offense and a crime, as their format does not fit into the public moral and normative system. Even more paradoxical, at first glance, is our attempt to present actionism as an effective tactic of self-expression and self-defense of target communities and alliances. However, this did not prevent us from drawing an analogy between performance and judicial proceedings in the general conceptual field of actionism. Thus, if the court and performance find their formal commonality in actionism and intersubjectivism, then their substantive unity, in turn, is manifested in the general discourse of human rights. It is the problem of subjective rights that takes on two seemingly contradictory vectors of activity – court proceedings and legal performance. The intersubjective paradigm recognizes the performative nature of law-as-event, considering action and process as its ontological essence.

Of particular interest and future perspective of study is the change in the function and status of the subject in the unified horizon of legal situationism – from the courtroom to the town square – when the subject synthesizes the person of institutional justice and at the same time an agent of antisocial, almost anarchic, act of anonymous bodies.

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RELIGIOUS MODERATION PHENOMENON IN INDONESIA: THE ROLE OF KH. M. HASYIM AS'ARI PRINCIPLES OF THOUGHT

M. Yunus Abu Bakar*,

yunusuinsa@gmail.com

Mardiyah,**

bukitasripo@gmail.com

Afiful Ikhwan***

afifulikhwan@gmail.com

Abstract: *KH M. Hasyim Asy'ari's philosophy looks traditional in nature. It can integrate ru>h al-Jiha>d into two categories: Jiha>d filla>h, which is oriented towards the spread of Islamic teachings; and Jiha>d fisabi>lilla>h, which is understood as resistance and even war against invaders. Thus, the essence of this research is to show that the relationship between Islam and Pancasila (the Ideology of the Republic of Indonesia) is a modality to build religious moderation (nationalist-religious) originating from Hasyim Asy'ari's thought. This research uses qualitative research, a combination of historical, documentary, and survey research. Data collection techniques were obtained from documentation, interviews, and observations. Data analysis techniques involve inductive, deductive, and comparative analytical methods. This research shows that Hasyim Asy'ari, with the principles: Al-Jiha>d (Struggle), Al-Ittiha>d (Unity), At-Tasa>muh (Tolerance), Al-I'tima> d'ala an-Nafs (Independence), Al-Ikhla>s (Sincerity), Uswah Hasanah (Exemplary), is a solution to the conflictual relationship between religion and the state. These principles can be systematically strengthened for the sustainability of Uhuwah Islamiyah (brotherhood), Uhuwah Watoniyah (mutual respect), and Uhuwah Insaniyah (brotherhood among mankind), which is an abstraction of ru>h al-Ittiha>d (unity). This can also be translated into the two spirits of al-Jihad: jiha>d filla>h, which is oriented to religious teachings; and jiha>d fi sabi>lilla> h, which means war against foreign control of the state.*

* **Lecturer, Department of Islamic Religious Education, Universitas Islam Negeri Sunan Ampel Surabaya, East Java, Indonesia.**

** **Lecturer, Department of Islamic Religious Education, Universitas Sunan Giri Surabaya, East Java, Indonesia.**

*** **Lecturer, Department of Islamic Religious Education, Muhammadiyah University of Ponorogo, East Java, Indonesia.**

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Introduction

The terminology of moderation in Islamic diversity in the West and America is different from that in the context of Islamic diversity in Indonesia. The moderation of Islamic religion in the West and America may emphasise a religious that is critical-reflective, pro-democracy, and human rights and supports the ideology of secularism[1]. However, the latter's features of moderation are a problem in the context of Islam in Indonesia. According to Teemu Mantsinen, an essential aspect of religious moderation in Finland is the process of identity-making through the personal experiences of individuals there[2]. In religious developments, generations have different backgrounds and identifications, and the research only focuses on the older and millennial generations[3]. Islamic values positively moderate Muslim behaviour[4]. In Indonesia, moderation is defined as the refusal to accept violence as an ideological and battle line[5].

The conceptual vocabulary of moderation is not easy to define. The topic is strongly debated among Muslims and non-Muslims alike. They are interpreted differently depending on who approaches them and the context[6][7]. Even some Muslims with a strong religious spirit (*gi>rah di>niyah)* reject the term "moderation of Islam"[8]. Adina Leah Bankier moderated Karp's mediation analysis, which showed that the sophisticated

[1] D. Iribarnegaray and J. Bert, "Islam and the West: interplay with modernity." *Journal of Alternative Perspectives in the Social Sciences*, 7, 4, 2016, p. 522.

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conceptual and methodological insights into how religious connectedness happens are a better way to study spiritual connectedness[9][10].

Umma Farida's research discusses the contribution and role of KH. Hasyim Asy'ari in framing religious moderation in the perspective of the Koran and Hadith. As stated in his book Risalah Ahl as-Sunnah wa al-Jama'ah, his analysis reveals that Hasyim Asy'ari's role in teaching Islam emphasises character development, courtesy, tenderness, and comprehension of moderate Islam[11]. He also tells us to be kind to people no matter what religion they are, loves the Prophet, and makes unity, brotherhood, and tolerance the basis for moderation among Indonesia's religious groups[12].

According to Imam Subchi, his opinion is different from the results of research conducted on 578 state Islamic university students in Indonesia. This means that religious intellectualism, ideology, public activity, private practise, and religious experience help an individual become spiritual, moderate, and able to combat bigotry and extremism. Socioeconomic factors, such as gender and parental income, also have a big effect on religious moderation[13].

From the statement above, the emphasis and importance of religious moderation are very much needed because there are still those who think that religious moderation has nothing to do with the welfare of a nation. According to Andrew Fenelona and Sabrina Danielsen, religious believers have poorer health and lower well-being than consistently affiliated (socialists) and consistently unaffiliated individuals [14]and can threaten the continuity of social activity (gambling) in the United States that has existed for a long time[15].

The present paper examines the dynamics of moderation in Indonesian Islamic diversity and its relation to the principles of thought of KH M. Hasyim Asy'ari, who became a central figure in building Islamic moderation at the beginning of Indonesian independence[16][17][18]. Because

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[9] L. Bankier-Karp, Catalysts of Connectedness: A Case for Greater Complexity in Religious Identity Formation Research. *Review of Religious Research*, *64*, 1, 2022.

[10] A. Nasrullah, A Combination of Cultural Wisdom and Religious Values in Bina Damai in Gunungsari District. *Al-Hayat*, *3*,2, 2018, p. 23.

[11] R. Putra, Menilik Nilai – Nilai Keislaman dalam Etika Profesi Personal Pengembang Teknologi Pembelajaran. *Journal of Islamic Education, 6*, 1, 2021, p. 15.

[12] U. Farida, *Kontribusi dan Peran KH . Hasyim Asy ' ari dalam Membingkai Moderasi Beragama Berlandaskan al Quran dan Hadis di Indonesia*. *8*, 2020, p. 311.

[13] I. Subchi et al., Religious Moderation in Indonesian Muslims. *Religions*, 2022, p. 11.

[14] A. Fenelon and S. Danielsen, Leaving my religion: Understanding the relationship between religious disaffiliation, health, and well-being. *Social Science Research*, *57*, 2016, p. 49.

[15] K. Beyerlein and J. Sallaz, Faith's wager: How religion deters gambling. *Social Science Research*, *62*, 2017, p. 204.

[16] M. Asad, *Al-'Allāmah Muhammad Hāsyim Asy'ari Wādhih Libnati Istiqlāli*

KH M. Hasyim Asy'ari, according to Mohamad Hasan, is categorised as an Islamic traditionalist figure who upholds moderation and eclecticism[19]. The question being developed is the principles of thought that can form moderate ideas. Is there an attitude of moderation of Islamic diversity unique to the KH M. Hasyim Asy'ari model? What is the reflection of religious moderation in Indonesia today?

Method

This is a qualitative research combination of historical, documentary, and survey research. Thus, research data can be obtained from documentation, interviews, and observations[20]. In terms of its objectives, this study has two main goals[21][22], namely: first, to analyse and discover the principles of thought through factual historical research of the character K.H.M. Hasy'ari so that the singularity of these thoughts can be obtained; second, to explain the impact of his thinking on the concept of religious moderation in Indonesia through a rationalistic postpositivism approach, which has the following points of thought: (a) placing the specific object of research in a holistic totality; (b) using a specific type of mindset; and (c) continuing research on meaning[23]. The data analysis methods used in this research include: a. inductive and deductive; b. reflective; and c. constant comparability, i.e., an analysis method with the following work stages: 3) Creating a theory :4) writing theory; d. methods of typological analysis[24].

Results and Discussion

Moderation of Islam in Indonesia

Generically, moderation means a middle way, a choice between the two extremes of religious thought. Extremity is often defined as *al-ghuluw*, which Yusuf al-Qardhawi calls *al-mut*} at} *arrif* and moderation is often

Indonesi. Dār as-Shodiq, 1971.

[17] J. Benda, *The Crescent and the Rising Sun: Indonesian Islam under the Japanese Occupation 1942-1945*, 1958.

[18] Z. Misrawi, *Hadratussyaikh Hasyim Asy'ari: Moderasi, Keumatan, dan Kebangsaan*. Penerbit Buku Kompas, 2010.

[19] M. Hasan, Al-Wasaţiyah al-Intiqâiyah al-Taqlîdiyah: Dirâsat Haula Harakâti wa Afkâri Kiâi Hâjî Hâsyim Asy'arî fî Fiqh al-Siyâsah al-Ijtimâ'iyah bi Indûnîsiâ. *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial*, *16*, 2, 2021, p. 597.

[20] W. Creswell and N. Poth, *Qualitative Inquiry and Research Design: Choosing Among five Approaches*. Sage publications, 2016.

[21] Z. Bakker, *Metodologi Penelitian Filsafat*. Kanisius, 1990.

[22] A. Ikhwan, *Metode Penelitian Dasar (Mengenal Model Penelitian dan Sistematikanya)*. STAI Muhammadiyah Tulungagung, 2020.

[23] N. Muhadjir, *Metodologi Penelitian Kualitatif*. Rake Sarasin, 2001.

[24] A. Bakker, *Metodologi Penelitian Filsafat*. Kanisius, 1990.

referred to as *al-wast}* which means the middle way[25]. In general, moderation is understood as a point of view, attitudes and behaviour, always taking a position in the middle, always acting reasonably, and not being extreme[26].

Jillian Schwedler asserted that "moderation -a process rather than a category- entails change that might be described as movement along a continuum from radical to moderate"[27]. Moderation is implicitly (and occasionally expressly) associated with liberal concepts of individual rights and democratic notions of tolerance, plurality, and cooperation. According to the research, for actors to become more moderate, they must become more receptive to the prospect that other opinions are valid, if not equally so[28].

To define moderation*, al-Sallabi*, as a Muslim scholar, this article first investigates the linguistic implications of the Arabic equivalent, "wasatiyyah." In Arabic dictionaries, the term wasatiyyah typically refers to multiple shades of meaning, including justice or balance (*al-'adl*), merit or perfection (*al-faḍl*), and better (*al-khairiyyah*), as well as middle (*al-bainiyyah*)[29]. Some commentators interpret *al-wasatiyyah* as follows:

1. *Wasat}* is justice and the optimal choice. Any growth beyond what is expected constitutes excess, whereas any decrease constitutes neglect. Both excess and failure are contrary to the norm. Therefore, it is bad and blameworthy. The optimal choice lies between two alternatives"[30];
2. *al-Wasat}iyyah* is "a balance that equilibrates the two opposite ends, in which neither ends standalone with its supremacy or banish its counterpart; in which nether ends take more than it deserves and dominates its opponent.[31]";
3. *al-Wasat}iyyah* denotes moderation and balance (*i'tidāl*) in belief, morals, and character, in the method of treating others, and in the applicable systems of sociopolitical order and administration in the common lingo of the people of our day[32].

[25] H. Wehr, *Modern Written Arabic*. Gçttingen: Otto Harrassowitz Verlag, 1979.

[26] A. Tim, *Moderasi Beragama*. Jakarta: Badan Litbang dan Diklat Kementerian Agama Republik Indonesia, 2019.

[27] J. Schwedler, *Faith in Moderation: Islamist Parties in Jordan and Yemen*. Cambridge University Press, 2008.

[28] T. Islam and A. Khatun, "Islamic Moderation" in Perspectives: A Comparison Between Oriental and Occidental Scholarships. *International Journal of Nusantara Islam*, *3*,2, 2015, p. 70.

[29] M. Al-Sallabi, "al-Wasatiyyah fi al-Quran al-Karim." *Amman: Jordan, Dar Al-Nafais & Dar Al-Bayariq*, 1999.

[30] R. Rida, *Tafsir Al-Manar*. Egypt: Al-Hayyah al-Misriyyah al-Ammah li al-Kitab. 1990.

[31] A. Yusuf, *Kalimat Fi Al-Wasatiyyah Al-Islamiyyah wa Maalimiha*. Qahira: Misr, Dar al- Shuruq, 2011.

[32] W. Al-Zuhayli, *Qadaya Al-Fiqhwa Al-Fikr Al-Muasir*. Damascus: Dar al-Fikr, 2006.

According to the diverse interpretations of the Qur'an, moderation is defined as a movement from the edge, which always moves toward the centre or axis (centripetal). In contrast, extremism goes away from the centre or axis and toward the extremes (centrifugal). A dynamic motion, like a pendulum clock, does not stop at one extreme but tends towards the centre[33].

Foundations and Indicators of Religious Moderation

The moderation of religiosity in the text of the verses of the Qur'an can be found in Surah Al-Baqarah (2), verse 143 as follows: "And thus we have made you a just community that you will be witnesses over the people and the Messenger will be a witness over you" (QS al-Baqarah [2]: 143). In that verse, Allah SWT describes the Muslim ummah as the *Wasat Ummah}* a. There are many interpretations by the interpreters of the Qur'an related to the meaning of *ummah wasat}an*, including:

a. at-Tabari, interpreted the term *wasatan* as "the best, the fair and the chosen that are different from the extreme attitude of the Jew anad the Christians"[34];
b. Ibn Kathir, interpreted it as "the best, most humble and being fair"[35];
c. Ar-Razi interpreted *wasatan* meaning: fairness, not to choose a side between two opposing parties or two extreme ends. Second, anything of the highest quality. Third, the most modest and flawless. Fourth, is not to be religiously extremist[36].

Thus, the teachings of *wasat} iyah*, as described above, are one of the foundations of the essence of Islamic teachings. The word has at least three meanings: middle, fair, and best. The Hadith of the Prophet (peace and blessings of Allah be upon him) confirms this meaning: "The middle is appropriate. We have made you a seat (best) ummah (HR, Tirmizi and Ahmad).

There are four signs of religious moderation: 1) national dedication, 2) tolerance, 3) anti-violence, and 4) respect for local culture[37]. This indicator is in line with the meaning of the characteristics of religious moderation in the context of contemporary Islamic thought: 1) the ideology of non-

[33] A. Tim, *Moderasi Beragama*, p. 42.

[34] M. At-Tabari and J. bin, *Tafsir at-Tabari al-Musamma Jami' al- Bayan fi Ta'wil al-Qur'an*. Beirut, Lubnan: Dar al-Kutub al-'Ilmiyyah, 1992.

[35] A. Kathir and I. al-F, *Tafsir Al-Qur'an Al-'Azim*. Beirut, Lubnan: Dar al-Ma'rifah, 1992.

[36] F. Ar-Razi, *at-Tafsir al-Kabir aw Mafatih al-Ghayb*. Beirut, Lubnan: Dar al-Kutub al-'Ilmiyyah, 1990.

[37] A. Tim, *Moderasi Beragama*, p. 45.

violence in Islamic preaching; 2) adopting the pattern of modern life and all of its consequences, including science and technology, democracy, and human rights; 3) applying rational thought to Islamic teachings. 4) utilising a contextual approach to comprehend the origins of Islamic doctrine; 5) the application of ijtihad to Islamic law *(ist}inba>t})*[38].

Islamic moderation also functions to create a dialogue between Islam and modernity. Islam is not in a position to reject or accept modernity as a whole. This promotes a critical stance in order for modernism to evolve into a positive rather than a negative value.

When Muslim countries are so strict and conservative about changes and products of modernity, Indonesia can use it as *da'wah* media by including the spirit of Islam in it[39].

In this way, indicators of religious moderation can be stated as follows: 1) commitment to nationality; 2) non-violent ideology; 3) tolerance; 4) accommodating to local culture and modern life; 5) using a contextual approach, and 6) the use of ijtihad.

The phenomenon of Islamic Religious Moderation in Indonesia

Muslims must develop moderation of Islamic diversity in Indonesia in the sense of grounding moderate Islamic teachings towards mercy for the universe (*rah matan li al-'A>lami>n*). In reality, some people are still extreme, radical and intolerant and are even considered terrorists.

Religious moderation must be viewed as a balanced religious attitude between the (exclusive) practise of one's own religion and respect for the spiritual practises of those with differing views (inclusive). This equilibrium or middle ground in religious practise will unquestionably prevent extremist, fanatical, and revolutionary views in religion[40]. In addition, Islamic religious moderation must also be contextualized within the state (nationalism)[41].

Indonesian Muslims have a paradigm setting in which the values of religion and the state coexist, do not negate each other and do not destroy pluralism. The Indonesian nation is not interested in establishing a secular state, and neither is a religious state (*daulah Islamiyah*)[42]. Even the

[38] M. Hilmy, Quo-Vadis Islam Moderat Indonesia?, p. 63.

[39] N. Faiqah and T. Pransiska, Radikalisme Islam Vs Moderasi Islam: Upaya Membangun Wajah Islam Indonesia Yang Damai. *Al-Fikra: Jurnal Ilmiah Keislaman*, *17*, 1, 2018, p. 35.

[40] E. Sutrisno, Aktualisasi Moderasi Beragama di Lembaga Pendidikan. *Jurnal Bimas Islam*, *12*, 2, 2019, p. 326.

[41] K. Fuad, Islamic Moderation in the NKRI Frame. *Social Science Studies and Sustainability Issues*, *1*, 2019.

[42] Ibid, p. 43.

intrinsic values of religion have inspired the founders of the nation and the aspirants of the state to realize a national life based on religious teachings. Religious discounts are even reflected in Pancasila as the state ideology, especially in the First Precept, "God Almighty", and other principles. KH Hasyim Muzadi noted that all of these are the efforts of his predecessors, who have built a solid foundation of diversity and nationality as milestones of Islamic moderation[43].

The moderation paradigm in the Indonesian context is not only interpreted as moderation of religious thought but also as a national commitment to accepting all its attributes; the philosophy of Pancasila, the 1945 Constitution and also the final form of the state.

The Principles of Kh M. Hasyim Asy'ari's Thought

Biography of KH M Hasyim Asy'ari

K.H. M Hasyim Asy'ari is a great scholar known to have brilliant thoughts covering many fields from religion, education, and social to political matters. Some of his ideas are contained in the titles of various books he wrote and have been collected by M. Ishom Hadzik with *Irsha>d al-Sari* and the book of Mahakarya Hadrastussyaikh KH M. Hasyim Asy'ari[44]. KH Abdurrahman Wahid even said that he wrote about 20 themes in books and treatises[45]. In addition, he is a founding figure of Nahdlatul Ulama and *jam'yah al-Ijtimaiyah* (religious and community organizations)[46], which is the largest religious organization in Indonesia[47], Masjumi leader, and the only Nahdlatul Ulama (NU) leader who was given the title *Rais Akbar*[48]. For his services of uniting the ummah and brotherhood among the ummah[49], Alwi Shihab calls him *'Syaikhul Akbar'* because he is considered a leading figure par excellence with a significant contribution to spreading the ideology of *Ahlusunnah wal Jama>'ah* and Sunni Sufism in Indonesian. In an Egyptian published book, he was called

[43] Ibid, p. 44.

[44] H. Asy'ari, *Mahakarya Hadratussyaikh KH M Hasyim Asy'ari*. Jombang: Pustaka Tebuireng, 2021.

[45] A. Wahid, *Islamku Islam Anda Islam Kita*. Yayasan Abad Demokrasi, 2011.

[46] A. Purwono, Organisasi Keagamaan dan Keamanan Internasional: Beberapa Prinsip dan Praktik Diplomasi Nahdlatul Ulama (NU) Indonesia. *JPP (Jurnal Politik Profetik)*, *1*, 2, 2013.

[47] A. Hadi, *K.H. Hasyim Asy'ari: Sehimpun Cerita, Cinta, Dan Karya Maha Guru Ulama Nusantara*. Diva Press, 2018.

[48] F. Fakturmen and Z. Arif, Pengaruh KH. Hasyim Asy'ari dalam Membangun Serta Menjaga Nusantara dan Kemaslahatan Islam Dunia. *Jurnal Indo-Islamika*, *10*, 1, 2020, p. 37.

[49] Z. Misrawi, *Hadratussyaikh Hasyim Asy'ari*, p. 21.

Haḍrah al-'Allāmah, Syams al-Bahjah al-Fuḍalā', Durrah 'Iqd żawī at-Tahqīq anNubalā', al-Ustāż al-Kabīr, al-Fahhāmah asSyahīr, A'jubat az-Zamān, Ma'dān al-Fudhalā' wa al-'Irfān[50]. The scholars gave him the title of *Hadratussyaikh*, which means *maha ulama* and *maha guru*. He was raised in the Sufi tradition of the Sunnis in Java, studying and working in society at the time of the emergence of the Wahhabi movement in the Islamic world[51].

History records that he built the stability of unity among Muslims in the archipelago. This can be seen in his efforts to restrain and rectify all matters that could divide Muslims, such as the formation of MIAI (Majlis Islam A'la Indonesia) in 1937[52], and he was also one of the founders of the first stone for Indonesian independence[5354]. The Dutch and Japanese colonials had tried hard to carry out diplomacy with KH M Hasyim Asy'ari to be invited to cooperate but failed. Even though assistance continues to be disbursed to the Tebuireng *pesantren* (Islamic Boarding School), he still firmly rejects it[55]. The events of 10 November 1945, which were very heroic, were influenced by the fatwa of his jihad and were continued by the issuance of the Jihad Resolution[5657], which in turn influenced the civil society resistance event against British colonial attempts to control Indonesia through Surabaya and the incident. The resistance was made on Heroes' Day in Indonesia[58].

KH. Hasyim Asy'ari was born and raised in a *pesantren* environment. He also studied a lot of knowledge and is directly involved in it, particularly in the background of Islamic religious education. Everything he experiences and feels becomes his experience and influences his mindset and views on educational issues, especially Islamic boarding

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[50] P. Tim, *Ensiklopedia Ulama Terpilih Indonesia, Jilid 1*. Yayasan Amanah Kita, 2020.

[51] M. Hamlan, "Tipologi Pemikiran Pendidikan Indonesia: Telaah Historis-Filosofis Pendidikan K. H. Ahmad Dahlan dan K.H. Hasyim Asy'ari." *Jurnal Pendidikan Dan Ilmu Sosial*, *7*, 2, 2020, p. 229.

[52] M. Asad, *Al-'Allāmah Muhammad Hāsyim Asy'ari Wādhih Libnati Istiqlāli Indonesi*, p. 54.

[53] A. Shihab, *Islam Sufistik: Islam Pertama dan Pengaruhnya hingga Kini di Indonesia*. Mizan, 2001.

[54] R. Fadli and A. Sudrajat, Keislaman Dan Kebangsaan: Telaah Pemikiran KH. Hasyim Asy'ari. *Khazanah: Jurnal Studi Islam Dan Humaniora*, *18*, 1, 2020, p. 109.

[55] A. Amiq, "Two Fatwas on Jihad Against the Dutch Colonization in Indonesia A Prosopographical Approach to the Study of Fatwa." *Studia Islamika*, 5, 3,1998.

[56] H. Frederick, Visions and heat, the making of the Indonesian revolution. *Asian Affairs*, *21*, 1990, p. 95.

[57] M. Van Bruinessen, *NU; Tradisi, Relasi-relasi Kuasa, Pencarian Wacana Baru*, LKIS, 1994.

[58] A. Setiawan and Y. Rahmadi, Konsep Resolusi Jihad Hasyim Asyari Dalam Buku Sang Kiai. *Skripsi, IAIN Surakarta*, 2017.

school education[59].

According to the Indonesian Minister of Religion, the number of Islamic boarding schools in Indonesia has reached 28 (*salaf, khalaf* and combination) with 5.000.000 *santri* living. WITH students going back and forth from home to Islamic boarding schools and Koran education parks and madrasas, the number of the students reached 18.000.000[60].

Principles of Thought of KH M. Hasyim Asy'ari

On a historical journey, K.H. M. Hasyim Asy'ari and his profound educational, socio-political and religious-philosophical views created extraordinary principles of thought[61]. These principles directly impact the diversity of Islam and the state in Indonesia.

***Al-Jihad* (Struggle)**

The value of struggle (*al-Jiha>d*) is used as the basis for building and developing Tebuireng *pesantren*. K.H.M Hasyim Asy'ari never resigned in the face of the threat of the community around the *pesantren*, which was still damaged at the time and the threat of the Dutch colonialists who wanted to stop their movement in *syi'ar Islam.*[62] He explained his stance "Broadcasting Islam means improving humans. If humans are good, what will be improved thereof. To fight means facing hardships and making sacrifices. In his struggle, the Prophet has shown these examples" (Salam, 1963). One of the ideas that have always been kindled to liberate Indonesia from colonialism which has been used as the basis for the struggle of the Indonesian nation, is *ru>h al-jiha>d*[63].

The issuance of a Jihad Resolution whose substance is the same as Fatwa Jihad and Jihad Resolution is the most evident evidence in KH M. Hasyim Asy'ari. This resolution resulted from a meeting of NU delegates which took place on 21-22 October 1945 at the PB NU (General Manager Nahdlatul 'Ulama [NU]/ Islamic organizations in Indonesia) Bubutan Surabaya office[64]. The jihad resolution was issued to determine the

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[59] N. Pilo, Pemikiran Pendidikan K.H. Muhammad Hasyim Asy'ari. *Jurnal Ilmiah Islamic Resources FAI UMI Makasar*, *16*, 2, 2019, p. 208.

[60] M. Ashari, Peraturan Turunan UU Pesantren Disiapkan, Menteri Agama Tegaskan Satu Hal. *Pikiran Rakyat Com*, 2020.

[61] Mardiyah, *Kepemimpinan Kiai dalam Memelihara Budaya Organisasi* (M.Y.A. Bakar (ed.); Ke-IV). Aditya Media Publishing, 2019.

[62] F. Akarhanaf, *Kiai Hasjim Asj'ari; Bapak Umat Islam Indonesia*. Pesantren Tebuireng, 1950.

[63] S. Zuhri, *Sejarah Kebangkitan dan Perkembangan Islam di Indonesia*. Bandung: PT. Al-Maarif, 1980.

[64] R. Suratmin, Peranan Pondok dalam Badan Pengembangan Kebudayaan dan Parawisata. *Patra Widya: Seri Penerbitan Penelitian Sejarah Dan Budaya*, *4*, 1, 2003, p. 65.

attitude towards NICA. As a result of this resolution echoing throughout Java and Madura, the enthusiasm and courage of the Indonesian civilians to fight against the allies and the NICA was burning everywhere. The effectiveness of this call was proven by the heroic battle of 10 November 1945. Frank Palmos described the heroism of the fighters at that time, including giving notes on the contribution of the ulama in moving the people of Surabaya. Including the figure of a scholar who gave lucky water to the fighters in Blauran, even after providing prayers, this kyai accompanied the soldiers to the front. Therefore, Amiq juxtaposed KH M. Hasyim Asy'ari with Sayyid Utsman in supporting the revolution for independence by using the term jihad against the Dutch[65].

Some of the values of *al-Jiha>*d instilled by Hasyim Asy'ari as the founder of the Tebuireng Islamic Boarding School in his students include a). Jihad for oneself, b). Jihad with assets for the benefit of religion and society, in the form of *infaq, sadaqah, waqf* and others[66], and c). Jihad with physical either in the form of physical warfare or opinion wars, information wars, movements, forces and so on[67]. Thus, in the view of KH M. Hasyim Asy'ari can be understood as a whole of personal, religious, national and national interests, both material and non-material such as opinions, and information warfare, to benefit the people.

Al-Ittihad **(Unity)**

KH M. Hasyim Asy'ari is a peacemaker in Nahdlatul 'Ulama and Muslims. He tried to bridge the gap between the old and the young on many issues by saying that the older generation should love the young and the young should respect the old. In the introduction of his speech at the third conference in 1930 with the title "*Muqaddimah Al-Qanu>n al-Asa>si Lil Jami'a>t Nadhat al-Ulama>"* (Opening of the Articles of Association of Nahdlatul Ulama)[68], he called on Muslims to unite *(Al-Ittiha>d)*[69]. The theme of unity *(Al-Ittiha>d)* at the 11th muktamar in 1936 in Banjarmasin in his speech in Arabic with the theme *"al-Mawa>iz}* "(sayings) invites the scholars to put aside differences and end group fanaticism (at-ta'assub), forget the insults and insults to others and maintain the unity of the people[70].

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[65] A. Amiq, "Two Fatwas on Jihad Against the Dutch Colonization in Indonesia, p. 64.

[66] H. Soekadri, *Kiyai Haji Hasyim Asy'ari*. Depdiknas, 1980.

[67] A. Haidari, *Masa Depan Pesantren dalam Tantangan,* p. 43.

[68] A. Ikhwan et al., Development of Curriculum Keaswajaan (Nahdlatul 'Ulama) in Character Formation. In *Global Perspectives on Teaching and Learning Paths in Islamic Education*, IGI Global, 2019, p. 94.

[69] L. Khuluq, *KH. Hasyim Asy'ari, Religious Thought Political Activities (1871-1947)*. Logos, 2000.

[70] M. Van Bruinessen, *NU; Tradisi, Relasi-relasi Kuasa,* p. 43.

