

Cogita

MULTIDISCIPLINARY RESEARCH JOURNAL

Vol. VII, no. 1/March, 2015

Bucharest, 2015
ISSN 2068-6706

**Review “Cogito” is published under the aegis of
“Dimitrie Cantemir” Christian University**

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Cogito Journal is included in IDB
EBSCO, PROQUEST, CEEOL,
INDEX COPERNICUS,
HEINONLINE, CNCS recognized

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ON MAN'S ONTOLOGICAL INCAPABILITY TO FORGIVE

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Abstract: *Forgiveness is undoubtedly a topic that requires an inter and transdisciplinary approach, but whose understanding is closely related to revealing the human nature's mystery. The imperative of self-knowledge is essential to avoid a simplistic approach to forgiveness; therefore, based on texts research and ideational, cultural and historical contexts dedicated to this issue and on our own life experience, we propose an analysis of the inner trigger of forgiveness, a metaphysical perspective on this phenomenon, also considering the psychological, historical, moral and theological explanation of forgiveness. This article **proposes a new paradigm of forgiveness**, designed to draw a profound attention to the causes underlying our actions, clarifying somehow the relationship between forgiveness and happy oblivion.*

Keywords: *forgiveness, oblivion, memory, love, evil, injustice, man, Jesus.*

Forgiveness is a topic of analysis and research, which has aroused the special interest of philosophers, theologians and psychologists. Reference works in this respect are those of Vladimir Jankelevitch¹, Jacques Derrida², Paul Ricoeur, some of which have also been translated into Romanian³. Moreover, in the specialized literature we can find numerous approaches showing a genuine phenomenology of forgiveness, from one perspective to another.⁴ “For some, forgiveness has these forward-looking benefits because of the way it transfigures the past. Emmanuel Levinas claims that “Forgiveness acts upon the past, somehow repeats the event, purifying it”, a notion similar to Hannah Arendt’s view that forgiveness alters the

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¹ Vladimir Jankelevitch, *Forgiveness*, Polirom Publishing House, Iași, 1998.

² Jacques Derrida, *Faith and Knowledge. Century and Forgiveness*, Paralela 45 Publishing House, 2003.

³ Paul Ricoeur, *Memory, History, Forgiveness*, Amarcord Publishing House, Timișoara, 2001, p.553-606.

⁴ Charles L. Griswold, *Forgiveness: A Philosophical Exploration*, Cambridge University Press, 2007; *Forgiveness: A Philosophical Exploration* is a masterful treatment of a central issue in moral philosophy. Well-written, penetrating, and rich in details, this book discusses a number of related topics including interpersonal forgiveness, political apology, pardon, and civic reconciliation. It not only provides a broad historical survey of the views on forgiveness of many important philosophers such as Plato, Aristotle, Seneca, Epicurus, Butler, Hume, Smith, Nietzsche, and Arendt, but also offers insightful analyses of related concepts including trust, narrative, sympathy and empathy, truth-telling, and moral luck. At the end of the day, even if one does not fully agree with all of Griswold’s main theses -- many of which, as we shall see, are quite controversial -- there is still an extraordinary amount to be learned from this impressive account.

ethical significance of a wrongdoer's past by keeping it from having a permanent or fixed character (Guenther, 2006)⁵.

Naturally, the philosophical analysis of forgiveness gives rise to the following interrogations: What is forgiveness? What do we do to forgive? Why do we forgive? How can we forgive? Where does forgiveness come from? How far can we go with forgiveness? Is forgiveness in our power? If yes, what is the faculty of the soul which supports us in forgiving?

On forgiveness as a way of salvation from evil

The implications of forgiveness in our lives are so multiple and diverse that we can talk about a variety of forms or types of forgiveness, starting with forgiveness regarded from the psychological point of view, to the social and community one. In other words, we would like to note and point out that no one is exempt from the pains caused by frustration, disillusionment, disappointment, grief, all kinds of concerns, of sufferings due to love, betrayal, etc. For instance, conflicts arise in couples, families, between divorced persons, between employers and employees, between friends, between neighbours and between nations. We all need to forgive and to be forgiven in certain moments, to restore peace and our relationships with the others in order to be able to live together. Therefore, we propose to muse on the semantics of this term, identifying its meanings and connotations, an imminent aspect for a research work that has in view a proper epistemic delimitation, in order to avoid confusions and ambiguities concerning the understanding and the way in which forgiveness can manifest itself.

The term “forgive” derives from to ‘give’ or to ‘grant’, as in ‘to give up’, or ‘cease to harbor (resentment, wrath)’. More specifically, “forgive” refers to the act of giving up a feeling, such as resentment, or a claim to requital or compensation. And the term “forgiveness” is defined as the action of forgiving, pardoning of a fault, remission of a debt, and similar responses to injury, wrongdoing, or obligation. In this sense of the term, forgiveness is a dyadic relation involving a wrongdoing and a wrongdoer's status by, for instance, acknowledging yet moving past a transgression. Though a dyadic relation, this general conception is not an account of forgiveness between two persons only, since it allows for forgiveness between individuals and groups, such as the forgiving of an individual's debt by a financial institution, or the commutation of a prison sentence by an act of official pardon. And forgiveness may occur between groups of people, as evidenced by intra-national restorative justice efforts and government commissions established to effect truth and reconciliation between perpetrators and victims of historical wrongs.⁶ The Oxford English Dictionary⁷ defines “forgivable”, ‘the first entry under the general term ‘forgive’, as that which may be forgiven, pardonable, excusable, referring thereby to the quality of deserving to be forgiven. This sense is illustrated in **Jesus’** appeal “*God forgive them, for they know not what they do*” (Luke 23:34), which suggests that ignorance is sometimes a condition that

⁵ *Stanford Encyclopedia of Philosophy*, Plato Stanford, edu/entries/forgiveness, First published Thu May 6, 2010; substantive revision Tue Dec 23, 2014.

⁶ Ibidem.

⁷ *The Oxford English Dictionary*, apud. Ibidem.

negates or tempers culpability, rendering wrongdoers forgivable. Notwithstanding the association with excusing conditions, forgiving is not, strictly speaking, equivalent to excusing. For wrongdoing that is excused entirely there is nothing to forgive, since wrongs that are fully excused are not blameworthy or culpable. And although excuses that mitigate, rather than negate culpability, may serve as a rationale for forgiveness, they are not the same as forgiveness. Moreover, the application of the concept of forgiveness to non-moral behavior, as in the case of forgivably poor musical performance by a pianist, shows that forgiveness is not always or necessarily a moral term⁸.

In order to research forgiveness in a problematic way, we consider it necessary to have a certain life experience, besides knowing how it was analyzed from different perspectives in the specialized literature. Therefore, we naturally ask ourselves the following question: are we entitled to conduct a research on a topic of an immense complexity and of a maximum ontological depth? Do we know ourselves well enough to afford to talk about forgiveness? How to explain the need for forgiveness when the injustice is monumental and ungrounded and it harms honor and human dignity? “To tolerate injustice, especially when it affects you or those close you, it is harder than to tolerate a lie or something extremely unpleasant”⁹. Doesn’t forgiveness run the risk to become “an assault” on truth and on the truth itself? We find it necessary to resume this topic today because human moral decadence has reached unimaginable heights, evil proliferates all around us and behind forgiveness are actually hidden such hideous facts that they are hard to accept. The vital importance of forgiveness can be understood only by those who have realized that the most important thing in their lives is their relationship with those around them, and, more than this, the quality of this relationship. Only the one who truly loves, who suffers deeply longing for the beloved one, who rejoices seeing his friends, will be able to understand how necessary and beneficial forgiveness is for recovering a relationship which has been affected by our weaknesses or temptations coming from third parties or from a *genium malignum*. Otherwise, the discussion about forgiveness would be unconvincing.

We speak about forgiveness only in relation to the error, the sin, the evil in general, in which each of us takes part consciously or unconsciously, voluntarily or involuntarily, to a greater or lesser extent. Otherwise, the theology of salvation couldn’t be explained. All our history, the human being’s destiny in the world proves that man is in a constant struggle with his own weaknesses: selfishness, pride, envy, lie, ignorance: “no man is evil willingly, but only out of ignorance”¹⁰; a certain “outside greed” makes man live in the “oblivion of Being”¹¹. The huge gap existing today between the evolution of human intellect and his moral decay is

⁸ Paul Ricoeur, *Memory, History Forgiveness*, Amarcord Publishing House, Timișoara, 2001.

⁹ Al. Surdu, *On Existence, Being and Reality from the Perspective of Categorical Systematic Philosophy*, in *Studies on the History of Romanian Philosophy*, vol. X, the Romanian Academy Publishing House, Bucharest, 2014, p.14.

¹⁰ Platon “Dialogues”, translated by Cezar Papacostea, Trei Publishing House, Bucharest, 1998.

¹¹ Heidegger, *Letter about Humanism*, translated by De Thomas Kleininger and Gabriel Liiceanu, the Universe Publishing House, Bucharest, 1982, p.321-383.

not accidental. More than two thousand years have passed since the Savior came and the world continues in bloodshed; humanity is experiencing pain, evil and suffering have increased. In the fight against the evil, man is often contaminated by it, without realizing the power evil has on him. Man who fights evil often finds himself caught in its traps, which will keep him captive forever¹². What man thinks to be the fight against evil, for himself becomes the good itself. "The state is called to limit the manifestations of evil in the world, but the means it uses easily change into the evil itself, even morality has the ability to degenerate into its opposite, destroying the creative life of the spirit. The law, the customs, the ecclesiastical law can deform life. The obsession of evil and the need to fight against it, through coercion and violence, enslave the man to the sin and prevent him from freeing himself. The true spiritual hygiene does not consist in absorbing evil from world, but in focusing on the good, on the divine world, on the vision of light"¹³. The antinomy of evil can only be clarified through spiritual experience, which Dostoevsky understood in a remarkable way. The experience of evil, the disclosure of its nothingness, may lead us to the apogee of goodness. By living the evil, we can get full knowledge of truth and goodness. In fact, man, peoples and all mankind follow this path, experiencing the evil and thus getting to know the power of goodness, of the elevation of truth. Man learns the nothingness of evil and the greatness of goodness, neither through a formal law nor through prohibition, but through the experience lived on the path of life. Besides, the experimental spiritual path is the only way to knowledge. The Man and the world are undergoing a voluntary attempt through free knowledge and head freely to God, to His Kingdom.

Above of all, Christianity teaches us to be ruthless as to the evil which is inside us. But destroying it, we must be indulgent towards our peer, in other words we need *to forgive*. Firstly, I have to realize the strength and beauty of goodness inside me and not to impose on the others what I couldn't achieve, hard as I might have tried myself¹⁴. The evil can be overcome only innerly and spiritually. The victory obtained over it is linked to the mystery of Salvation; it can be gained only through Christ and through Christ. We defeat the evil only in communion with Christ, participating in his Work, taking upon us His Cross. Jesus is the symbol of love, and love is the first principle of all that was and will ever be¹⁵.

In order to remove the evil we must build our lives on love, not on vanity and selfishness. Through love man keeps his link with God whom he begs for leniency and forgiveness for his sins. God's forgiveness occurs only on the background of eliminating the evil from ourselves (purifying) and forgiving those who have caused us evil. At this level, forgiveness can be *a way of salvation*, by changing the evil into goodness.

¹² Berdiaev, *Freedom and the Spirit*, Paideia Publishing House, Bucharest, 1996, p.222.

¹³ Ibidem, p.223.

¹⁴ Ibidem, p. 227.

¹⁵ A. Frossard, *Questions about God*, Humanitas Publishing House, Bucharest, 1992, p.131.

2. People are seeking forgiveness but they are incapable to forgive

We live in a time when the quality of human relationships has decreased considerably and has diminished until the disappearance of its content. I fear that we are witnesses or spectators, if not the main characters or extras of an increasingly aneaste [deprived of love] world, more and more incapable of love, and therefore incapable of genuine forgiveness. Everything around us is a simulacrum. It is a world in which "God is dead"¹⁶. People are keen to be forgiven, but are not as willing to offer forgiveness. Most of them believe that forgiveness can be granted under certain conditions, while some facts should never be forgiven. Our permanent helplessness generates conflicts and tensions between people, between friends, between spouses, between parents and children, between neighbors, peers, bosses and their subordinates. There is no other way to overcome real and actual conflicts, tensions, quarrels except for *forgiveness*. *Forgiveness is the one that removes everything*. Bilateral agreements, peace treaties are merely conventions, proclaiming an exterior reconciliation but do not ensure it interiorly, which means that it does not eliminate the attitude of war, but only removes war. In interpersonal relationships, not having eliminated the warring attitude towards each other, any pact is vulnerable and may disappear at any moment. We support this point with the following: "Forgiveness, which is totally oblivious of any hidden thought, is likely to have never been granted on earth, it is likely that an infinitesimal dose of resentment still lasts in the remission of any insult; any disinterest hides, somewhere, in its depths, an imponderable calculation, a microscopic reason of one's own interest, a small imperceptible speculation that makes desperation be a theatrical desperato, and which is the impure consciousness of the guilty consciousness. From this point of view, forgiveness is an event that has never occurred in history, an act that has no place anywhere in space, a state of mind that does not exist in current psychology. And, yet, even if, let's say, the gesture of forgiveness would not be a feature of psychological experience, it should remain a duty"¹⁷. Jankelevitch summarized his own philosophy on forgiveness in his famous work, *Le Pardon*, published in 1967, which has also been translated into Romanian, as stated in the preamble of this article. From the text above, we can infer that Jankelevitch dealt with *man's ontological incapability* as a fact, asserting that no one has ever been capable of total forgiveness. And the lofty ethical expectations of forgiveness are opposed to it, so forgiveness is an imperative, not an indicative. It is very important for our research work to analyze if Jankelevitch is right and to find out which is the basis of such a vision of forgiveness. We consider it appropriate to present, even briefly, the three basic qualities of true forgiveness in Jankelevitch's opinion: this is an event that occurs at a certain point in time, irrespective of all legal points of view, this is the merciful gift of the victim for the perpetrator, and it is justified by the personal relationship between them. *We concur with the author's position when he argues that true forgiveness, besides sacrifice, is the greatest gesture of love*

¹⁶ Fr.Nietzsche, *Thus Spoke Zarathustra*, Humanitas Publishing House, Bucharest, 1966, p.363.

¹⁷ Vladimir Jankelevitch, *cited works*, translated by Laurentiu Zvicas, Forward by Valeriu Gherghel.

and cannot be left at the mercy of time and oblivion. If we leave it at the mercy of time, we come across the grotesque pattern of abolishing war crimes, according to which, what is one day an unforgivable sin, the next day will no longer be. Therefore, forgiveness must be instant and immediate, this necessity not being abolished either by the time spent in penitence by the perpetrator, or by the victim's oblivion, that quenches early anger and pain, but keeps the spark of resentment deep down in one's soul.

At the same time, forgiveness does not make sin inexistent, but, rather, according to Jankelevich, there is a difference between personal atrocities and crimes committed against a universal order. Jankelevich's philosophy of forgiveness did not arise out of nowhere, it is the prerogative of the existential drama he lived. The Second World War brought a huge disruption in his life. With Hebrew ancestry on both lines, he simultaneously overcame two invincible obstacles. Firstly, his own anger and compensatory instinct, and, secondly, the world's expectations, which require the rectification of balanced justice.

Analyzing comparatively Jankelevich's and Derrida's texts, we note the fact that both authors' philosophy of forgiveness liaises rather to their own life circumstances, experienced by each of them, than to what is called convention, morality, faith. Due to the fact that Derrida did not experience the Holocaust, and his family avoided its horrors, his attitude is more distant and objective while addressing the topic; there are, of course, similarities between the two authors analyzed, when it is argued that forgiveness is offered to someone and not to something, it is conceived only in the contact between two persons, it overrides the limit of law, justice and institutions. According to his approach, Jankelevich's statements make forgiveness problematic, or even impossible, because of two circumstances: if the author does not ask for forgiveness, even though he showed reverence, or if the crime committed is too serious, Jankelevich refuses the forms of impure forgiveness, indulgence surrogates, appearing as substitutes for pure forgiveness and are expressed by the following expressions: *iron tooth of time, acquitting by explaining the motivation, giving up.* The first approach blames the erosion of time and memory for the decomposition of the block sin, which is the obstacle of each approach, the second search mitigating circumstances, the third means instant amnesia, choosing cheap pardon without facing facts and people, eradication of the sin with one instantaneous and non-reflective movement. He speaks about three reasons that mixed in the gesture of forgiveness, that make its purity questionable. In the first case, the victim forgives, because he/she leaves open the possibility that extenuating circumstances concerning the crime, which are still unknown, could be unraveled. The second type of impure forgiveness occurs when the one who forgives keeps his speculative hope that the perpetrator - just as a consequence of forgiveness - becomes another man. A grotesque type of this kind of forgiveness is the gesture of national reconciliation, like the German-French one. The third kind of forgiveness, whose purity can be spotted, is when honest, pure and spontaneous forgiveness subsequently seeks justifying arguments. According to

Derrida's interpretation¹⁸, in Jankelevitch's opinion, *Endlosung* also means the end of history and of the historical possibility of forgiveness. Concerning the excerpt where Jankelevitch stated that forgiveness is not for those who are satisfied with the economic miracle, it is not for pigs and sows, because forgiveness died in the concentration camps, about this hard expression of aversion towards the Germans, Derrida said: it would have been better not to read these lines and this aversion is unjust and undignified for everything that Jankelevitch has written in other places about forgiveness. Derrida's critique on the tension between Jankelevitch's hyperbolic and everyday ethics (which Jankelevitch also admitted), the fact that this tension is sinful, and one that requires forgiveness, we consider it somehow fair. Yet, we can notice that this famous critic did not read Jankelevitch empathically, from the interior, but distantly, from the exterior.

Contemporary with Jankelevitch, P. Ricoeur dealt with forgiveness on multiple pages¹⁹, somehow formulating a response for the former: according to him, forgiveness is neither easy nor impossible, it is simply very difficult. Thus, Ricoeur says that love is able to leave behind everything, even what is unforgivable; forgiveness either refers to what is unpardonable too, or does not exist. He lists the sins in four categories: criminal, political, moral and metaphysical ones; he admits that being a sinner means that man can be punished, but refuses the disdain towards the perpetrator; the inability to address with respect towards the perpetrator is the imperfection of love. Even if forgiveness cannot be institutionalized, this culture of respect defines politics and the relationship among peoples - Ricoeur considered.

Jankelevitch's vehement question: Hasn't forgiveness been asked for? shows that forgiveness is much easier where the parties have acknowledged their own sins. Ricoeur is interested precisely in this dynamic of reciprocity. Ricoeur illustrates a relationship between gift and forgiveness. Both refer to an asymmetrical relationship. He agrees with Jankelevitch as to the fact that the *maximum ethic* is the *love of the enemy which does not expect any reward. Jesus eliminated the rule of reciprocity in the Sermon on the Mount. In reality, forgiveness exceeds an interval between the top and bottom, between the High spirit of forgiveness and the gap of culpability. This dissymmetry is the constitutive element of the equation of forgiveness. It accompanies us as a mystery that we have never stopped researching*²⁰.

In this respect, forgiveness as a problem of moral philosophy is also exceptionally explored by Griswold who starts his work dedicated to this issue²¹ with a historical discussion about forgiveness putting in antinomy the vision of the ancients and that of the moderns. Contrary to the traditional belief approved by thinkers such as Hannah Arendt, that forgiveness is exclusively Judeo-Christian as opposed to the pagan idea, Griswold argues that forgiveness and the

¹⁸ Derrida, Jacques, *On Cosmopolitanism and Forgiveness*, translated by Mark Dooley and Michel Hughes, New York: Routledge, 2001.

¹⁹ P. Ricoeur, cited works, 553-606.

²⁰ Ibidem, p.584.

²¹ Charles L., Griswold, cited works, p.242.

notions related to it are indeed present in the Romanian and Greek thinking. However, classical as well as modern philosophers influenced by them, especially Nietzsche, did not look upon forgiveness as an authentic virtue. Griswold offers four reasons why we must start from the classical doctrines about perfectionism and human dignity: 1. virtuous people would be by definition morally perfect and would not need the others' forgiveness. In addition, they would probably be unforgiving to others, to the extent that (2) they would have no interest in overtaking in a sympathetic way the moral flaws of individuals lacking moral virtue; 3) they would consider themselves immune to the moral injuries of those lacking moral virtue and, last but not least, 4) due to a hierarchical system of values, they would not accept that those lacking virtue might claim mutual moral compensation or have an equal moral position, contrary to our modern ideal of human dignity. The author uses as an argument the case of Socrates who said in his Defence²²: "Neither Meletus nor Anytus can harm me in any way; he could not harm me, for I do not think it is permitted that a better man be harmed by a worse" idea that was later developed by more thinkers. The main idea underlying Griswold's analysis is his claim that "forgiveness comes with certain conditions or rules"²³. More specifically, forgiveness involves a social dyadic relationship regulated by norms in which the offender and the victim are interdependent. In this way, we cannot talk about a victim just giving unconditional forgiveness to its wrongdoer, as a gift. Both parties would rather meet certain conditions to fit in what Griswold used to consider "paradigmatic" cases of forgiveness. The author considers "three basic conditions" that must be met to characterize forgiveness as genuine: 1. the victim's desire to reduce resentment; 2. the offender's readiness to take minimum corrective measures for forgiveness; 3. the damage must be humanly forgiven. He concludes: "only when all these three are met can we speak of forgiveness"²⁴. The author warns us about the limits of forgiveness, speaking about unilateral, imperfect forgiveness, when there is no reciprocity in this relationship. Thus, he argues that until the offender takes steps to become worthy of forgiveness, forgiveness does not occur, even if the victim wants and chooses to forgive the wrongdoer. Unless both parties involved take the necessary measures with a view to a possible moral reconciliation - forgiveness moves away of the ideal one. It seems to be a basic conceptual confusion here. Even if forgiveness cannot be ideal, Griswold argues that forgiveness may be appropriate only in the private sphere of interpersonal relationships, as the public sphere requires something quite different, namely political apologies that are characterized precisely by the lack of connection with the feeling²⁵ and that, different from forgiveness, do not claim to articulate the feelings and motivations of individuals" (151). All the viewpoints mentioned above illustrate the fact that forgiveness is not a simple act, that there is no universal recipe concerning forgiveness. There is an infallible model of forgiveness capability and this is given by Jesus, who gave masterly the "lesson of forgiveness through love". Man, in general, has the

²² Plato, *The Apology of Socrates*, Works, Dialogues, cited works, p.9-41.

²³ Charles L. Griswold, *cited works*, p.47.

²⁴ *Ibidem*. p.115.

²⁵ *Ibidem*. p.140.

impression that he is capable of forgiveness and feeds on this illusion, maybe out of a personal selfishness but in reality he is resentful, envious, full of resentment and feeds their ego thinking revenge. This happens at the lowest level of human action, of mediocrity and cowardice of those who do not live in resonance with the Golden Rule (these are the most): *I will not do to others what I would not like to be done to me, and I will do what I wish*. True forgiveness also implies a negative judgement in the sense that someone has wronged you. A person who rarely, if ever, had no resentment or did not judge, then he rarely or never meets the necessary conditions for forgiveness²⁶.

Forgiveness does not have to be a mere formality, accomplished to emanate a sense of moral superiority, but it requires a certain attitude of understanding and tolerance in relation to the subject of forgiveness.

We can speak about a moral and psychological benefit of forgiveness when any matter which is the subject of this relationship (supply and demand of forgiveness) is clarified through adequate communication in terms of honesty, fairness and respect from everyone involved. This level of interpersonal relationships is difficult to achieve, especially today, when in the world there is too much pride and forgiveness is seen as a manifestation of weakness and less as an evidence of kindness and love.

3. I want to forget in order to be able to forgive

We propose a new paradigm of forgiveness, which reverses the relationship between forgiveness and oblivion, invalidating thus the truth of the statement: "I forgive, but I don't forget you".²⁷

The experience of forgiveness raises the man to another existential plan, detaching him from the concrete, mundane things, from everyday nothingness. Of course, we can talk about several comprehensive levels of forgiveness, caused by diverse and varied factors of psychological, cultural, historical, moral and metaphysical nature.

Each one of us, along our life, had to ask for forgiveness or provide forgiveness or we were forgiven, either by parents or by other people close to us: relatives, friends, acquaintances, for certain facts which we had committed, intentionally or not. Asking for forgiveness is the sign of recognition of our fault, of our repentance. But if we have the power and strength to forgive without being asked, it is even better. Only in this way we can reconcile ourselves, inside of us, with the other. And not only do I reconcile with the other within me, eliminating the tension accumulated in my soul, in my mind - maybe rightfully due to abuses, or errors, or injustices that we received from others - but my path is open to the other, it is cleansed of obstacles. I, with my soul and mind, I go leisurely towards the other, to meet him, which is very important. The attitude of forgiveness that comes unilaterally determines, according to the testimony of the Gospel of Christ the Saviour, the other to cast off the weapons of war. Forgiveness is the only and

²⁶ Wendell O'Brien *How Not To Forgive*, in *Philosophy Now*, a magazine ideas, Issue 91, 2015. *Wendell O'Brien studied philosophy at Harvard and Johns Hopkins, and is now Associate Professor of Philosophy at Morehead State University, Morehead, Kentucky.*

²⁷ Ileana Vulpescu, *The Art of Conversation*, Tempus Publishing House, Bucharest, 2010.

most effective way of reconciliation.²⁸ Man through his essence is forgiveness²⁹. The human being's strength to continue fighting is amazing, making him keep his soul unaltered, even when the circumstances make such action almost impossible. Where does the power to forgive come from?