He also invited traditionalist and modernist Muslims to unite, not divorce because of trivial matters because, according to him, Islam is one. This invitation attracted the hearts of modernists such as Mas Mansur from Muhammadiyah and Wondoamiseno from Syarekat Islam, who were invited to the Nahdlatul Ulama Congres[71][72]. They then realized KH's invitation. M. Hasyim Asy'ari cooperate with traditionalists represented by Abdul Wahab Hasbullah and Ahmad Dahlan by forming a federation body for Islamic organizations to coordinate the activities of Islamic organizations and unite them in facing threats and everyday interests. This organization was established on 18-21 September 1937 under MIAI (*Majlis Islam A'la Indonesia*)[73][74].

At-Tasa>muh (Tolerance)

Etymologically, tolerance is defined as a generous attitude to accept differences, tolerate what is disliked and get other people's perspectives. Nur Cholis Madjid defines tolerance as the value of taking all differences sincerely or always seeking the truth without prioritizing bigotry aspects or not shackling one's soul with certain beliefs[75]. Another definition was conveyed by a Turkish Sufi figure named Fethullah Gulen, who stated, "Tolerance does not mean being influenced by others or joining them. It means accepting others as they are and knowing how to get along with them"[76]. Tolerance is understood as an attitude of accepting differences and being able to live together between them.

The various sparks of KH M Hasyim Asy'ari's thoughts in multiple fields he wrote reflect the concept of *tasa>muh*, not exclusive thinking[77]. He also agrees and is willing to form the Republic of Indonesia, not based on a particular religion. This shows a high level of *tasa>muh* attitude, even though he has done the services of a great struggle in realizing an independent Indonesia[78].

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[71] D. Noer, *Gerakan Moderen Islam di Indonesia, 1900-1942*. LP3ES= Lembaga Penelitian, Pendidikan dan Penerangan Ekonomi dan Sosial, 1982.

[72] H. Soekadri, *Kiyai Haji Hasyim Asy'ari*, p. 43.

[73] J. Benda, *The Crescent and the Rising Sun,* p. 64.

[74] A. Ikhwan, *Manajemen pengembangan kurikulum Keaswajaan dan Kemuhammadiyahan dalam Pembentukan karakter: Studi Multikasus di Sekolah Tinggi Agama Islam Diponegoro dan Sekolah Tinggi Agama Islam Muhammadiyah Tulungagung* [Universitas Islam Negeri Maulana Malik Ibrahim Malang], 2016.

[75] K. Rahman, Strategi Pengembangan Nilai Toleransi dan Pluralisme dalam Pendidikan Pesantren. *Hikmah Journal of Islamic Studies*, *12*, 1, 2016, p. 107.

[76] F. Gülen, *Toward a Global Civilization Love Tolerance*. Tughra Books, 2010.

[77] L. Khuluq, KH. Hasyim Asy'ari Contribution to Indonesian Independence. *Jurnal Studia Islamica*, *1*, 1998, p. 46.

[78] L. Khuluq, *KH. Hasyim Asy'ari, Religious Thought Political Activities,* p. 63.

Zamakhsyari Dhofier describes KH M. Hasyim Asy'ari as a figure who follows tradition, with *tasa>muh* as its foundation and is consistent in maintaining Islamic traditionalism, not alienated by colonialism[79]. *Fikrah Tasa>muh}iyah* (tolerance thinking) is one of the characters (typical} a> is}) of NU-style thinking, in addition to moderate thinking (*fikrah at}-t} awasutiyah), fikrah isla>h}iyah* (reformative thinking), *fikrahtat} a>wuriyah* (dynamic thinking), and *fikrah manhajiyah* (methodological review)[80]. In addition, NU has contributed to producing an egalitarian, plural and inclusive constitution, which is in line with *qanu>nasa>* delivered by KH M. Hasyim Asy'ari[81].

The understanding of tolerance in the person of KH M. Hasyim Asy'ari is the result of the influence of one of his teachers, KH Saleh Darat Semarang, who is very prominent in promoting *tasa>muh* (tolerance) attitudes. However, in the end, KH M. Hasyim Asy'ari founded the NU organization that did not reject tradition as part of Islamic teachings. In contrast, KH Ahmad Dahlan (KH Darwis) later founded an organization that criticized and dismissed the existence of practice as a *bid'ah* (innovation) and *khura>fah* (superstition)[82].

Inclusivism and tolerance of KH M. Hasyim Asy'ari are in thought and shown in his attitude in the field of education with his agreement to introduce classical methods in the teaching system of pesantren since 1916 to complement the sorogan and wetonan systems that are similar to public lectures. Thus, two educational systems developed in Tebuireng, namely the salaf system that used the sorogan and weton systems, as well as a more modern classical system. The classical system was named *"salafiyah sha>fi'iyah"*[83].

In 1934, Wahid Hasyim realized the renewal of the education system at Pesantren Tebuireng by establishing Madrasah Nizamiyah, which introduced English in addition to the previously known Dutch language. The madrasah curriculum consists of general knowledge (70%) of the entire curriculum[84]. All Islamic boarding schools eventually followed this pattern and education system. Therefore, the breakthrough in the madrasah system (classical system) carried out by the Tebuireng Islamic

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[79] Z. Dhofier, *Tradisi Pesantren: Studi tentang Pandangan Hidup Kyai*. Lembaga Penelitian, Pendidikan, dan Penerangan Ekonomi dan Sosial, 1982.

[80] M. Manshur, Typical literary works of pesantren on righteousness teaching within cultural transformation. *Journal of Social Studies Education Research*, *11*, 4, 2020, p. 148.

[81] Z. Misrawi, *Hadratussyaikh Hasyim Asy'ari*, p. 24.

[82] A. Mas'ud, al-Taqalid al-Islamiyah al-Iqlimiyah bi Indusiya. *Journal of Indonesian Islam*, *7*, 1, 2013.

[83] H. Soekadri, *Kiyai Haji Hasyim Asy'ari*, p. 64.

[84] B. Adnan, *Kemelut di NU, antara kyai dan politisi*. Mayasari, 1982.

Boarding School is considered an innovator and pioneer in reforming the traditional Islamic education system in the country.

Al-I'tima>d 'ala an-Nafs (Independence)

In 1899, Pesantren Tebuireng was established, and only in 1906 was Pesantren Tebuireng officially recognised by the Dutch East Indies government. It's not that K.H. M. Hasyim Asy'ari cooperated with the Dutch East Indies government. On the other hand, he sticks to the principle of "*al-i'tima" d'ala an-nafsi",* or being independent, which does not depend on others, which in Dutch is called "zelf help"[85]. KH M Hasyim Asy'ari emphasised that other parties will not quickly subdue an independent person because he does not depend on anyone. KH M Hasyim Asy'ari is also a farmer who owns hectares of rice fields and a trader. Someone dependent on other parties will likely not have their independence, which is equivalent to giving other people the opportunity to rule us. By depending on people, we are mortgaging our freedom, pride, and spirit. As many people say, nothing is free globally, especially at this time. There is a shrimp behind the stone, and if someone gives something to us, especially a fantastic gift, it should be suspected that the facility has a specific purpose or plan, although not all of them are. Therefore, pesantren must be *i'tima>d alan nafsi* (independent and confident)[86]. His personal and *pesantren*'s independence was proven when the Dutch government offered him an award star in 1935 through an Islamologist (orientalis) named *Van der Plas*. Still, he refused it gently (Tim Penulis, 2020). Therefore, the independence of education, especially in pesantren, must be kept and will definitely be able to survive and grow as times change[87].

The principle is not only raised by the Tebuireng Islamic Boarding School but also in the kiai's personality. He had to live with the results of his own business. Even a portion of his business profits were used to benefit his pesantren. They did not teach two days a week at the *pesantren* to take care of tens of hectares of rice fields and gardens, sometimes even leaving for Surabaya to trade horses, iron, and sell agricultural produce. He also recited Sufism to Kyai Abdul Syakur, who taught the book Al-Hikam Ibnu Atho'illah As-Sukandari[88]. Van Bruinessen concluded that the

[85] H. Soekadri, *Kiyai Haji Hasyim Asy'ari*, p. 66.

[86] M. Ansori, M, KH M Hasyim Asy'ari Sosok Pemimpin Luar Biasa. *Majalah Tebuireng*, 2015, pp. 7–8.

[87] A. Haidari, *Masa Depan Pesantren dalam Tantangan Modernitas dan Tantangan Kompleksitas Global*. IRD Press, 2004.

[88] A. Sunyoto, KH Hasyim Asy'ari, Sang Ulama Pemikir dan Pejuang, Jakarta: Museum Kebangkitan Nasional, Kemendikbud, 2017.

kyai who had a high sense of independence became the moral pillars of the organisation (both NU and pesantren)[89]. For him, defending freedom or autonomy is the independence individuals and institutions must own.

The thought of Indonesian independence prompted KH M. Hasyim Asy'ari to proclaim the values of jihad and struggle undoubted, accompanied by the importance of unity and non-division in the land of Indonesia, especially among Muslims[90].

Al-Ikhlāṣ (Sincerity)

The personal sincerity of the Kiai cannot be doubted since he founded his pesantren. With a spirit of sacrifice and devotion (worship), KH M. Hasyim Asy'ari built a pesantren as a private educational institution. As a result, he gave more than he received from his cultivated educational institutions. He taught without receiving a salary. The reward that is expected is only from Allah SWT, as the stance exemplified by the Prophets and Messengers, as the words of Allah swt, which means: *"And I never ask you for a reward for those invitations; my reward is none other than from the Lord of the worlds"* (QS. Al-Shu'ara [26]: 109).

In a book he wrote, Guruku dari Pesantren, KH Saifuddin Zuhri narrates the sincerity of KH M Hasyim Asy'ari. He would provide money and food to the fighters who would go to the battlefield[91]. According to KH M. Hasyim Asy'ari, in the world of education, can be described in the ethics of teacher-student relations. Educators should be genuinely professional in science and spirituality so that they can truly develop the skills of students or students in science and *spirituality*. For students, it is possible to be serious about following the learning process, both at the time of the learning process and beyond. That must be based on ethics and morals[92].

The ethical relationship between teachers and students is written in *Adab al-'alim wa al-muta'allim fi ma yakhtaj ilai al-muta'allim fi ahwal ta'allum ma yatawaqqaf alaih al-mu'allim fi makamat al-ta'lim* (Ethics of teachers and students about what students need in learning activities and matters relating to teachers in learning activities). This book has eight chapters: (1) the virtue of knowledge and scholars and the virtue of learning and teaching them; (2) the student's ethics toward himself; (3) the ethics of the student and the teacher; (4) the students' ethics with their

[89] M. Van Bruinessen, *NU; Tradisi, Relasi-relasi Kuasa,* p. 47.

[90] F. Hidayatullah, Hiden Movement KH. Hasyim Asy'ari dalam Kajian Fiqih Siyasah. *Tafáqquh: Jurnal Penelitian Dan Kajian Keislaman*, *5*, 2, 2017, p. 78.

[91] S. Zuhri, *Guruku Orang-Orang dari Pesantren*. LKiS, 2001.

[92] N. Anzumi, "Teacher and Student Ethic Concept: A Study Toward the Thought of KH Hasyim Asy'ari." *Journal of Research in Islamic Education*, 1, 2019, p. 5.

lessons; (5) the teachers' ethics toward their rights; (6) the teachers' ethics with the subject matter; (7) the ethics of teachers and their students; and (8) the ethics of books as a source of knowledge[93].

Good ethics must be present in students, both in their learning situations and in their interaction with the environment in which they live. KH M. Hasyim Asy'ari says that some ways to show love for the Prophet Muhammad SAW are to be faithful to following him, to practise his sunnah, to follow all of his words and deeds, to follow all of his commands, to stay away from what is forbidden, and to be moral by his morals, even when things are hard, easy, busy, or forced[94].

Teacher-student interactions, in the view of KH M. Hasyim Asy'ari, are very significant based on religious ethics and are ideological, theological, and transcendent. It seeks to bring the learning environment to the level of teacher diligence and authority in its knowledge and teaching. Students as individuals who learn show seriousness and seriousness in learning as a sign of fighting power in the acquisition of learning taught by the teacher to seek the pleasure of Allah Almighty and reap its benefits.

Sincerity is the fundamental value of Islamic boarding school education. Mardiyah calls it an essential value along with other values such as simplicity, independence, *ukhuwah Islamiyah*, and freedom, as it is called *Pancajiwa*, which is enforced in the educational environment of the boarding school which is affiliated with Pondok Modern Gontor Ponorogo[95]. The sincerity of the kyai in teaching and the sincerity of the students in learning, as described by KH M. Hasyim Asy'ari, are based on ethical relationships.

Uswah Hasanah (Exemplary)

Uswah Hasanah, or the role model of KH M. Hasyim Asy'ari, can be seen from his personal and scientific aspects. He is diligent, active at work, warm-hearted, humble, likes to live and work regularly, and is disciplined as a role model for his students, even scholars throughout Java and Indonesia. KH Said Aqiel Siradj gives the example of KH M. Hasyim Asy'ari, who is a spiritualist, a mujahid, a mujaddid, an ulama, a national teacher, and a successful farmer in Tebuireng Jombang[96].

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[93] H. Asy'ari, *Mahakarya Hadratussyaikh KH M Hasyim Asy'ari*. Jombang: Pustaka Tebuireng, 2021.

[94] Ibid, p. 32.

[95] Mardiyah, Kepemimpinan Kiai dalam Memelihara Budaya Organisasi di Pondok Modern Gontor, Lirboyo Kediri, dan Pesantren T ebuireng Jombang. *Tsaqafah*, *8*,1, 2012, p. 67.

[96] A. Siradj, Tasawuf sebagai Solusi atas Problem Modernitas. In *Wasiat Tarekat Hadratus Syaikh Hasyim Asy'ari*. Ar-Ruzz Media, 2011.

In his lifetime, KH M. Hasyim Asy'ari prioritised the interests of society more than his own. This increases the respect of members of the community towards him. He was judged by society as a trustworthy person, so he was considered their leader, and even he was often considered a parent, a place to ask and complain, discuss the issues they face, and a place to pour out all feelings[97]. He is a state scholar who NU and other Muslims in Indonesia should emulate. When he preached to people of different sects, he did so gently (rather than harshly and rudely). Contrary to people who violate the rules of *qa>thi'*, he returned the Qur'an and hadith[98].

The wisdom of KH M. Hasyim Asy'ari is not used to fight against the broadcasting of Islam, which is purely an act of worship. He also used his knowledge to fight for Indonesian independence. The fatwa of the holy war (Jihad Resolution), dated October 22, 1945, stirred the war spirit of Indonesian Muslim youth in Surabaya in defending Indonesia's independence, which was proclaimed in 1945[99]. Thus, KH M. Hasyim Asy'ari is a Sufi figure who brings order to life by balancing the aspects of Islamic teachings (*akidah-syariah* and *tasawuf*), physical-spiritual, moral-spiritual, and parts of inner birth. The file of Ijtihad services and products, the implications posed on the attitude of religion and nationalism in Indonesia, became quite dynamic, so that the Indonesian nation's order of life improved.

The Role of KH. M. Hasyim Asy'ari in realizing Religious and State Moderation

The six principles of KH M. Hasyim Asy'ari's thought have provided the foundation for the religious thinking of Islamic religious leaders before and after Indonesian independence. In subsequent developments, it can give rise to moderate thoughts and attitudes of religious moderation in the Muslim community who take the direction of *Sunnah wal Jamaah* in particular and Indonesian society in general.

The pioneer of Islamic religious moderation in Indonesia is Nahdhatul Ulama, the largest religious community organisation in Indonesia and even globally, founded in 1926. The main characteristic of its religious moderation thought is the amalgamation of the spirit of Islam (*ghirah Islamiyah*) and the spirit of nationality, marked by the existence of the relationships between Islam and Pancasila; relations between Islam and the Republic of Indonesia (the Unitary State of irit of nationality, marked by the existence of the relationships between Islam and Pancasila;

[97] H. Soekadri, *Kiyai Haji Hasyim Asy'ari*, p. 63.
[98] K. Hasib, KH. Hasyim Asy'ari dan Pelurusan Akidah. *Insists*, 2012.
[99] M. Al-Gharani, *The Great Mothers*. LAKSANA, 2018.

relations between Islam and the Republic of Indonesia (the Unitary State of Indonesia); and *ukhuwah* in a state frame based on the character *i'tida>l* (being fair), *tawa>zun* (being balanced), and *tasa>muh* (being tolerant), by avoiding extreme thinking (*tatarruf),* which causes religious and state deviations and abuses. The acceptance of Muslims, especially NU, towards Pancasila and the Indonesian state in historical chronology can be drawn as a linear line since the NU Congress in 1936 by accepting and obliging to maintain the status of the land of the Dutch East Indies (Indonesia) even though the Dutch non-Muslim rulers are ruling it. The acceptance of the Islamic ummah (NU) of the state and its ideology (Pancasila) in Jakarta on 17–18 August 1945 is stated in the introduction to KH Abdurrahman Wahid in the book NU and Pancasila[100].

The relationship between Islam and Pancasila was emphasised by KH M Hasyim Asy'ari at the event discussing the issuance of the 1945 Jihad resolution, with fundamental questions about the legal status of the Unitary State of the Republic of Indonesia based on Pancasila, which Soekarno-Hatta proclaimed on August 17, 1945. KH M Hasyim Ay'ari answered firmly: the status is legal in fiqh. Therefore, Islam is obliged to fight to defend it.[101]

The assertion of acceptance of Pancasila as the basis of the state is also based on religion, placing faith and Pancasila in their respective places without having to be contradicted. The foundation of constitutional ideology and Islamic beliefs according to the understanding of Ahlus Sunnah *waljama'ah* (aswaja) as the foundation of faith cannot be disputed. People-based on Pancasila because they believed in God Almighty (first precept). Thinking is an act of critique of Pancasila in one of the areas of national life, namely religious life. The mutually supportive relationship between aqeedah and asas, or between Islam as a religion and Pancasila as an ideology, is a complementary creative relationship which will nurture both[102].

KH M. Hasyim Asy'ari was the first person to lay the foundation of nationalism-religious nationalism on Indonesian Muslims. Until now, religious nationalism has developed and become the key to resolving the issue of religious, national, and state relations. In addition, KH M Hasyim Asy'ari, in the religious-political movement, is categorised as a traditionalist, i.e., holding fast to the chain of history and the thought of classical scholars in his religious behaviour. He was successful in

[100] M. Sitompul, *NU dan Pancasila*. Pustaka Sinar Harapan, 1989.

[101] R. Fadhli and B. Hidayat, KH. Hasyim Asy'ari Dan Resolusi Jihad dalam Usaha Mempertahankan Kemerdekaan Indonesia Tahun 1945. *SWARNADWIPA*, *2*, 1, 2018.

[102] A. Hana, Pemikiran KH. Achmad Siddiq Tentang Ukhuwah Islamiyah, Wathaniyah, Basyariyah. *Study Islam*, *IV*, 2004.

integrating *ru>h al-jiha>d* into two movements; first, *jiha>d filla>h*, which is a da'wah movement based on science; and second, *jiha>d fi sabi>lilla>h*, i.e., a concept of movement leading to war against the colonizers.

Furthermore, the principle of *Al-ittiha> dKH* M. Hasyim Asy'ari was developed by KH Achmad Shiddiq with three domains, which include ukhuwah bashariyah (*insa>niyah*), *ukhuwah al-Wat aniyah,* and *ukhuwah Isla>miyah*[103][104]. The meaning of the three ukhuwah is as follows:

1. *Ukhuwah Isla> Miyah* is a ukhuwah that grows and develops because of equality of security or religion, both national and international.
2. *Ukhuwah Wataniyah* is a brotherhood that grows and develops based on a sense of nationalism.
3. *Ukhuwah Insa> Niyah (bashariyah)* is an ukhuwah that grows and develops on the basis of humanity[105].

Thus, the development of ukhuwah Islamiyah requires the existence of a common perspective, especially on several critical matters, without overriding the differences regarding non-essential issues. The growing *Ukhuwah Islamiyah* in Indonesia does benefit Indonesian Muslims, the Indonesian state and nation, and Muslims throughout the world[106].

Ukhuwah Wathaniyah is the capital for social interaction and dialogue with various components of the Indonesian nation. Islam recognises the existence of groups of people, nations, and tribes and the presence of religious differences. People should not be distinguished only because of differences in religion and belief, as in the process of the formation of the Indonesian nation. Muslims, together with other people, are in the process of forming this nation[107]. The manifestation of al-Ittiha >d can be achieved when each person and group share a common understanding of differences, whether genetic or cultural, and accept each other's differences through dialogue and association without having to criticise each other. This is the peak of the success of education.

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[103] Ibid, p. 32.

[104] M. Mustofa, Konsep Islam dan Negara Menurut KH. Achmad Siddiq. *Al-Daulah: Jurnal Hukum Dan Perundangan Islam*, *6*, 2, 2016, p. 299.

[105] S. Ni'am, *The Wisdom of KH. Achmad Siddiq; Membumikan Tasawuf*. Erlangga, 2008.

[106] Ibid, p. 301.

[107] A. Zahri, M. Puspitasari and H. Lubis, The narrative of ukhuwah wathaniyah as nationalisme project based on sustainable development. *IOP Conference Series: Earth & Environmental Science*, *716*, 2021, p. 9.

Conclusions

The moderation of Islamic diversity in Indonesia, which is now the study of scholars, cannot be separated from the context of Islamic teachings, nationality, and statehood. The relationship between Islam and Pancasila (the ideology of the Republic of Indonesia) and Islam with the state and nation is a modality for building Islamic religious moderation. KH. M. Hasyim Asy'ari, with the principles of thought, including *Al-Jiha>d* (Struggle), *Al-Ittiha>d* (Unity), *At-Tasa>muh* (Tolerance), *Al-I'tima> d'ala an-Nafs* (Independence), *Al-Ikhla>s* (Sincerity), *Uswah Hasanah* (exemplary), has succeeded in laying the foundation of religious-nationalism, which has been the primary basis for solving problems of religious and state relations, which need to be systematically strengthened. The formation of the terms *ukhuwah Islamiyah, ukhuwah watoniyah*, and *ukhuwah insaniyah (bashariyah)* is an abstraction of *ru>h al-Ittiha>d* (unity). While in the context of the Islamic political movement, KH M. Hasyim Asy'ari is classified as a traditionalist, he has succeeded in putting the spirit of al-Jihad into two categories: *jiha>d filla>h*, which is oriented towards religious teachings; and *jiha>d fi sabi>lilla> h,* which means fight and war against the invaders.

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TO CARE FOR, OR NOT TO CARE FOR. FEMINISTS AND LIBERTARIANS ON CHILDCARE AND THE LEGAL IMPLICATIONS OF THEIR ENCOUNTER

Łukasz Mirocha*

adwokat.mirocha@gmail.com

Abstract: *The article investigates the issue of childcare from the perspective of political philosophy. It aims at presenting and comparing contributions in the field under study provided by the two contradictory veins of political philosophy: feminism and libertarianism. The preliminary assumption of the article, inspired by the so-called horseshoe theory, was that the analysis of the two politically contradictory approaches to the same issue would show their convergence. The first part of the article is devoted to the feminist views on childcare. It presents apparent divisions of feminist thought concerning the issue under discussion and shows ambiguous feminists' stance toward childcare. The following part regards libertarians' reflections concerning childcare. Both parts comment on the sources of duty to care for children, as perceived by representatives of feminism and libertarianism; the distinction between the moral and legal nature of such duties is recognised. The third part of the article indicates similarities and differences between the two explored strands of political philosophy in the field of childcare. Moreover, their legal implications are discussed.*

Keywords: *feminism, libertarianism, childcare, responsibility, the duty of care, abandonment of a child*

Introduction

The article investigates the issue of childcare from the perspective of political philosophy. It aims at presenting and comparing contributions in the field under study provided by the two contradictory veins of political philosophy: feminism and libertarianism. The preliminary assumption of the article, inspired by the so-called horseshoe theory, was that the analysis of the two politically contradictory approaches to the same issue would show their convergence. The application of the horseshoe theory explains why feminism, as a representative of the political left, and libertarianism, as right-wing thought, have been chosen to compare.

The first part of the article is devoted to the feminist views on childcare. It presents apparent divisions of feminist thought concerning the issue under discussion and shows ambiguous feminists' stances toward

* **PhD. in Law, Nicolaus Copernicus University in Torun, Poland.**

childcare. The following part regards libertarians' reflections concerning childcare. Both parts comments on the sources of duty to care for children, as perceived by representatives of feminism and libertarianism; the distinction between the moral and legal nature of such duties is recognised. The third part of the article indicates similarities and differences between the two explored strands of political philosophy in the field of childcare. Moreover, their legal implications are discussed.

Feminists and care – child as a burden

It is a misconception to speak about a uniform feminist thought. Contemporary feminist philosophy encompasses a broad range of stances, often contradictory or at least incompliant. Not only do feminists argue when it comes to methods of achieving predetermined goals (conciliatory liberal feminism *versus* militant radical feminism), but are also unable to conciliate any common ends of their efforts. The variety of contemporary trends characterising feminist thought is not new. It is worth noting that each wave of feminism proposed different goals and means, perceived the hierarchy of importance of identified problems differently. Nevertheless, the thesis that there are certain common points among feminists could be put forward. Feminists challenge prevailing liberal political philosophy, claiming that it is gender-blind and limits principles of justice to the public realm, which brings harmful effects on the oppressed, particularly women. For instance, feminists see no reason for not covering family relations by purportedly universal principles of equality; what is more, they provide us with convincing arguments in favour of doing so – families are "schools of moral learning". Proponents of feminist thought question the stiff boundary between the public and the private sphere and advocate the view that "personal is political"[1].

At least since the second wave of feminism, its discourse has drawn attention to the abovementioned issues. Representatives of the trend under study have noticed that the terms: mother, woman, and child "have been written into one another" and then "revealed both the relations between the regulation of motherhood and childhood and how such forms play a crucial role in securing class privilege and empire"[2]. It shows how

[1] D. Satz, "Feminist Perspectives on Reproduction and the Family", *The Stanford Encyclopedia of Philosophy* (Summer 2017 Edition), E.N. Zalta (ed.), accessible: https://plato.stanford.edu/archives/sum2017/entries/feminism-family/ (last accessed 23.1.2022); L.T. Kessler, "Transgressive Caregiving", *Florida State University Law Review* vol. 33 no. 1/2005, p. 38; W. Kymlicka, *Współczesna filozofia polityczna*, transl. A. Pawelec, Fundacja Aletheia, Warszawa 2009, p. 463-466.

[2] R. Thomson, L. Baraitser, "Thinking through childhood and maternal studies. A feminist encounter", in: *Feminism and the Politics of Childhood. Friends or Foes?*, ed. R. Rosen, K. Twamley, UCL Press, London 2018, p. 67.

allegedly private matters have clear political implications. Feminists' studies opened the door for the conclusion that mothers' activity "remains a highly politicised topic in both research and policy"[3]. As motherhood (and other issues personally affecting women, formerly considered as private) became a central problem for feminists' research, feminism appeared as the most influential trend of political philosophy in the field of family studies[4], which was not surprising.

It cannot be unnoticed that one of the most popular stances among feminists, i.e. ethics of care, directly refers to the issues discussed in this article and constitutes a perfect example of the challenge facing the liberal framework of justice[5].

As confronted with principles of liberal justice, the concept of ethics of care relies first of all on the assumption that it is possible to connect representatives of two different genders with characteristic moral stances, approaches, and ways of moral reasoning. In brief, according to Carol Gilligan who initiated this trend of research, feminine ethics depends rather on a sense of duty and relies on real human relations, whereas masculine ethics, in contrast to feminine one, relies on a concept of abstract rights, entitlements, and principles. "Feminine" ethics of care is heavily contextual, while "masculine" ethics of justice is more abstract and inclined toward universalism.

Gilligan's perspective faced prolific criticism, including essentialism allegations. This brings to our attention a fundamental split among feminists, the split which entails serious consequences in the field of care, namely the division into essentialism and constructivism. Feminist proponents of the former perspective share the view that women are natural caregivers; features enabling and inducing them to provide care are inherent for women. Care bearing is the natural attribute of femininity due to both the psychological and physical properties of women. This perspective could be stretched to cover the issue of family, which in consequence is perceived as a natural, pre-political institution. The latter perspective, i.e. constructivism, presupposes that terms such as mother, family, child are social and historical constructs that, at a certain level of social development, even became legal concepts, which ultimately petrified their meaning. Constructivists put into question essential differences between men and

[3] G. Crivello, P. Espinoza–Revollo, "Care labour and temporal vulnerability in woman–child relations", in: *Feminism and the Politics of Childhood*, op. cit., p. 139.

[4] M. Baca Zinn, H.E. Dillaway, "Introduction: Special Issue on Feminism and Family Life", *Michigan Family Review* vol. 10/2005, p. 1.

[5] W. Kymlicka, *Współczesna filozofia polityczna*, 478-503; G. Crivello, P. Espinoza–Revollo, "Care labour and temporal vulnerability in woman–child relations", in: *Feminism and the Politics of Childhood*, *op. cit.,* p. 141-142.

women or claim that these differences should be perceived as irrelevant when it comes to social roles performed by representatives of both sexes[6]. In response to that, some essentialists have made efforts to portray the caring relationship as a universal ideal, regardless of the gender of the persons in the relationship. In this view, the institution of care becomes what is "essential" (for all humans), not the gender.