In this respect, we bring into discussion philosophical concerns of reference for our analysis. If Paul Ricoeur argues that forgiveness is a "heavenly gift" and "love of enemies is the absolute measure of the gift³⁰, the position we share, as far as the position adopted by Hannah Arendt is concerned, there is a significant distance leaving us to understand somehow that forgiveness does not come from any other faculty, possibly higher, but it is one of the virtualities of human action³¹. Regarding this aspect, Hannah Arendt uses the Gospel exegesis extremely favourable to his interpretation. These texts say that only if people change forgiveness, they can hope to be forgiven by God: **the power to forgive is a human power.**³² Thus, Arendt argues: "Only freeing each other from what they did, can people remain free agents"³³. A fact confirmed, on the one hand, by the opposition between forgiveness and revenge, the two human ways to react to insult and, on the other hand, by the parallelism between forgiveness and punishment, both interrupting an endless series of evil facts. On this point, H. Arendt has some hesitations: "So, it is a very significant fact, a structural element of the field of human works, the fact that people are incapable of forgiving what they cannot punish and are unable to punish what proves unforgivable. This is the true mark of insults since Kant called them "radical evil" and about which we know so little, even we, the ones who have been subjected to one of their rare explosions in public. All we know is that we can neither punish nor forgive these offenses and that, consequently, they transcend the human work and the human potential power which both destroy radically wherever they make their appearance. So, when we the act itself deprives us of any power, all we can do is repeat together with Jesus: << It would be better for him if a millstone were hung around his neck and he were cast into the sea ... >>³⁴. Hannah, argues Paul Ricoeur³⁵, is aware of the fact that the relationship of forgiveness with love keeps it away from politics. Proof of the absurd is the failure, sometimes monstrous, of all attempts to institutionalize forgiveness. The French philosopher conjured up "the caricature of forgiveness which is amnesty", the institutional form of

²⁸ Pr. Constantin Coman, *God's Justice and People's Justice*, Bizantina Printing House, Bucharest, 2010.

²⁹ Ibidem.

³⁰ P. Ricoeur, *Memory, History, Oblivion*, Amarcord Publishing House, Timișoara, 2001, p.579.

³¹ Hannah Arendt, *Condition de l'homme moderne*, p.266, apud.P.Ricoeur, cited works, 589.

³² In Matei, 18,35, it is said: "My heavenly Father will also do the same to you, if each of you does not forgive his brother from your heart." And: "For if you forgive men their trespasses, your heavenly Father will also forgive you." But if you do not forgive men their trespasses, neither will your Father... (6,14-15) Luca, 17,3-4: "And if your brother sins against you seven times a day, and returns to you seven times, saying: << I am sorry >> you must forgive him".

³³ Hannah Arendt, cited words. p. 270.

³⁴ Hannah Arendt, cited works, p. 270. p.271, apud. Paul Ricoeur, *op.cit.*, p.590.

³⁵ Paul Ricoeur, cited works, p.591.

oblivion³⁶. Appealing to Nietzsche's texts³⁷, Paul Ricoeur, analyzing the symmetry between forgiveness and promise, brings to attention the Nietzschean approach on the relationship between memory and oblivion, that we consider useful in our analysis. Oblivion is not considered a mere inertia, but an "active positive braking capacity in the strictest sense of the word"... "the benefit of active oblivion consisting in the fact that it is a sort of concierge, a sort of preserver of spiritual order, of tranquility and etiquette"³⁸. It is against such oblivion that the memory works, not any memory, not the memory which is a preserver of the past, a reminder of the past events, of the revoluted past, but the memory that confers men the power to keep their promises, to maintain themselves: ontological memory, we would say, a memory that, regulating the future after having engaged the past, makes man be "predictable, well-ordered, necessary"- and thus able "to be responsible for his future"³⁹. Paul Ricoeur's conception of memory and oblivion is a reference point for the current issue, but the French author's arguments are valued in terms of historical hermeneutics.⁴⁰ The most irreducible reason of the dissymmetry between oblivion and memory as to forgiveness lies in the ineffable nature of the polarity that divides against itself the underground empire of oblivion: the polarity between oblivion by deleting and reserve oblivion. If the French author concludes that there cannot be happy oblivion, as we can dream of a happy memory, we believe that the two are complementary, not in antinomic relationship. It is true that oblivion is not a law of memory, meaning that we forget what we do not want to forget and keep in our memory's reservoir information that harms our soul.

Thus, the paradigm we propose is based on the premise that *the education of memory is in our power*. Therefore, man can take possession of his retrieval capacity. Only by loathing the evil, keeping in the intellect, in the memory, the noble aspects, repudiating rancor, resentments or guilt, only such an intellect can be enlightened by the divine grace. It is certain that forgiveness is the prerogative of an inner freedom conferred by achieving a state of peace of mind. This can be accomplished through self-knowledge, through reason and will, which acting jointly regulates the ontological memory.

Therefore, we propose a new paradigm of forgiveness: **I WANT TO FORGET IN ORDER TO BE ABLE FORGIVE**. This has as backing pillar the next argument: **the gift of forgiveness can be received only based on a happy memory or happy oblivion. The happy memory is when the memory's reservoir is full of noble ideas, pure thoughts and happy oblivion occurs when you remove from the memory those issues that cause suffering. One can forget only by detesting the evil**. This is where free will acts. If man uses properly the free will, he can then avoid the error, the sin, the evil. **The climax**

³⁶ Ibidem.

³⁷ Fr. Nietzsche, Works, vol.2, *The Cheerful Science, On Genealogy of Morale, Twilight of the Idols*, Bucharest, Humanitas Publishing House, 1994, p.287-446.

³⁸ Ibidem.

³⁹ Giles Deleuze "*Nietzsche et la Philosophie*", Paris, PUF, coll. "Quadrige", 1962, 1998, apud. Paul Ricoeur, cited works, p. 591.

⁴⁰ Paul Ricoeur, cited words, p.607.

of forgiveness is only God. The power to forgive comes only from God. It is a trans-human feeling. *The lesson of forgiveness cannot be learned or acquired through knowledge, it can occur somehow through self-knowledge, through the psychoanalysis of the self. And self-knowledge is not a passive reflection, it is a fight that requires a synergistic action of intelligence, faith and will.* “Forgiveness is a decision of the will, as victory over temptation: it remains however, like any decision, an initial and sudden, spontaneous event.”⁴¹ At human level, in general, there is no total forgiveness for man is ambivalent: the combination of subjective/objective, sacred/profane, rational/irrational, entropy/negentropy etc. This is the greatest difficulty that philosophical conceptions have faced in explaining man. Forgiveness is an Absolute or, in other words, the man capable of genuine forgiveness lives in Truth, being connected to a noumenal world of perfect order. The man who knows himself measures against the Absolute and can experience forgiveness through contemplation, the highest activity of the soul to which man can accede by *nous* “the most elevated part of man, the human being itself”⁴². What we speak about is disinterested forgiveness similar to disinterested love. We can meet it in the case of elevated spirits, who know that inner freedom results from renunciation. We consider it a proof of moral superiority when a man exposed to some unfair assaults which are hard to bear by a rational being, finds the strength to answer to any exterior enticement with an interior virtue.

This attitude does not diminish mistake, fault, or injustice of the one who committed it, but through pardon the wronged one remains with the soul equally indifferent regardless of the vicissitudes. It is essential for the man who has been subject to an ordeal to acquire spiritual progress, otherwise the great principle of the Leibnizian metaphysics, which in ontological formulation expresses the following idea: “nothing exists without a reason or sufficient reason”⁴³, would be cancelled. Wanting the limited monad to accommodate as well as possible in terms of general harmony, Leibniz would accept to say: << *To understand means to forgive* >>. As Leibniz admits the necessary evil, and as this evil is a lesser evil, the sin is rather minimized than nihilized; or, if the negativity of evil is a smaller positivity, forgiveness risks, in turn, to be nothing but a smaller grudge. Someone’s sin fits into the overall design of the universe, being, forever, an ingredient thereof; since the elements of the universal economy are linked, the singular mistake must be understood, like all other things, as part of a series. Leibniz does not say that sin is inexistent, but that sin does not discord with the overall picture; harmony of the universe is saved, but the sinner is left adrift.⁴⁴ Less concerned with the beauty of the fresco, Spinoza proves much more humane to the individual. Comprehension involves not only communication with

⁴¹ Vladimir Jankelevitch, *cited works*, p.11.

⁴² Aristototele, *The Nicomachean Ethics*, the Scientific and Encyclopedic Printing House, Bucharest, 1988, p.17.

⁴³ G.W. Leibniz, *Philosophical Works*, I, translated by Constantin Floru, the Scientific Publishing House, Bucharest, 1972. p.42.

⁴⁴ Georges Friedmann, *Leibniz et Spinoza* (1946), apud. Vladimir Jankelevitch, *Forgiveness*, Polirom Printing House, Iași, 1998, p.88.

humanity, but also an inner transformation of the subject who understands; to understand means to make friends not only with people, but also with yourself; lucid knowledge is always the great sedative that drives away suffering. Thus, a philosophical attitude in front of existence requires a high level of understanding, awareness, which in metaphysical plane suspends any negative inclination of man. It is only at this level that we can speak about forgiveness as a proof of pure, absolute love, to which only the one who is really capable of authentic philosophy can accede. It is not by chance that Imm. Kant, one of the greatest humanistic philosophers, addresses man the request to use their native disposition towards goodness in order to be able to hope that *"what is in not their power will be completed by a cooperation from above"*.⁴⁵

Limits of Forgiveness

For a certain class of people, humiliated or offended, to pardon the offender or their perpetrator is extremely difficult: forgiving is an effort that must be continuously resumed; this trial is, in some cases, at the limit of our powers. Forgiveness, in the strict sense of the term, is actually a limit case. The temporal man, the finite creature, is not cut either for eternal suffering, or for immortal rancor: as such an unimaginable eternity would rather mean for us unbearable despair. Forgiveness does not require us to sacrifice our own being and nor to take the place of the sinner; forgiveness does not demand that much from us; it only requires, when it comes to an insult, to give up arguing, passionate aggression and revenge temptation; and when it comes to sin, it requires punishment, an eye for an eye, requital within the most legitimate exigencies of justice. Forgiveness is, after all, more disinterested than so desperately radical.⁴⁶ Undoubtedly, a forgiving machine, a vending machine for grace and indulgences are only vaguely linked with true forgiveness. On the contrary, the gift of absolute disinterest is rather an ideal limit and inaccessible horizon we are approaching asymptotically without ever actually touching it. Or, in other words: the grace of forgiveness and selfless love is given to us for a moment and as an appearance which vanishes immediately, that is we find it and lose it at the same time. Whenever forgiveness is in the service of a goal, even a noble and spiritual one (redemption or salvation, reconciliation,), each time when it tends to re-establish a state of normality (social, national, political, psychological) through a labor of mourning, through a certain therapy or ecology of memory, every time "forgiveness" is not pure and neither is its concept. Forgiveness is not, it should not be either normal or normative, or normalizing. It should remain exceptional and extraordinary, ready to pass the test of impossible: as if it disrupted the normal course of historical temporality.⁴⁷

⁴⁵ Imm. Kant, *Religion within the Bounds of Bare Reason*, translated by Gabriel Pârnu, Humanitas Publishing House, Bucharest, 2004.

⁴⁶ Ibidem, p.89.

⁴⁷ J.Derrida, cited works, p.93.