Presented division overlaps with another equally important one, i.e. the split between maternalists and nonmaternalists, developed by Laura T. Kessler[7]. Proponents of the first stance share the essentialists' view that "Traditionally, women have been—and women continue to be – caretakers of dependents, the young, the old, and others unable to care for themselves. Women have done this work for no pay, in their own families, or for low pay, when caring for dependents in other women's families"[8]. They treat the role of mothers and caretakers as crucial for their personal identity and fundamental for themselves. What might differ maternalists from essentialists is that the former are conscious of the negative consequences of such stiffly settled social roles. They recognize that caregiving could be not only a source of pride and satisfaction but also a great burden or source of oppression. Nonmaternalists share far-reaching awareness in this field, but instead of proposing solutions to soften the negative consequences of caretaking for caregivers (what is maternalists` goal), they reject mothering as inevitably linked with women. As Laura T. Kessler elucidates:

> legal maternalism and nonmaternalism constitute two strands of legal feminism which can be characterized primarily by their fundamentally different stances on the centrality of reproduction to women's identity. Nonmaternalists do not view women's reproduction as inevitable or desirable. They envision a world in which women's identity is not defined by this institution, and they eschew legal strategies that focus on women's reproduction to

[6] D. Satz, "Feminist Perspectives on Reproduction and the Family"; V.L. Olesen, "Who cares? Women as Informal and Formal Caregivers", in: *Women's Health: Complexities and Differences*, ed. S. Ruzek, V. Olesen, A. Clark, Ohio State University Press 1997, p. 398; D.E. Grandón Valenzuela, "The personal is political: a feminist analysis of the daily experience of informal female caregivers of adult people in dependence situation, in Santiago de Chile", *Cadernos Brasileiros de Terapia Ocupacional*, 29, e2161, 2021, p. 5; R. Thomson, L. Baraitser, "Thinking through childhood and maternal studies. A feminist encounter", in: *Feminism and the Politics of Childhood*, op. cit., p. 66.

[7] L.T. Kessler, "Transgressive Caregiving", p. 52-70.

[8] M. Becker, "Towards a Progressive Politics and a Progressive Constitution", *Fordham Law Review* vol. 69/2001, p. 2039.

> the exclusion of other aspects of their identity such as wage work and sexuality. In contrast, maternalists by and large view reproduction and the gendered division of family labor as inevitable. They seek strategies to lessen the costs of care work for women, such as law reforms providing for a more robust social welfare state, rules that credit the contributions of unpaid domestic labor at divorce, and reforms that would restructure the workplace to account for family care work.[9]

These introductory remarks deliver grounds for deeper investigation regarding feminists' stance to care. Calling into question the prevailing liberal ideal of personal autonomy, feminists such as Martha Fineman, pay attention to the universal fact of dependency – each person in certain stages of his or her life is somehow dependent on others (as a child, as an elderly person, or while being sick). From a feminist perspective, it is an inevitable fact, whereas autonomy is a myth. This notion is treated both as a descriptive and normative thesis, which entails at least the necessity of care, the value of care stemming from its necessity, and the state's duty to support caregivers[10]. Feminists recognise the fact that the need for care is growing as a result of society's ageing and other factors[11].

Any general thesis concerning the duty of care cannot be put forward when it comes to feminist thought. Some feminist scholars derive such an obligation from the fact that no child has made a decision about their conceiving and coming into the world, so persons deciding to have a child should bear the consequences of their decision[12]. They are conscious of the socially important role of caregiving as a condition for the reproduction of society and the existence of mankind[13]. Other feminists dismiss motherhood or other forms of caregiving as an ideal, they instead propose different ways of women`s fulfilment[14]. It should be noted, however, that this stance does not necessarily mean that they are questioning the duty of care when the

[9] L.T. Kessler, "Transgressive Caregiving", p. 79.

[10] M. Eichner, "Dependency and the Liberal Polity: on Martha Fineman's The Autonomy Myth", *California Law Review* vol. 93/2005, p. 1286, 1288-1293; G. Crivello, P. Espinoza–Revollo, "Care labour and temporal vulnerability in woman–child relations", p. 139; D.E. Grandón Valenzuela, "The personal is political: a feminist analysis of the daily experience", p. 4.

[11] N. Folbre, *Who Cares? A Feminist Critique of the Care Economy*, Rosa Luxemburg Stiftung—New York Office, August 2014, p. 14-15.

[12] D. Satz, "Feminist Perspectives on Reproduction and the Family"; M. Eichner, "Dependency and the Liberal Polity: on Martha Fineman's The Autonomy Myth", p. 1303. This argument does not explain basis of duty of care in case of unwanted pregnancy.

[13] N. Folbre, "Who Cares? A Feminist Critique of the Care Economy", p. 3.

[14] M. Eichner, "Dependency and the Liberal Polity: on Martha Fineman's The Autonomy Myth", p. 1294, 1298.

need for care arises. Surrogate motherhood constitutes an interesting case in this regard. On one hand, it enables fulfilment of both the gestational mother and the woman acquiring a child, on the other hand, it provokes commodification caveat (concerning equally the child and the gestational mother) and breaks (gestational) mother-child relation.

Perhaps the most important feminists` finding in the field under consideration is that caring is a kind of labour, which has not been previously recognised (except for John Stuart Mill's writings). They are aware, however, that it is a specific kind of work, requiring particular qualifications and attitude. Following ethics of care patterns, some feminist scholars claim that caring has given birth to specific rationality, based on emotional involvement, which undermines the traditionally recognised opposition between rationality and emotion[15]. Caregiving encompasses not only the emotional engagement of a caregiver but also managing with emotions of a person under care. It is emphasised that caregiving is a relational activity, not a task-oriented one, which involves "empathy, compassion, sensitivity and contextual judgement"[16]. As Nancy Folbre notices:

> The emotional meaning of care is often mediated by prepositions. To care for someone is different than to care about them; "to care" is distinct from "to take care," which in turn is less specific than "to take care of." Two different verbs are often used in conjunction with care: giving and taking. The synonymity between caretaking and caregiving implies a two-way relationship, though we think of the former more often in conjunction with houses or gardens and of the latter more often in conjunction with children or other dependents. Sometimes we exhort loved ones to "take care of yourself" or just to "take care," as though care were simply there for the taking.[17]

Further, she convinces that the nature of caring causes that expectations concerning it comprise both "caring for" and "caring about".

All the above-mentioned care features make it tempting and attractive from the free-market point of view. Companies instrumentally use the term "care", as bait for consumers, they change the names of their

[15] G. Meagher, "Making Care Visible: Feminism, Social Services and the Challenge of Performance Management", *Unitingcare Burnside Discussion Paper* no. 2, January 2002, p. 5.

[16] G. Crivello, P. Espinoza–Revollo, "Care labour and temporal vulnerability in woman–child relations", p. 142.

[17] N. Folbre, "Who Cares? A Feminist Critique of the Care Economy", p. 4.

departments to include the term "care" or apply this term in commercials. From the feminist perspective, there is, however, a great deal of tension between the provision of care and the free market. As already mentioned – caregiving is a kind of job, but in many cases, particularly when it takes place inside a family, it is not paid work. "Care can never be reduced to purely economic terms. Nonetheless, it has important economic dimensions", claims Nancy Folbre[18]. Obviously, caregiving can be formal or informal, can be paid or unpaid[19], leaving aside these conditions though, it is mainly performed by women, which is the reason for feminists' concern. Feminists dispute over the issue of whether women's participation in caregiving is a matter of gender role socialisation or is conditioned by natural qualifications (see the essentialists –constructivists controversy mentioned above), an intermediate option could also be taken into account[20].

When it comes to informal and unpaid care work among family members it is usually not recognised at all by the state and the free market. This kind of work could be overwhelming and burdensome, and it could affect other aspects of caregivers' lives, but non-feminist thought tends to evaluate this state of affairs in terms of love or moral duties. Non-feminist thinkers avoid applying principles of justice or even market solutions to caregiving[21], which makes the situation of caregivers worse. As Elizabeth R. Paré and Heather E. Dillaway claim:

> Child rearing is invisible reproductive labor that does not receive any tangible reward or acknowledgment, despite the cultural assumptions about mothers' responsibility to these activities. The lack of public acknowledgment and the difficulty of child-rearing tasks in general devalue the decisions some women make to be "at home" and makes the role of mother seem lesser than that of paid worker.[22]

Burdens stemming from unpaid caregiving affect not only but above all, caregivers and are multidimensional. Firstly: economic. Informal caregivers seldom receive any revenue. Due to the extent of their duties, they are not able to take up additional paid work or it is more difficult for

[18] N. Folbre, "Who Cares? A Feminist Critique of the Care Economy", p. 3.

[19] V.L. Olesen, "Who cares? Women as Informal and Formal Caregivers", in: *Women's Health: Complexities and Differences*.

[20] G. Crivello, P. Espinoza–Revollo, "Care labour and temporal vulnerability in woman–child relations", p. 144 and following.

[21] D. Satz, "Feminist Perspectives on Reproduction and the Family".

[22] E.R. Paré, H.E. Dillaway, "Staying at Home" versus "Working": A Call for Broader Conceptualizations of Parenthood and Paid Work", *Michigan Family Review* vol. 10/2005, p. 73.

them in comparison to other persons. These factors imply a lack of health protection and pension rights or at least affect them negatively. Professional development is much more difficult for informal caregivers. Secondly: personal. Caregivers are very often emotionally involved in their work, so it could be difficult to separate the sphere of their own life from the life of the person under care. Caregiving can affect opportunities for meeting new people and starting a family. As financially dependent, women undertaking care face a disadvantage in case of divorce. Thirdly: social. Caregivers as – in a considerable number of cases – deprived of revenue and pension rights themselves become dependent at certain stages of their own life[23].

Reckoning the fact that care is performed mainly by women, they constitute the oppressed group. In the United States, the gender division in this matter overlaps with racial issues, because care activities, even if paid, are perceived as low-status jobs and are performed mainly by blacks and Hispanics[24]. Shirley Lin even suggests that "The U.S. caregiving economy's roots in a racist legacy of slavery provided the legal and social underpinnings for the caste-like system we have today, one actively shaped through state-based acts and omissions that fortify class and immigration status distinctions among women"[25].

Some feminists convince that dichotomy between "staying at home" and "working" women is false, too simplistic, and can be harmful. It is false because many women successfully attempt to perform both roles simultaneously, it is harmful since portraying these attitudes as two poles brings a stigmatizing effect[26]. This view opposes the liberal feminist stance according to which working instead of caregiving may have a liberating effect for women. In turn, Laura T. Kessler shows that in the case of particularly oppressed groups that were traditionally deprived of any opportunity to bear care, undertaking it constitutes a kind of political resistance or an expression, targeted at established principles. This context makes caregiving additionally valuable and meaningful[27].

Feminists see a deep tie-up between burdens derived from caretaking described so far in the article and the adoption of the free-market ideology, which – in their view – relies on values such as autonomy, efficiency,

[23] V.L. Olesen, "Who cares? Women as Informal and Formal Caregivers", p. 406; D.E. Grandón Valenzuela, "The personal is political: a feminist analysis of the daily experience", p. 3.

[24] N. Folbre, "Who Cares? A Feminist Critique of the Care Economy", p. 9.

[25] S. Lin, „And Ain`t I a Woman?": Feminism, Immigrant Caregivers, and New Frontiers for Equality", *Harvard Journal of Law & Gender* vol. 39/2016, p. 76.

[26] E.R. Paré, H.E. Dillaway, "Staying at Home" versus "Working", p. 67.

[27] L.T. Kessler, "Transgressive Caregiving", p. 2.

utility, rationality[28]. They recognize that "Capitalism itself relies on essentially non-capitalist institutions, including the patriarchal family and state, to provide for dependents."[29] It means that the free market system benefits from the fact that caregiving is performed mainly beyond its rules, for free. Indeed, the free market system could be perceived as a sort of free-rider, because it does not cover any (or little) expenses connected with care, but thanks to informal caretaking it gains tangible outcomes in the form of new consumers and other participants. As for the state, the problem is more complex. In the case in which the state is inspired by the neoliberal ideology identified by feminists with free-market values, and enforces its principles, the above considerations may well apply. Informal caretakers replace the government in its functions[30]. Some feminists even claim that it is not the men who are beneficiaries of the informal caretaking, but the free market and the state. From this perspective, the tension between women and men, at least in the discussed context, is false, the relationship of actual exploitation emerges between the state or the market and families[31].

Feminists advocate for a strong welfare state, which, on the one hand, should take the role of caretaker (organising schooling, preschools, comprehensive nursery system), and on the other hand, it should mitigate the negative effects of caretaking when it is undertaken by individuals (paid maternity leaves, facilities for caretakers, access to health care regardless of formal employment). Feminist scholars acknowledge a difference between the American approach in this regard (which according to them is highly affected by the neoliberal ideology) and the European approach, which is closer to their views[32]. Care duties should be shared by different subjects: individuals themselves, professionals provided by the market, and state institutions.

To sum up it should be acknowledged that a strong point of feminists' reasoning is that it is deeply anchored in real-world circumstances. The notion of the universal nature of dependency is one of the examples of this feature of feminist thought, which connects it with a communitarian inquiry. Both feminist and communitarian contributions are equally opposed to liberal thinking, which in turn, is based mainly on abstract ideas. What is significant, even when feminists begin their reasoning with

[28] Ibidem, p. 55.

[29] N. Folbre, "Who Cares? A Feminist Critique of the Care Economy", p. 13

[30] S. Lin, „And Ain`t I a Woman?": Feminism, Immigrant Caregivers, and New Frontiers for Equality", p. 79.

[31] M. Eichner, "Dependency and the Liberal Polity: on Martha Fineman's The Autonomy Myth", p. 1288 and following.

[32] V.L. Olesen, "Who cares? Women as Informal and Formal Caregivers", p. 402.

abstract ideas such as equality, they are able to extend their notions far beyond the women`s situation and embrace other groups. Caretaking could be perceived as an example of such a situation because while recognising its great value and specificity, feminists are capable to appreciate all caretakers, not only women.

The next part of the article is devoted to the libertarian insight into the issue of care, which will show possible weaknesses of the feminist stance.

Libertarians and care – the child as property

Libertarians do not pay as much attention to the issue of care as feminists do. For them, the childcare question is a field for testing how their predetermined principles work rather than starting point or inspiration for a discussion. As late as 1991 Morris Lipson and Peter Vallentyne claimed that in libertarian thought moral status of a child was uncertain[33], which was half-true, given that Murray Rothbard's book *Ethics of Liberty*, firstly published in 1982, already provided an entire chapter regarding the issue under discussion. Rothbardian views expressed there are still representative of libertarians when it comes to the childcare question, however, due to their severity, many authors attempt to reinterpret them in a manner that is more compliant with common moral intuitions.

Explaining the libertarian perspective on childcare requires taking into account at least the following issues: the status of positive duties in libertarian thought, the problem of self-ownership, and the meaning of homesteading. Every libertarian contribution to the problem under study refers to them.

Libertarians reject positive legal duties in general unless they are anchored in the contract or stem from the creation of peril[34]. Libertarians believe that bearing positive duties which have been imposed on an individual against her or his will is coercive and limits the individual's freedom. Proponents of libertarian thought acknowledge, however, the binding force of negative duties, treating the duty not to interfere with the liberty of others (the duty of non-aggression as Rothbard named it) as the most important of them[35]. In the result, Rothbard claims that:

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[33] M. Lipson, P. Vallentyne, "Libertarianism, Autonomy, and Children", *Public Affairs Quarterly* vol. 5, no. 4, October 1991, p. 335.

[34] Ł. Dominiak, "Libertarianism and Obligatory Child Support", *Athenaeum Polish Political Science Studies* vol. 48/2015, p. 91; M.N. Rothbard, *The Ethics of Liberty*, New Your University Press, New York and London 1998, p. 100.

[35] M. Lipson, P. Vallentyne, "Libertarianism, Autonomy, and Children", p. 333; W. Block, "Libertarianism, positive obligations and property abandonment: children's rights", *International Journal of Social Economics* vol. 31 no. 3, 2004, p. 275.

> Applying our theory to parents and children, this means that a parent does not have the right to aggress against his children, but also that the parent should not have a legal obligation to feed, clothe, or educate his children, since such obligations would entail positive acts coerced upon the parent and depriving the parent of his rights. The parent therefore may not murder or mutilate his child, and the law properly outlaws a parent from doing so. But the parent should have the legal right not to feed the child, i.e., to allow it to die.[36]

Nevertheless, libertarians examine the two above-mentioned possible justifications for the duty of childcare. These considerations refer to the issues of self-ownership and homesteading as far as the contractual basis of the duty of care is concerned.

According to Rothbard, only a transfer of property can constitute the subject of a legally binding contract. Obligations that do not involve the transfer of property can be merely moral, but not legal. Rothbard delivers the theory of a contract which assumes that if a breach of contract could not be recognised as an implicit theft, the contract was not of legal nature[37]. Here the first problem – the issue of child`s ownership – occurs. Libertarians treat so-called self-ownership as a crucial axiom of their theory, one of the most important self-evident truths. In brief, self-ownership means that each individual is in power to decide over issues concerning him or herself, his or her body belongs only to him or her, and no one else is entitled to influence an individual's decisions. The concept is derived from John Locke's writings; libertarians, however, deprived it of its religious background. As Karen I. Vaughn explains: "Self-ownership, in Locke's view, refers to one's status vis-a-vis other human beings. We own ourselves because no one else owns us. Self-ownership does not refer, however, to man's relationship to God. Man is God's handiwork, and is in some sense owned by Him just as all the earth is owned by Him"[38]. Rothbard and others are conscious that children, depending on their age, are not fully capable to satisfy self-ownership conditions, nevertheless, they possess at least potential self-ownership[39]. Due to this, parents could stand at most as a trustee or guardians – not as exclusive child owners. This constitutes the first obstacle to the conclusion of a potential contract

[36] M.N. Rothbard, *The Ethics of Liberty*, p. 100.

[37] Ibidem, 98.

[38] K.I. Vaughn, "Who Owns the Children? Libertarianism, Feminism, and Property", *Reason Papers* 18, Fall 1993, p. 193.

[39] M. Lipson, P. Vallentyne, "Libertarianism, Autonomy, and Children", p. 338.

regarding childcare namely: what could be the object of the potential contract.

Another more technical problem is: with whom the potential contract should be concluded. There are two possible options: the first assumes that parents agree with their child, the second that parents agree with each other to take care of the child. The first option should be rejected. Leaving aside the issue of how an infant or young child could express its free and informed consent, children are not able to stand as a party to a potential contract concerning the care, because they do not enjoy full self-ownership. The second option is equally problematic. Firstly, if one assumes that both parents are owners of the child (apart from the problems concerning child ownership mentioned above), there is no subject of a potential transfer, because both parents share the joint ownership[40]. Secondly, in case one assumes that the ownership of a child belongs to only one parent – which would open the door for potential property transfer – the issue of its homesteading (acquiring it as property) occurs. As Łukasz Dominiak convinces us, homesteading which leads to the sole ownership of a child by one of the parents is doubtful, because the engagement of two persons is required to conceive a child (in the way of natural conception). What is more, there are no "resources that are homesteaded (...) the resources that are transformed into the child are already owned"[41].

Taking into consideration the above, libertarians are suspicious when it comes to the contractual basis for the positive duty of caretaking. The second potential basis for such a duty – the creation of peril, should be also analysed. The prominent libertarian Stephan Kinsella stands as a proponent of this justification of the duty of care. He claims that bringing a child into life could be compared to putting them into danger, which creates a certain responsibility. Łukasz Dominiak rejects this reasoning, showing that the analogy underpinning it is false. It cannot be plausibly claimed that conceiving a child is akin to pushing someone into a fire or to a lake because in the first case there is no person yet, that could be jeopardized[42].

It should be emphasised that the above remarks regard justifications of the legal duty of care. When it comes to duties of a moral nature, libertarians may present a different approach to the problem. Before showing examples of such a stance, some ideas aiming at softening Rothbardian views should be presented.

[40] Ł. Dominiak, "Libertarianism and Obligatory Child Support", p. 96.
[41] Ibidem, p. 97.
[42] Ibidem, p. 93-93.

Morris Lipson and Peter Vallentyne rightly regard autonomy as a crucial value for libertarians. Taking this idea as a starting point, they recognise in a manner similar to the "creation of peril" argument, that failure to support a child leads to a state in which the child is unable to develop their autonomy, which remains at odds with libertarian values[43]. From this perspective, the lack of a positive duty of care is less convincing.

Another method has been adopted by Walter Block. He does not undermine Rothbardian reasoning but rather attempts to blunt its harsh effects. He supports the view that "a genetic relationship is a more direct version of <homesteading> than is bringing up the baby. The mother and father have a greater connection to their offspring than someone who, due to this accident, brought up their child"[44]. It means that the language of "property" in regard to children is convincing him. However, according to Block, for the abandonment of the child to be valid, it requires a clear and visible expression of this fact and, moreover, permission granted to other persons (than parents) to take care of the child. Tacit abandonment of a dependent child would be equal to murder. In his own words:

> Would it ever be possible, under libertarian law, for a baby to be abandoned by its parents, for there to be no other adult willing to care and feed it, and the baby be relegated to death? Yes. However, this could occur only under the condition where the entire world in effect was notified of this homesteading opportunity, no roadblocks were placed against new adoptive parents taking over, but not a single solitary adult stepped forward to take on this responsibility. Since there are no positive obligations in the libertarian lexicon it is logically possible for such a sad state of events to take place.[45]

Łukasz Dominiak attempts to apply the finders-creators ethic to the problem, which allows him to circumvent certain problems connected with the homesteading of a child. To put it briefly: the finders-creators ethic enables to treat the mother as an exclusive owner of a child, which in the result opens the door for agreeing upon childcare, as the transfer of property (which is the child) is possible in such a situation. It does not create the basis for a general duty of care but legitimises the contracts concerning childcare[46].

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[43] M. Lipson, P. Vallentyne, "Libertarianism, Autonomy, and Children".

[44] W.E. Block, E. Smith, J. Reel, "The natural rights of children", *International Journal of Health Policy and Management* 2(2)/2014, p. 87.

[45] W. Block, "Libertarianism, positive obligations and property abandonment: children's rights", p. 281.

[46] Ł. Dominiak, "Libertarianism and Obligatory Child Support", p. 104.

Libertarians oppose the state's involvement in the field of childcare. They condemn legal acts prohibiting child labour and perceive public education as oppressive indoctrination or compare it to enslavement. This approach is portrayed as the protection of the child's rights[47], but these rights are understood in a manner contrasting with their mainstream meaning. Block explains that the libertarian perspective mirrors the traditional position of the child, however, may not be compliant with prevailing modern views[48].

So far, considerations regarding the libertarian perspective on the issue under discussion have focused on the problem of the basis for legal obligations covering childcare. It might be troublesome to find any such a basis sufficiently convincing for proponents of Rothbard's thought, however, it does not mean that libertarians do not see any parental duties towards the child. As right-wingers, a great number of libertarians share conservative, rigid views on family issues[49]. Rothbard's intellectual heir – Hans-Hermann Hoppe regrets that: "as regards civil society, the institutions of marriage and family have been increasingly weakened, the number of children has declined, and the rates of divorce, illegitimacy, single parenthood, singledom, and abortion have increased." and blames the state for this state of affairs: "Indeed, as should be clear, as soon as the government's law and legislation supersede family law and legislation (including inter-family arrangements in conjunction with marriages, joint-family offspring, inheritance, etc.), the value and importance of the institution of a family can only be systematically eroded."[50] The conservative stance presented by Hoppe and his concern for the traditional family model, convince that libertarians have no problem recognising the moral duties concerning childcare.

Libertarian thought might be perceived as inconsistent. On the one hand, libertarians express their permission for surrogate motherhood or even directly speak about the market of child trafficking. On the other hand, they very often advocate rigid moral values. The impression of inconsistency may not be true. Libertarians firmly maintain the distinction between the legal and moral dimensions, which allows them to reconcile allegedly opposing stances. For example, they may condemn something

[47] M.N. Rothbard, *The Ethics of Liberty*, p. 107; H.-H. Hoppe, *Democracy The God That Failed. The Economics and Politics of Monarchy, Democracy, and Natural Order*, Transaction Publishers, New Brunswick and New Jersey 2007, p. 92, 98-99.

[48] W.E. Block, E. Smith, J. Reel, "The natural rights of children", p. 89.

[49] T. Hieda, "Politics of childcare policy beyond the left–right scale: Post-industrialisation, transformation of party systems and welfare state restructuring", European Journal of Political Research 52(4)/2013.

[50] H.-H. Hoppe, *Democracy The God That Failed*, p. 42, 183.

from a moral perspective, but it is not sufficient ground for them to prohibit it in legal terms.

Unlike feminists, whose judgements frequently rely on the consequences of certain phenomena, libertarians share a deontological approach, which often brings hardly acceptable results. In general, feminists anchor their thoughts in real-world circumstances, whereas libertarians are rather stiffly attached to their axioms.

Comparison and legal implications

The initial assumption of the article was that – relying on the so-called horseshoe theory – analysis of the two politically contradictory approaches to the same issue will show their convergence. It is rather uncontroversial that feminist thought could be identified with the left, whereas libertarians are portrayed as right-wingers[51]. Indeed, there are some substantial similarities between feminist and libertarian views on childcare – these will be presented first. Then the differences between them and the possible legal consequences of the two approaches will be explored. This part of the article delivers clues in regard to the validity of the horseshoe theory when applied to the problem under study.

The first, meta-level, remark that should be issued is that for both feminists and libertarians the problem of care has clear political implications. It does not only mean that care is a matter of interest for political scholars (which is true), but care as an activity has political consequences. This notion is easier to prove on the ground of feminist thought, which was established around this issue, but is also relevant when it comes to the libertarian approach. The issue of child labour, the legal nature of the duty of care (or its lack), the problem of child trafficking – are matters of obvious political meaning and lay within the scope of interest of libertarians.

As far as the content of the feminist and libertarian thought is under consideration, further similarities emerge.

It seems that for both feminists and libertarians a child appears as a burden rather than a blessing. In the case of feminist thought, this severe conclusion is softened somehow, especially in the essentialist and maternalist veins of this thought, but this does not change the impression that feminists, in general, take the perspective of women as oppressed and

[51] Obviously the judgement depends on the point from which it is issued – for instance Polish far right scholar Jacek Bartyzel advocates the view that Rothbard, also because of his approving stance towards the USSR, should be identified as leftist (J. Bartyzel, "Geneza i próba systematyki głównych nurtów libertarianizmu", w: *Libertarianizm. Teoria, praktyka, interpretacje*, red. W. Bulira, W. Gogłoza, Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej, Lublin 2010).

encumbered by childrearing. The perspective of a child as a dependent and care-seeking young human is diminished. Libertarians go a step further, claiming that a child could be considered as property, and, as such, transferred by virtue of a private contract. Libertarians refer to "the natural rights of children", but in their perspective, these rights have inclusively free market application. Such rights work – for example – against compulsory schooling to enable young kids to be employed. In particular, the stance of non-essentialist feminists could be recognised as close to Rothbardian, when it comes to the issue of childcare. Acceptance towards surrogate motherhood, expressed by some feminists and libertarians constitute an example of such accidental convergence.

What is significant, neither feminists nor libertarians refer directly to the responsibility as a basis of the duties concerning children. The responsibility can have at least two meanings in the field under discussion. On the one hand, it is responsibility for someone's deeds. Proponents of both political stances analyse this aspect of the problem, however, they pay equally little attention to it, and do not even mention the sense of responsibility. On the other hand, responsibility finds its obvious application in the case of a dependent, vulnerable, regardless of whether we contributed to their conceiving or the situation in which they find themselves. Feminists and libertarians lack this so important reference to the sense of responsibility.

From both feminist and libertarian perspectives, the issue of childcare links deeply with the problem of free-market influence. In this field, however, the feminist approach is not as unambiguous as presented by libertarians. Feminists regret that the free-market impacts the area of care, which – according to some of them – is and should be resistant to vices such as competition and self-interest. It means that feminists reject free-market ideology or at least express their expectations in favour of limiting its influence in the field of care. Simultaneously, feminists recognise that caring is a sort of work and, as a consequence, demands appropriate remuneration. If the former is taken as true, the latter risks that the commodification or marketization caveat will be erected against it. Libertarians present a more consistent stance on the problem – they indiscriminately open the sphere of childcare to the market. It is the first and the most essential difference between feminists and libertarians in the field under study.

Another difference – of a formal, not substantive nature – has been already mentioned above: feminist thought is deeply linked with real-world circumstances, whereas libertarians are inclined to depend on stiff, predetermined principles. Feminists, at least in some lines of their argumentations, share a consequentialist approach (e.g. they indicate the

negative effects of certain phenomena as an argument against them or in favour of proposed solutions), while libertarian views usually have a deontological basis. One can put forward the thesis that these features of the stances under consideration explain why feminism, as a more close-to-life stance, in many cases is closer to common moral intuitions, whereas libertarian views seem to be difficult to accept[52].

Despite the significant similarities in the views concerning the issue of care, feminism and libertarianism propose contradictory solutions to the problem.

In general, feminism calls for a stronger state's involvement in the field of care. Feminist propositions constitute a long continuum of possible solutions. The most moderate solutions, commonly accepted in the Western European countries, but still unheard of in the United States, encompass free access to healthcare for both mothers and children, paid maternal or family leaves, creating legal opportunities for more flexible working hours for mothers. In addition, feminists put stress on establishing easily accessible public institutions of formal care such as public schools or nursery schools. Susan M. Okin, a prominent feminist, „assumes that institutionalized child care is as good or better than home-provided child care and the attentions of a present mother"[53]. Public care institutions allow defeating the traditional gender-based division of labour: a man as a breadwinner and a woman as a caregiver. It is worth mentioning that among feminist researchers, solutions have been proposed that make certain state-ensured benefits dependent on the very fact of providing care, and not on a specific family or gender status[54]. Feminist suggestions aim at improving the situation of women by spreading burdens stemming from caretaking on all members of society. Achieving these goals requires the strong engagement of the state, which is somehow paradoxical, because it may result in replacing personal relations of caregiver and person under care with impersonal relations between a service provider and service recipient. This result undermines feminist awareness about the specific, relational nature of care.

Conservative libertarians such as Hoppe accuse welfare state institutions of family erosion, high rates of divorces, and low birth rates[55]. Not all libertarians are concerned about such social phenomena, but all of

[52] Susan M. Okin claims that in contrast to feminism, libertarianism is incapable to be conciliated with mainstream Rawlsian theory of justice as fairness (K.I. Vaughn, "Who Owns the Children? Libertarianism, Feminism, and Property", p. 189).

[53] K.I. Vaughn, "Who Owns the Children? Libertarianism, Feminism, and Property", p. 196.

[54] L.A. Rosenbury, "Friends with Benefits?", *Michigan Law Review* vol. 106/2007.

[55] H.-H. Hoppe, *Democracy The God That Failed*, p. 98.

them reject feminist suggestions regarding the state's involvement in the field of caretaking. As mentioned above, libertarians are conscious that caregiving can constitute a great burden for parents, but the answer that they give to this problem is – as with the vast majority of other problems – the free market. An open market of easy adoptions, surrogacy, even child trafficking may be acceptable for libertarians, and in their eyes can serve as a response to burdens linked with childrearing. For those who still want to bear the child, daycare for children should be provided by private, not state-driven, nurseries or schools. In the libertarian perspective, the state not only should not support caretakers but also ought not to interfere with internal family problems. Critics may reasonably claim that the actual application of libertarian thought would bring to life the model of an ancient Roman family, with *pater familias* and his *patria potestas* over the members of the family.

Conclusions

Reference to the Shakespearean phrase "to be, or not to be" comprised in the title of the article serves not only as an eye-catching ornament. The question "to care for, or not to care for" has an almost equally existential nature, as its inspiring original. This existential nature encompasses many dimensions. Because of technological progress child conception can be separated from sex, however, it is still difficult to imagine that successful bringing up the child can be separated from caretaking. The results of upbringing, its success or failure, afflict us as individuals, but also as members of society. One can claim that many other species of animals provide their offspring with care. Human caretaking, however, seems to be a much more ambitious project than care undertaken by other mammals, birds, or fishes. The considerations contained in the article prove that this project is too ambitious to be left entirely in the hands of the state or the free market.

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WHERE DID IT START FROM? AND WHERE DID IT END UP?
EQUAL RECOGNITION BEFORE THE LAW OF PEOPLE WITH PSYCHOSOCIAL AND INTELLECTUAL DISABILITIES

Raluca Ştefania Lazăr*

raluca.lazar@ulbsibiu.ro

Abstract: *The present study aims to highlight the legislative evolution in the field of equal protection and recognition before the law of persons with disabilities. Historically, in legal systems worldwide, people with disabilities stand out among all the groups that have been arbitrarily and prejudicially denied the right to full legal capacity. Not all forms of disability cause changes in legal capacity, but only psychosocial and intellectual disabilities. The legislative reconfiguration of civil law mechanisms for the protection of vulnerable persons was a necessary measure to align national regulations with international standards in this field.*

Keywords: *people with psychosocial and intellectual disabilities, mental capacity, civil capacity*

Preamble

Imago Dei *- "man created in the image of God, unique and indivisible being, sovereign subject endowed with the power of the Word, spirit embodied in a person. As an individual each man is unique, but at the same time similar to all others; as a subject he is sovereign, but also subject to the common Law; as a person he is not only spirit, but also matter".*[1]

The characteristics of humanity transcend this Christian dogma and are also reflected in Article 1 of the Universal Declaration of Human Rights - *"all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should treat one another in a spirit of brotherhood".*[2]

*** Assistant Professor PhD. Av. "*Lucian Blaga" University of Sibiu - Faculty of Law*.**

[1] A. Supiot, *Homo Juridicus: Essay on the Anthropological Function of Law*, ROSETTI Educational Publishing House, Bucharest, 2011, p.50

[2] *The Universal Declaration of Human Rights* was adopted and proclaimed by the UN General Assembly in resolution 217 A (III) of 10 December 1948. Romania signed the Declaration on 14 December 1955 when it was admitted to membership.

When we say that each being is unique, we are not referring, in the social sciences, to anatomical, genetic or anthropological features, but to the fact that its uniqueness is expressed through the exercise of its own legal personality. Legal personality is recognised for all human beings and is fundamentally the same, and any distinction that the law makes between persons is likely to undermine the principle of human dignity, which is in the nature of prohibited discrimination.

Section I. Developments in the socio-legal context

The Convention on the Rights of Persons with Disabilities[3] was the first international instrument to establish minimum standards for the protection of the rights of persons with disabilities and was the first human rights convention to which the European Union became party.

The purpose of the Convention is, as stated in Article 1, to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect for their inherent dignity.

The European Union recognised the validity of this international document by Council Decision of 26 November 2009 (2010/48/EC)[4] and Romania by Law No 221/2010 ratifying the Convention on the Rights of Persons with Disabilities[5].

According to Article 50 of the Romanian Constitution, "*persons with disabilities shall enjoy special protection. The State shall ensure the implementation of a national policy of equal opportunities, prevention*

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[3] The Convention on the Rights of Persons with Disabilities, hereinafter referred to as "the Convention", and its Protocol (A/RES/61/106) were adopted on 13 December 2006 in New York by the United Nations General Assembly and opened for signature on 30 March 2007. The Convention - the first of the 21st century - is the result of decades of human rights concerns and aims to bring about much-needed change in the laws of States relating to persons with disabilities. Legislative change is necessary because there is an undeniable evolution in the socio-political perception of people with disabilities. Whereas initially they were seen only as beneficiaries of social protection and nothing more, today they are seen as subjects of law endowed with full legal capacity, active members of society, with the ability to make their own decisions on the basis of informed consent. The Convention on the Rights of Persons with Disabilities was signed by Romania on 26 September 2007. Information on this document is available at

https://www.un.org/development/desa/ disabilities/convention-on-the-rights-of-persons-with-disabilities.html, accessed on 22.02.2023.

[4] According to Recital 7 of this Act "*both the Community and its Member States have competence in the areas covered by the UN Convention. The Community and its Member States should therefore become Contracting Parties in order to fulfil together their obligations under the UN Convention and to exercise together the rights conferred by that Convention in situations of mixed competence in a coherent manner*." The decision was published in the Official Journal of the European Union L 23/27.1.2010, p. 35-36.

[5] Published in the Official Journal of Romania, Part I, No 792 of 26 November 2010.

and treatment of disability, with a view to the effective participation of persons with disabilities in the life of the community, respecting the rights and duties of parents and guardians".

The terminology used by the constituent legislator - *special protection* - was subject to constitutionality review, the author of the exception arguing that the rights regulated in favour of persons with disabilities (in this case, the rights established by Article 58 of Law 263/2010 on the unitary system of public pensions[6]) would violate Article 16(1) of the Romanian Constitution - with the marginal title "Equality in rights" - according to which "*citizens are equal before the law and public authorities, without privileges and without discrimination."*

In this context, the Constitutional Court has shown that this *special protection* cannot be understood, under any circumstances, as a measure *"granting preferential treatment to this category of persons to the detriment of other holders of fundamental rights and freedoms. (...) Moreover, the same is true of the relationship between, on the one hand, the prohibition of privileges by the provisions of Article 16(1) of the Charter of Fundamental Rights and, on the other, the prohibition of privileges by Article 16(2) of the Charter of Fundamental Rights. (1) of the Constitution and, on the other hand, the special protection and assistance regime enjoyed by children and young people under Article 49 of the Constitution".*[7]

Also, Article 2 of Law 448/2006 on the protection of persons with disabilities[8] states that *"persons with disabilities are those whose social environment, not adapted to their physical, sensory, mental, mental and/or associated impairments, totally prevents or limits their access with equal opportunities to the life of society, requiring protective measures in support of social integration and inclusion"*.

Estimates based on data that the World Bank collected from the Guardianship Authority Services show that about 95% of people who were placed under a ban in 2019 were classified as disabled. Overwhelmingly the degree of disability (according to the classification certificate) was severe - 84%, 14% was severe, and the difference was medium and mild.

[6] According to Article 58 of Law no.263/2010 on the unitary public pension system (amended by GEO no.94/2021, published in the Official Gazette of Romania, Part I, no.830 of 31 August 2021) "*persons who have completed a period of contribution in conditions of disability benefit from the reduction of the standard retirement age and full contribution periods (...)"*

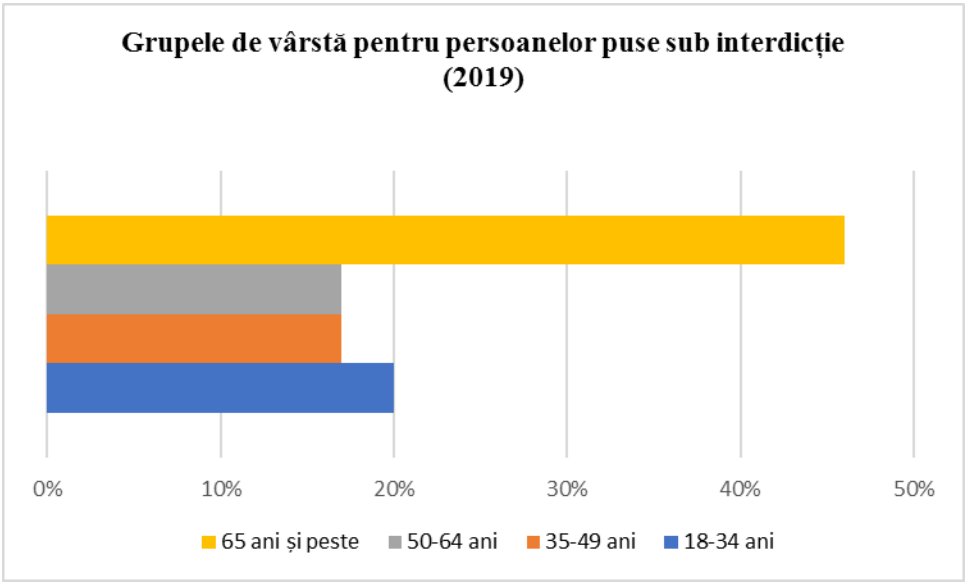
[7] Constitutional Court, *Decision no.632/2018*, published in the Official Gazette of Romania, Part I, no.995 of 26 November 2018, item 23.

[8] Republished in the Official Gazette of Romania, Part I, No 1 of 3 January 2008.

Slightly more than half of all people placed under a ban were women (55%)[9].

The highest proportion (46%) of people placed under a restraining order are over 65 years old, while for the other age groups there is a lower incidence of legal protection.[10]

Age groups for persons placed under legal protection (2019)

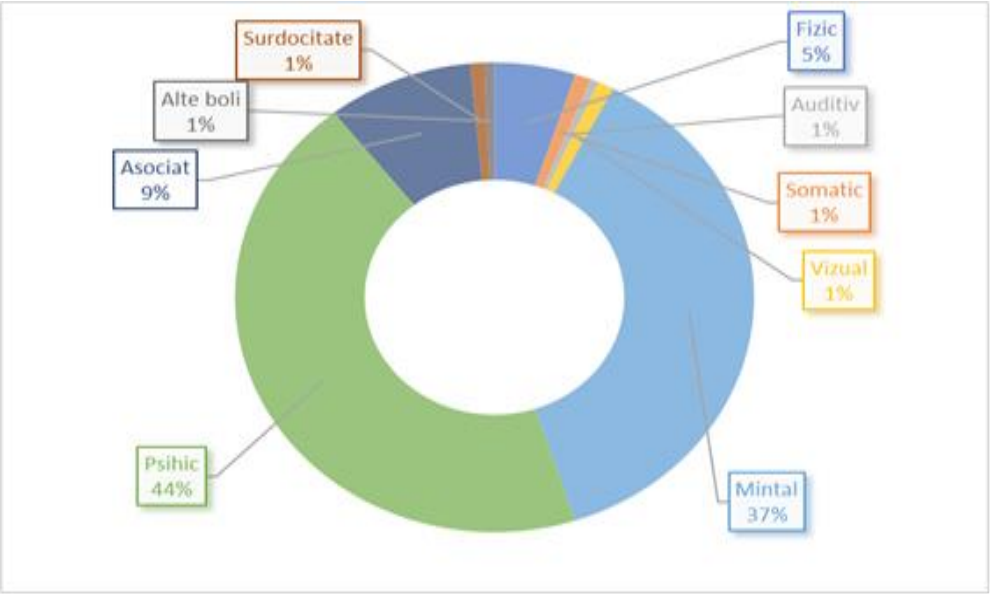


In terms of type of disability (for people with a disability classification certificate) (2019)[11] the statistics place mental and psychological disabilities in first place.

[9] V. Grigoraş, M. Salazar, C.I. Vladu, C. Briciu, Diagnosis of the situation of people with disabilities in Romania, Bucharest, 2021, p.320, document available at: https://anpd.gov.ro/web/wp-content/uploads/2022/03/ Diagnosis-of-the-situation-of-persons-with-disabilities-in-Romania.pdf

[10] *Idem*

[11] *Idem*



The Convention does not define the term "*disability*", but states that persons with disabilities are those who have "*long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others"* (Article 1(2)).

Of all the forms mentioned, psychosocial and intellectual disabilities are the ones that determined the regulation of some limitations of the person's legal capacity, limitations established in order to protect him.

The reluctance of most people with a psychiatric diagnosis to identify themselves as persons with disabilities has generated a debate in supra-state fora on the relationship between mental health and "*disability*" because, in the end, intellectual disability and a mental health problem are two distinct and separate phenomena that have generated particular legislative policies.[12]

Protecting people with psychosocial and intellectual disabilities is not (any longer) a sufficient measure in view of the standards that recognise the inherent dignity of every human being. These standards require the recognition of their legal capacity on an equal footing with others, this capacity guaranteeing active participation in society and the ability to make their own decisions.

[12] European Union Agency for Fundamental Rights, *Legal capacity of persons with intellectual disabilities and persons with mental health problems*, Publications Office of the European Union, Luxemburg, 2013, p.10.

Section II. Key concepts (legal personality, legal and civil capacity, mental capacity)

It has been said that legal personality is inherent in every human being and also that it shares the destiny of every human being, being born and dying with them.

It has been defined as a general and abstract aptitude to be an active or passive holder of subjective rights, i.e. to be a subject of law, a vocation to participate in legal life. It is conferred and guaranteed by law, is independent of any individual will, is intangible because it cannot be restricted and is indivisible. However, legal personality does not ensure the same concrete legal advantages for each individual. It is "*directly linked to the body of the individual and not to his conscience or will*". This is proven by the recognition of legal personality also for newborn children or persons suffering from mental or psychosocial disabilities[13].

The birth of the child is the *sine qua non* condition for acquiring legal personality, the child conceived being considered "*pars viscerum matris*" with the consequence that it is merged with the legal personality of the mother.[14]

Rights and obligations are regulated by different branches of law (civil, administrative, constitutional, etc.), which means that the legal personality recognised for any human being is, on the one hand, the premise for the recognition of the person's legal capacity and, on the other hand, an accumulation of legal capacities - different in structure, conditions of acquisition, content and termination. Whatever the source of their regulation, capacities have an active side - the content of which includes rights - and a passive side - the content of which obviously includes obligations.

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[13] For details see O. Ungureanu, C. Munteanu, Civil Law. Persons. In the regulation of the new Civil Code, 3rd revised and added edition, Hamangiu Publishing House, Bucharest, 2015, p. 8 et seq. From the same perspective, "*individual legal personality appears to us continuous and identical with itself; it is born with the individual; it is immediately constituted; it always remains the same throughout existence; it sustains, without failing, immutable legal situations; it keeps watch while the Man sleeps; it remains full when he wanders*" (A. Supiot, cited works, p.54, Apud, M. Hariou, *Leçons sur le mouvement social*, Librairie de la soc. du recueil générale de lois et arrêts, 1899, p.148-149).

[14] M. Planiol, *Traité élémentaire de droit civil*, Cinquième édition, Tome premier, Librairie Générale de droit & jurisprudence, Paris, 1908, p.142. French doctrine has also shown that the mere fact of birth is not sufficient to acquire legal personality, but that the newborn must also be viable. This means a natural capacity to live. A child who is born alive but dies a few hours later as a result of congenital malformations incompatible with life is not considered to be viable and therefore has not acquired legal personality, whereas a child who dies, even a few hours after birth, for example as a result of an accident, has acquired legal personality even if it lasted no more than a few hundred minutes (M. Brusorio Aillaud, *Droit des personnesc et de la famille*, 12e édition, Édition Bruylant, Bruxelles, 2022, p.21).

Civil capacity is therefore a branch capacity (civil law) and is particularly divisible[15]: into capacity of use and capacity of exercise.

According to Article 34 of the Civil Code*, "capacity of use is the capacity of a person to have civil rights and obligations*" and "*capacity of exercise is the capacity of a person to conclude civil legal acts alone*" (Article 37 of the Civil Code).

Capacity to use, which is acquired at birth and ceases with the person's death, is a general and abstract capacity to have civil rights and obligations, which each natural person will specifically realise, either directly, through capacity to exercise, or indirectly, in the case of persons lacking capacity to exercise, through their legal representative.[16]

Unlike capacity to use, which is recognised for all persons and is therefore universal in nature, full legal capacity is conferred by law only on adults - who will be able to conclude legal acts themselves.

Minors and persons suffering from intellectual and psychosocial disabilities either lack legal capacity or have restricted capacity. These persons will not be able to conclude certain legal acts themselves, as they will need the opinion of the guardianship court and the consent of the legal guardian, or will be replaced by representation by the guardian (Articles 41-43 of the Civil Code).

According to Article 12 of the Convention, persons with disabilities have the right to recognition of their legal capacity and to enjoy legal assistance on an equal basis with others in all areas of life, and States Parties to the Convention must ensure, through appropriate measures, that persons with disabilities are supported in the exercise of their legal capacity.

Any form of legal support must respect the rights, wishes and preferences of the person with a disability and also be of appropriate influence, proportionate and tailored to the individual person, applying for the shortest possible period of time and subject to periodic review by a competent, independent and impartial authority. Protective measures must be proportionate to the degree to which the person's rights and interests are affected (Article 12(4) of the Convention).

General Comment No. 1 (2014)[17] pointed out that, historically, persons with disabilities have been discriminatorily denied the right to

[15] O. Ungureanu, C. Munteanu, *works cited,* p.104

[16] See Gh. Beleiu, *Romanian Civil Law. Introduction to Civil Law. Subjects of Civil Law*, 10th edition, revised and added by M. Nicolae, P.Truşcă, Universul Juridic Publishing House, Bucharest, 2005, p.319 et seq. Fl. A.Baias, E. Chelaru, R. Constantinovici, I. Macovei (coord.), *Civil Code. Commentary on articles*, 3rd edition, C.H. Beck Publishing House, Bucharest, 2021, p.35.

[17] United Nations (CRPD/C/GC/1), *UN Convention on the Rights of Persons with Disabilities*, Committee on the Rights of Persons with Disabilities, 19 May 2014, document available at: https://www.crj.ro

legal capacity and instead have been subject to substitute decision-making regimes, such as guardianship, or laws allowing forced treatment.

Of all the groups that have been arbitrarily and detrimentally denied the right to full legal capacity[18], persons with disabilities stand out in legal systems worldwide.

Indeed, the denial of legal capacity to persons with disabilities has, in some cases, resulted in the deprivation of fundamental rights, including the right to vote, the right to marry and found a family, reproductive rights, parental rights, medical treatment and the right to liberty. It follows from an interpretation of Article 12 that the existence of a disability or special need - of any kind, physical or sensory - must never be a ground for denying legal capacity on an equal footing with other persons.[19]

Moreover, there is an obvious difference between the notion of "legal capacity" and that of "mental capacity", which refers to a person's decision-making abilities, which naturally vary from one individual to another and may differ according to social factors. It was found that when the two concepts overlapped in the legislator's conception, a person deemed to have deficient decision-making skills, often due to cognitive or psychosocial disability, legal capacity was nullified. Individual autonomy and the ability of persons with disabilities to make decisions must be respected.[20]

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[18] *Exempli gratia*, according to the Romanian Civil Code of 1865, "*marriage, and not a possible disability, was at the origin of a woman's incapacity. Declaratively, a married woman's incapacity was instituted, not only for reasons of family hierarchy, but also as an instrument of protection of the woman against her own inexperience and the abuse of the man's influence over his wife. The woman was rendered incapable by marriage so that the man could take over the exclusive prerogative of running the marriage and the power of decision. Thus, the man was invested with marital power which represented "the totality of the rights which the husband has as head of the conjugal association" (art. 195 Civil Code of 1865). The prerogatives of material power entitled the man to choose the marital domicile and obliged the woman to follow him (art. 196 Civil Code). The husband also had the right to supervise his wife's conduct, social relations and correspondence, and as the holder of marital power, he alone was entitled to assess the 'moral interests of the conjugal union'. As has been pointed out in the doctrine, although the principle of equality in rights between man and woman was constitutionally enshrined in 1923, the thesis of the incapacity of married women was abandoned later, in 1932, by supplementing the provisions of Article 194 C.civ. with a new paragraph, according to which «marriage does not restrict a woman's capacity to exercise civil rights»" (E. Florian, The Evolution of Regulations on Family Relations: Rrom the Authoritarian Family to the Associative Family,* in Studia Universitatis Babeş-Bolyai, no.4/2012, p.9 and following).

[19] Committee on the Rights of Persons with Disabilities, works cited ,p.12.

[20] *Idem*

By Decision No 601 of 16 July 2020[21], the Constitutional Court declared unconstitutional the provisions of Article 164(1) of the Civil Code, which stipulated *that "a person who does not have the necessary discernment to look after his or her own interests, due to mental alienation or weakness, shall be placed under judicial interdiction".*

Mental alienation or mental disability has been defined by art.211 of Law no.71/2011 for the implementation of Law no.287/2009 on the Civil Code[22] as either a mental illness or a mental handicap that determines the mental incompetence of the person to act critically and predictively regarding the social-legal consequences that may result from the exercise of civil rights and obligations.

The Constitutional Court has pointed out that although from a medical point of view mental disability is a mild form of mental impairment, from a legal point of view, in the context of Article 164(1) of the Civil Code, it encompasses all forms of mental impairment, regardless of the degree of incapacity of the person.[23]

Moreover, it does not follow from the way in which the adjudication of incapacity was regulated - which was intended as a measure to protect legally vulnerable persons - that it was aimed at the total lack of discernment of the person. Even if a person had been able to express a certain degree of conscious will by adopting the measure, he would have been denied this attribute because the interdiction would, in all cases, have nullified his capacity for exercise.

Prior to the above-mentioned decision of the Constitutional Court, the Civil Code provided that adults who were placed under the adjudication of incapacity were assimilated to minors up to the age of 14. As such, the conclusion of legal acts by such persons was regulated under a substitute regime, regardless of the degree of impairment of discernment.

According to Article 1295 of the Civil Code, the power to represent may result from the law. In doctrine, representation has been defined as *"the technical-legal process by which a person, called a representative, concludes a legal act in the name and on behalf of another person, called the represented person, in such a way that the effects of the act occur directly and directly in the person of the represented person".*[24] The "*in nomine alieno*" participation of the representative in the civil circuit is

[21] The decision was published in the Official Gazette of Romania, Part I, no.88 of 27.01.2021.

[22] Published in the Official Gazette of Romania, Part I, no.409 of 10 June 2011

[23] Constitutional Court, Decision No 601 of 16 July 2020, paragraph 28

[24] See O. Ungureanu, C. Munteanu, *Civil Law. General* Part, 2nd edition revised and added by C. Munteanu, Universul Juridic Publishing House, Bucharest, 2017, p. 300 et seq.

essential to representation[25] because, as stated in Article 1296 of the Civil Code, the effects of the legal act concluded by the representative are produced in relation to the represented person and his co-contractor.

As a rule, if a person concludes a contract in the name of another person, but lacks legal authority, i.e. the power of representation, or even if he has such authority, exceeds its limits, the legal act concluded will have no effect on the person represented.[26]

Likewise, even where the national authorities establish with the requisite degree of certainty that a person is experiencing difficulties in paying his or her bills, even a partial restriction of legal capacity should be a measure of last resort and applicable only after it has been concluded, taking into account all alternatives, that another less restrictive measure would not serve the purpose of protecting the person or that another less restrictive measure has not been successful.

In the opinion of the judges of the Constitutional Court, the Romanian legislator must consider the establishment of alternative measures less restrictive than depriving the person of his capacity of exercise, which should be regulated only as a *ultima ratio*.[27]

The European Court of Human Rights has ruled that there is a violation of Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, when a measure is taken which has the effect of totally incapacitating a sick person, even when the measure has been taken following a serious medical examination, if his personal circumstances are not taken into account. To justify total incapacity the mental disorder must be "*of a kind or degree*" that justifies such a measure.[28]

Likewise, even where the national authorities establish with the requisite degree of certainty that a person is experiencing difficulties in paying his or her bills, even a partial restriction of legal capacity should be a measure of last resort and applicable only after it has been concluded,

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[25] For details, see I.F. Popa, in L. Pop, I.F. Popa, S. Vidu, *Civil Law Course. Obligations*, Universul Juridic Publishing House, Bucharest, 2015, p. 141 et seq. Also C. Jugastru, Civil Law. General Theory of Obligations, Universul Juridic Publishing House, Bucharest, 2017, p. 127

[26] D. Cosma, *General Theory of the Civil Act*, Editura Ştiinţifică Publishing House, Bucharest, 1969, p.89. On the other hand, it also recognises the decision-making autonomy of the representative in relation to the will of the representative. "*The specificity of the representative is that he is absent at the time of the action... Article 1299 of the Civil Code reflects precisely this view: consent is analysed, 'de plano', in the person of the representative, who is therefore the agent of the action"* (R. Rizoiu, Parallel Mirrors: Is the power of representation a real power?, in Romanian Journal of Private Law, no.2/2019, Universul Juridic Publishing House, Bucharest, pp.107-108).

[27] Constitutional Court, Decision no.601 of 16 July 2020, paragraph 41

[28] ECHR, Judgment of 31 May 2016 in A.N. v. Lithuania, paragraph 123, available at: https://hudoc.echr.coe.int.

taking into account all alternatives, that another less restrictive measure would not serve the purpose of protecting the person or that another less restrictive measure has not been successful.[29]

It is obvious that the measure of placing under prohibition, governed by Article 164 of the Civil Code, did not comply with international standards regarding the temporary nature of a measure restricting or withdrawing capacity to exercise. Moreover, any measure in this field must be periodically reviewable by a competent authority (Article 12(4) of the Convention).

In conclusion, according to the Constitutional Court of Romania, the measure of judicial prohibition was not accompanied by sufficient safeguards to ensure respect for fundamental human rights and freedoms, since *"different degrees of disability must be accompanied by appropriate degrees of protection through proportionate legislative solutions*".[30]

Section III.

The changing legislative paradigm in the area of legal capacity

The change in the legislative paradigm in this field occurred with the adoption of Law No.140/2022 on some protection measures for people with intellectual and psychosocial disabilities and the modification and completion of some normative acts.[31]

The new legal framework of the civil law mechanisms for the protection of the adult and vulnerable natural person places him at the centre of the regulation and reconciles his need, whether temporary or permanent, to be protected with the imperative to respect his fundamental rights and freedoms, the regime of protection by means of a court injunction being finally and definitively abandoned. The necessary legislative reconfiguration was based on three fundamental principles: necessity - protective measures being introduced only when necessary and with the aim of protecting the person - , subsidiarity - protective measures being ordered only when the court considers that another measure provided for by law cannot achieve its aim - and, finally, proportionality - the protective measures must be proportionate to the degree of incapacity and be tailored to the person concerned and the circumstances in which he or she finds himself or herself.[32]

[29] ECHR, Judgment of 18 September 2014 in Ivinović v. Croatia, paragraph 44, available at: https://hudoc.echr.coe.int.

[30] Constitutional Court, Decision No 601 of 16 July 2020, paragraph 44.

[31] Published in the Official Journal of Romania, Part I, No 500 of 20 May 2022. Hereinafter referred to as "*Law No 140/2022*".

[32] Explanatory memorandum of the Law no.140/2022 on some protection measures for people with intellectual and psychosocial disabilities and modification and completion of some normative acts, p.3, document available at:

In the area of legal capacity, this act regulates for the first time in national law the measure of ***assistance for the conclusion of legal acts.***

It is available to adults who, because of an intellectual or psychosocial disability, need support to take care of themselves, administer their property and generally exercise their civil rights and freedoms. He may request the notary public to appoint an assistant, under the conditions of the Law on Notaries Public and Notarial Activity No. 36/1995, republished, as amended, for a maximum period of 2 years (Art. 1 Law No. 140/2022).

The role of the assistant is to act as an intermediary between the adult person in need of support and third parties, being able to transmit and receive information on behalf of the assisted person and to communicate to third parties the decisions made by the assisted person.

The appointment of the assistant does not affect the capacity of the adult to exercise his/her rights (Art.3 Law 140/2022). Thus, the assistant does not represent the legally vulnerable adult in the conclusion of legal acts, nor does he or she endorse those that he or she concludes alone.

The person providing assistance has a number of obligations and must act, in accordance with the law, with prudence, diligence, honesty and loyalty in the best interests of the major. In dealings with third parties, the assistant acts in accordance with the preferences and wishes expressed by the major to whom he is providing support. Furthermore, the assistant shall respect the privacy and dignity of the major in the sense that he may not receive, use or disclose to third parties information concerning the major except with his consent and only in so far as such information is necessary for the performance of his duties.

As it is not a protective measure that affects the legal capacity of the vulnerable person, assistance in concluding legal documents will be ordered in preference whenever such a measure is necessary and, of course, if, in view of the circumstances of the person concerned, it will achieve its purpose.

As follows from the provisions of Chapter III of Law No 140 /2022, with the marginal title "Guardianship of the adult through ***judicial counselling and special guardianship***", the person who is unable to look after his/her own interests due to a temporary or permanent, partial or total deterioration of his/her mental faculties, as determined by medical and psychosocial assessment, and who needs support in forming or expressing his/her will, may benefit from judicial counselling or special guardianship, if such a measure is necessary for the exercise of his/her

https://www.cdep.ro/pls/proiecte/upl_pck.proiect?idp=19887.

civil capacity, on an equal footing with other persons (Article 7, item 22 of Law no. 140/2022).