REFERENCES

- Artistotle, (1988), *The Nicomachean Ethics*, Bucharest, the Scientific and Encyclopedic Printing House.
- Berdiaev, Nikolai, (1996), *Freedom and the Spirit*, Bucharest, Paideia Publishing House.
- Coman, Constantin, (2010), *God's Justice and People's Justice*, Bucharest, Bizantina Publishing House.
- Derrida, Jacques, (2003), *Faith and Knowledge. The Century and Forgiveness*. Bucharest, Paralela 45 Publishing House.
- Derrida, Jacques, (2001), *On Cosmopolitanism and Forgiveness*, Translated by Mark Dooley and Michel Hughes, New York: Routledge;
- Frossard, Andre, (1992), *Questions about God*, Bucharest, Humanitas Publishing House.
- Griswold, Charles L., (2007), *Forgiveness: A Philosophical Exploration*, Cambridge University Press;
- Heidegger, Martin, (1982,) *Letter about Humanism*, translated by De Thomas Kleininger and Gabriel Liiceanu, Bucharest, the Universe Publishing House.
- Jankelevitch, Vladimir, (1998), *Forgiveness*, Polirom Publishing House, Iasi;
- Kant, Imm., (2004), *Religion within the Bounds of Bare Reason*, translated by Gabriel Pârvu, Bucharest, Humanitas Publishing House.
- Leibniz, G.W., (1972), *Philosophical Works*, I, translated by Constantin Floru, Bucharest, the Scientific Publishing House.
- Nietzsche, Fr., (1996), *So Spoke Zarathustra*, Bucharest, Humanitas Publishing House.
- Plato, *Dialogues*, (1998), translated by De Cezar Papacostea, Bucharest, Trei Publishing House.
- Ricoeur, Paul, (2001), *Memory, History, Forgiveness*, Timișoara, Amarcord Publishing House.
- (2010), *Stanford Encyclopedia of Philosopher*, Plato Stanford, edu/entries/forgiveness;
- Surdu, Al., (2014), *On Existence, Being and Reality from the Perspective of Categorical Systematic Philosophy*, in *Studies on the History of Romanian Philosophy*, vol. X, Bucharest, the Romanian Academy Publishing House.
- Vulpescu, Ileana, (2010), *The Art of Conversation*, Bucharest, Tempus Publishing House.
- Wendell O'Brien, (2012), *How Not To Forgive*, in *Philosophy Now*, a Magazine ideas, Issue 91.

THE RELATIONSHIP BETWEEN CULTURE AND KNOWLEDGE IN LUCIAN BLAGA'S PHILOSOPHY

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Abstract: *The main purpose of this article is to give a brief overview of one of the first philosophical works of Lucian Blaga, analyzing also the basic idea of the book, which is to use cultural arguments to explain human knowledge. In addition, there are introduced critical arguments and insights completing Blaga's theory.*

Keywords: *human knowledge, scientific knowledge, philosophy of culture, philosophy of history.*

Introduction

With the publication in 1922 of the book "Culture and knowledge"¹ Lucian Blaga prepared more extensive writings that would later be reflected in the creation of a philosophical system in which to bring attention to fundamental human problems and try to resolve them. So, from this perspective, the main task to be solved was that of knowledge (both the man himself and the links between it and the surrounding world) because, in order to answer the questions that define human being should be able, before everything, to know this person. The problem, of course, was not new, and there was no way to be as long as becoming self-aware, the man has constantly reflected on his condition, place and role in the world, trying to define his being and value compared with other parts of the world with which he related. But Blaga try a different approach to the problem of knowledge which is directly related to the cultural phenomenon. In other words, you cannot get a full understanding of man unless you analyzed it by the fact that it is his fundamental characteristic: the act of culture creator. In "Culture and knowledge" Lucian Blaga proposes a new approach to the theory of knowledge, the cultural one².

Ideas and their functional variability

The point at which starts Lucian Blaga in this first chapter is that than an idea should not be seen, as it was seen before, as a whole, organic, but that it should be considered from two perspectives: the content and function it has³. This dichotomous way to interpret an idea, says Benjamin Fundoianu is not new at all, it appeared before at Friedrich Nietzsche, who, in order to assert that "God

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¹ Lucian Blaga, *Culture and Knowledge*, „Ardealul” Publishing House of the Graphic Arts Institute, Cluj, 1922

² *Ibidem*, p. 3

³ *Ibidem*, p. 9

is dead!”, has made the dissociation between the content of an idea and its function⁴. But, if for the German philosopher, the content and function of an idea remained inextricably linked; to Lucian Blaga things are fundamentally different.

Thus, based on the assertion that, in terms of the content of an idea, this is a concept that does not require further clarification, the same cannot be said about its function. To explain how understanding the function of an idea, Blaga makes the following definition: the function of an idea represents its activation in a man's possible attitude towards life. The attitude which it is not certain but is necessarily a *creative* attitude⁵ it's a fact which should be emphasized in particular.

Once established the definition for the function of an idea, Blaga support through several examples that it can vary over time gaining new values, independent of those they had at the beginning⁶. In fact, and here comes the distinction of Nietzsche's, in Blaga's conception the two components of an idea are independent variables, the change of one do not affecting the others values or, more precisely, if a change in the content of an idea, its original function may remain the same and vice versa, if a function modifies its role, the original content can remain the same. It is noted here so that an idea can have different functions, on the one hand and different ideas that can get the same function, on the other. By establishing the independence which is characterizing the two sides of an idea, the formulation may be up to two conclusions, which will play an important role in the economy of the entire works of this first part which states that: a) a function of an idea can perform an infinite number of purposes, which makes it impossible to link the origin of an idea and its functions; and b) it cannot be determined just by specifying the function that an idea has to a certain point, the origin of this idea⁷. Both conclusions can be transcribed into a single sentence, namely that: it cannot establish a single determination between the origin and functions of an idea.

However, this finding should be taken, in my opinion, with a certain amount of restraint because Blaga does not specify exactly what kind of ideas they relate. Indeed, I believe that we can speak of two major categories of ideas: founding and enlightening. The first category includes those ideas whose nature is universal, they may be imagined as frame - ideas: eschatological or cosmological ideas meet all three conditions: they are founding, they have a generalized character and they can determine their origins and functions. On these the Blaga's theory is not applicable. The second includes all ideas (theories) that try to “enlighten” an area or another of world's life. These are the ones that are designed for “filling” only on their frame⁸ and only on them it can be applied the theory in question. In this meaning, a single example, even it can be found sufficient, is edifying: the origin of “flood” as in itself, was placed at the end of the last ice age; the religious-moral

⁴ Benjamin Fundoianu, *History Of Idea, A Fertile Dissociation*, **Restitutio** Benjamin Fondane –<http://fondane.wordpress.com/>

⁵ *Lucian Blaga, op.cit.* p. 10

⁶ *Ibidem*, p. 13

⁷ *Ibidem*, p. 21.

⁸ The similarity with Jung's archetypal theory is obviously not accidental.

function of the end of the world remained the same over time. Is necessary a specification: obviously, all founding ideas have explanatory function. As the awareness of the early human evolution was very low, the explanatory function necessarily take a religious-moral form, the only able to cover the event or the fact that a satisfactory manner.

Law maxima

Going forward, Blaga believes that there are two ways to change the function of an idea: or by permutation, the considered idea taking ideas from other functions, or by searching aware of new features that the idea can get⁹. As for ideas, which Blaga states that they are given¹⁰, he does not explain whether these given ideas are the same always and forever, or it may occur also new ideas. By Blaga's formulation it seems that ideas tend to seek a permanent equilibrium state, an ideal state however, that ideas are not reaching ever. As the functional value of an idea grows it tends to be closer to the steady state, but the instability, immanent to ideas, remains. That being said, it should be further reported the existence of two problems: the first one is related to the baggage of ideas and their given character. In terms of speculative might admit that there is a space in which exists, purely, the whole baggage of knowledge accessible to man. In this case, the access to this knowledge baggage can be done in two ways: either by ideal world's and remembering theory that Plato develops¹¹, but in this case, must be upheld that a certain part of the human being once had access to this knowledge base - the soul, at Plato - either by the way of revelation used also by Blaga. In addition, the existence of such a space would explain the fact that certain ideas occur in the same time at different people, or in specific times, in different places and cultures. The fundamental question, in this case, is why the access to the explanatory value of the idea is not totally? Why, in other words, when appears an idea that claims to explain certain phenomena, the explanation is not complete? Why it always can be found place to improve the explanation? The theory of Luciferian knowledge which makes Blaga represents an absolutely remarkable response variant to this question.

The second problem is the one that refers to the maximum value of a function. From this point of view Blaga states that "the human spirit tends to give to an idea the function for which the idea has the greatest finality"¹², actually true, but also claims that a function's equilibrium is an unstable one. This claim cannot be sustained, I think, if we look at an idea and its function in scientifically. Thus, Newton's law of gravitational attraction starts from the idea that there must be something to explain how the bodies with a greater mass attract those with a lower mass. The theory of gravitational attraction function is just to show that there is a force that can explain this phenomenon. But in this case, the explanatory function of the theory cannot take another value; it may not be changed (permuted) to something else. As such, Blaga is wrong when he says that

⁹ *Ibidem*, pp. 27-28.

¹⁰ *Ibidem*, p. 34.

¹¹ Plato, *The Republic*, Scientific and Encyclopaedic Publishing House, Bucharest, 1986.

¹² *Ibidem*, p. 32.

the function of an idea is to an unstable equilibrium constantly seeking a shift to a higher value without being able to ever achieve the maximum possible value. Explanatory functions of science cannot be modified once they are demonstrated empirically the ideas that generate them. They reach their equilibrium state. Of course, in science, any idea which would have an explanation function of a phenomenon may prove to be limited. It remains valid as long as there is not another idea, with something completely different, which better explain the specific phenomenon, but even then, in a more limited way, the initial explanatory function remains valid¹³.

Finally, a last idea of Blaga, in this part of the work, has the gift to constitute itself, as he himself acknowledges, into a paradox: “old cultures or their constituents can refresh themselves - increasing their value - by functional mutation; in this sense we risk the paradox that the tradition has a reformatory significance, that the past may have greater value in the future than in the past, that the affinity of the human spirit and his ideas increases with time. This paradox contains the seed of a new philosophy of history”¹⁴. Because that assertion is likely to arouse a particular interest, I’ll stop more on it, giving some details that I consider to be relevant.

The tradition is, by definition, the conservative element present in any human community. Its approach as a social determinant should be made taking into account several factors: its history; the dynamics of the human communities: development, progress, evolution; the existence or the absence of a collective mental.

Every human community has a history (contrary to Hegel’s statement according to whom the myths and traditions should be excluded from the history, being specific to undefined peoples)¹⁵ regardless of its degree of development. The fact that in the archaic communities this may not be as well defined as it is today does not mean lack of history. In this type of communities the history existed as foundation myths, totems and taboos. We cannot claim the existence of an accurate record of events and historical facts of that time, as long as there was not a clear way to record the passage of time. It could not, in fact, be a temporal fixation because there were in the archaic communities two kinds of time: the profane, determined according to the lunar cycles or the seasons, and the sacred. But in such communities the profane time had no big importance since it does not bring anything significant. The really important was the sacred time, a circular time and eternal repeatable. This sacred time was that one which defined the proper reality: anything could exist only in time; before it exists, the time did not exist, and even certain things exist, the single way to explain the reality of this existence was the myth¹⁶. Or in other words, for any event experienced by a social

¹³ See Adam Schaff, *History and Truth*, The Political Publishing House, Bucharest, 1982.

¹⁴ Lucian Blaga, *op.cit.*, p.36.

¹⁵ Georg Wilhelm Friedrich Hegel, *Lectures On The Philosophy Of History*, Socialist Republic of Romania Academy’s Publishing House, Bucharest, 1968, p. 6.

¹⁶ Mircea Eliade, *The Sacred And The Profane*, Humanitas Publishing House, Bucharest, 1992, pp. 67-71.

group, and of which this group considered to worth mentioning, it was retained by creating a new myth¹⁷.

Within such a community we can speak, in the true sense, about the tradition's domination. Everything was done or judged on prior experiences which have proven their usefulness or importance, and which were legitimate or by the fact even that they were made by the founding heroes, or either by the fact that, thanks to its peculiar appearance, entered the mythical baggage of the group. Within such a community all human values were judged by tradition: everything that complies with it was good, but everything that contradicted it was bad. The individual life, the social, economic, cultural or religious life was judged by tradition, fact that was an ordinate principle. Indeed, man cannot live in chaos for which the order principle is fundamental to the humanity. Anywhere it grows a human settlement, the first solved thing is ordering space (different name: "centre of the world", centre of the village etc.) which then integrates all other ordering principles, including that of tradition. The traditional "order" consider the establishment of the collective coexistence principles, establish standards and, perhaps the most importantly, create a sense of "we", being in this way one of the fundamental factors ensuring the group cohesion¹⁸.