The measure of legal counselling may be taken if the mental faculties of the vulnerable person are partially impaired and it is necessary to provide him/her with continuous counselling in the exercise of his/her rights and freedoms and only if adequate protection of the protected person cannot be ensured by the establishment of assistance for the conclusion of legal acts.

While respecting the gradual provision of these measures, special guardianship shall be adopted if the mental deterioration is total and, where appropriate, permanent and it is necessary that the person concerned be continuously represented in the exercise of his or her rights and freedoms and, under the same negative condition, only if adequate protection of the protected person cannot be ensured by the provision of assistance in the conclusion of legal documents or legal counselling.[33]

The establishment of legal counsel or special guardianship may be requested by the person in need of protection, his spouse or relatives, relatives, the person living with him, as well as other persons, bodies, institutions or authorities, local government bodies, welfare institutions and any other person.

According to Article 7, paragraph 26 of Law 140/2022, the measure of judicial counselling may be ordered for a maximum period of 3 years, while special guardianship for a period not exceeding 5 years. However, if the deterioration of the mental faculties of the protected person is permanent, the court may order the extension of the special guardianship measure for a longer period, which may not exceed 15 years.

The guardianship court shall determine, in the judgment establishing one of the protective measures mentioned - legal counselling or special guardianship - the categories of acts for which the consent or, as the case may be, the representation of the vulnerable person by the guardian is required. In doing so, the court will take into account the degree of autonomy of the person under guardianship and his/her specific needs. The court may order the guardianship measure to cover even only one category of acts. The court may also order that the guardianship measure should relate only to the person of the protected person or only to his or her property.

Thus, in the contemporary legislative context, it is not mandatory that the measure of judicial counselling or special guardianship should affect the

[33] According to Art.164 para.6 (Art.22 of Law 140/2022) and minors with restricted capacity (14 -18 years). However, when the guardianship court deems that the protection of the person can be achieved by the institution of curatorship or by placing him/her under judicial counselling, this measure may be ordered one year before the date of his/her 18th birthday and shall take effect from that date.

capacity of the protected person to exercise his or her rights, as the latter can also conclude the legal acts established by the court on his or her own.

Further, Article 7, paragraph 29 of Law 140/2022 states that the person against whom the measure of legal counselling has been taken is subject to the rules concerning the guardianship of a minor who has reached the age of 14. In other words, this person will have a restricted capacity to act.

Article 41 paragraph 2 of the Civil Code stipulates that, in the case of restricted capacity to act, legal acts of disposition and administration are concluded with the consent of the guardian, and in certain cases with the authorisation of the guardianship court. The consent may be given at the latest at the same time as the act is concluded. Exceptions to these rules are legal acts of conservatorship, legal acts of administration which are not prejudicial, and acts of disposition of small value, of a current nature and which are executed at the time of their conclusion.[34]

The legal regime of the capacity of the person in respect of whom the special guardianship measure has been established is that of the guardianship of a minor up to 14 years of age, i.e. the person will be deprived of capacity.

According to Article 43 of the Civil Code, for those who do not have legal capacity, legal acts are concluded on their behalf by their legal representatives, under the conditions provided by law. However, a person who lacks legal capacity may conclude by himself or herself the specific acts provided for by law, acts of conservation, as well as acts of disposition of small value, of a current nature and which are executed at the time of their conclusion.[35]

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[34] Legal acts of disposition are those which result in the removal of property or rights from the person's assets or the encumbrance of property with a real charge. The rule is that a minor with limited capacity to act concludes acts of disposition with the consent of the legal guardian and the authorisation of the guardianship court. The following are subject to these conditions: acts of alienation, partition, mortgaging or encumbrance with other charges in rem and waiver of property rights, acceptance of an inheritance. Preservation acts are those acts which have the effect of maintaining a right in its present state, consolidating it or preventing its loss. Since these acts cannot harm the author, they can be concluded without any consent or authorisation. Acts of administration are those by which an asset is enhanced by renting it out, collecting income, or maintaining it in a state of exploitation. As long as they are not prejudicial to the protected person, this category of acts may be concluded without any authorisation (O. Ungureanu, C. Munteanu, *works cited*, p. 223-224).

[35] The incapacity regime is dominated by the concern to provide the incapable person with protection against weakness or presumed alteration of his consent, but only to the extent that he actually has such a need. As a result, the legislator allows even persons lacking capacity to conclude certain legal acts themselves, which cannot be harmful, i.e. acts of conservation and acts of disposition of small value, of a routine nature and which are executed at the time they are concluded - legal acts necessary to satisfy

In the case of limitation or lack of capacity, the person's legal representative, i.e. a guardian, must be appointed. When appointing the guardian, the court takes into account the preferences expressed by the person being looked after, his or her usual relations, the interest shown in the person, any recommendations made by persons close to him or her, and the absence of any conflicting interests with the person being looked after.

The change in the legislative paradigm in the field of civil law means of care for persons with mental or psychosocial disabilities also includes an instrument which allows the person's own care regime to be established by agreement within certain limits.

Thus, in the matter of the mandate contract, Law no.140/2022 regulates, by way of innovation (art.7 pct.72), **the protection mandate**.

It is given, by authentic instrument, by a person with full capacity to act in the event that he is no longer able to look after his person or administer his property. The guardianship mandate may also be granted by an adult who is receiving legal advice, with the consent of the legal guardian and with the authorisation of the guardianship court.

The execution of this mandate is conditional on the occurrence of a deterioration in the mental faculties of the principal, ascertained following medical and psychological assessment reports, and on its authorisation by the guardianship court, at the request of the guardian designated in the contract. The guardianship court may, when granting the mandate, in order to avoid serious harm to the principal, take any measure necessary for the protection of the principal's person, the representation of the principal in the exercise of his civil rights and freedoms or the administration of his property.

The guardianship order may be complementary to another measure for the protection of legally vulnerable adults whenever the guardianship court considers that it does not fully ensure the care of the person or the management of his/her property.

Although it is not the subject of our study, we would like to point out that the far-reaching changes in the protection arrangements for the intellectually and psychosocially disabled adult contained in the provisions of substantive law have also led to the modernisation and adaptation of the

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ordinary needs, such as buying food, clothing or providing transport. Other acts of disposition or administration will be concluded by representation by the guardian of the person protected by special guardianship and with the consent of the guardianship court. For further details see F. Baias, ..., *works cited*, p.170 et seq. and also S. Diaconescu, *Considerations on the Project for the Modification and Completion of Law no.287/2009 on the Civil Code, of Law no.134/2010 on the Code of Civil Procedure, as well as of Other Normative Acts on the Protection of Persons With Disabilities*, in *In Honorem Flavius Antoniu Baias. Appearance in Law*, Hamangiu Publishing House, Bucharest, 2021, p.765.

procedural rules by means of Law 140/2022, in particular by reconfiguring the special procedure by which the measure of judicial counselling or special guardianship, or the granting of the guardianship mandate, may be established.

Section IV. Brief final remarks

We conclude by reiterating the idea that the protection of people with disabilities - including psychosocial and intellectual disabilities - today must be understood and applied differently from what has been done in legislative and social terms up to now.

In other words, the legal protection of people with disabilities must be extended from the recognition of the inherent dignity of every human being to the recognition of their legal capacity on an equal footing with other people, because only full legal capacity ensures their active participation in social life and the ability to make their own decisions.

If, however, it is necessary to adopt a measure restricting or even withdrawing legal capacity from persons with psychosocial or intellectual disabilities, then the legislative measures designed in this area must meet international standards, which we find fair and effective. Of all these standards that we have set out in this study, we stress the time-limited and reviewable nature of these measures.

Among all these standards that we have stated in the present study, we emphasize the time-limited and reviewable nature of such a protective measure. The reason? The restriction of legal capacity or even its withdrawal altogether must not turn into a "*lifelong incapacity*" of legally vulnerable persons.

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DIGITAL MAN AS A PRODUCT OF THE INFORMATION SOCIETY

Oleg Danilyan,[*]

odana@i.ua

Olexander Dzoban,[**]

a_dzeban@ukr.net

Yurii Kalynovskyi[***]

kalina_uu@ukr.net

Abstract: *The article substantiates that the contradictory realities of the formation of the digital space are reflected in all spheres of life of society and individuals and determine the trends in the formation of digital man. The digital man is considered as the main object and subject of information relations in the information society in the latest stages of its development. This is based on the postmodern type of homo intelligent, able to process information, creating new information phenomena, relationships and structures. It is shown that the convergence of artificial intelligence technologies, machine learning and powerful databases capable of using an unlimited amount of information for processing, classification and muluple usage is a fundamental factor in the transition to digital man in the information society.*

Keywords: *digital man, information, information processes, digital space, virtual reality.*

Introduction

Today, a new global social reality is being actively formed, which is dialectically combined with the local social reality. The world at the global and local levels is facing a complication of socio-cultural dynamics of society, unprecedented bifurcations. In the context of globalization, some particular cultures, undergoing changes, begin not only to actively oppose, but also to reflect, seeking to maintain their identity.

[*] **Doctor of Philosophical Sciences, Professor, Head of the Department of Phylosophy of Yaroslav Mudryi National Law University, Kharkiv, Ukraine.**

[**] **Doctor of Philosophical Sciences, Professor, Professor Philosophy Department Yaroslav Mudryi National Law University, Kharkiv, Ukraine.**

[***] **Doctor of Philosophical Sciences, Professor, Professor Philosophy Department Yaroslav Mudryi National Law University, Kharkiv, Ukraine.**

New socio-cultural realities bring existential uncertainty and risks. Modern man has to live without stable guidelines, long-term factors of order, generally accepted authorities. There is a growing awareness that new cultural realities are no longer unequivocally "good" or "hostile"; they are ambivalent, because they bring not only obvious benefits, but also sometimes hidden dangers and vice versa[1].

The main technological trends in the development of the digital environment are the expansion of telecommunications infrastructure, the progress of computer, network and mobile technologies, the use of technological innovations in complex socio-technical systems. At the same time, the emerging digital space plays a crucial role in the new information picture of the world, when information acts as an engine of social and technological progress and becomes an objective characteristic of material systems and their interaction.

From the standpoint of postmodernism, a person lost in countless flows of information and communication does not have a certain system of values and ideas about the rights, duties and responsibilities for actions, and therefore loses the sense.

Today's postmodernism is a specific worldview of the information society, the distinguishing feature of which is pluralism, i.e. the assumption of simultaneous coexistence of different points of view. This pluralism is the very essence of postmodernism, and at the same time it is its the most vulnerable place. Many aspects of the vulnerability of postmodernism are due to the fact that its worldview is not a universal frame of reference for society as a whole and for the individual. The degree of its extention is limited by the availability of access to information resources. However, today there are almost no places not covered by the information field.

The development of television, the Internet, and mobile communication networks is becoming a factor that indicates the entry of information culture into the lives of the majority of the population and the digitalization of the individual under the influence of technological progress. If previously it was necessary to make special efforts to go beyond the existing models of identification, the use of modern electronic gadgets greatly simplifies the choice of a role model[2]. The downside of the ease and simplicity of achieving a new model of identification is the lack of cultural and existential experience in the use of tools that provide new

[1] O. Danilyan, A. Dzoban, *Existence-network dimension of information security in modern society*. Skhid. Analytic and informative journal, 2021, 1(1), p. 14.

[2] O. Dzoban, *Digital man as a philosophical problem*. Information and law, 2021, 2 (37), p. 10.

opportunities for a comfortable existence in global networks and information flows.

All this provoked the loss by the society of previously established social rules, instead presenting the need for the individual to search for new ways of self-realization in the current digital world. New digital technologies that penetrate into the established formats of social relationships provide almost unlimited opportunities in choosing ways to construct one's own identity. In the information space there are tendencies to transform the representation of the individual in its virtual form, which performs the task of necessary adaptation in the changing information flows of the global digital space. In conditions of the current development of society, digitalization of man is an important provision for social adaptation to the new challenges of the postmodern world.

Methodology

The purpose of the article is to continue the interdisciplinary discourse on understanding the relationship of digital man with the attributes of the information society: virtual reality, cyberspace, new forms of culture, network communications.

The methodology of the study of digital man in the context of the information society dynamics involves the consistent use of general scientific, philosophical and special methods and approaches, which allows to achieve the above goal.

The initial stage of application of the methodology is a comparative analysis of the most significant scientific publications, which relate to various aspects of the information society dynamics, understanding the essence and features of modern man in the latest socio-cultural conditions and more. Special attention is paid to the coverage of information processes and features of the application of new information technologies in social reality.

The next stage is to study the impact of the main attributes of the information society on human life. The application of systemic and structural-functional approaches made it possible to investigate the contradictions of such influences as a consequence of the growing interaction between man and complex technical systems. Analytical-synthetic method, as well as methods of comparison and analogy provided an opportunity to compare theoretical and methodological conceptions of understanding the essence of the development of both the information society and modern man.

At the final stage, the methods of all three levels were comprehensively applied in substantiating the directions and prospects of human development in the information society, as a result of which the arguments in favour of the authors' hypothesis were generalized.

On the basis of complementarity of various methods there are the grounds to conclude that new forms of manifestation of the essence of *homo informaticus* should be considered as multifaceted and ambiguous: on the one hand, they are a continuation and new dimension of traditionally formed social processes, and on the other hand, they are the result of sociocultural and technological innovations able to fundamentally affect the quality of life of the individual.

Theoretical basis

The term "digital man" was first used in 2001 by American writer Mark Prensky[3] to refer to people born after the digital revolution who live in the environment of computers, video games, players, video cameras, mobile phones (smartphones), networks, etc. and who are accustomed to receiving information through digital channels, and all of the above becomes an integral part of their lives. According to Prensky, people born at the end of the last century are different from everyone else. He came to this conclusion by observing schoolchildren and students of the 2000s. They live surrounded by computers, video games, players, camcorders, mobile phones and the Web - and all of these are becoming an integral part of their lives. Prensky called such people "digital natives" - speakers of their native digital language of computers, video games and the Internet. In 2008, Gary Small and Gigi Vorgan published the book "IBrain: Surviving the Technological Alternation of the Modern Mind" in which they highlighted the transformation of the human brain under the influence of changing epochs and also mentioned "digital natives".

Prensky called people born before this period "digital immigrants". According to Prensky's theory, "immigrants", no matter how hard they try, still have something like an "accent" - a kind of "echo of the past", attempts to combine the latest possibilities with those of the past (for example, when a person confirms an email on the telephone or instead to edit text on a computer, print it out and edit by hand).

In 2007, American entrepreneurs Josh Spear and Aaron Dignan introduced the concept of "born digital"[4], which was later transformed into the Digital Generation. In 2007, Gartner company developed a complex of technologies for the digital person and demonstrated a number of trends in digital technology development at the "IT Expo (Emerging Trends) Symposium" in Barcelona.

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[3] M. Prensky, *Digital Natives, Digital Immigrants*. On the Horizon MCB University Press, 2001, 9 (5). URL: https://www.marcprensky.com/writing/Prensky%20-%20Digital%20Natives,%20Digital%20Immigrants%20-%20Part1.pdf.

[4] *Digital natives are those*. URL: https://cbo.org.ua/digital-natives-are-those-pereklad-na-rosijsku-prikladi-anglijska/.

In modern works of foreign researchers, the problem of digital man is considered mainly from the standpoint of its application, such as gender differences in digital communications (D. Alvarez, A. Gonzalez, K. Urbani) [5], or features of the Internet technologies use by the modern man (C. Bonner-Thompson, L. McDowell) [6] and others.

In modern works of Ukrainian researchers, the problem of digital man is also raised repeatedly. At the same time, this problem is mostly considered "in context", i.e. in the field of individual sciences. Particularly, for instance, in previous publications of this article's authors, a person of the digital age was considered from the point of his information rights and freedoms[7].

For example, O. Golovko considers the problem of digital man in the context of digital and information culture[8].

K. Honcharenko focuses on the question of how it is possible to view a person in the digital world and what is his/her identity in the relevant determinants, which are manifested in the virtualization and digitization of reality[9].

M. Kyrychenko focuses on theoretical and practical aspects of the development of information technology and the areas of its impact on the formation of digital worldview and digital ideology of modern man[10].

O. Radutniy proposes to consider digital man in the context of revolutionary inventions in the field of bioengineering, creation of inorganic life forms and (or) living beings that combine organic with inorganic, as well as in the context of the influence of artificial intelligence and digital man phenomena on morality, law and legal status of modern society and on future generations[11].

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[5] D. Alvarez, A. Gonzalez, C. Ubani, *The Portrayal of Men and Women in Digital Communication: Content Analysis of Gender Roles and Gender Display in Reaction GIFs*. International Journal of Communication, 2021, 15, p. 462-492.

[6] C. Bonner-Thompson, L. McDowell, *Digital geographies of austerity: Young men's material, affective and everyday relationships with the digital*. Geoforum, 2021, 120, p. 113-121.

[7] O.G. Danilyan, A.P. Dzeban, Y.Y. Kalinovsky, E.A. Kalnytskyi, S.B. Zhdanenko, *Personal information rights and freedoms within the modern society*. Informatologia, 2018, 51 (1-2), p. 24-33.

[8] O.M. Golovko, *Digital culture and information culture: human rights in the age of digital transformations*. Information and law, 2019, 4 (31), p. 37-44.

[9] K.S. Honcharenko, *Digital man: the phantasm of identity loss*. Philosophical horizons, 2019, 42, p. 137-140.

[10] M.O. Kyrychenko, *The development of information technology and its impact on the formation of digital worldview and digital ideology of modern man*. Humanitarian Bulletin ZDIA, 2019, 77, p. 35-46.

[11] O.E. Radutniy, *Morality and Law for Artificial Intelligence and the Digital Man: The Laws of Robotics and the «Trolley Problem»*. Information and law, 2019, 3 (30), p.

O. Ryabinina, I. Kovalenko and K. Nesterenko propose to study a person of the digital era from the point of view of «... self-negative tendency of the dynamics of historicity, the overflow of the subject's qualities into technogenic material qualities, the abolition of the fullness of oneself by means of an affective-bodily hypostasis and the replacement of being by presence»[12].

I. Kovalenko, Y. Melyakova, E. Kalnytskyi and K. Nesterenko focus on the mental and cognitive attitudes of modern man, his/her sensitivity to the social context, where, in particular, a sense of vulnerability, powerlessness, alienation from social ideology, as well as cynical attitude to political processes are formed[13].

K. Chyzhmar, O. Dniprov, O. Korotiuk, R. Shapoval, and O. Sydorenko examine modern man from the point of view of the balance of his interests and their protection from external and internal threats, primarily informational[14].

Thus, the obvious need for a comprehensive interdisciplinary understanding of the phenomenon of digital man and at the same time highly specialized field orientation of modern studies of digital man of the digital age have led to philosophical interest in this problem.

Results and Discussion

The transformation of the "statistical society" of the XIX century into the "cybernetic" society of the XX century radically changed the relationship between information and objective reality.

The Internet and the media not only inform a person, but also create certain realities into which the person is immersed. Within the framework of such - almost virtual - realities, consciously, but more often unconsciously, not only human experiences, but also a man's thoughts and worldview are programmed. In this regard, the view of K. Harbuzenko is quite correct, who argues that the world in which modern man lives can be represented in three spheres - the world of things, information and the world of the symbolic. Between the three mentioned worlds - the world of things, the world of information and the world of symbolic - there are filters that make it difficult to move from one world to another. Thousands

78-95; O. Radutniy, *Legal status and characteristics of a digital human*. Information and law, 2021, 4 (39), p. 35-51.

[12] O. Ryabinina, I. Kovalenko, K. Nesterenko, *Metamorphoses of historicity in modern culture*. Revista Notas Historicas y Geograficas, 2021, 26, p. 190.

[13] I. Kovalenko, Y. Meliakova, E. Kalnytskyi, K. Nesterenko, *On conspiracy thinking in the phenomenology of modern culture*. Cogito, 2021, XIII (3), p. 67-83.

[14] K. Chyzhmar, O. Dniprov, O. Korotiuk, R. Shapoval, O. Sydorenko, *State information security as a challenge of information and computer technology development*. Journal of Security and Sustainability, 2020, 9(3), p. 819-828.

of events take place in the real world, but only a few of them will pass into the world of information. In turn, hundreds of events take place in the information world, but only a small part of them passes into the world of symbolic. An event noticeable in the world of things can be absolutely insignificant in the world of information, and vice versa. And since in the world of information we are dealing more with the individual memory of man, and in the world of symbolic - with the social, the world of symbolic acts as a measure for the other two worlds. Computer technology and the transition from the model of "knowledge" to the model of "information" play a significant role here[15].

The digital space, with its priority of mobility in modern society, can reflect not only the new social freedom, but also the comprehensiveness of control mechanisms. The typical for digital technology feedback easily turns into a functional totality that surpasses the original idea of the unity of the human community, as the time of great figures, grand plans, big projects is over and we have a society of "atomized" individuals who are involved in a kind of Brownian motion, where there are no clearly defined guidances[16].

In the digital world, the value system has been significantly transformed: religious values have given way to a scientific worldview that has placed man at the center of the world and seen him through the prism of numbers. Attitudes towards nature and solving the problem of immortality have also changed. If before a man sought to adapt him/herself to the environment, to live in accordance with natural rhythms, now he/she acts as a being that adapts, transforms the environment according to his/her needs. The interests and rights of the individual have become the most important, which is reflected in individual freedom of choice in all spheres of life. For example, in the economic sphere, individual freedom of choice means the possibility to choose a profession and type of employment, in the political sphere it means political democracy and respect for universal human rights.

In general, a more complex, reflexive understanding of freedom is emerging in the life of society – "paradoxical freedom". Its essential characteristics are the inevitable imposition and assumption of responsibility for the obvious and latent consequences of risks: the social subject is placed in such living conditions, when it is necessary to constantly choose, can not but choose something or someone based on the

[15] K.A. Harbuzenko, *From the intelligence of «numbers» to the society of «numbers»: the numerical magic of Pythagoras as a component of modern quasi-religiosity in the Internet space*. Science. Religion. Society, 2012, 4, p. 94.

[16] V.V. Liakh, et. al. *Sociocultural and theoretical foundations of postmodern philosophy*. Kyiv: 2017.

factor of immediate or delayed, explicit or latent risks. Evaluation of the choice made vary widely in the socio-cultural space and change over time. A choice that has proven to be functional and effective for one cultural space is not universal for other cultures. Deviation in one value-normative space becomes an innovation in another[17].

We will defend the position according to which the digital man is the newest stage of development of the person as the basic object and the subject of information relations in the information society at the latest stages of its development; postmodern kind of *homo intelligent*, able to process information, creating new information phenomena, relationships and structures.

In the Ukrainian language, the phrase "digital man" is a neologism, synonymous with the concept of "information man" (*homo informaticus*) and "network man". The digital man creates new artificial relationships within the limits that he/she can informationally pre-establish, resulting in the emergence of appropriate information structures. The formation of digital man is one of the basic characteristics of the information society, when each of the dialectically interrelated principles of man: physical, mental and social, requires special consideration. Only in this case the new possibilities of the information society can be fully used for the digital man development.

The transition to digital man became possible thanks to the convergence of artificial intelligence technologies, machine learning and powerful databases that are able to use an unlimited amount of information to process, classify and multiple use it. Electronic devices connected to the global network leave digital traces even if they do not have an actual user. With the help of devices of personal, family, industrial, social and other levels there is a digital processing not only of man as an object, but also of the whole world infrastructure for the possibility of its complete simulation and reproduction.

At the present stage of total introduction of digital technologies not only what a person does is changing, but also what he/she is and in what he/she transforms into is changing too. Digital transformations in society have a multifaceted impact on a person and affect all spheres of life: privacy and ownership, changes in consumer behaviour, the amount of time spent on work, leisure and family, the principles of career development and skills development methods. Digital man can change the own corporate ties without being rigidly attached to them; he/she can and is able to build relationships with other people very flexibly, to join different social communities and different cultural traditions. Digital man is less burdened by formed and historically conditioned stereotypes,

[17] O. Danilyan, A. Dzoban, Ibid, p. 14.

he/she has more mobile reactions and the ability to manipulate any layer of information, he/she acquires a new abstract form of his existence.

Digital man is confronted with several types of identities that are subject to positive and negative changes under the influence of information and communication technologies (ICT). The main ones are two types of identity: *ipse*-identity (sense of self) and *idem*-identity (more formal identity, depending on the context, environment and situation). Computers accumulate information, create profiles, contributing to the *idem*-identity of the user, who is unaware of these profiles and how they affect his/her *ipse*-identity, which significantly affects the positive freedom of the digital man.

Thus, modern information technology processes change the reality in which a man is, mostly transmit him/her into the digital plane. Eventually, this reality becomes virtual: figurative-personal and metaphorical, leading a person to another round of the spiral of development, while returning it to the realm of archetypes and symbols (numbers).

In virtual reality, spatial and temporal demarcations are gradually disappearing, interstate borders are being erased, new values, patterns of behaviour, and worldview stereotypes are being promoted. The phenomenon of virtualization of the space-time continuum, in which man and society exist, characterizes a fundamentally new type of symbolic existence of man, society, culture. In the right O. Sotnykova's opinion, social virtual reality is a special subculture, with its own ideals, principles, language and style of communication[18]. That is, the "worlds of existence" created by means of computer technology acquire independent significance[19].

Cyberspace is becoming another infrastructural technology that covers almost all spheres of human life in a networked society. In cyberspace, virtual reality is characterized by a pronounced instrumental nature, interactivity, modification of spatio-temporal characteristics. Virtual reality, shaped by new information technologies, contributed to the creation of a networked society, and the existence of cyberspace is its basis, which affects all spheres of public life and is one of the key determinants of digital man development[20].

Virtual world created by the latest information technologies completely and immediately involves a person in the process of perception. There is a diversity of the created virtual world, an endless web of moves of the user of information and communication means. Depending on the

[18] O.O. Sotnykova, *The sociality of virtual reality. Philosophical vicissitudes.* Bulletin of Kharkiv National University V.N. Karazina, 2002, 547, p. 138-141.

[19] K.A. Harbuzenko, Ibid, p. 95.

[20] O.G. Danylian, O.P. Dzoban, *Virtual reality and cyberspace as attributes of modern society*. Information and law, 2020, 4 (35), p. 20.

situation, the same context can be viewed from different angles, and this already leaves a certain imprint on the created virtual stream. Accordingly, new situations and contexts that an individual encounters while wandering in the infinite space of the virtual world network require him/her to behave differently each time.

Cyberspace is characterized by a shift in reality, resulting in a shift in the poles of what is signified and what it signifies. The latter, in turn, leads to the fact that the whole meaning of reality is transmited into the plane of the spectacular, and the reality itself loses its basis, and it neutralizes the meaning. The actualization of the virtual as a form of transgression can contribute to the enrichment of the spheres of consciousness and activity of the individual, the expansion of his/her life space and life opportunities. But the actualization of the virtual component of living space and time can be destructive for the individual, as it contains the threat of unlimited, demonic creativity, which can destroy both the individual and the being[21].

Consumption in the digital space is accompanied by the routineization of information exchange processes through publication, reminders, recognition, links, comments, etc. It changes the ways of human behaviour, its information culture, the nature of perception. Increasingly, instead of searching for relevant information, a person actually consumes the so-called "quick perception" content recommended by members of his/her social virtual community (organized on the principle of a social graph), full of information noise[22].

A fundamentally new type of symbolic existence of digital man is characterized by the virtualization of living space and time. Speaking of cyberspace, first of all, it should be noted that it is closely related to human perception of the outside world and it is a key factor in the formation of digital man. The latest technologies purposefully at the level of sensations seek to create in the user the most authentic illusion of the reality of the artificial world. The senses are precisely the mechanism by which knowledge about the environment is acquired and ideas are created. If they are purposefully influenced by some kind of artificial stimuli, the combination of these sensations will also be an image of some virtual reality. Thus, as we have argued in previous publications, virtual space is based on the perceptual type of space, which is a prerequisite and the most important condition for it[23]. When the user is immersed in virtual reality, his consciousness lives with information that is perceived by the senses,

[21] V. Ihnatko, *Value priorities of human living space of industrial and post-industrial epoch*. Gilea: scientific bulletin, 2016, 111 (8), p. 177.

[22] E.Yu. Marina, *Features of the consumption of information in the digital space*. Young scientist, 2017, 12, p. 141.

[23] O. Dzoban, *Ibid,* p. 15.

and this information coordinates his position in cyberspace. Signs that are perceived as relevant elements of the world are endowed with meaning, and semantic connections are established between them, and changing the position of the user sets a new flow of information[24].

The semantic scheme in the internal space arises by obtaining and processing information as a result of the experience of constant human interaction with the outside world. The emergence and development of information technology, specific media has led to a change in human worldview, determined the formation of a new type of space - virtual. M. McLuhan, one of the first to draw attention to the role of information and communication technologies on the worldview of man regardless of the content of the message, concludes: "the Medium is the Message"[25]. M. McLuhan believes that the medium is not neutral. It significantly affects society rather than its content, but the nature of the message transmission. For example, everything broadcast on television becomes "telegenic". The main feature of "telegenicity" is the mosaic of the message, which is a circumstance of breaking the causal links in the human mind and returning it to the structure of pre-scientific mythological thinking[26].

For example, when broadcasting news, television draws viewers' attention to the past and immediately announces the end result. The result is the illusion that the demonstration of action leads to this consequence. The person in front of the TV screen connects the whole progressive TV mosaic through the resonance of the mutual reflections of its individual elements. As a result, "spherical" space of instantaneous relationships, which absorbs everything that happens on the TV screen is constantly formed and reproduced in the mind of modern man[27].

In such conditions, a person perceives information as a flow, and modern telecommunications allow a person to construct complex information flows. A striking example here is a person's immersion in the world of the Internet, where he/she begins to perceive hypertext information. In this regard, M. McLuhan calls the new media the human nervous system brought out beyond the body. Indeed, new information technologies do not replace reality, and people, using them, create a new virtual reality in a convenient for them way.

When a person finds himself immersed in virtual reality, "in numbers" as a special environment, there are two possible options for its perception.

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[24] *Ibid,* p. 15.

[25] M. McLuhan, *Understanding media: external extensions of a person*. Moscow: «Kanon-press», 2003, p. 11.

[26] M. McLuhan, *TV. A timid giant*. Modern personality problems, 2001, 1, p. 138-148.

[27] *Information society and information securitu* / A.Getman (ed.), O.Danilyan, O.Dzeban, Y.Kalynovskyi, LAP Lambert Academic Publishing, 2021.

In the first case, the user focuses on something logical and abstract, universal and similar. In the second case, the user is immersed in the mythological perception of the environment, making emphasis on something unique, specific, emotional and figurative. Thus, as a result, different types of worldview determine different types of structuring, construction of virtual space, as if two projections of the world that do not intersect with each other. The reason for this multiplicity is in the emphasis of attention, placed by each user in his own way. In most cases, the perception and construction of virtual reality is carried out according to the second, emotional and figurative type[28].

In addition, frequent communication with computer systems leads to informational infection of the individual by "numerical vision of the world": active Internet users become addicted to digital images at the level of logical and mental structures, which leads to mosaic. Switching between different information channels a person constructs a new reality.

Modern man adapts to this mosaic, adapts to the situation - it becomes one of his/her skills. As a result, there are problems with the assimilation, processing and analysis of more in-depth information related to the determinants of the analysis of relationships in nature and society[29].

Regarding the temporal dimensions of virtual reality, it should be noted that the time of virtual reality can be stopped, due to inversion the time of virtual reality loses its irreversibility, its various layers intersect, merge. In virtual reality, the reverse movement of elements is allowed, the digital man is guaranteed the opportunity at any time, starting with any element and with a firm belief that it will be possible to return to it, play in his birth and death.

Qualitative features of time in virtual reality should also include the presence of certain time cycles (rhythms). The fractal principle, which underlies virtual reality, sets the rhythmic repetition of one structure, its continuous change according to a given algorithm. Virtual reality appears as a process with inverse relationship in which the same operation is performed again and again, and the result of one iteration becomes the initial signification for the next cycle.

Virtual world created by the latest information technologies involves a person in the process of perception completely and immediately. The variety of virtual worlds emerges, an endless web of user's moves. Depending on the situation, the same context can be viewed from different angles and this already leaves a certain imprint on the created virtual stream. Accordingly, new situations and contexts that the user encounters

[28] O. Dzoban, *Ibid,* p. 16.
[29] K.A. Harbuzenko, *Ibid,* p. 96.

while wandering the vast expanse of the network, require him/her to behave differently each time.

Instant overcoming distance with the help of super-telecommunications and high-speed vehicles allows digital man to spend time and communicate without direct spatial convergence, which turns into existing and constantly updated networks of interaction. Time is largely destroyed by instant communication between computers. Changes in time bounds, the emergence of timeless concepts in the information age are also connected with the latest reproductive technologies of the human body, including through cloning.

Thus, the virtualization of space and time creates so-called "digital continuum" of network communication[30], the defining characteristics of which are superficiality and flatness. This leads to the fact that the value of information activities is determined by the presence of information, information product in the view of digital man (on the surface of his/her information field) - the rhizomeness of network communications absorbs depth. "Therefore, - as I. Siliutina rightly points out, - in the dense plexus of rhizome connections for the information product, the mode of "present" is extremely important. The past and the future for information and the information product in social networks exist only as a potential. The constant flow of new information removes the old from the surface of information attency. It can be followed by hypertext traces: links, tags, labels that an individual can follow, like Ariadne's thread. But in our time for the average individual it can be a kind of feat, because it requires willpower"[31].

As a result, we have the fact that the "digital continuum" of the network society has all the signs of hyperreality. J. Baudrillard, who introduced this concept, pointed out in his works that reality in the development of consumer society is replaced by hyperreality in the process of simulating reality and is accompanied by the replacement of reality by simulacra - signs of reality and loss of sense of reality[32] that clearly indicates the gradual evolution of *homo informaticus* to digital man.

An important attribute of the digital person is biometrics - a system of recognizing people by individual physical and behavioural traits, such as DNA, fingerprints, three-dimensional photography of the face or body, voice, photo of the cornea. Biometric transmitters of personal data are

[30] O.V. Riabinina, I.I. Kovalenko, *Homo Virtualis space and post-digital aesthetics of music.* Bulletin of the National Academy of Management of Culture and Arts, 2018, 4, p. 214-221.

[31] I.M. Siliutina, *Information activities in a networked society*. Gilea: scientific journal, 2017, 120 (5), p. 172.

[32] J. Baudrillard, *Simulacra and simulations*. Moscow: POSTUM, 2016.

implanted sensors and chips, biometric passports, bank cards, fitness bracelets, smart watches, smartphones, computers, home electronics, CCTV and audio recording cameras. The main area of use of biometric data is the identification of citizens in order to control access and identify violations.

Socio-cultural portrait of digital man is defined by the following technological and procedural characteristics[33]:

- digital man is formed as an information-knowledge carrier and interpreter of a huge amount of information. According to the goal, information is endowed with a certain subjective content, turning into knowledge - the basis of development. Information is a resource for the realization of human intellectual abilities;
- in the cognitive sphere there is a common increase in the value of the speed of perception and processing of information, and often to the detriment of the depth of perception;
- reducing the need to train RAM that can be transferred to devices;
- mobile means of communication acquire the features of a "mental organ" taken out: being without a gadget or mobile phone, a person feels helpless, deprived of memory and communicative function in general;
- loss of interest in the fundamental knowledge of the basics, being satisfied with a superficial knowledge of the problems, ignoring checking by the experience and critical thinking; the formation of a special type of visual "clip" thinking, where the brightness and accessibility of the content is valued above its depth;
- the ability to obtain practically unlimited amount of information in a relatively short period of time;
- virtualization of interpersonal contacts, which, on the one hand, facilitates communication, and on the other - creates the illusion of accessibility and ease of relationships;
- transformation of gadgets into an element of the subconscious, an individual external carrier of the collective unconscious;
- transfer of various types and methods of communication to the online sphere;
- increase in the number of pathologies due to envy because of the pronounced property stratification;

[33] K.S. Honcharenko, *Ibid;* O.V. Parkhomenko, V.D. Parkhomenko, *The man of the future in the conditions of formation of information-knowledge paradigm of civilization development.* Science, technology, innovation, 2017, 4 (4), p. 3-9; K. Skinner, *Digital man. The fourth revolution in human history that will affect everyone.* Kyiv: Fabula, 2020; *Modern society, man, law in the context of global transformations* / O.G. Danylian, (ed.), O.P. Dzoban, S.B. Zhdanenko, et al. Kharkiv: Pravo, 2020.

- digital man identification occurs through a person's involvement in a particular field of information, virtual and social spaces;
- self-presentation of an individual on the Internet is carried out through a nickname, avatar, page on a social network, due to the freedom of their creation and attractiveness to users.

Conclusion

Virtualization of life time in the spatio-temporal continuum characterizes a fundamentally new type of symbolic existence of society, culture, man. The digital man, first of all, is a person of new moral values, who immerses him/herself in the virtual reality of simulations and increasingly perceives the world as a digital game environment, realizing its conventionality, controllability of its parameters and the ability to get out of it.

Instant overcoming distances with the help of supernova telecommunications and high-speed vehicles allows organizations and individuals to spend time together without direct spatial convergence, that includes them in flexible multi-dimensional structures that smoothly transit into existing and constantly updated networks of interaction.

Contradictory realities of the formation of digital space are reflected in all spheres of society, individuals and determine the trends in the formation of digital man. The global nature of these processes exacerbates not only the technical and communication aspects of the development of the information society, but also highlights a wide range of complex worldview issues, socio-cultural problems arising from the very fact of the formation of digital man.

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COMPARATIVE ANALYSIS OF THE TRANSITION FROM AUTHORITARIANISM TO DEMOCRACY IN INDONESIA AND MYANMAR

Hariyanto,*

hariyantogracia@gmail.com

Enggar Objantoro,**

objantoroe@gmail.com

Ruat Diana***

rdianadarmawan@gmail.com

Abstract: *The recent spike in the number of nations embracing democracy in the twentieth century cannot be entirely explained by a single event. The method is intricate and has followed several historical paths. The majority of democratisation studies restrict their investigations to Europe, Africa, or Latin America. This study offers an alternate method for examining the democratisation process. Indonesia and Myanmar are the two most significant countries in Southeast Asia. The current research seeks to determine the differences in regime outcomes between these two nations. This research chose Indonesia as a model for Myanmar since their experiences with authoritarianism are similar. Over the years, democratic procedures in Indonesia have greatly advanced. Myanmar, on the other hand, has been a prominent example of stagnant growth due to decades of isolationist military leadership and an authoritarian political structure. This essay also criticised the idea of "Asian Style Democracy," which is often used to defend a combination of authoritarianism and democratic norms. This research intends to make a substantial contribution to the knowledge of the transition from authoritarianism to democracy in modern Southeast Asia by concentrating on these crucial concerns and utilising the Indonesian case as an example for assessing the chances for democratisation in Myanmar.*

Keywords: *Democracy, Indonesia, Myanmar, Authoritarianism.*

* **Lecturer, Sekolah Tinggi Teologi Sangkakala Jakarta, Indonesia**
** **Lecturer, Sekolah Tinggi Teologi Sangkakala Jakarta, Indonesia**
*** **Lecturer, School of Theology Simpson, Jawa Tengah, Indonesia**

Introduction

In a nation, the end of an "old order" and the beginning of a new one may result in either an "authoritarian reversal" or a "democratic breakthrough."[1] This dynamic is mostly the result of societal transformations and the analytical interpretation of their repercussions. In order to make a comprehensive assessment of democracy, one must examine each country carefully, focusing on the influence of authoritarian institutions, such as party, military, and state apparatuses, on the fate of non-democratic regimes. This is because democratic systems vary a lot in how their institutions work and in other ways related to socioeconomics, politics, and culture. However, the dichotomy between authoritarianism at one extreme and democracy at the other has been a prevalent subject in several political assessments over the last few decades. Authoritarianism and democracy are, to varying degrees of explicitness, the predominant government types in this area. It is believed that authoritarianism is ethically repugnant and that democracy is vital for effective administration and social fairness[2]. Recent work on democratic transition has emphasised the significance of regime fragmentation in the early phases of transition in many instances[3]. This has resulted in splits and schisms within the regime. This has been the case in both Indonesia and Myanmar. Although authoritarianism has given way to democratisation in several countries of the third world and in Indonesia as well, the effects of transformation have not been apparent in Myanmar. Myanmar stands out because most of the other countries in the area have moved toward economic growth and democracy.

This paper examines the transition from authoritarianism to democracy in Indonesia and the possibilities for democratisation in Myanmar via a comparative examination with Indonesia. This paper used Indonesia as a case study because both experiences are mirrored in many ways. Indonesia was chosen as a model for Myanmar because it has enjoyed significant regional tranquilly as a founding member of the Association of Southeast Asian Nations (ASEAN) and has accomplished the monumental task of maintaining the archipelago and multiethnic population under a single nationhood and central government. It may also play an important role in Myanmar's democratisation and demonstrate its commitment to democratic norms.

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[1] V. Kingsbury, *State and power after neoliberalism in Bolivarian Venezuela*, University of California, Santa Cruz, 2012.

[2] A. Giroux, *The terror of neoliberalism*, Routledge, 2018, p. 75.

[3] Y. Fukuoka, "Oligarchy and democracy in post-Suharto Indonesia." *Political Studies Review*, 11, 1, 2013, p. 52.

Authoritarianism

Authoritarianism is a system of relations between the state and society, together with political and social sources of power. It is predicated on centralised executive power and coercion[4]. It is the theory and practise of supreme authority. A dictatorial government gives authority claims precedence over those of individual liberty[5]. It is also a method used to infiltrate society and isolate it from the state in order for the state to exercise control over society. Idealistically, it is a system that makes every effort to integrate the social into the state's machinery while allowing the state full authority. Authoritarianism does not always result in efficiency, achievement of the common good, political integration, modernization, or order, despite the fact that the majority of contemporary authoritarian regimes seek to fulfil some or all of these goals. East and Southeast Asian "developmental authoritarian regimes" are prominent examples of this trend (South Korea, Thailand, Indonesia, Singapore, and the Philippines). Frequently, they attempt to justify and compensate for their restricted political frameworks by emphasising economic success, security, and stability under the ideological cloak of "Asian values."[6] However, they have not established themselves as durable support pillars. Authoritarian regimes devote a substantial amount of resources to the establishment and maintenance of political institutions (such as parties, bureaucracies, police, armed forces, and corporate organisations) that control the executive, permeate society, and, most importantly, foster elite cohesion.[7] These political forms deal with individual and societal mobilisation, modernization, and social change. Each of these authoritarian institutions competes for the attention of the authoritarian king. First, it is necessary to create semantic clarity between various notions associated with authoritarianism.

Autocracy and tyranny refer to the characteristics of the ruler, while authoritarianism reflects the nature of the regime and management structure. An autocracy is a form of government in which a single person has all executive power. Under an authoritarian regime, there is no legal framework for limiting authority, ensuring accountability, or guaranteeing

[4] A. Perlmutter, "American Policy in the Middle East: New Approach for a New Administration." *Parameters*, vol. 11, no. 2, 1981, p. 14.

[5] F. Avelino, "Theories of power and social change. Power contestations and their implications for research on social change and innovation," *Journal of Political Power*, vol. 14, no. 3, 2021, p. 427.

[6] A. Muthiah, *Coercion and governance: The declining political role of the military in Asia*. Stanford University Press, 2001, p. 53.

[7] A. Perlmutter, and M. LeoGrande, "The party in uniform: toward a theory of civil-military relations in communist political systems," *American Political Science Review*, 76, 4, 1982, p. 779.

a smooth succession. The regulation is arbitrary and is imposed by force. The definitions of tyranny and an arbitrary government constituted by law are essentially similar. Conquest and intimidation serve to sustain tyrannical rule[8]. An authoritarian regime might take the form of a military government, an oligarchy, or a collective dictatorship. Although there have been several authoritarian governments throughout history (such as one-party systems, military regimes, and personal dictatorships), they have never had the key institutional traits of liberal democracies[9]. A totalitarian dictatorship attempts to control almost every aspect of its citizens' personal, economic, and political life. In the 1920s and 1930s, Fascist Italy's philosophy included the concept of totalitarianism[10]. Benito Mussolini was the first dictator to use the word "totalitarian" to describe his reign positively. In the 1950s, the classic writings of Hannah Arendt, Fredrich, Brzezinski, and Schapiro reintroduced totalitarianism as a major issue in Western political science[11].

Autocratic Military Framework in Indonesian

The Armed Forces of Indonesia-ABRI (*Angkatan Bersenjata Republik Indonesia*) are one of the few occasions in the military history of the globe when a national military organisation existed prior to the establishment of the state. The Indonesian Armed Unit was founded in 1945 to aid in the revolutionary fight. The majority of its recruits were from the military unit Pembela Tanah Air (Defenders of the Fatherland, PETA), who were first recruited by nationalist groups in 1943[12]. Although the Indonesian military has played a key role in Indonesian politics since the founding of the Republic, it did not actively interfere in politics until 1957 with the proclamation of martial rule and 1959 with the installation of "guided democracy." The Indonesian military, which was made up of these illegal militias, saw itself as the foundation of the Republic and the hero of the nationalist movement[13].

In the late 1950s, the Indonesian military's reaction to regional separatist rebellions marked a significant turning point in its history.

[8] A. Perlmutter, *op. cit.,* p. 18.

[9] J. Ishiyama, "Neopatrimonialism and the prospects for democratization in the Central Asian republics," *Power and change in Central Asia*, Routledge, 2004, p. 57.

[10] P. Brooker, "Authoritarian regimes." *Comparative politics*, 3, 2011, p. 117.

[11] N. Momayezi, and M.L. Momayezi. "Suicide terrorism: Motivations beyond religion and the role of collectivism." *The Journal of Public and Professional Sociology*, Vol. 9, No. 1, 2017, p. 4.

[12] W. Fogg, *Indonesia's Islamic Revolution*. Cambridge University Press, 2019, p. 64.

[13] H. Frederick, "The killing of Dutch and Eurasians in Indonesia's national revolution (1945–49): a 'brief genocide'reconsidered," *Journal of Genocide Research*, Vol. 14, No. 3-4, 2012, p. 359.

Between December 1956 and March 1957, local military officers executed a series of bloodless coups against civilian authority and established revolutionary councils. Subsequently, ABRI exerted increasing pressure on Sukarno to implement systemic reforms[14]. In March 1957, the army urged Sukarno to establish martial rule to combat challenges to national unity and to ensure the reinstatement of the 1945 constitution. In reaction to the regional crisis, Sukarno proclaimed martial rule for the whole nation on March 14, granting the military extensive emergency powers. Under the pretence of protecting the nation, this was the major method by which the military forces integrated themselves into the democratic system before restricting a broad spectrum of political activities. In addition, martial law gave legal justification for army engagement in civil matters and created the groundwork for the military's "dual duty" (*dwifungsi*) of protecting the state and assisting in its administration. In addition, the alliance between these two groups facilitated the shift from parliamentary to guided democracy[15]. Sukarno got rid of the Constituent Assembly and called for a "Guided Democracy" in which he would be "President for Life" and the army would back him up.

Sukarno, critiquing Western liberal democracy as inappropriate for Indonesian conditions, advocated a political system of "guided democracy" based on indigenous practises. Although certain civil rights were still maintained, electoral procedures were legally ended, resulting in a regime type that may be classified as semi-authoritarianism—an increasingly unstable form of governance that allows social activity but no electoral outlets. Adam Schwarz (2018)[16] provides a concise explanation for the failure of "guided democracy" and the subsequent emergence of Suharto in Indonesian politics. Sukarno just lacked the strength to maintain control over the irreconcilable political and social forces he had combined to support his personal authority. Indonesia was undergoing its greatest political and economic crisis in more than three decades when Suharto's authoritarian administration crumbled in May 1998[17]. For instance, the significant depreciation of the rupiah contributed to the 7 percent depreciation of the country's currency. The crisis began as a financial one in July 1997. From December 1997 to May 1998, however, the financial crisis transformed into a social, political, and economic disaster. On

[14] H. Taylor, and H. Hamilton, *The politics of elections in Southeast Asia*. Cambridge University Press, 1996, p. 73.

[15] S. Lev, *The Transition to Guided Democracy: Indonesian Politics, 1957-1959*. Equinox Publishing, 2009, p. 43.

[16] A. Schwarz, *A nation in waiting: Indonesia's search for stability*, Routledge, 2018.

[17] H. Hill, "The Indonesian economy: growth, crisis and recovery." *The Singapore Economic Review*, 52, 02, 2007, p. 162.

January 22, 1998, the rupee reached a record low of around RP 17,000 per US dollar, representing a depreciation of more than 80 percent since its introduction on August 14, 1997. Even while the other East Asian nations were also undergoing a serious financial collapse, none of them were experiencing a currency devaluation of Indonesia's size. By June 1, 1998, the Indonesian currency had lost about 80% of its value[18]. This resulted in a tremendous increase in unemployment and absolute poverty. After thirty years in power, President Soeharto announced his retirement on the morning of May 21, 1998. He transferred control to Habibie, his vice president. Suharto's departure, which was precipitated by a terrible economic catastrophe, paved the way for political reform and engendered great hopes for political freedom and economic recovery[19]. Many people saw the fall of Suharto's government before the turn of the century as a good sign and a necessary step to help Indonesia deal with the many problems it was having at the time.

After four decades of authoritarian government, the most significant aspect of Indonesia's transition to democracy was the general election conducted in June 1999. There were concurrent elections for legislatures in 26 provinces and over 300 districts and municipalities. Indonesia conducted its second democratic election in the post-Suharto period on April 5, 2004. This prompted a series of elections that ushered in a new era and prompted a restructuring of the political system[20]. In the history of Indonesia, the presidential elections conducted on July 5 and September 20, 2004 were the first direct elections. In the past, the President of Indonesia was indirectly chosen by the legislature. The national election resulted in a multi-party legislature for the 2004–2009 term, with 550 members distributed among 17 parties. The top four election finishers were from "the status quo political parties"[21]. In October 2004, Indonesia became a Presidential democracy when its first directly elected President and Vice President were inaugurated. People in Indonesia and all over the world have praised Yudhoyono's election as a step toward "real democracy" and have been very excited about it.

Autocratic Military Framework in Myanmar

Myanmar's military framework is exemplified by General Ne Win and his clique of military officers' authoritarian military government[22]. Since

[18] R. Hadiz*, op. cit.,* p. 169.

[19] E. Ward, and P. Carey. "The East Timor issue in the context of EU-Indonesian relations, 1975-99." *Indonesia and the Malay World*, 29, 83, 2001, p. 58.

[20] J. Wanandi, "The indonesian general elections 2004," *Asia-Pacific Review*, 11, 2, 2004, p. 115.

[21] Ibid, p. 117.

[22] I. Rotberg, *Worst of the worst: dealing with repressive and rogue nations*. Brookings Institution Press, 2008.

1962, Myanmar has been governed by the *Tatmadaw*, often known as the military. In the leadership vacuum of 1962, Ne Win took control and formed a "Revolutionary Council" to run the state[23]. Consequently, he outlawed all political parties and dissidents and transformed Myanmar into a one-party state governed by the Myanmar Socialist Programme Party (BSPP). The Myanmar monarchy is characterised by three characteristics: the sacrosanctity and centrality of the kingship; the absolute nature of the Burmese Monarchy; and the undifferentiated nature of the kingship's role. The monarch was accountable to no one but himself[24]. Not only was the monarch the top executive, but he was also the chief judge and principal legislator. Possibly, Ne Win is not solely to blame for the military coup or the resulting political system. In actuality, a military coup may be considered the climax of a political process. It was tempting for a well-organized institution like the military to interfere and impose its authoritarian authority since the government was completely controlled by political cliques and its power-hungry leaders were involved in mostly factional conflicts[25]. Thus, in Myanmar society, the conditions were already there for the emergence of an authoritarian regime reminiscent of native Burmese monarchical authority.

General Ne Win's authoritarian political approach capitalised on the large stockpile of preexisting attitudes and beliefs in Burmese culture that are favourable to his control pattern. After the coup, General Ne Win and his Revolutionary Council (RC) moved swiftly to impose order, and one of the first targets was the colleges. The military administration established tighter controls for college students[26]. By intensifying monitoring and restricting student communication, the dictatorship attempted to eradicate any form of rebellion. General Ne Win aspired, via his RC, to transform Burmese politics and society. General Ne Win's policies were the result of a shared military lineage, patriotic ambitions, and socialist ideology[27]. Land and riches were to be redistributed, foreigners were to be stripped of their holdings, and self-serving politicians and businessmen were to be replaced by an army committed to serving the country. In General Ne Win's reign, he established a policy known as "The Burmese Path to Socialism." Between 1963 and 1965, the government nationalised all banks, enterprises, and significant retailers. Most businesses were run by Indians

[23] N. Hudson-Rodd, "When was Burma? Military rules since 1962." *Southeast Asian culture and heritage in a globalising world*. Routledge, 2016, p. 155.

[24] M. Gyi, *Burmese political values: The socio-political roots of authoritarianism*, Greenwood, 1983.

[25] M. Gyi, *op. cit.,* p. 18.

[26] C. Fink, *Living silence: Burma under military rule*, Zed Books, 2001.

[27] S. Devi, "Myanmar under the military rule 1962-1988." *International Research Journal of Social Sciences*, 3, 10, 2014, p. 47.

and Chinese. When the government took over, they wanted to give money back to the native Burmese.

The General Ne Win regime demonetized 50 kyat and 100 kyat notes in March 1964 with the objective of taking riches from foreign hands. Consequently, hundreds of thousands of Indian and Chinese businessmen lost a significant amount of wealth and fled the nation. Those firms that survived were acquired by the state (Fink, 2001). A newly constituted Censorship Board was tasked with vetting all newspaper publications. The country's private schools were nationalised, and a government-controlled Burmese-language curriculum was mandated. The majority of foreign missionaries, intellectuals, and western foundations were compelled to leave, and foreigners' access to Myanmar was severely limited. Existing political parties were also forced to dissolve, leaving the Myanmar Socialist Programme Party (BSPP) as the sole legitimate political party[28]. Membership in the BSPP was originally confined to the military and the government. However, the dictatorship eventually broadened membership and formed additional mass groups under state supervision. As a result, General Ne Win intended to utilise the BSPP to strengthen the loyalty of government officials and others to his military-backed administration as a result of the formation of a one-party system. In the 1970s, party membership was available to everyone, and refusal to join had serious repercussions. At all levels of government, party members ran many administrative jobs, and everyone who worked for the government had to join.

Additionally, the court system provided little chance for a fair trial. Under the General Ne Win regime, courts were administered by a panel of three judges, at least one of whom had legal expertise. However, the three chosen judges had to be party members. Civil groups or organisations were co-opted by the military, and there was little opportunity for autonomous military groups[29]. The military commanders controlled the country's state banks, which were given unique advantages not accorded to the commercial banks. They were not permitted to do business with international customers. Exports of natural gas and agricultural items were the bulk of foreign trade. The government constantly crushed opposition activities, including extrajudicial assassinations, disappearances, torture, arbitrary arrests, denial of fair trial rights, and more. Other reasons that led to Myanmar's "hidden emergency" include

[28] I. Steinberg, *Burma's Road toward Development: Growth and Ideology under Military Rule: Growth and Ideology under Military Rule*, Routledge, 2019.

[29] A. Muthiah, *op. cit.,* p. 92.

constraints on human rights and liberties. Poverty, famine, illness, sexual assault, and insurgency are among them[30].

In 1973, a constitutional referendum was conducted, and in January 1974, general elections were held in accordance with the adopted constitution. This marked the commencement of the Burma Socialist Program Party's one-party state (BSPP). In the general elections conducted in 1978, 1981, and 1985, only the BSPP was permitted to run, since other parties were prohibited[31]. In August and September 1988, the army suppressed the national 8888 uprisings, and the State Law and Order Restoration Council (SLORC) took control[32]. The National League for Democracy (NLD) achieved a landslide win in the 492-seat parliament in 1990 (392 seats out of 492), but the SLORC refused to recognise the results and hand over power, ultimately imprisoning the majority of elected legislators[33].

Myanmar conducted general elections on November 8, 2020. To elect members to the upper house (Amyotha Hluttaw) and the lower house (Pyithu Hluttaw) of the Assembly of the Union, as well as state and regional hluttaws, elections were held in all constituencies, barring seats assigned by or reserved for the military (legislatures). Ethnic Affairs Ministers were likewise elected by their allocated electorates on the same day, although only certain ethnic minorities in certain states and areas were eligible to vote. There were 1,171 national, state, and regional seats up for election. In all townships, including those that are deemed war zones and those that are self-governed, elections were held. On February 1, 2021, the *Tatmadaw* (Myanmar Armed Forces) attempted a coup d'état and toppled the State Counselor and President, claiming the election results were invalid[34]. Later, the military said that new elections would be held in 2023, and the results of the 2020 election would be thrown out[35].

'Asian Values' and Democracy in Asia

The definition of democracy is "government by the people in which ultimate authority is vested in the people and wielded directly by the people or their chosen representatives under a free election system."[36]

[30] G. Mantilla, "International Religious Liberty and Human Rights Law as a Response to Totalitarian Legal and Political Discourses: The Cases of Iran, Myanmar, and North Korea." *Liberty University Law Review*, Vol. 15, No. 2, 2021, p. 4.

[31] R. Von Der Mehden, "The Burmese way to socialism." *Asian Survey*, 1963, p. 129.

[32] Ibid, p. 131.

[33] Ibid, p. 132.

[34] S.A. King, "Myanmar's Coup d'état and the Struggle for Federal Democracy and Inclusive Government," *Religions*, Vol. 13, No. 7, 2022, p. 594.

[35] Ibid, p. 596.

[36] S.S. Khanka, *Business ethics and corporate social responsibility*, S. Chand Publishing, 2014, p. 34.

Lincoln described democracy as a government "of the people, by the people, and for the people."[37] The terms "freedom" and "democracy" are often used synonymously, yet they are not identical. Democracy consists of a collection of practises and processes that have been shaped over a long period of time, as well as a set of beliefs and values about freedom. In a nutshell, democracy is the institutionalisation of freedom. Therefore, it is feasible to define the time-tested elements of constitutional government, human rights, and equality before the law that every society must possess in order to be considered democratic. Amartya Sen defines democracy as freedom and justifies the universality of democracy on the grounds that "people anywhere may have good reason to see it as beneficial"[38]. The particularistic conception of democracy has also thrived, such as "Asian-style" democracy or "soft authoritarianism" based on "Asian Value."

Several assumptions undergird the notion of "Asian values." The key thesis of this argument is cultural relativity[39]. It emphasises familiarity with the traditions and social ideals of emerging countries, many of which have old and complex cultures. It contradicts universalist notions of international relations and has some semblance of cultural imperialism. It emphasises country distinctions due to vast variances in historical context, social systems, cultural traditions, and economic growth. This establishes the foundation for a confident declaration of legitimacy. Culture is a factor that explains how various cultures work. The Confucian legacy minimises the relevance of self-mastery, control, and personal independence. It advocates a hierarchical perspective on society that emphasises the interconnectedness and social nature of humans. The "Asian" spirit is characterised by a belief in authoritarian control, reverence for bureaucracy, and a stress on the collective at the cost of the individual. They assert that they are developing a uniquely "Asian model" of politics, which, in some dangerously simple readings, is antagonistic to democracy and liberalism.