There were two types of relationships: first, that we just talked about, exclusive held by the internal life of the group, the second refers to the interaction of the group with the environment in which they are. Obviously, this second type of relationship is responsible for all other aspects of the group's life: food, clothing, shelter, art are directly related to the environment and bear its seal. It was a two-way relationship in which the environment provide the necessary means for the community survival, and this personalize them certain aspects by giving them a certain symbolism and a certain value, which, even if indirectly, protect the environment.

But what is important to note in this second type of relationship is the goal. Undoubtedly, any totem accomplish a well defined goal (protection, hierarchy, cohesion) but his determination once made, the process was concluded. It is also a group relationship with the environment but it is one with unique character, unlike day-to-day life in which the interactions are multiple and distinct and also are the goals. It is precisely here that the ordering principle of the tradition has a heavy word to say: for the purpose of an action to be achieved, in any field, there must absolutely be certain stages. As one of the basic needs of the people was to procure food it was normal, just here, that steps have been well defined. Of course, tradition alone cannot realize all the steps to be followed; it is supported by faith, too. Animism was established that every being endowed with a soul able for reincarnation. The importance of establishing ways to ensure the man that the soul of the hunted animal, for example, will be able to return to the living world, thus maintaining its initial balance (damaged by hunting), was obvious. There

¹⁷ Mircea Eliade, *The Myth Of Eternal Return, Archetypes And Repetition*, Encyclopaedic Universe Publishing House, Bucharest, 2008.

¹⁸ From the point of view of cohesion, Emile Durkheim believes that in archaic societies, there is a strong valuing of small group and a lower valuation of the society. Emile Durkheim, *Social Labour's Division*, Albatros Publishing House, Bucharest, 2001.

were so many alternatives that would achieve this goal (fossil deposits of various body parts of animals hunted as an example) including the hunting scenes drawing. Fixing by a drawing of a hunting scene has both the goal to protect those involved and also to ensure the repeatability of the situation. The first human artistic acts thus have had a double function: a religious one and a practical one¹⁹.

Overcoming the archaic period, the discovery of new techniques for exploiting resources, increase productivity, and, as a result of it, the social stratification led to significant changes in the bosom of tradition. This would preserve the authoritative-constrictive and cohesive function, but it has to add new functions, as the defence of the existing social model, which that defines change of the social structure. I find it interesting, at this point, the parallel that can be done for our popular term “place” of each. It has the function to define the socio-economic status of an individual within a community, but based on the spatial sense. A clear association with ancient roots between social position and welfare given by the land ownership, predominantly agrarian specific societies. Equally interesting is the fact that, beyond all the transformations undergone by Romanian society over time, the term has preserved still today, the same double determination (without excessive load of the subject I must mention the famous works: “Ton” by Liviu Rebreanu and Marin Preda’s “Moromeții” where the land ownership is the structural organizer of the Romanian peasantry. In short observation none of them can be enrolled in the style of the “Mioritic Space” theorized by Blaga).

Things have happened similar across the globe over time. Naturally, the social dynamics contributed to the change or loss of many traditional elements. Although they have kept their authoritative-constrictive and cohesive character, many elements of archaic traditions have disappeared; others have been replaced or adapted in order to deal with new types of human organization and technological development (Romanian custom dance “Paparudele” which aim to bring rain in times of drought disappeared entirely due to irrigation technology).

At this point, I find it important to mention that, if we can talk about an evolution of traditions, which, as we have seen, are forced to adapt to a certain level of society development, we cannot talk about progress amongst tradition²⁰. As long as we admit that progress necessarily only implies positive values these escape tradition, which remains anchored in past values.

Finally, a last aspect of the problem of tradition, and perhaps the most important one, is the role it has in the development of the collective ideal. Its development, but also its modification, fit, temporally speaking, in what Fernand Braudel called „*la longue durée*”. The Braudelian views on the way some social aspects impose and are retained in the collective ideal, as well as the affirmation that of all the things that are changeable inside a society these change the hardest are fundamental as far as the understanding and the analysis of tradition are concerned. However, Braudel only took into account great events and, as far as I

¹⁹ See Mircea Eliade, *History of Religious Ideas*, vol. I, Scientific and Encyclopaedic Publishing House, Bucharest, 1986.

²⁰ On the distinction evolution – progress see Cătălin Zamfir, *The Philosophy Of History*, Scientific and Encyclopaedic Publishing House, Bucharest, 1981.

know, he didn't take into account the influence on the collective ideal that changes of medium duration can have. Indeed, in a totalitarian society, substantial modifications on the collective ideal can be made if they are followed in a teleological way. When he theorised total institutions Erving Goffman did so from a double perspective: one of the individual who lives inside a free society, whose contribution on behaviour and ideal collective is a relatively small one, on one hand, and the wish to see how human relationships are built in such institution, on the other hand. Goffman analysed these institutions as closed entities, his interest being oriented on intern interactions²¹, with no relationship to the exterior. But, in a totalitarian society, all the institutions are closed and total. A controlled action concerning changes of some aspects of the collective ideal can be done much easier and with faster results (I consider the example of only two factors: the institution of education and the exchange between generations). It is obvious, in this case, the way that the communist ideology changed, in this way, a lot of the traditional customs of Romanians, but not only them. These changes, even if they affect just a fraction of the collective ideal, have their importance and it is hard to say how much of their influence can be fixed permanently and how long will it take for them to be replaced with others.

This being said, the „reformativ” value traditions could have, stated by Blaga, must be understood not from a shallow perspective, of coming back to the essence of certain traditions, but from a wider one, of reinvestment as fundamental values of some aspects of traditions that have faded or even have been erased in the present moment. A single example, in this case, can be bringing to the fore of the idea of group, of the concept of „us” that individualism and globalisation, predominant today, made it lose its importance. Bringing back to the fore of collective values, of the cohesive spirit that exists amongst the traditional communities, determine Blaga to state the reformativ possibility of tradition.

The scientific problem

The problem that puts Lucian Blaga itself in the third chapter of the book “Culture and knowledge” is the relation between a certain phenomenon and its explanation. More precisely what is meant by “explanation of a phenomenon” and what is the relationship that can be established between this phenomenon and his explanation. In pursuing this objective Blaga considers, first, establish the definition that may be given to the act of “explanation”. However, the “explanation” of a phenomenon is different from the perspective of “good common sense” and the scientific one. Thus, according to how the common sense would answer this question, to explain a phenomenon means to show its “causes”. But the causal relationship does not explain itself, a phenomenon but only shows the dependencies established between him and other phenomena. The causal explanation does not bring any extra knowledge for understanding the phenomenon itself, stating only the relationship that can be established between

²¹ Erving Goffman, *Asylums*, Polirom Publishing House, Iași, 2004.

it and other phenomena²². In doing this explanatory, the first step is to identify, logically, from a set of similar phenomena a certain “type” that can be successfully approximated as “generic” for the whole range of phenomena covered: “the first step: some incomprehensible set of empirical data we transform in the content of a problem; follows the second step: it gives an explanation of the problem in that we reduce a phenomena to a generic”²³. Once established this generic type is identified certain distinctive attributes characteristic of this phenomenon, demonstrates that these attributes belong to the essence of our phenomenon, then, starting from the particular to the general, based on induction, we show that these attributes are characteristic of the entire set of similar phenomena concerned.

Blaga, considering that “the fundamental problems of science have an entirely different internal structure”²⁴, tries to answer the question why a scientist, when he has to explain a natural phenomenon, leaning more in favour of a hypothesis rather than another. Blaga's answer claims that only using the two-step method, the explanation will not be fully determined. To do this is necessary the intercalation between “data experience” and “explain” them one more step: a certain “idea”. This idea which initially has an “anticipatory” character, meaning that involves the possibility of identifying a correct explanation, takes in the explanatory approach, an imperative form: the explanation gave of the phenomenon *must* be in agreement with the anticipated explanatory idea. But, to order the explanatory idea is necessary to build a particular model that corresponds to this idea. Important to be noted here is precisely this mandatory attribute that Lucian Blaga assigns to the idea according to which the model is built so well, but especially the explanation of the phenomenon itself which is 'squeezed', made to be in agreement with the idea and its built model.

The researcher performs as such a double intellectual action: first, he anticipates some explanatory idea, and then he builds its accordingly model. Therefore, having set these two stages, Blaga go ahead with construction of the entire mechanism of the relationship that arises between phenomenon and explanation showing how, from a psychological creator process, its determination tends to be more complete. This mechanism includes three ordered phases: 1) *the phenomena* to be explained, 2) *the idea* that sees an explanation but now it is just in the anticipatory stage, 3) *the creative construction* that creates the necessary frame to concretization the idea and to complete determination of the explanation²⁵.

The third psychological fact is also considering a method problem as long as it tries to define, as must from the beginning any serious research, those who are

²² David Hume states that certain reason alone, unaided by experience, cannot establish a causal relationship between two consecutive phenomena (in other words that effect cannot be explained by cause). The fact that man does, however, make such links is due to “habit” or “custom”. See David Hume, *Research On Human Intellect (An Enquiry Concerning Human Understanding)*, Scientific and Encyclopaedic Publishing House, Bucharest, 1987, pp. 106-110.

²³ *Ibidem*, p. 40.

²⁴ *Idem*.

²⁵ *Ibidem*, p. 42.

constant and those have a variable nature in the issue to be solved. Or, at first glance, it seems clear that what has to be solved, the phenomenon whom is seeking the explanation, is *the psychological constant* of the research because it remains fixed while *the creator explanations* are those which vary. This explanation, however, is a relatively simplistic one given that it only uses two-step problem solving. Indeed in this case, the phenomenon itself would only represent an occasional cause, a pretext the psyche would create concerning the occurrence inside the conscious of only the idea of solving, but without disposing of its content itself²⁶. It is given here only “the form” that the idea needs to take without being attached its substantially “found” required fixing the problem - finding the explanation. On the other hand, in the proposed model by Blaga, the phenomenon to be explained along with the anticipated idea represents the “actual problem”, and “the theoretical construction through which the anticipated idea is realised, correspond to solve”²⁷. Or, as long as the anticipated idea is decisive for solving content, and then turning into an imperative idea, is a constituent part of theoretical construction, which in turn, will generate the explanatory model, our problem has not just psychological character but also a logical one. Or, as long as the idea is variable by solving the issue, that turns this into another variable - a logical one. In other words, as long as a natural phenomenon and an idea that builds an explicative framework are given, the same phenomenon can be explained differently depending on the idea that generates the explicative model (one significant example is given by the different interpretations given to space and time in view of classic – Newtonian mechanics and the relativist-Einsteinian one.

Finally, the last problem Blaga takes into account in this section of the work is the transformation some ideas, that, exceeding the statute of ideas, move to principles, can suffer. Indeed, knowing that the idea has a constitutive role for an explicative framework and that it has the determining of the explanation content as a function, we can state that for the imperative ideas the explicative framework becomes imperative and the statute of the function becomes itself imperative. Besides, from the experimental checking of the explanations given to natural phenomena based on the framework and imperative content, they have been extended to the rank of principles (the explaining of all life phenomena, be it politic, social, moral, religious etc. based on the materialistic idea of the world is more than well known to us). An observation, I think, is imposed: inside history as a whole one cannot issue ideas with imperative functions whose value of truth is absolute. What can and has been done is to impose (by force or by other means of economical-political-social means) the assumption, of the grand human collectivity, of such imperative frameworks as if they would be explicative. Their persistence relative to social time is more than minor.

The categories

The problem of categories was one that arose, in time, many passions amongst philosophers. Their existence or their inexistence, whether they are

²⁶ *Ibidem*, p. 41.

²⁷ *Ibidem*, p. 43.

given strictly by sensation or they originate in the intellect alone, have been as many questions that generated fierce disputes. The Kantian synthesis was a way of solving the problem but it was going to stir adverse reactions being rejected totally by empirists and accepted with some differences from the initial model as Marbugien post-Kantians did²⁸.

Even before Kant, David Hume contested, in his turn, the existence of categorical ideas, his analysis stopping on the concept of causality and that of substance. The Humean critique starts from the relation that can be established between a phenomenon *a* and one *b*, attesting that reason has no means of establishing a logical and necessary correlation between the two moments because its purpose is not one of establishing synthesis but to make analysis. As such, we have no means to state certainly that *a* is the cause of *b*. What really happens, Hume states, is in fact, the result of a psychic act by which the individual, in virtue of observations and experiments done for a long time over some phenomena observes that whenever the *a* phenomenon appears, it is followed by phenomenon *b*. This repeated succession produces, at a psychic level, a phenomenon of “expectation”: each time *a* appears we expect that *b* follows. Ilya Prigogine proved in the 70s that we can’t talk about a strict determinism even as far as natural sciences are concerned²⁹ which represents a confirmation of the validity of the affirmation on causality that Hume had done 200 years before. Hume also explains substance by the same psychic mechanisms that generate sensation: what popularly has the name of “soul” is nothing but the sum of given representations whose constant apparition in certain situations determines us to believe in its existence³⁰.