Typically, the cultural viewpoint of "Asian Value" based on a communitarian vision of society is contrasted with the Western liberal and atomistic views of society. It places priority on collective commitment above individual sovereignty[40]. This difference allows proponents of

[37] D.C. Wylde, "Government "Of the people, by the people, and for the people" in the web 2.0 era: A survey of blogging office holders in the US public sector and an agenda for future research", *Journal of New Communication Research, Vol. II, No.* 2, 2008, p. 34.

[38] E. Bjornlund, *Beyond free and fair: Monitoring elections and building democracy*, Woodrow Wilson Center Press, 2004, p. 329.

[39] P. Lee, "LGBT rights versus Asian values: de/re-constructing the universality of human rights." *The International Journal of Human Rights*, 20, 7, 2016, p. 978.

[40] S. Dalton-Brown, "Bioethics as an Approach to Nanoethics in China and the EU." *Nanotechnology and Ethical Governance in the European Union and China*. Springer, Cham, 2015, p. 44.

"Asian values" to offer communitarian and authoritarian arguments with great cultural resonance—arguments that prioritise the rights of the state, community (religious, ethnic, and economic group), and family above the rights of the individual person. On the basis of these principles, proponents of Asian Values advocate for a paternalistic, illiberal state that may take any shape, from the Leninist dictatorships of Vietnam and China to the more benign regimes of Singapore and Malaysia.

The classical liberal aspects of democracy need a plurality of parties reflecting opposing policy agendas and distinct political options, constraints on the power of the government, and protected rights to free speech and association. East Asian democracies diverge from this somewhat idealised conception of democracy. The majority of nations have transitioned from harsh or mild developmental authoritarianism to some type of democracy, characterised by elections, universal suffrage, and political parties. In certain instances, though, they seem to be founded on an alternative societal assumption. The standard has been a strong government charged with maintaining common necessities, the lack of several liberal democratic norms, and the longevity of political elites. As a response to the perceived excesses of individualism and social decay in the West, a prominent subject in the East is revitalising communal values and the public spirit. In other words, "Asian" ideals are more communal than individualistic. Generally, the priority of the community above the demands of the individual is founded on a strong assertion of the state's obligation to the people as a collective, which is to provide peace, stability, and economic growth.

Invariably, "Asian values" are articulated within the framework of an East-West dichotomy. The dispute started with Asians defending their economic models, political principles, and social norms against what they saw to be Western ideas of universality. While resisting the universalization of liberal social concepts and rejoicing in stronger development rates than their old colonial masters, the primary exponents of the "Asian values" thesis in Asia have been pleased to declare the supremacy of "Asian values." The amazing performance of East Asian economies has happened in nations under one-person or one-party leadership, like Japan, which has been ruled by the Liberal-Democratic Party for decades[41]. Thus, instead of moving promptly to develop democracy, the area has prioritised economic growth under personalistic authoritarianism.

In the 1960s and 1970s, after a decade or so of attempting to adhere to the democratic path laid forth by their former colonial masters, one Asian

[41] P. Church, *A short history of South-East Asia*, John Wiley & Sons, 2017.

country after another turned dictatorial. Thus, Lee Kuan Yew in Singapore, Suharto in Indonesia, Chiang Kai-shek in Taiwan, and Park Chung Hee in South Korea oversaw years of relative political and social stability and phenomenal economic development. Hong Kong flourished under a laissez-faire system administered by capable, unelected bureaucrats. As part of its reforms, China has maintained harsh political control while promoting economic freedom[42]. The East Asian Miracle of the 1990s acknowledged the critical role played by strong governments whose technocrats crafted sound economic and social policies—free enterprise, mass education, fiscal and monetary prudence, and business incentives—with minimal lobbying for special favours from politicians and special interests. Instead of adopting the whole of Western democracy, East and Southeast Asia mostly adopted capitalist components[43]. The underlying difficulty with "Asian values" is that, despite their reliance on the language of cultural relativism and the progressive state, they are too readily used as a mask to deny human rights and opposition by authoritarian governments. In a few of these nations, opposition parties have not had total freedom, freedom of expression, separation of powers, or civil and political rights as they are understood in Western political thinking.

Asian-Style Democracy Decline: Issues and Problems

The bulk of Southeast Asian cultures exhibit significant characteristics of hierarchy and paternalism. In Buddhist Thailand, for example, the king is accorded immense respect since it is thought that he has accumulated good *karma* in former lives and is, thus, an innately moral power[44]. Reflecting the afterglow of early Hindu-Buddhist influence, they were highly conscious of their status in a rigidly hierarchical society and continue to define themselves via their relationship to their Sultan. Muslim Javanese have grafted Islam upon the Hindu-Buddhist concept of a highly organised society ruled by a benevolent and all-powerful ruler who generates prosperity by enforcing peace, order, and harmony. Even Myanmar's social and political system is founded on paternalistic authority and is thus incompatible with the democratic ideals that have flourished in the West. In this framework, the decline of liberal democracy and subsequent growth of authoritarianism in Indonesia and Myanmar, the two countries under examination, represent the region's widespread

[42] P. Church, *op. cit.,* p. 18.

[43] K. Hewison and G. Rodan, "The ebb and flow of civil society and the decline of the Left in Southeast Asia." *Political oppositions in industrialising Asia*. Routledge, 2013, pp. 33-34.

[44] D.K. Funahashi, "Rule by good people: Health governance and the violence of moral authority in Thailand." *Cultural Anthropology*, Vol. 31, No.1, 2016, p. 109.

traditional values and political culture. This will be examined in this section, with specific reference to the politics of Indonesia under Suharto and Myanmar under the military regime. In reality, both exhibit characteristics of "Asian democracy."

According to Powell (1982)[45], "representative democracy" has the following qualities:

1. The legitimacy of the government is based on its claim to reflect the wishes of the people.

2. The competitive political election is the structured framework that governs legitimacy bargaining.

3. Leaders are chosen at regular intervals, and voters may select among different candidates; in reality, at least two functioning political parties with a likelihood of victory are required for such choices to be significant.

3. Leaders are chosen at regular intervals, and voters may select among different candidates; in reality, at least two functioning political parties with a likelihood of victory are required for such choices to be significant. The majority of individuals can engage in the election process as both voters and candidates for significant political office.

5. Voting is confidential and not forced.

6. Citizens and leaders have fundamental freedoms of expression, press, assembly, and association.

7. Both established and upstart parties may attempt to attract new members and votes.

To qualify as a democracy, a political system must possess all of these characteristics. Democracy, according to the "Western" conception, is both an end and a means. Any country that deviates from this standard is either undemocratic or dictatorial[46]. Asian scholars and politicians have argued, however, that there are alternative types of democracy outside the liberal Western model. In the framework of certain requirements and cultural norms, "Asian democracy" is an acceptable system. One of the proponents of this theory, Chan Heng Chee (1993), highlights numerous characteristics[47]:

1. A communitarian ethos emphasises that the person is significant as a member of a group or community, rather than as the focal point of democracy and society.

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[45] G. Powell, Bingham. *Contemporary democracies: Participation, stability, and violence*, Harvard University Press, 1982.

[46] L. Suryadinata, *Ethnic Chinese as Southeast Asians*. Institute of Southeast Asian Studies, 1997.

[47] H. Chee, "I Democracy: Evolution and Implementation An Asian Perspective." *Democracy and capitalism*. ISEAS Publishing, 1993.

2. There is often a stronger acceptance of authority and respect for hierarchy.

3. The ruling party may hold power for at least two or three decades.

4. Almost many Asian democracies have centralised bureaucracies and strong states.

5. Lastly, Asian democracies are often interventionist regimes with a substantial public sector. The state plays a significant role as a driver of economic growth.

According to this view of democracy as proposed by Chan Heng Chee, this regime type reflects the ideology-based democracy approach characterised by "Asian Values" widespread throughout Asia. Since the late 1990s, the so-called "Asian-style of democracy" has been the subject of much research and controversy.

In Indonesia, 'Asian values' were stated as a kind of developmentalism, with the notion that democracy remained a costly luxury until prosperity was realised. Strong growth rates were attributed to hard labour, frugality, discipline, and teamwork, which could only be delivered by a "disciplined" (i.e., authoritarian) government in the early stages of development. In Indonesia, the notion of *Pancasila*, which is founded on five ethical principles and is considered the country's national ideology, codified communitarianism[48]. The 'New Order' administration of Indonesian dictator Suharto prioritised dialogue (musyawarah) above opposition in order to achieve consensus, excluding the people from politics save during brief 'election' campaigns through the 'floating mass principle'[49]. According to the government, such a political framework was vital to provide the stability required for rapid economic growth.

Using a similar culturalist basis, Myanmar's military rule aspired to imitate the "Indonesian model" of a developmental dictatorship.[50] In 1990, the military government of Myanmar held elections, which the National League for Democracy-NLD won[51]. In November 1997, Myanmar's military regime changed its name to the State Peace and Development Council (SPDC) to promote a better picture of the government. Thus, there is no clear relationship between development and democracy across the region[52]. As a result of Southeast Asia's expansion, a wide variety of regime types and changes have emerged.

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[48] B.C. Huat, "Communitarian politics in Asia." *Communitarian politics in Asia*, Routledge, 2004, p. 17.

[49] Ibid, p. 19.

[50] R. Hadiz, "The failure of state ideology in Indonesia: the rise and demise of: Pancasila." *Communitarian politics in Asia*, Routledge, 2004, p. 162.

[51] Ibid, p. 163.

[52] Ibid, p. 165.

The 1997 Asian financial crisis tarnished the global discussion about whether authoritarian "Asian principles" in Pacific Asia (East and Southeast Asia) justified the region's economic miracle[53]. The financial crash undermined the statements of Asian autocrats that governance should be based on authoritarian "Asian principles" rather than "Western democracy." Regional developmental dictatorships become more defensive as a result of globalised discourse on "good governance." Formerly, growing dictatorships seemed doomed, with predictions of a regional wave of democratisation similar to that which had shaken Latin America or Eastern Europe in the wake of economic disasters in those countries.

Trends for Democratisation in Indonesia and Myanmar

Indeed, Southeast Asia is a contradictory place. The Association of Southeast Asian Nations (ASEAN) is made up of democratic, communist, feudal, and authoritarian governments[54]. According to Michael Vatikiotis, the political evolution of contemporary Southeast Asia has progressed through three major phases[55]. Initiated by the expansion of nationalist groups before the Second World War and their final victory over colonial control after the defeat of Japan in 1945, stage one began with the emergence of nationalism. The primary feature of stage one was its mimicry of Western political ideologies and institutions. The departed colonial powers envisioned these brave new sovereign entities as fledgling liberal democracies. Political parties flourished, and parliaments were elected, or at least liberal constitutions professed their desire to do so. Indeed, these republics took the first steps toward democracy after achieving independence.

During the second stage, which approximately corresponds to the mid-1950s, the loss of democracy is seen[56]. There were national unity issues, various groupings, and areas requiring unification. There was a widening gap between the political background and objectives of the new governing class and the ability of the general populace to comprehend them. Similar to colonial reformers who started enacting liberal changes after their reign, the indigenous governing class spoke of a transitional period before a full-fledged democracy could function. According to the discourse, education and economic progress were cited as means to close the gap between the elite and the people. It was claimed that as the

[53] Ibid, p. 169.

[54] R. Hadiz, "The failure of state ideology in Indonesia: the rise and demise of: Pancasila." *Communitarian politics in Asia*, Routledge, 2004, p. 162.

[55] R.J. Vatikiotis, "Indonesia's Foreign Policy in the 1990s." *Contemporary Southeast Asia*, 1993, p. 356.

[56] Ibid, p. 362.

population grew more receptive to constructive engagement, they would be given a bigger say in their government[57]. In the absence of genuine democracy, those who prioritised expansion and unity above representation came to dominate the political landscape.

The friction between conscious political elites and societal changes is important to the current political analysis of contemporary South East Asia and was the defining characteristic of the third stage of political development[58]. Beginning with the 'people power' revolution in the Philippines, the democratic renaissance has expanded across the remainder of Southeast Asia. In 1998, as a result of Indonesia's shift from autocracy to democracy, participatory and procedural democracy reemerged and contributed to the establishment of democratic regimes. Numerous analysts have dubbed this period "the age of semi-democracies." Under the guise of their hybrid regimes, governments attempt to moderate electoral competition by encouraging a decent amount of uncertainty.

The third wave has increased the effectiveness of democratic procedures. This aids them by providing a cloak of political legitimacy and a pretext for their extended time in government. According to a Freedom House study, it was not until the late 1990s that a small number of Southeast Asian nations started to make progress on the road to freedom or full democracy. Only Indonesia, the Philippines, and Thailand were independent in 2005. Since the collapse of an authoritarian regime in 1998, Indonesia has made significant progress toward democracy, creating a significant media and political plurality and sustaining several peaceful power changes between parties. Nonetheless, the nation still confronts problems, including systemic corruption, antagonism and violence towards minority groups, and military meddling in national affairs. According to the Freedom House reports for 2019, 2020, and 2021, Indonesia's democracy is described as "flawed" with a score of 61% on a scale of 100%. This implies that elections are free and fair, and essential civil liberties are protected, even though imperfect democracies have their flaws (e.g. media freedom infringement and minor suppression of political opposition and critics). Indonesia's position on the global democracy index will improve if these issues are remedied. In contrast, despite a leadership purge by a coup organised by the *Tatmadaw* (Myanmar Armed Forces) in 2021, Myanmar remained under the solid control of the military junta's hardliners, and the chances for democratic change were bleaker than ever. According to the Economist Intelligence Unit's (EIU) 2022 Democracy

[57] R.J. Vatikiotis, *Political Change in South-East Asia: Trimming the Banyan Tree*, Routledge, 2005, p. 43.

[58] Ibid, p. 43.

Index, Myanmar is one of the three least democratic countries in the world in 2022, along with North Korea and Afghanistan[59].

The participation of the military in political matters in both Indonesia and Myanmar has been one of the most significant issues impacting both nations. In recent years in Indonesia, President Jokowi's lack of security understanding and lack of links to the political and military elite has necessitated an active wooing of these relationships. Despite living in a democracy, many members of the "New Order" continue to be prominent and wealthy[60]. On the other hand, Myanmar, which ranks 135th among the world's least democratic nations, is a great example of stagnant growth due to decades of obstinate, isolationist military dictatorship[61].

Indonesia serves as an important example for Southeast Asian countries because the democratisation of Indonesia occurred during a severe economic crisis, when the legitimacy of the entire economic and political structure was eroded, resulting in a decline in the state's ability to allocate resources and maintain order. Nonetheless, Indonesia has made significant progress since its transition to democracy started in 1998. The nation has enacted extensive, basic constitutional changes, such as the direct election of the President, Vice President, and provincial governors. After years of stability brought forth by an autocratic political system, Indonesia has transitioned to a more democratic and participative political system than an authoritarian one. The political and societal developments in the post-Suharto period presented the new authority with several obstacles. Some of the ways to measure the regime's progress toward democracy are the reduction of the military's role in politics; the growth of a stronger civil society; the strengthening of institutions to promote equity and social justice; the resolution of ethnic conflicts and tensions in center-periphery relations; the difficult question of decentralization; the rate of economic recovery; and the democratisation of elections, political parties, and the media.

However, nearly since 1948, when Myanmar earned its freedom from British occupation, the country has been ravaged by civil conflict, which has continued into recent years. However, the military junta's unwillingness to acknowledge the mandate of the people dashed all expectations for a swift transition of democracy in Myanmar. Since the 2021 election in Myanmar, democratisation in the country has reached a deadlock as an illegal military regime clings to power by monopolising the tools of violence. The Myanmarian political system will not lose its personalistic nature overnight, nor will western-style democracy emerge

[59] Ibid, p. 44.

[60] Ibid, p. 49.

[61] A.M. Thawnghmung, *Everyday economic survival in Myanmar*. University of Wisconsin Press, 2019.

overnight. Therefore, the most pressing challenge for the next government is to devise a structure that permits democratic openness while preserving political stability and economic development. In this fight for justice and peace in Myanmar, only the acknowledgement and fortification of pro-democratic forces can establish lasting power. It is anticipated that civil society will reduce human rights abuses and promote a more libertarian political and economic climate.

Conclusion

In the majority of liberal democracies, it has taken decades, if not centuries, for political institutions and traditions to emerge and acquire high levels of legitimacy and popular acceptability. A nation with the lowest level of development, such as Myanmar, is still striving for democratic political structures and procedures. In contrast to Myanmar, an expanding and developing economy like Indonesia's has institutionalised politics and is heading toward a more organised, legalised democratic style of governance. Indonesia has established a democratic political system characterised by competitive elections during the previous decade. It has also seen the expansion of political parties with differing ideologies, the expansion of a free press, and an increase in respect for human rights and civil liberties. Although political stability during the early years of transition (Habibie, Wahid, and Megawati) was shaky, the emergence of Yiidhoyono's and, more recently, Joko Widodo's presidential democracy has bolstered popular trust in the legitimacy and stability of public institutions.

There are several parallels between the postcolonial development of Indonesia and Myanmar. Both nations have a military that has historically played a key role in sociopolitical affairs and has been the focus of reform efforts within the framework of democracy more broadly. Since their founding, the militaries of both nations have been directly or indirectly engaged in the political affairs of their respective nations. In both nations, the framework of authoritarianism consisted of a triangle axis composed of the party (Golkar and BSPP), the armed forces (ABRI and the Revolutionary Council-SLORC-SPDC), and a tightly delimited governmental bureaucracy. Furthermore, the comparison implies that nations that use coercive techniques to resolve domestic security and political problems are more likely to have their military assume a variety of tasks in socio-political affairs[62]. This has resulted in what Mary Callahan[63] refers to as the shift of the military from institution to government.

[62] A. Odey and S. Bassey. "Ukrainian Foreign Policy toward Russia between 1991 and 2004: The Start of the Conflict." *Journal of Liberty and International Affairs*, Vol. 82, 2022, p. 347.

[63] P. Callahan, *Making enemies: War and state building in Burma*, NUS Press, 2004.

In every case of democratic transition, it has been seen that the government loses coherence before it loses power. Indonesia's transition is an example of a negotiated agreement for withdrawal, as opposed to a sudden rupture caused by elite pressures and poor economic and political performance. The Asian financial crisis has been an important factor in establishing the legitimacy of the New Order administration. During the four decades of military rule in Myanmar, there have been instances of intra-military divisions among officer factions, elite infighting between soft-liners and hard-liners, infantry mutinies, and soldiers' defections, albeit on a subservient level. Due to all of these factors, the Myanmar military has maintained unrivalled political authority and military rule continues. The economy of Myanmar remained so weak that it was surprisingly immune to the 1997 financial catastrophe that devastated Southeast Asia. Myanmar's financial institutions were only marginally capable of fostering local investment and attracting foreign direct investment. Except for the illicit drug trade, the export industry has been mostly neglected. Myanmar's economy has been less impacted by the repercussions of the Asian financial crisis since there has never been any serious growth in export-oriented sectors under the economic management of the military.

A comparative examination of the political processes in the two nations examined here reveals that Indonesian society has been able to transition from authoritarianism to democracy. The research describes how Indonesia, one of the nations most impacted by the financial and political crises and whose government was extremely authoritarian and unresponsive for 32 years (1966–1998), is still bridging the gap between the state and civil society. In the last decade, Indonesia has undergone profound and fundamental changes, shifting from authoritarianism to electoral democracy and from centralism to regional autonomy. However, Indonesia's democracy is still considered "flawed," mostly due to military meddling in its affairs. Restricting military intervention in government activities is one of the surest paths to "representative democracy" for both Indonesia and Myanmar.

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THE INVISIBLE WORLD OF LITERATURE AND ITS INTERPRETATION

Cristina Nicolaescu*

chris2013x@yahoo.com

Abstract: *This paper investigates how the unsaid, invisible meanings can be brought to light by a process of validated interpretation. Given the variety of literary texts, a single reception procedure cannot be practiced. Poetic writings, novels, essays, and volumes in the field of correspondence or journalism are addressed to different types of readers. Acting as relatively independent elements, textual discourses stand out especially for their communicability insofar as they are coherent and are designed to convey something. The text is not an independent institution but multi-institutional. Books have no value in themselves; literary or scientific productions are waiting to be caught in the global circuit of communication and hope to enter the interpretive radius of the receivers. Interpretive strategies end with the unearthing of meaning. The careful capture of the meaning requires from the reader a strong personal commitment as a result of which the sweet taste of the dialogue with the book is cultivated. This dialogue allows the readers to talk to authors from different times, becoming a universal interlocutor, contemporary with the whole world.*

Keywords: *hermeneutics, literary texts, literature, meaning*

The new hermeneutics has emerged as a social, cultural, and historical palimpsest, in which more voices and considerations are continually added, since the progress of literary research is not unequivocally dependent on the investigation of objective elements located at the textual level and associated with aesthetic effects catalogued in the treatises on poetics and rhetoric. Interpretation reveals the internal relations or organic connections between the components of a text, decoding its order as accurately as possible.

If the literary work is a world that has conquered its own independence and immanence, as a particular structure of language, as a linguistic construction different from the common language, then the critic may ask what are the connections of this artificial world with the real world, contingent with the society and mentality in which it emerged. He may ask what the relationships between them are and what their natures are: mimetic, reproductive (transposing the world realistically) or

* **Prof. PhD. at Yozgat Bozok University, Turkey.**

disjunctive, differential and challenging (transposing the world ironically, polemically, and sarcastically, due to the vehement rejection of history, the opposition translating through structures of the symbolic, allegorical, and euphemistic imaginary). All these relations that make up the fabric of the work and its organic articulations cannot be deciphered without a good knowledge of the socio-political context, without historical documentation, and without a careful probing of the ideas and mentality of the time.

Among the speculative hypotheses on the dominant features attributed to literature, three can be included in the major historical definitions: classical and neoclassical (i.e. mimetic) definition, the romantic notion (i.e. expressive), and the modern and postmodern definition (i.e. experimental, self-reflexive, and intertextual) of literature. Behind this cultural-historical description of the metamorphoses of literature, which is implicitly a plea for a procedural and non-reductive view on the literary phenomenon, it may be concluded that literature is a relational concept; more precisely that meanings, attributes, extensions, and functions must be seen in relation to a cultural context and its value system.

Recording the historical attributes of literature and observing that literature is a complex cultural phenomenon that involves an equally complex problem of comprehension, tries to describe the mechanisms or technologies of working on literary texts. Many competencies are necessary for it (linguistic, theoretical, and cultural) and the disciplinary configurations that have assumed the study of these aspects. The aim of this approach is to emphasize the fact that, despite the diversity of discourses that focus on literature, two major general perspectives can be noticed: an analytical and an interpretive one. The usefulness of this observation is that it identifies the specific place of literary theory in its various historical aspects within an analytical perspective on literature, behind which lies an implicit speculative project that feeds on the metamorphoses of this literary phenomenon. All this leads to the conclusion that literary theory is primarily a methodology of literary studies, trying to justify the framework in which it is situated.

Creativity is, at an engaged reading level, deduced from the productivity of the imagination and generates the specific understanding of the literary work. The fictional text cannot be conceived as an empirical object to be known; this data explains why it cannot be assumed in the initial stage

> "The dialectic between form and the possibility of multiple meanings, which constitutes the very essence of the "open work," takes place in this oscillation. The contemporary poet proposes a system which is no longer that of the language in which he expresses himself, yet that system is not a non-existent language; he

introduces forms of organized disorder into a system to increase its capacity to convey information."[1]

Words become images created by an imagination that operates according to specific rules. The imaginary universe is obligatory, the result of a narrative or metaphorical deviance in relation to the norms inherent in some narrative typologies or, in the case of the metaphorical, non-figurative statement. However, the productive imagination does not create anything new out of nothing; the new significant relevance does not arise from a semantic vacuum. It operates by virtue of the principle of resemblance, which eliminates the suspicion of gratuitousness or arbitrariness. To notice the similarity means that the established semantic relevance makes sense only by starting from a given significant totality. The new meaning found is similar to the literal and non-figurative one, meaning that it retains a common semantic core, which means that they are not completely separated. What differs and diverts the meanings of the same term are the new meanings created by the productive imagination; what brings them closer is the similarity based on the generic kinship of some given meanings. The productive imagination thus creates in spite of a common semantic nucleus at the level of the word or in spite of the initial difference between terms that resists the predicative assimilation at the level of the sentence. Another parallel appears in the intelligibility of semantic innovation. Narratively, there is interdependence between explanation and comprehension. By explaining more what happens as an action of a story, we better understand the meanings of the historical events involved. The same relationship between comprehension and explanation is observed in the poetic field. To understand here means to master the dynamism of the meanings by which in a metaphorical utterance a new semantic relevance appears, which is built on the ruins of literal irrelevance. Understanding is precisely this mental restoration of the discursive operation that makes possible semantic innovation. If the reader deconstructs the metaphor in a way, to understand it in its very significant deviance, the explanation is built on this first understanding: we can only explain what we have previously understood. At the level of the reference (the extralinguistic level of the statements and their claim to the truth) narrative fiction mimics through mediation, a temporal experience, as this is the very reality of human action.

> "In hermeneutics the circle is employed to interrelate the explicit with the implicit, the hidden with the revealed, and the latent with the manifest. It basically sets out to recover what an

[1] Umberto Eco, *The Open Work. Cambridge,* Massachusetts: Harvard University Press, 1989, pp. 60

> author has not been aware of when writing, or what lies beyond the historical material to be observed in the present, or what went awry in the human subject on the way to itself. Penetrating behind what is given in order to recuperate what is lost—that is, the author's subconscious, a historical past, or the buried telos of the fractured self—is what structures this type of interpretation."[2]

Wolfgang Iser argued that the starting point for the constitution of a synthesis was through the relations between signs, which can be identified and their equivalence represented. Such syntheses are of a nature. They do not manifest themselves in the linguistic form of the text, nor are they a pure phantom of the reader's imagination. The starting point certainly remains driven by the signs shown in it. The reader's contribution and the contribution of the signs to this projection then prove difficult to separate from each other.

Reading should be understood as a process that cannot be conditioned exclusively by textual norms, nor by metatextual and critical ones. However, this process has a degree of intrinsically defining subjectivity that cannot be circumvented. Iser considers that through imagination readers produce a picture of the imaginary object that is not given as such.

The way in which the reading act is performed is a representation through imagination and not through perception being, obviously, the one that influenced the idea. For the reader, reading consists in imagining in the presence of the text, with effects realized by stimuli, whose meaning cannot be reconstituted by simple perception, thus making creativity necessary in the production of the meaning by constructing the image of the character. Consequently, an investigation is made of the psychological springs of the way in which the world of the text intersects with the psychic dimension of the reader and, more importantly, of the ways in which this fact occurs in relation to the literary world.

The definition of poetic reading resumes with Hans Robert Jauss's theory that the first reading of a fictional text that appeals to its aesthetic dimension is comprehension, and the second reading, with access to the "global meaning" of the text, is interpretation. To be in front of the text does not mean to be in front of the author's subjectivity, but to be in front of one's own interpretive reading. The hermeneutic theory of the text not only discovers the internal dynamics of a text (the exegesis of meanings), but integrates us in the analysis of the text, in the projection of a world that is also ours. As such, the hermeneutic task of text theory is twofold: to

[2] Wolfgang Iser, *The Act of Reading, Theory of the Aesthetic Effect* (trans. E. Sznycer), Brussels: Pierre de Mardaga, 1985, pp. 8.

reconstruct the internal dynamics of the text and to restore the work's ability to project itself into the representation of a world.

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> "We should conceive of two different pragmatic approaches: a pragmatics of signification (how to represent in a semantic system pragmatic phenomena) and a pragmatics of communication (how to analyze pragmatic phenomena that take place in the course of a communicative process). Such phenomena as textual co-reference, topic, text coherence, reference to a set of knowledge idiolectally posited by a text as referring to a fictional world, conversational implicature, and many other phenomena concern an actual process of communication and cannot be foreseen by any system of signification. Other phenomena, such as presupposition, prediction of ordinary contexts, rules for felicity conditions, and so on, can, as we shall see, be considered by the study of a coded system of signification, to describe which both the semantical and the pragmatical approaches are strictly and inextricably interrelated."[3]

There is an interpretable reference to the text and in the context of the text itself since what it shows is the world in a situation. The reader lives in his own concrete world, but the world the text proposes is unique. Certainly, this textual fictional world at the same time proposes a distance from the world of everyday language. "It is a kind of distancing from reality in relation to itself that fiction introduces into the perception of reality. It is as if a gap were opened in everyday reality, through which fiction sees beyond another reality, or rather creates a different reality that it proposes as another world, that of the text. It is not the given reality that is targeted, but a virtual reality, a possible world, able to access existence. It seems that literature always runs after a chimera, which it tries to lure into the world of text. In fact, it is a deeply creative process by which man proves to be

[3] Umberto Eco, *The Limits of Interpretation*. USA: Indiana University Press, 1991, pp. 212

able to always recreate the data of immediate experience. Through imaginative variations, effects of productive imagination, fiction proposes alternatives to reality; not parallel worlds, but values they add to the real world itself.

The world of the text is both real and fictitious, and this is because the reality of literature lies precisely in its power to establish distance from everyday reality by introducing that secondary reference we were talking about. It thus acquires the status of a super-reality that opens in the heart of the real world.

Taking the reference, the reader to whom the text is addressed also takes over the world of the text. That is why the text is somewhat out of the world, because it is absorbed by the world of reception, which takes the place of the real reference. There is no longer a circumstantial reality, but an intertextual, interconnected reality, because the text reader written, in the suspension of the reference, is free to enter in relation to other texts that take the place of the real world. Thus was born a quasi-world of texts, that is, literature. Meaning no longer passes into a reference as appearance, but it shows itself. Works can no longer look as if they are speaking; they show themselves. The world of the text or intertext "is presented in writing, in the very place where the world was presented in speech. This means that literature asserts itself as a presence in the very place where the world is absent.

Any literary text is created in the field of culture and thought to be a subjective emotionally-reflective expression of reality. Through artistic images, the author creates universes parallel to the real world.