However, the idea of cause remains valid at least on a primary, sensorial level: if I hold my finger above an open flame I will always feel pain. If we move past the primary level the possibility of identifying a similar relation becomes smaller and smaller. This doesn’t mean that the notion of causality does not exist anymore but only that it is only applicable for some parts of reality. As knowledge reaches higher levels it meets problems that cannot be solved with existent theories or needs the extension of the applicability of these theories. The knowledge, as it is now, stays closer to Humean incertitude than of empirism, rationalism or Kantian synthesis.

An interesting point of view, which Blaga talks about briefly, belongs to Emile Durkheim who admits the imperative role of categories in mental operations but situates the origin of those in social³¹. To the French sociologist, categories are social constructions and, as such, they attain certain social needs; being constructions of the community they transcend the individual who, when he’s born, finds them already done. Under these conditions the individual is obliged, by a double mechanism, to use them: on one hand, because he doesn’t have others and on the other one because social constraints force him to use them. Blaga is wrong

²⁸ *Ibidem*, p. 65.

²⁹ On the theory of Prigogine in Alvin Toffler, *The Third Wave*, Political Publishing House, Bucharest, 1983, pp. 414-417.

³⁰ Lucian Blaga, *op.cit.*, pp. 55-57.

³¹ Idea that is also stated in *The Philosophy Of Style*.

when he states that the Durkheimian hypothesis sheds no light on the content of categorical ideas. If we take, for example, the idea of time, we will see that it is very well defined inside the collective ideal and has its functions.

So, inside communities two types of time can be differentiated: the sacred and the profane. In any human community, regardless of its development level, a very clear distinction between the two types is made, and more so, an equally clear distinction is made between the contents and the functions of one and the other. The content of the idea of sacred time is the one of founding: at first the world was a generalised chaos and time, as it is perceived, did not exist. All changes by the apparition of the Founding Hero, the one who orders chaos creates the known Universe, institutes time and founds traditions. Obviously, all these not being able to obtain an abstract form, take the form of myth that becomes one of the most powerful ways of expression of mankind (the constructions of myths never seized, as it manifests with enough force even today).

The functions of the idea of time varied directly proportional to the degree of development of human society but also with the evolution of theological constructions, fulfilling social roles (of cohesion and communitarian individualisation), as well as spiritual (of asserting the affiliation to a belief). However, one of these functions remained constant: the ritual recreation of the sacred time which is nothing but a return to origins, a transposing of present in the past with the purpose of a permanent renewal of life.

From what I stated above two conclusions can be drawn: the first being that we can identify contents of ideas that are very well précised and expressed socially, the second that we can identify contents and functions of ideas that having roughly the same age as man make possible the establishment of their origin (contrary to the Blagian affirmation that we cannot determine the origin of an idea from its function³²). Actually, when it comes to the fundamental ideas of mankind transposed mythically a parallel with real events can always be made. Just two examples: the myth of the flood that is found in all the people and cultures of the northern hemisphere is associated with the idea of meting icebergs from the end of the last glaciations. Even if there is no certain evidence in this direction its persistence and widespread do not exclude such interpretations. The second example concerns the founding hero. Also universally spread this myth starts from doing some deeds deemed special by some personalities. Many such personalities existed and their influence surpassed, not few times, their social provenience.

The hypothesis

Finally, the last part of this work envisages a brief analysis of the hypotheses as a starting point on the road to knowledge. Blaga states that hypotheses, as spiritual creations can obtain separate functions from the initial problem they have been imagined for³³. To sustain this affirmation Blaga gives the example of three theories and shows the way the three define and use hypotheses. For metaphysics, the hypothesis is the result of man's wish to know reality, to biological theory hypothesis is an "abbreviation useful to experience", and to the

³² See p. 21 of the cited work.

³³ Lucian Blaga, *op.cit.*, p. 74.

pragmatic theory the hypotheses are built concerning an action, or, in other words, in the metaphysic theory an hypothesis has a certain function, in the biological in the pragmatic one, another.

But in the end, how can hypothesis be defined the easiest? The hypothesis is something that needs to be proven (from the Old Greek word “*hypo*”, smaller, “thesis”, position). It wants to be an assumption, stated in basis of some facts or knowledge, concerning certain phenomena³⁴. According to this definition, a hypothesis is enounced with the purpose of offering a possible explanation to a phenomenon (or a set of phenomena), but of only one (or in the case of the set, directly related phenomena). You cannot assert a hypothesis whose explicative value refers to the propagation of light inside the void and use it to explain gravity. They are two different things that do not overlap. Naturally, depending on the area in which this hypothesis is given it can take different definitions (for example in Mathematics by hypothesis we denote a set of known data that constitute a starting point for proving something or adding new knowledge to the initial problem). Or, from what we have shown, Blaga uses the term of hypothesis as it is but it cannot be used in another way than the definition above: as assumption on certain facts I can, for example, explain suicide (which is a strictly personal act) sociologically as Durkheim did, by the hypothesis of anomy, just as I can explain the decrease of social cohesion by the same hypothesis. From what we have shown above we can eliminate this confusion: the hypothesis is a method of work. Its function, as method, is limited only to the phenomenon it applies to. Any translation, actually perfectly possible, of a hypothesis from one phenomenon belonging to a certain section of nature to a phenomenon from another section changes the data of the hypothesis, determining it to become something else. What can be argued that remains fixated and whose functional variability, which Blaga speaks about, is applicable, is the idea itself. Thus, we must make this clarifying distinction of the hypothesis as starting point from known data to prove something, on one hand, and the idea – hypothesis that also has the attribute of originality on the other hand.

Conclusions

The youth work of Lucian Blaga, began with the intention, stated by the author himself, of trying to apply the cultural method in research of the „creations of knowledge”³⁵. To achieve this Blaga did a detailed analysis of all the fundamental compounds of knowledge translating them into a cultural perspective. Obviously, during this process, Blaga introduces many of the fundamental concepts that were going to represent the pillars of his metaphysic system (the cultural dimension of knowledge, the theory of the influence of environment on the cultural rural creation, the use of the principles of abyssal psychology and the accent on the dominant role the categories of the unconscious play in cultural creation are just a few examples in favour of the facts stated previously).

³⁴ *** *Dictionary of Philosophy*, Political Publishing House, Bucharest, 1978.

³⁵ Lucian Blaga, *op.cit.*, p. 3.

Also in order to achieve the original purpose, that of researching knowledge from a cultural perspective, Blaga starts from the affirmation that ideas, that are the fundament of every creation, are built of two components: the content itself and its function. The theory, as we have seen, also appears in Nietzsche but Blaga takes a different approach from the German philosopher, stating that the two components of the idea can be regarded separately. Arguing that, as far as content is concerned, the creative ideas pose no kind of difficulty, Blaga takes into account the functions that ideas have, his analysis having a double determination: the one of function itself, on one hand, and the origin of it, on the other hand. The argumentation of the theory takes this dichotomist direction because, in Blagian thinking, the origin and the function of an idea are independent values. In other words, Blaga states that the origin of an idea cannot be used to determine its function and, reciprocally, you cannot make any precise affirmation of the origin of an idea based on its function. The reason this distinction is taken into account is that of allowing the affirmation of two of the fundamental ideas of the work: the *infinite functional variability* of an idea (not being bound by origins anymore, the function of an idea can be translated in time, gaining new meanings or values); and the *law of maximal values* that any function tends to gain any function of a creative idea (for Blaga any function of an idea has an unstable „balance” tending to occupy a position that is as stable as possible.). This longing causes any function of an idea to have an asymptotic representation: (tending to find a balance without ever being able of attending it). These being established, Blaga passes his theory through some important methodological aspects: the way of knowledge (scientific/ common) the categories (imperative/relative), the hypotheses (uni of multi functional), and uses as arguments in the favour of his theory examples from the scientific and cultural creation.

As far as I'm concerned I left from the premise that any idea has, initially, an explicative function (the question *why?* is the fundamental question in this situation and the answer to it is one that is, in general, simple). The knowledge is an attribute that is innate to man. As such it is subject to the same exigencies as man. From this perspective, knowledge has an evolutionary character, being in concordance with the degree of evolution attained by mankind (the fact that there isn't a perfect concordance between the two can be explained by factors and conditions – social, economical, religious etc. – whose analysis is not the subject of this article). Admitting this affirmation, then, in the dawn of mankind, the explicative function was, if not unique, the most important, and the explanations given in those times to some major events or facts entered in the unconscious of mankind. I named this kind of ideas *founding*, since they keep, contrary to the Blagian affirmation, a tight bond between function and origin. While, once with the development of the level of knowledge, the questions he posed on his own being and of the world around him developed and diversified, these questions being called by myself *enlightening* or *developing*. The fundamental question is, in this second case, the question: *why am I asking myself why?* and on the answers generated by it the Blagian theory of the “*indetermination*” of the bond between the origin and the function of an idea applies. Obviously, the enlightening ideas have the task of giving a response that is as adequate as

possible (closest to the reality itself) of the initial answers. As such, even if the initial answers given to the question *why* have been, in time, much enriched and developed, the initial ideas and their functions remained inside the collective human unconscious.

REFERENCES

- Blaga, Lucian, (1922), *Culture and Knowledge*, „Ardealul”, Cluj, Publishing House of the Graphic Arts Institute.
- Hegel, Georg Wilhelm Friedrich, (1968), *Lectures On The Philosophy Of History*, Bucharest, Socialist Republic of Romania Academy's Publishing House.
- Eliade, Mircea, (1986), *History Of Religious Ideas*, vol. I, Bucharest, Scientific and Encyclopaedic Publishing House.
- Eliade, Mircea, (2008), *The Myth Of Eternal Return, Archetypes And Repetition*, Bucharest, Encyclopaedic Universe Publishing House.
- Eliade, Mircea, (1992), *The Sacred And The Profane*, Bucharest, Humanitas Publishing House.
- Goffman, Erving, (2004), *Asylums*, Iași, Polirom Publishing House.
- Hume, David, (1987), *Research On Human Intellect (An Enquiry Concerning Human Understanding)*, Bucharest, Scientific and Encyclopaedic Publishing House.
- Schaff, Adam, (1982), *History And Truth*, Bucharest, Political Publishing House.
- Toffler, Alvin, (1983), *The Third Wave*, Bucharest, Political Publishing House.
- Zamfir, Cătălin, (1981), *The Philosophy Of History*, Bucharest, Scientific and Encyclopaedic Publishing House.

A SOCIO-PHILOSOPHICAL ANALYSIS OF URBAN DEVELOPMENT (I)

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Abstract: *This paper focuses on the distinction between pre-industrial and industrial cities. The main reasons due to which the pre-industrial city has not known a significant growth are: the total dependence on gross force, its specific subsistence economy, the difficulties with the transport and storage of products, the migration phenomenon and dangers imposed by urban life. Another analysis was carried out by Ferdinand Tönnies, who operates a fundamental distinction between Gemeinschaft and Gesellschaft. Industrial city gives birth to new statuses and to a new social class. Postindustrial city is that kind of city where global finance and electronic information dominates the economic field.*

Keywords: *Pre-industrial city, Industrial city, Gemeinschaft and Gesellschaft, Urbanization phenomenon, Postindustrial city.*

I. The urban development

In order to undertake an analysis of the urban structures, the social philosophy thinking has divided the urban areas into two basic types: pre-industrial cities and industrial cities, to which recently added a new type, post-industrial city. This distinction is based on both quantitative differences, related to the obvious amount distance between the two types of cities, as well as the structural differences, which refers to the way of organizing the cities as such. As regards the quantitative aspect, it presents a dual approach: it is, first of all, the matter that, most often, the pre-industrial cities are constituted of a small number of people, but should not be ignored the fact that the area that occupied is, in turn, reduced. To establish this, it is sufficient to visit any of the medieval towns, which managed to preserve to a large extent the originating boundaries; for example, the towns with fortified churches in Transylvania; every time we notice that they have a length that today we appreciate as small or very small. Now emerges the question about the causes of the small size of towns, as well as the explanation of the fact that the population of these towns is reduced numerically.

There are several reasons due to which the pre-industrial city has not known a significant growth similar in quantitative terms with the industrial one¹. First, the total dependence on gross force provided exclusively by human and animals in the process of economic production. The absence of modern production technologies has resulted in an almost total dependence on natural resources, as

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¹ Schaefer, R.T., *Sociology* (11th ed.). Mc-Graw Hill Companies, Inc., U.S.A., 2008.

well as of climatic conditions. In addition, the capacity of people to change the natural environment in their favor was limited.