Conclusions

Interpretation theory is a sub-discipline dominated, at the level of identity adjustment, by a strong tendency to go from heteronomy to autonomy in the recent decades, but which, in fact, evolves from diverse cooperation between study areas, and which can extract its substance from them, whereas mechanisms, such as reading, comprehension, and value judgment, basically intervene everywhere, in a large diversity. In principle, interpretation is actualised when a certain reshaping, regardless of its ontological stage, texture, or scope, based on higher cognitive functions, connecting them with already memorised data with the purpose of continually updating the respective view during multiple, successive returns to the text under analysis and, implicitly, with the possibility that the reader uses these recalibrations to guide others' comprehension of literary texts.

The presentation of this complex field, used for slightly didactic purposes, with epistemic angles, included argumentative, critical, and situational aspects of discursive analysis levels. The technologies applied to

literary texts teach readers to read and interrogate in a unified manner, every open space that is decoded by geometric rearrangements of ideas starting from the obvious one to the most subtle hints, the direct or indirect forms and how they appear in the sequences, the improved versions passed through the filter of confrontation with the central hypothesis of the book, so that the whole envisaged significance is validated. Indeed, validation is achieved after completing a multi-staged process of evaluations and revaluations coming from observations and all sorts of critical activities made in the various hypotheses that have initiated this process, and these become sine qua non components of the new theories to be used in a text's interpretation. The whole approach, inter-methodological and interdisciplinary in nature, will pursue logic and the possibility of demonstration.

The text is a partially open universe with infinite ideational connections, some being revealed immediately, others being hidden in intended ambiguity, or just being unsaid. Therefore, interpretation advocates the semiotic perspective of any textual discourse. This means that the reader, involved in deciphering the meanings corresponding to the different types of reading, will carry out an active involvement with the work, rethinking the text through a personal hermeneutic matrix, shaped over time by an accumulated aesthetic and cognitive experience. Everything starts with a hermeneutic model, which will be formed over time either consciously or unconsciously and that is the personal contribution to text analysis and interpretation. With these clarifications, the innovation of interpretive technologies starts from practice on a variety of literary works, in their understanding as the highest and most complex level at which language functions to communicate. From this perspective, interpretation of texts has a well-deserved place in this endeavour and provides new possibilities to look at such communication established between the author and reader. The new technologies cannot diminish the interest in reading books, but they should come to the aid of extending the ways in which texts are evaluated. When things become more visual, with the help of geometric representations of the inclusion / exclusion types in the attempt to show how ideas and themes in a text are related to each other or go in opposition, have intersections with or detach from them, interpreters' meta-literature has a better chance to be understood by those, who expect critical guidance for such texts.

Therefore, reading and interpretation should be encouraged as it forms the foundation of any evaluative work on literary texts. In this century we are granted with plenty of information that may arouse an increased interest in both intellectual and spiritual endeavours, in a space between art and real life, as a new dimension added to our existence that

should not be ignored, but can yield more access to the visible and invisible world of literature.

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BIOMORPHIC METAPHOR IN THE ENGLISH VETERINARY TERMINOLOGY

Valerii Lashkul*,

lash58095@gmail.com

Yurii Rozhkov**

yurii112@nubip.edu.ua

Abstract: *The article represents the results of metaphorization research and the study of metaphor terms widely represented in the English veterinary medicine terminology. The study of metaphorization as a way of forming English veterinary terms was conducted on the basis of lexicographic data recorded in the English terminological dictionaries for veterinary medicine. The analysis of the dictionary material made it possible to conclude that the most productive way of forming terms in the veterinary vocabulary is the biomorphic metaphor, which nominates scientific concepts due to the analogy between objects of living nature and systems of objects of veterinary science. The important role of the biomorphic metaphor in the formation, structuring and functioning of veterinary medicine terminology in combination with the high productivity of metaphorical models in modern veterinary medicine testifies to the relevance of our research. The biomorphic metaphor is based on similarity with living nature: humans, plants, animals. Biomorphic metaphors include botanical, zoomorphic and anthropomorphic metaphors. An anthropomorphic metaphor, formed on the basis of the transfer of lexemes related to the structure of the human body, its behavior, its inherent qualities, is especially common in the veterinary vocabulary. Along with anthropomorphic metaphors, zoomorphic metaphors are often found, which, by association with various animals, make it possible to nominate anatomical and pathological objects and their characteristics. Botanical metaphors, formed due to the correlation of terms with representatives of the plant world and parts of plants, dominate the anatomical terminology of veterinary medicine, since the basis of metaphorical transfer is the external features of the object: shape, size, position in space.*

Keywords: *biomorphic metaphor, veterinary terminology, anthropomorphic metaphor, botanical metaphor, zoomorphic metaphor.*

* **PhD. in Pedagogy, Senior Lecturer, National University of Life and Environmental Sciences of Ukraine, Kyiv, Ukraine.**

** **PhD .in Linguistics, Associate Professor, National University of Life and Environmental Sciences of Ukraine, Kyiv, Ukraine.**

Introduction

The modern intensive development of the science of veterinary medicine causes the emergence of a large number of new terms. The modern terminology of veterinary medicine is one of the most complex systems of terms. It includes several hundred thousand words and phrases. The development of the terminological system of veterinary medicine at the current stage of its existence is a reflection of accelerated progress, specialization of veterinary science, which creates a need for a significant number of new terms. Metaphorical nomination was and remains one of the most effective mechanisms for creating terminological units necessary for the linguistic fixation of new realities, processes and concepts in veterinary medicine, as well as the reinterpretation of previously accepted terms. The question of the role of metaphor in the formation, structuring and functioning of the veterinary medicine terminology, together with the high productivity of metaphorical models and the effectiveness of using metaphors in modern veterinary medicine, shows the relevance of our research. One of the most popular models of metaphorical nomination in veterinary medicine is the biomorphic metaphor, which is based on similarity with living nature: humans, plants, animals. Such biomorphic terms-metaphors are firmly rooted in veterinary terminology, and their prevalence ensures effective functioning in the speech of specialists. Given this, the relevance of our article is determined by the need to consider the biomorphic metaphor as one of the mechanisms for the English veterinary terms creating.

The aim of our work is to represent the features of biomorphic metaphorical nominations in the English veterinary medicine terminology.

The materials of the research are the veterinary medicine terms selected from English specialized dictionaries: Black's Veterinary Dictionary[1]; Concise veterinary dictionary[2]; Veterinary dictionary[3]; Dictionary of Veterinary Nursing E-Book[4].

The following methods were used in this study: differentiation and identification of veterinary medicine terminology units, formed by the mechanisms of biomorphic metaphorical nominations, as well as their analysis and systematization.

[1] E. Black, *Black's Veterinary Dictionary*, London: Bloomsbury, 2015, 970 p.

[2] C.M. Brown, *Concise veterinary dictionary*, Oxford: Oxford University Press, 1988, 896 p.

[3] J. Danko, *Veterinary dictionary*, Bratislava: Ikar, 2012, 424 p.

[4] D.R. Lane, *Dictionary of Veterinary Nursing E-Book, Amsterdam: Elsevier Health Sciences*, 2007, 250 p.

Literature Review

Metaphor has long been in the focus of attention by many linguists. The theoretical foundations of metaphor were the subject of research by such American and European linguists as G. W. van Tongeren[5], G. Lakoff[6], D. Geeraerts[7], E. Kittay[8]; Ukrainian: O. Vorobyova[9], S. Zhabotynska[10], O. Selivanova[11]. At the current stage of the development of linguistic science, scientific metaphor is a relevant field for numerous studies of modern linguists. In the literature devoted to the term-metaphors, issues of origin and development of the concept of scientific metaphor, its functions in a special text, mechanisms of metaphorization are considered, the terminological potential of the vocabulary of general literary language and languages for special purposes is revealed.

English-language terms-metaphors of humane and veterinary medicine are increasingly becoming the object of scientific research, the study of which is considered in the scientific studies of T. Klochko and V. I. Isaieva[12], Yu. Rozhkov[13], O. Sirotin[14], G. Usik and T. Kyrylenko [15], N. Tsisar[16].

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[5] G. W. van Tongeren, *Metaphors in medical texts*. Amsterdam: Rodopi, 1997, 180 p.

[6] G. Lakoff, *The Contemporary Theory of Metaphor, Metaphor and Thought*. Cambridge: Cambridge University Press, 1993, 46 p.

[7] D. Geeraerts, *Methodology in Cognitive Linguistics, Cognitive Linguistics: Current Applications and Future Perspectives*, Berlin-N.Y: Mouton de Gruyter, 2006, 323 p.

[8] E.F. Kittay, *Metaphor: Its Cognitive Force and Linguistic Structure*. Oxford: Clarendon Press, 1987, 328 p.

[9] O. Vorobyova, *Cognitology as an experimental myth: methods of conceptual text analysis, Current issues of philological science and pedagogical practice: abstracts of the III All-Ukrainian scientific practical conference*. Dnipropetrovsk, Oles Honchar DNU, December 8-9, 2011. Dnipropetrovsk: DNU, pp. 8–10.

[10] S. Zhabotynska, *Images of Ukraine-EU relations in conceptual metaphors of Ukrainian mass media*. Cognition, communication, discourse, 2018. No 17. Pp.118-140. Retrieved from: http://sites.google.com/site/cognitiondiscourse/

[11] O.O. Selivanova, *Conceptual Modeling And Cognitive Onomasiological Analyze*. Cherkasy University Bulletin: Philological Sciences, 2017, 2, pp. 3-12.

[12] T.V. Klochko, V.I. Isaieva, *Metaphorization in medical terminology*. Scientific notes Tavria National university the names of V. I. Vernadsky. Series: Philology. Social communications. 2020, Volume 31 (70). No. 1. Part 2. 31(70), pp. 84-88.

[13] Y.H. Rozhkov, *Linguocognitive aspect of metaphorization in the English language terminological field "animal diseases"*. The Journal of V. N. Karazin Kharkiv National University Series". 2020, Philology, 84, pp. 55-61.

[14] O.S. Syrotin, *Anthropomorphic metaphor in the English veterinary terminology*. International journal of philology, 2021, 12(4), pp. 67-70.

[15] G. Usyk, T. Kyrylenko, *Metaphor as a way of terms coinage in medicine*. Advanced Linguistics, 2020, (5), 62-67.

[16] N. Tsisar, *Metaphor in the medical terminology*. Herald of National University "Lviv Polytechnics". Series "Issues of the Ukrainian terminology", 2005, No. 538, pp. 63-67.

In particular, the analysis of the metaphorical component in medical terminology (based on anatomy and clinical veterinary terms) is carried out by Y. Brazhuk[17]. The author cites leading thematic groups that become the basis for metaphorization, sometimes compares selected examples with international medical terminology, but does not resort to a detailed seven-component analysis. In a similar study, N. Tsisar examines the sources of metaphorization in medical terminology (such as the similarity of objects that are compared, compared; functional similarity and transfer based on external similarity and functional similarity) with lexical-semantic groups of words that became the basis for the formation of terms[18]. A lexical-semantic approach to the classification of metaphorical terms is proposed by H. Usyk, dividing them into anthropological and non-anthropological. According to the researcher, non-anthropomorphisms prevail in the professional language of medicine[19]. While studying English medical metaphors, H. Usyk and T. Kyrylenko do not ignore their structural characteristics[20]. Yu. Rozhkov examined the cognitive mechanisms of using metaphor in English terminology to denote animal diseases. Based on the theory of conceptual metaphor, the main donor domains that served as a source of metaphorical nominations for the designation of animal diseases were identified in the studied terminology, and the types of metaphorical transfers present in the terminological array for the designation of animal diseases were characterized: structural, gestalt, diffuse[21]. However, in the scientific literature, metaphorization, in particular biomorphic metaphor as its most productive way of forming terms in the veterinary vocabulary, has not been studied enough.

Metaphorization

Metaphorization as a special branch of the semantic method of word formation is one of the most effective means of forming terminology units.

Metaphor is always a comparison, mostly concealed. The reinvented meaning is compared here with the literal one on the basis of some internal form underlying the comparison. First of all, words denoting the

[17] Yu., Brazhuk, M*etaphorical component in the medical terminology (based on anatomy and clinical medicine terms)*. Studia Linguistics,2012, 6 (1), pp. 224-226.

[18] N. Tsisar, *Metaphor in the medical terminology. Herald of National University "Lviv Polytechnics"*. Series "Issues of the Ukrainian terminology", 2005, No. 538, 65 p.

[19] G. Usyk, T. Kyrylenko, *Metaphor as a way of terms coinage in medicine*. Advanced Linguistics, 2020, (5), p. 62.

[20] Ibidem, p. 64.

[21] Y.H. Rozhkov, *Linguocognitive aspect of metaphorization in the English language terminological field "animal diseases"*. The Journal of V. N. Karazin Kharkiv National University Series". 2020, Philology, 84, p 61.

most famous concepts and objects from the immediate environment of a person are subjected to metaphorization. The name of a concept is transferred to another object or concept based on their similarity. Therefore, we can say that the metaphor is based on objectified associative connections, reflected in connotative features that carry information either about the everyday practical experience of a given language community, or about its cultural and historical significance.

Modern science knows several directions in the study of metaphor and processes of metaphorization. Today, the most common theories that try to explain the mechanism of metaphor are semantic and cognitive. O. Selivanova understands a metaphor as a word or expression that is used in a general sense and is compared with some object on the basis of a feature common to it. Referring to the internal form underlying the comparison, the newly reinterpreted meaning is compared with the literal one[22]. Thus, a metaphor is a new usage of a word that has already become established in the language, allowing to endow this concept with a part of the previous meaning.

The semantic way of creating terms, based on various metaphorical transfers of general meaning, is a constant and inevitable source of replenishment of the terminological vocabulary. According to the predictions of some researchers, the productivity of the metaphorical nomination of scientific objects in the course of the further development of science will increase due to a wider analogy between objects and systems of objects of different sciences. Cognitive metaphor is a special method of associative thinking that plays a huge role in scientific knowledge. With the emergence of the theory of conceptual metaphor by G. Lakoff, a new approach to the consideration of the problem of metaphorization of scientific knowledge was formed in the paradigm of modern cognitive linguistics. According to this theory, metaphor is a property of thinking, and metaphorical expressions and utterances in language are only a superficial expression of the conceptual metaphors underlying them[23]. Thus, within the framework of the theory of cognitive metaphor, the definition of metaphor acquires a new essence – it is "the understanding and perception of one thing in terms of another". G. Lakoff formulated a clear conceptual theory of metaphor, describing conceptual metaphor as the transfer of knowledge from one conceptual domain to another[24]. Thus, according to the specified theory, conceptual metaphor is a process that

[22] O.O. Selivanova, *Conceptual Modeling And Cognitive Onomasiological Analyze*. Cherkasy University Bulletin: Philological Sciences, 2017, 2, p. 12.

[23] G. Lakoff, *The Contemporary Theory of Metaphor, Metaphor and Thought*. Cambridge: Cambridge University Press, 1993, p. 36.

[24] Ibid, p. 11.

occurs at the level of human thought, and then passes and is reflected in language structures.

The theory of conceptual metaphor by G. Lakoff made it possible to expand the knowledge base about metaphor and metaphorical models in many ways. Based on this theory, it can be argued that the modeling process consists in fixing the features of similarity of certain objects of reality with other objects, which makes it possible to generate metaphors. In this theory, a metaphorical model is understood as a stable conceptual scheme of relating the images of their two conceptual areas[25]. At this stage, the following metaphorical models are distinguished: anthropomorphic, artifact, zoomorphic, materialistic, animalistic, etc.

The phenomenon of metaphorization in the formation of terms is one of the most productive ways of nominating objects and processes of reality due to the fact that a metaphor can simultaneously act as a mechanism for cognition and interpretation of the surrounding world, as well as be an effective method of nominating various elements of this sphere[26].

The recognition of the role of metaphor in the cognition and development of the surrounding reality has made its use widespread in various fields of knowledge, including veterinary medicine.

In modern linguistics, metaphorization is recognized as a leading way of forming terminological units, including veterinary terminology. The productivity of a metaphor in the formation of terms can be explained in the following way: a metaphor is characterized by vividness, which is important in the practical aspect; metaphors are able to form associative pairs in a person's mind, which in turn ensures reliable fixation of information; a metaphor is able to briefly and clearly duplicate and explain foreign language equivalents, making their perception more accessible.

On the basis of the semantics of the term in terminology, researchers usually distinguish the following general categories of metaphors: 1) household metaphors, which are based on a comparison with household items and the human environment; 2) conceptual metaphors depicting ideas that exist in a person's mind; 3) a geographical metaphors based on similarity with the earthly landscape; 4) biomorphic metaphors based on similarity with living nature; 5) metaphors-somatisms, built on the similarity of human states or parts of the human body; 6) geomorphic metaphors, which are based on a comparison with the shape of a particular object or letter.

[25] Ibid, p. 35.

[26] G.W. van Tongeren, *Metaphors in medical texts*. Amsterdam: Rodopi, 1997, p. 153.

Biomorphic metaphor

The most productive way of forming terms in the veterinary vocabulary is the biomorphic metaphor, which nominates scientific concepts by drawing an analogy between objects of living nature and systems of objects of veterinary science. Researchers include botanical, zoomorphic and anthropomorphic metaphors as biomorphic. Such metaphors are a means of understanding the relevant concepts of veterinary medicine, that is, with the help of biomorphisms, nominations of organs and their characteristics in anatomical terminology are created. In the clinical terminology of veterinary medicine, the object of metaphorical understanding is the affected functional system of the body or organ.

Biomorphic metaphors in anatomical terminology

Different branches of veterinary medicine are distinguished by the principles of metaphorization. For example, anatomical terminology is characterized by biomorphic metaphors, which include botanical metaphors formed from the names of plants and their fruits, and zoological metaphors formed from the names of animals, birds, fish and insects, since the external features of the object serve as the basis of the metaphorical transfer: its shape, size, position in space. The vast majority of this type of transfer is due to a number of factors: the ease of fixing the features of the object in memory, the efficiency of recognizing anatomical formations in practice, etc.

As a result of the study, we were able to identify 2 groups of anatomical terms formed using the biomorphic metaphor. The first group is anatomical names based on analogy with representatives of the plant world and parts of plants. Examples are botanical metaphors, among which the examples of the plant function, reflecting the stages of its development: root, shoot, trunk, stem, bark, branch, leaf, fruit. For example, the amygdala, a region of the brain primarily associated with emotional processes. The name amygdala is derived from the Greek word amygdale, meaning "almond," owing to the structure's almond-like shape. The amygdala is located in the medial temporal lobe, just anterior to (in front of) the hippocampus.

Botanical metaphors that serve to nominate the organs of the animal body are often based on a comparison, for example, with a tree (bronchial tree), or its parts, such as a process (maxillary process), a trunk (atrioventricular trunk, nerve trunk), a branch (branch of the aortal artery, visceral branch, nerve branch, bronchial branches, root (nerve roots, nose root, tooth root), leaf (leaflet of the pericardium), etc.

The second group represents anatomical terms formed by means of metaphorization, the cognitive source of which is the "image" of an animal transferred to the nomination of anatomical objects. In scientific literature, metaphors are called zoomorphic, which are widely used in language. Zoology is closely related to such branches of veterinary medicine as anatomy and physiology, which is why zoological metaphors are as common as botanical metaphors. Examples of such metaphors are the following anatomical terms. The term coccyx refers to the tailbone, the lower end of the vertebral column. This part of the spine is similar to the beak of a cuckoo, and that is why the coccyx got its name from the Greek word cuculus –"cuckoo". Musculus, this term comes from the Greek word mus – mouse. When the muscle contracts, a movement occurs that looks like a mouse running under the skin. The term hippocampus, which designates a part of the brain that is part of the limbic system and is important for memory, got its name from the hippocampus, which resembles the body of a horse with a fish tail[27].

Biomorphic metaphors in clinical terminology

The number of biomorphic metaphors in clinical terminology, denoting the names of diseases, their symptoms, and painful conditions, significantly exceeds the number of such metaphors in anatomical terminology. The comparison module when creating clinical terms-metaphors is not limited to features of shape, size and color, but also extends to the characteristics of the course of pathological processes and states, symptoms and etiology of diseases. Among the biomorphic metaphors, anthropomorphic metaphors are dominant in the clinical terminology of veterinary medicine, especially metaphors denoting animal diseases. As a result of anthropomorphic metaphorization, new terms of clinical veterinary medicine are formed on the basis of the cognitive transfer of the meaning of lexemes relating to the characteristics of a person, which determine his appearance, behavior or condition, into the field of veterinary medicine on the basis of external or functional similarity between objects. The following semantic groups are characteristic of the anthropomorphic terms-metaphors of clinical veterinary medicine: 1) metaphors that draw analogies between the qualities inherent in a person and the signs characterizing animal diseases, for example: communicable diseases – diseases that are transmitted, pathological conditions of the body that arise as a result infection with a pathogen; slow infections - "a group of diseases, the distinctive features of which are the incubation

[27] V.V., Nedosyekov, V.P. Lytvyn, V.V. Polishchuk, V.V. Melnyk, O.M. Gomzykov, O.H. Martyniuk, *Dictionary of epizootological terms*. Kyiv: OJSC, 2014, Ryabina, p.19.

period from several months to several years"[28]; 2) metaphors that are used for nominations of phenomena, words characterizing human qualities, for example: active immunity - resistance of the body that has developed in response to the introduction (entry) of an infectious agent or a vaccine preparation and, as a rule, is characterized by the increase (appearance) of antibodies. Passive immunity is the resistance of the body, obtained at the expense of ready-made protection factors. Drugs containing antibodies (sera and immunoglobulins) usually serve as such factors[29]; 3) metaphors that include disease nominations formed from proper names, for example: Addison's disease, Agaspher syndrome, Chagas disease, Barlow's disease, Carrion's disease, Moller-Barlow disease, Cushing's disease, Marie-Bamberger's disease, Hodgkin's disease[30]; 4) metaphors that are used to name the processes and phenomena of the names of scientists, for example: tindalization (after the name of the English physicist Tindal) – pulverized sterilization – materials are heated at 56-57°C for 30-60 minutes for a few days[31]; rickets (the name comes from the American pathologist Ricketts) is a group of pleomorphic gram-negative microorganisms occupying an intermediate position between viruses and bacteria[32]; pasteurization (lat. pasteurisatio named after L. Pasteur) — heating of material at 65-98°C for several minutes followed by rapid cooling to 10-11°C. At the same time, only vegetative forms of bacteria and viruses die. Rapid cooling of the material is intended to prevent spore germination; pasteurization is used to disinfect milk, food products[33].

Biomorphic metaphors in clinical veterinary terminology include botanical metaphors formed from the names of plants and their fruits. For the most part, metaphors of this type are based on the comparison of yet-to-be-named animal diseases with the already known visual gestalt, namely the similarity of the color scheme, appearance or shape of natural objects. Let's illustrate this with examples of clinical veterinary terms. Roseola is one of the forms of an infectious rash – small round well-defined red spots caused by inflammatory hyperemia of skin vessels and disappear when pressed[34]; furuncle – furuncle from lat. furis – villain, furunculus – crime, 1st century BC, later "growth on the vine", in the 1st

[28] E. Black, *Black's Veterinary Dictionary*, London: Bloomsbury, 2015, p. 765.

[29] Ibidem, p. 112.

[30] C. M. Brown, (1988), *Concise veterinary dictionary*. Oxford: Oxford University Press?1988, p. 801.

[31] J. Danko, *Veterinary dictionary*. Bratislava: Ikar? 2012, p.401.

[32] D.R. Lane, *Dictionary of Veterinary Nursing E-Book*. Amsterdam: Elsevier Health Sciences, 2007, p. 238.

[33] V.V., Nedosyekov, V.P. Lytvyn, V.V. Polishchuk, V.V. Melnyk, O.M. Gomzykov, O.H. Martyniuk, *Dictionary of epizootological terms*. Kyiv: OJSC, 2014, Ryabina, p.25.

[34] J. Danko, *Veterinary dictionary*. Bratislava: Ikar? 2012, p.409.

century AD appears in the meaning of "furuncle", the scientific definition – acute purulent-necrotic inflammation of the hair follicle and surrounding tissue, caused by staphylococcus[35].

Biological metaphors in the clinical terminology of veterinary medicine are also represented by metaphorical terms formed from the names of pathogens. For example, Mycoses are animal and human diseases caused by pathogenic fungi. Some types of fungi affect the skin (see Dermatomycosis), others cause damage to internal organs and systems (respiratory, digestive, nervous, reticuloendothelial)[36].

Biological terms also include metaphorical terms based on the analogy between the corresponding scenario that caused the injury and the name of the disease, for example: clover disease –"intoxication that occurs in animals when eating a large amount of pink clover on bright sunny days"[37]; potato eczema is a disease that "manifests itself in the form of vesicular inflammation of the skin on the lower parts of the limbs. It is found in cattle when they are fed large quantities of potatoes in the spring"[38]; grass seeds abscess - "mechanical damage to tissues and organs of animals caused by the achenes of seeds of various cereals"[39].

Examples of biological metaphors also include terms that designate symptoms of diseases that are similar to the appearance of plants or their fruits. For example, a fungal ulcer is "a fungal ulcer characterized by pathological granulation, which emerges from the depth of the wound and forms a mushroom-like elevation above the skin level)"[40].

Miliary (lat. miliaris – millet-like) — the term used to denote small multiple foci of some diseases, for example, miliary tuberculosis, miliary pneumonia, miliary cancer[41].

Common among biomorphic metaphors in the clinical terminology of veterinary medicine are zoomorphisms formed on the basis of similarity with the names of animals, their body parts, signs and actions with the affected functional system of the organism (or organ) of the animal, for example, cancer.

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[35] D.R. Lane, *Dictionary of Veterinary Nursing E-Book,* Amsterdam: Elsevier Health Sciences, 2007, p. 233-234.

[36] V.V. Nedosyekov, V.P Lytvyn, V.V. Polishchuk, V.V. Melnyk, O.M. Gomzykov, O.H. Martyniuk, Dictionary of epizootological terms. Kyiv: OJSC, 2014, Ryabina, p.27.

[37] C.M. Brown, *Concise veterinary dictiona*ry. Oxford: Oxford University Press? 1988, p. 806.

[38] E. Black, *Black's Veterinary Dictionary*, London: Bloomsbury, 2015, p. 768.

[39] Ibidem, p. 255.

[40] C.M. Brown, *Concise veterinary dictionary*. Oxford: Oxford University Press? 1988, p. 803.

[41] E. Black, *Black's Veterinary Dictionary*, London: Bloomsbury, 2015, p. 765.

Hippocrates first gave the name of cancer. It was he who introduced the medical term "carcinoma", which comes from the Latin word "cancer", which means "crab". The term-metaphor is formed on the basis of the similarity of a malignant tumor with the shape of a crab, since in addition to the main "body" the tumor has inflammatory branches that resemble the limbs of a crustacean. Before the group of terms, there are also such names as hare lip (Lat. Labiurn - lip, leporinus - hare) - “congenital defect: bifurcation of the upper lip”[42]; elephant leg or elephantiasis, – "chronic thickening of the skin and subcutaneous fat cells, which is accompanied by a sharply pronounced stagnation of the lymph"[43]; hare's eye (lagophthalmos) – abnormal condition in which an eye cannot close completely[44]; lionhead – a small breed of rabbit with long fur around the face [18].

An example of metaphorization based on shape similarity is Ringworm – any of several contagious fungal skin diseases, hair, or nails of humans and domestic animals that are characterized by ring-shaped discolored skin patches covered with vesicles and scales. Name given to certain skin diseases manifesting in circular patches[45].

Conclusions

Metaphorization, as a way of forming terms, is one of the productive ways of forming the nomination of objects and processes of reality, since metaphor can simultaneously act as a mechanism for cognition and interpretation of the surrounding world, as well as be an effective method of nominating various elements of this sphere. The study of metaphorical terms in the English language veterinary system allows us to speak about the huge role of metaphor as a way of term formation. Metaphorical terms in the sublanguage of veterinary medicine are not single, random inclusions, but a whole system in which, among others, the key concepts of this field of knowledge are verbalized by means of metaphorical transfer. The number of terms found, the thematic diversity of vocabulary that served as the basis for metaphorization, allows us to conclude that the most productive way to form terms in veterinary vocabulary is a biomorphic metaphor that nominates scientific concepts by drawing an analogy between objects of wildlife and systems of objects of veterinary science. Biomorphic researchers include botanical, zoomorphic and

[42] C.M. Brown, *Concise veterinary dictionary*. Oxford: Oxford University Press? 1988, p. 801.

[43] E. Black, *Black's Veterinary Dictionary*, London: Bloomsbury, 2015, p. 763.

[44] V.V. Nedosyekov, V.P. Lytvyn, V.V. Polishchuk, V.V. Melnyk, O.M. Gomzykov, O.H. Martyniuk, *Dictionary of epizootological terms*. Kyiv: OJSC, 2014, Ryabina, p.41.

[45] E. Black, *Black's Veterinary Dictionary*, London: Bloomsbury, 2015, p. 760.

anthropomorphic metaphors. Anthropomorphic metaphor is especially common in veterinary vocabulary, within the framework of which metaphor terms with a proper name (name of famous person) as a component are allocated into a separate group. Along with the anthropomorphic, zoomorphic metaphors are quite common, which, through association with various animals, make it possible to nominate anatomical and pathological objects and their characteristics. Botanical metaphors formed due to the correlation of terms with representatives of the plant world and parts of plants dominate the anatomical terminology of veterinary medicine, since the basis of metaphorical transfer is the external features of the object - its shape, size, position in space. The predominance of this type of transfer is due to a number of factors: the ease of fixing the features of an object in memory, the speed of recognition of anatomical structures in practice, etc. Scientific and technological progress entails the need to nominate new concepts. Metaphor makes it possible to create a new term, available for memorization. Thus, it is possible to predict the further development of veterinary terminology in general, as well as its individual terminology systems in particular, along the path of metaphorization.

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