The second cause is the extremely low level of agricultural productivity, which led to the preponderance of the subsistence economy. The people did not have the capacity to produce significantly more than they needed for their own consumption. The American specialist in demography Kingsley Davis found that it was necessary the production of a number between 50 and 90 farmers to support the economic existence of a single townsman.

In the third place, another factor is represented by the difficulties sometimes insurmountable that presume the transport and storage of agricultural and non-agricultural products. They were a major obstacle to the development of cities, these difficulties could not be overcome even during periods in which cereal, vegetable or fruit harvests reached very high levels.

Another cause was represented by the difficulties imposed by migration from rural to urban areas. The fact of leaving the village where you were born and moving into the city is a phenomenon specific to the industrial society, which appeared as a consequence of the need for the increasingly numerous labor force; in pre-industrial societies this need is missing, more than that, given that there is no war or plague, a peasant cannot even conceive to leave his household or his village. In this case, it is not only about physical barriers, related to the economic aspect, but also mental barriers, despite poverty, the peasant feels in his village – in which, moreover, he was born and has spent the entire life so far – like a fish in water and there is no reason so strong as to make him radically change his way of life.

Finally, another argument is represented by dangers imposed by urban life. Living in a city presupposes the existence of potential significant perils: interactions with strangers, enemies' confrontations, burnings, epidemics etc.

II. Tönnies's distinction between *Gemeinschaft* and *Gesellschaft*

In this stage of the analysis, we must take into account the research undertaken by the philosopher and sociologist Ferdinand Tönnies in his book *Gemeinschaft und Gessellschaft* (translated as *Community and Society*). Tönnies operates a fundamental distinction between *Gemeinschaft* and *Gessellschaft*. First, *Gemeinschaft* refers to a specific social organization of rural life. Community dimensions are reduced, people's life experiences being relatively similar. Social interactions between community members are open, face-to-face, intimate, familiar, especially because the kinship relations are very pronounced and that it is quite possible for the majority of people to be blood relatives with each other.

Everyone knows everyone; this is not just a metaphor, but describes a reality, a way to live together with others, to feel that you are a part of the whole community in which you live. It does not focus on individual privacy, and the boundaries between private and community life are indistinguishable. Cooperation extends over the majority of the activities jointly undertaken. The meanings of the concept of unity are very profound and envisage not egalitarian spirit, but to ensure a level of welfare for the majority of the people within the

community. Social control is exercised through informal means, like the appeal to morality, gossip or diverse gestures.

Each member of the community is very concerned about the others' opinions on himself; this opinion forms a very important benchmark for measuring the prestige and importance of a person in the community. The system of values and norms are common to everyone, and the degree of adherence of the people to that system is very strong. From here does not follow that some individuals do not violate these rules from time to time, but they themselves admit that they did not adopt an appropriate behavior. The explicit opprobrium of the others is, in many cases, one of the most severe sanctions, so it can be more painful felt than physical punishment.

Regarding *Gesellschaft*, *society*, it is characteristic of modern urban life. Within it, kinship relationships no longer have dominant character, but the majority of people are strangers to one in relation to each other. The personal interest is dominant; competition is evident in all social classes; there is no broad consensus concerning the social values and/or norms of behavior. Private life is structurally radically separated from the public life.

Social relations are based mainly on social roles that each member of the society exerts, being represented by different tasks and actions with more or less mandatory character. The common laws were replaced by strict regulations and social control is based on rules and regulations established on rational basis, on the type of legislation. Formal character is defining for society, division of labor being widespread. Social change is a prominent aspect; there are huge differences between the way of life of a generation in relation to the following.

The table below (realized by Ferdinand Tönnies²) expresses synthetically the defining characteristics of *Gemeinschaft und Gesellschaft*:

| GEMEINSCHAFT | GESELLSCHAFT |
|---|--|
| Concord, custom and religion. | Convention, policy and public opinion. |
| Family life=concord. Man is involved in this with all his being. Its core is the tribe, nation or common people. | Big city life=convention. This is based on the individual human being with all his ambitions. Its core is the competitive market Society in its most basic form. |
| Village life=custom (traditional morality). Man is involved here with all his heart and soul. Its core is the commonwealth. | National life=politics and policy. This is based on man's collective calculations. Its core is the State. |
| Town life=religion. Man is involved in this with his entire conscience. Its core is the Church. | Cosmopolitan life=public opinion. This is determined by man's consciousness. Its core is the republic of letters. |
| Domestic economy and household management: based on liking or | Commerce: based on foresight: i.e. attention, comparison and calculation |

² Tönnies, F., *Community and Civil Society*. Edited by Jose Harris. Translated by Jose Harris and Margaret Hollis. Cambridge University Press, 2001.

| | |
|---|--|
| preference, i.e., the love of nurturing, creating and preserving. The norms for this are set by sympathy and mutual understanding. | are the basic conditions for all business. Trade is the essence of rational action. Contract is the custom and creed of commerce. |
| Agriculture: based on routine and habits, i.e. on regularly repeated tasks. The extent of working cooperation is revealed in custom. | Industry: based on decisions: i.e. rational productive deployment of capital and sale of labor. Regulations rule the factory. |
| Art and craft: based on memories, i.e. of teaching received and rules absorbed, and of original ideas. The minds of the artists and craftsmen are united in a belief in their work. | Science and learning: based on conceptual thought, as is self-evident. From hypotheses it develops its own laws and presents its facts and theories, which pass into literature and the press, and thus into the public opinion. |

III. From the pre-industrial to the post-industrial city

The philosopher and sociologist Gideon Sjoberg³ in his book *The Preindustrial City: Past and present* published in 1960, analyzed different types of cities in China, India and medieval Europe etc., but not every human settlement may be called City; in order to be included in the category of urban centers, a human settlement must satisfy three fundamental requirements: to be placed in a physical environment/naturally favorable, to have a relatively advanced technological development, both in terms of agriculture, and especially non-agricultural, to be well-developed/structured in terms of social organization.

Regarding the first condition, Sjoberg assigns various connotations. Thus, favorable natural environment may designate the proximity of both natural resources such as coal or iron – in this case the society should possess the necessary technology to exploit those resources – and the vicinity of a river, which can bring a development of shipments of goods, but also of irrigation systems and consumption for urban population (apud. Schaefer, Lamm 1995)⁴. On the other hand, a well founded social organization is meant to confer a certain social status on each member of the society, as well as to strengthen the system of social relations established between individuals, especially since the urban populations manifest noticeable trends to grow.

Pre-industrial cities are an important component of pre-industrial societies, which have the following characteristics (apud. Phillips⁵ 1979):

- A total population which has been growing slowly and in which can be found several urban communities of 100.000 people or more.
 - The legitimate leaders are represented by small political and religious elite.
- In this respect, the dominant activities in pre-industrial cities are governmental

³ Sjoberg, G., *The Pre-industrial City: Past and Present*. The Free Press, New York, 1960.

⁴ Schaefer, R. T., & Lamm, R.P., *Sociology* (5th ed.). Mc-Graw Hill Companies, Inc., U.S.A., 1995.

⁵ Phillips, B., *Sociology: From Concepts to Practice*. McGraw-Hill Book Company, U.S.A., 1979.

or religious ones; these being completely separate from commercial activity – at least at the formal level.

- A layered system in a very rigid way. Social class is determined strictly by birth, by the family to which every person/individual belongs. Cities are led by the noble classes, which avoids doing economical activities, but instead being concerned with how to dress, how to speak, how to conform to the good manners/how to behave in society, as well as by a particular lifestyle. On the other hand, there is a lower class, of whose tasks are the productive economic activities, especially agricultural ones. Finally, there is also a distinguished group by the two above-mentioned classes, consisting of foreigners.

- In most cases, marriages are arranged by families depending on different interests, and not by the people that are to get married. The ideal of life of the upper class is the extended family that lives in one building with vast proportions.

- Pre-industrial society is structured starting from the domination of women by men, and of young people by elders. The prescribed roles are rigidly fixed based on gender, which causes a strict division of labor. For example, women in urban areas generally have more freedom than those in rural areas.

- In these societies there is a rudimentary technology, based mainly on human or animal use. The division of labor is simple, being based only on criteria related to each guild in part. There is a small degree of standardization in terms of pricing, related to the quality or quantity of goods, but especially to the negotiation or haggling between buyer and seller.

- Organizations are characterized by a very rigid hierarchy, in which an important role has the membership of a particular family or social class. Also, the degree of centralization is very high, relying on the authority of a single leader, whose power, although it is not absolute, is extended in vast domains.

- The influence of religion is omnipresent in these societies, most of the areas of life being regulated by the religious practices/cannons. Political and religious institutions are based on an absolutistic way of thinking, which does not admit any other perspective outside the official one.

On the other hand, the industrial city appears as a consequence of the industrial revolution, approximately in the period between 1760 and 1850. This period is characterized – particularly in Europe – by a consistent increase of the population, mortality rates registering low values in most European countries. One of the causes of this phenomenon of declining of the mortality rate is linked to the improvement of agricultural techniques, whose direct effect was to increase productivity. Among the techniques used, includes the introduction of artificial fertilizer, the application of new methods of crop rotation, the increased of herds of livestock through artificial reproduction. The immediate effect of these new techniques was – if not the complete disappearance – at least the reduction of hunger.

Another cause of decline in the mortality rate was that of development – albeit still rudimentary – of a healthcare system which, though it failed to definitively eliminate the plague, typhus, cholera, smallpox, malaria and tuberculosis, however, to some extent, has improved the quality of people's life. At the head of the industrialized countries has been placed, of course, England. But the urbanization phenomenon that begins to unfold, timidly at first, after

which it will reach a magnitude downright explosive, and then it will make its presence felt not only in England but throughout Europe. The American researcher Kingsley Davis rightfully remarked that “the transformation thus achieved in the nineteenth century was the true urban revolution, for it meant not only the rise of a few scattered towns and cities, but the appearance of genuine urbanization in the sense that a substantial proportion of the population lived in towns and cities” (apud. Flanagan⁶ 2010).

It is obvious that, only starting from the industrial age, we can discuss about the existence of a real phenomenon of urbanization. But it does not have the same force in all European countries, as shown in the table below, which presents the phenomenon of urbanization in the nineteenth century, namely the percentage of the population who lived in the cities of not less than 20.000 peoples (apud. Flanagan 2010).

| COUNTRY | 1800 | 1850 | 1890 |
|-------------------|------------------|--------------|--------------|
| England and Wales | 16.9% (1801) | 35.0% (1851) | 53.6% (1891) |
| Scotland | 13.9% (1801) | 27.7% (1851) | 42.4% (1891) |
| Netherlands | 24.5% (1795) | 21.7% (1849) | 31.3% (1889) |
| Belgium | 8.7% (1800-1810) | 16.6% (1846) | 26.1% (1890) |
| United States | 3.8% (1800) | 9.8% (1850) | 23.8% (1890) |
| Prussia | 6.0% (1816) | 7.8% (1849) | 23.0% (1890) |
| France | 6.7% (1801) | 10.6% (1851) | 21.1% (1891) |
| Spain | 9.8% (1820) | 9.6% (1857) | 18% (1887) |
| Ireland | 6.6% (1800) | 8.7% (1851) | 15.3% (1891) |
| Switzerland | 1.3% (1822) | 5.2% (1850) | 13.2% (1888) |
| Austria | 3.6% (1800) | 4.2% (1843) | 12.0 (1890) |
| Portugal | 10.3% (1801) | 10.7% (1857) | 9.2% (1890) |
| Russia | 2.4% (1820) | 3.5% (1856) | 7.2% (1885) |

The life of people in the industrial societies has changed considerably in comparison with the social structures corresponding to the traditional society. This implies a fundamental change at the level of urban life. The industrial city gives birth to new statuses, but, more importantly, to a new social class, namely the proletariat, which refers to industrial workers. The division of labor is redefined, acquiring unknown meanings until then, respectively the concept of specialized workforce; also, the relations between workers change their character, emphasis moving from wide cooperation to ferocious competition. The main cities of Europe at that time were: London – whose population increased from 865.000 people in 1801 to 4.232.000 people in 1891, Paris – 548.000 people in 1801 and 2.448.000 people in 1891, Berlin – 201.000 people in 1819 and 1.579.000 people in 1890, Vienna – 232.000 people in 1800 and 799.000 people in 1890 etc.

⁶ Flanagan, W.G., *Urban Sociology: Images and Structure* (5th ed.). Rowman & Littlefield Publishers, Inc., Lanham, Maryland, 2010.

Another novelty introduced by the industrial city is connected with labor. Gross labor, sustained physical effort – in agriculture or in various feudal manufactories – from early morning until evening, was a constant of the pre-industrial societies; in this respect, nothing new in industrial societies. In industrial city, gross labor is replaced by the repetitive work, who was a kind of work in which children of nine years or older were not exempted. The working conditions of the workers were truly miserable. The high number of working hours, poor hygiene and sanitary conditions – breaking a leg could mean lifetime invalidity, which was similar with permanent impoverishment of both the worker and his family – , a very short childhood etc. illustrate a picture of a very burdensome social life. In Germany, for example, in the mid nineteenth century, a working day meant fifteen hours, often without a lunch break. Work began at 5 a.m. and ended at 8 or 9 p.m.

Nowadays, about half of the world population lives in urban areas. In developed countries, the percentage of those who live in cities is significantly higher – 80% of the population – while in undeveloped countries less than 40% of the population lives in cities.

Postindustrial city is that kind of city where global finance and electronic information dominates the economic field⁷. While the area occupied by big cities grew more and more, the space inside them knew a pronounced tendency of specialization according to the specific of each area separately. Thus, the city center is dedicated especially to commercial activity, while residential areas move mainly to the periphery. Other areas of the city know a strict specialization; there are industrial areas, leisure areas, areas dedicated to shopping – shopping is an essential part of everyone's life of the townsfolk. This feature of the city, namely the specialization, touches the residential areas; there are very strict differences in terms of social classes and it manifests mainly by the fact that people who are placed in distinct social groups do not live in the same neighborhood, but rather in locations often situated at opposite ends of the city. The postindustrial city is characterized by permanent social changes; the space in the inner city is frequently restructured. The economic competition between different urban areas is very fierce, mostly since the emphasis is not on the production of material goods, but on the information and service industry, including communications, mass media, research and development, tourism, insurance, banking, finance and technology⁸.

REFERENCES

Christensen, K. & Levinson, D., (2003), *The Encyclopedia of Community: From the Village to the Virtual World*. Sage Publications, Inc., Thousands Oaks, California.

Flanagan, W.G., (2010), *Urban Sociology: Images and Structure* (5th ed.). Rowman & Littlefield Publishers, Inc., Lanham, Maryland.

⁷ Schaefer, R.T., (2008), *Sociology* (11th ed.). Mc-Graw Hill Companies, Inc., U.S.A.

⁸ Newman, D.M., (2010), *Sociology: Exploring the architecture of everyday life*. Pine Forge Press, U.S.A.

Newman, D.M., (2010), *Sociology: Exploring the Architecture of Everyday Life*. U.S.A., Pine Forge Press.

Phillips, B., (1979), *Sociology: From Concepts to Practice*. U.S.A., McGraw-Hill Book Company.

Savage, M. & Warde, A., (1993), *Urban Sociology, Capitalism and Modernity*. MacMillan Press Ltd, Houndmills, Basingstoke, Hampshire.

Schaefer, R.T., (2008), *Sociology* (11th ed.). Mc-Graw Hill Companies, Inc., U.S.A.

Schaefer, R.T., & Lamm, R.P., (1995), *Sociology* (5th ed.). Mc-Graw Hill Companies, Inc., U.S.A.

Sjoberg, G., (1960), *The Preindustrial City: Past and Present*. Illinois, The Free Press, Glencoe.

Tönnies, F., (2001), *Community and Civil Society*. Edited by Jose Harris, translated by Jose Harris and Margaret Hollis. Cambridge University Press.

ETHICAL NORMS AND LEGAL REGULATIONS IN MODERN BUSINESS

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Abstract: *A large number of business leaders, as well as ordinary people, do not make a clear distinction between ethical norms and legal regulations; consequently, they expect morality would solve the legal issues, but confuse moral behaviour with mere compliance to the law. This study attempts to clarify this matter, discussing several matters: What is a norm in general; the necessary relationship between norms and freedom; the structure of norms; the normative statements; the distinctions between moral norms and legal regulations. Illustrated by a few case studies, the conclusion of this paper claims that too often mere legality does not insure the morality of business decisions and practices.*

Keywords: *Ethical norms, freedom, legal regulations, normative statements, social rules, structure of norms.*

In a previous paper called “Law and Morality in Modern Business” – that will be printed in another scientific journal – I tried to reject the notion that keeping the law is the only *moral* duty in business. Some people believe they could sum up the whole morality of business in one single principle: “Obey the law.” What else a businessperson might be expected? “Some have said that corporate concern about business ethics can be reduced or eliminated by turning problems over to the legal department. The operative idea is ‘let the lawyers decide; if it’s legal, it’s moral.’ Although this tactic would simplify matters, moral evaluation needs to be distinguished from legal evaluation.” (Beauchamp, Tom L. et al, 2009, p. 4) In short, I have stated several arguments against this legalist approach, pleading for the notion that, no matter how important, the law cannot and should not solve all the difficult issues which currently confront business people: 1) The very efficiency of the legal system depends on the moral attitude towards the notion of legality, since conformity with the law is not, in itself, a legal matter, but a moral obligation. 2) Every law can be, and should be evaluated from a moral viewpoint. Occasionally, keeping a bad law might be a perfect way to act against one’s moral beliefs. 3) The law cannot and must not regulate every aspect and each moment of our lives. When the law has nothing to say, people still need a moral guide of their decisions and actions. 4) Most often the law tells us how to proceed, but not what we should do. The law is concerned with the *means* that we may use, but the choice of our *ends* in life is a moral matter of each person. 5) One final reason why, beyond the strict conformity with the law, ethics could be sometimes

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requested, is the national character of legislation, whereas ethical principles claim to be generally valid. Ethical standards play a specific and irreplaceable part in the decision making process involved in a fair market economy.

I hope my arguments were valid. And yet, there still is one difficult problem to discuss. I met some well-intended businesspersons who definitely admit that honest business involves certain ethical standards beyond strict legality. But when it comes to defining and understanding the difference between moral standards and legal regulations, things are far from being clear. Too often, people speak in good faith of moral rules in business, but they keep on thinking of legal duties, as if there was no sharp difference between these two types of norms. I met business leaders, diplomats, journalists ready to talk about business ethics. Most often, they began to deplore the fact that in Romania too many people and companies steal, lie, and cheat; too much corruption, bribery, dubious bids, tax frauds, etc. To fix this polluted business environment, they say, we need to enforce business ethics. I disagree. All of these bad behaviours are, of course, immoral deeds. But primarily they are *illegal* actions and it is up to the legal system to deal with them. The specific field of business ethics begins where the law stops. Within the limits of the law, business persons are confronted with a lot of choices – all of them legal, and yet not equally valid from an ethical viewpoint.

Many people do not make a difference between ethics and morality. Most often, this confusion do not disturb the communication in ordinary language. But sometimes it is useful de recall that, properly speaking, ethics is a philosophical inquiry, concerned with morality. But what is morality? At first glance, the answer is easy. Almost everyone would submit that, among other things, but in the first place, morality is a system of norms, which we should keep in our social relationships if we wish to commit good deeds and to be good persons. An unexpected difficulty appears when we ask for a clear example of a moral norm. Spontaneously, we would think of such rules as “Never lie,” “Never steal,” “Respect the old folks,” “Take good care of your children,” “Do not cheat your wife or husband,” etc. But wait a minute. On second thought, all of these rules are also legal regulations and, for religious people, they are God’s orders. It is not at all easy to find norms which are purely moral and nothing but moral rules. This is not the case with other normative fields. “Keep the Sabbath,” “Receive the Eucharist,” “Confess your sins to your father confessor,” “Pray five times a day, turning your face to Mecca,” etc. are all purely religious commandments. “Pay your taxes,” “Do not take bribe,” “No house search is allowed without a warrant,” “Always stop the car at the red light,” etc. are all clear legal regulations. “Keep this product in cool, dry places,” “Never press the ‘Turn on’ button if the device is unplugged,” “Do not stand under tall trees when it is thundering,” etc. are all technical instructions. “Break a Champagne bottle when a vessel is launched,” “Always wear black at funerals,” “Carry your bride in your arms across the threshold after the wedding ceremony,” etc. are all traditional customs.

Since we cannot produce one single “pure” or exclusively moral norm, the only way to explain why and when a rule, such as “Never steal,” has a moral meaning is to analyze the social functions and the structure of norms in general. That is why, in the first place, we must analyze some more general questions,

namely: What is the meaning of the word “norm”? Which are the characteristics that make difference between a moral, a religious, and a legal norm?

What is a norm?

A norm is a pattern of behaviour, which should apply under various circumstances. Every norm is an abstract, ideal model of a specific kind of actions, which leaves aside the accidental and insignificant aspects of the social setting, to emphasize the unchangeable and important things to do or to avoid. This might hold true, but it is not enough. We must add a few specifications before stating an acceptable definition of norms.¹

First, even though putting into practice a norm for a long time generates certain habits, the individual must accept consciously a normative pattern and deliberately follow the rule. Thus, automatic reflexes, stereotypes, and any kind of habits – good or bad – acquired imperceptibly and unwillingly by the individual do not have a normative nature. We can train an ape to shake hands or raise its hat, but the animal is not following a social custom. Some people always give a firm handshake, but they are not all following a social rule; they merely express their true character. I always put on my left sleeve first, but I have never decided to do so, and nobody ever told me to act like this – it is only a matter of habituation.

Second, a norm is a pattern of individual behaviour, but it has a general, *super individual* significance and validity. Let us say that one might decide for himself, “I shall never drink red wine,” because he thinks it could be hazardous to his heart condition. Another person never takes an important action on Tuesday, because she is superstitious. The third person is in the habit of playing lawn tennis three times a week, to keep in good physical shape. Each person has his or her own rules of behaviour, but none of these personal rules is a norm, because they do not count as social patterns of behaviour, adopted and followed by a large group of people.

Finally, a person can consciously conform to a social standard of conduct only if the rule of action is explicitly stated a super individual pattern of behaviour. The simple statistical uniformity of social stereotypes, which individuals acquire by means of imitation or social training, has nothing in common with the normative action. Most of the people on a beach drink beer and play ball. The fans of a football team cheer with joy the victory of their idols, and boo with anger their defeat. Their behaviour is uniform, but only as consequence of a mimetic attitude – a matter of social psychology.

To sum up: a norm is a rule of conduct, having a super individual validity, explicitly stated by the collective consciousness as a standard of behaviour, deliberately accepted and followed by the individuals.²

Norms and freedom

A norm would be senseless if it demanded an impossible behaviour, such as “Wave your hands and fly” or “Walk on water,” because nobody could do such

¹ Crăciun, Dan, *Business and Morality. A Short Introduction to Business Ethics*, Ed. ASE, Bucharest, 2003, p. 84.

² *Ibidem*, p. 85.

things. A norm would also be absurd and irrational if it asked for an inevitable behaviour, such as “Do not stop breathing” or “Strive for happiness,” as long as every person, by her nature, spontaneously does such things. Any norm supposes a free agent, who *can* do something, but *does not have to* do it. Therefore, the social function of a rational norm is to determine a free agent to comply with a certain pattern of conduct, because this pattern is socially desirable, but not always spontaneously put by everybody into practice. Consequently, human freedom is the ontological ground of normative behaviour.

Freedom of will is a very complicated matter, which has always tortured the minds of philosophers, scientists, and theologians. Fortunately, we do not have to resolve now this tricky metaphysical problem, concerning how freedom is possible in this universe. Actually, we all do experience our freedom of will, each time we have the real possibility to choose between practical alternatives. Sometimes, the outcome of our choices is socially unimportant or indifferent. It is no one’s business if I spend my summer holiday in the mountains or on the seashore. Nobody cares if I choose between having a dog or a cat, and I always may decide in the morning whether I drink coffee, tea or milk.

However, many other choices have serious consequences on some other people, and these choices are not socially unimportant or indifferent. It is everyone’s business if I spend my summer holiday stealing cars or shooting at people in the street. You would probably agree that everybody should care if I like to torture dogs and cats or if I enjoy eating other human beings. And people would not agree that I always may decide in the evening to beat my wife up or to molest my children. As Aristotle says, man is a social animal, who by his nature lives among, and together with, other people. Social life requires a system of uniform individual behaviours, without which the coherence and continuity of society would not be possible. On the other hand, the patterns of conduct concentrate a very long collective practical experience, which cannot pass, like instincts, from one generation to the next by means of heredity, but only by means of education. Thus, the most important function of norms is the socialization of the individuals. As rules of action, the norms are supposed to establish a certain uniformity of the individual behaviours, determining the individuals to rule consciously and willingly their lives in accordance with a social standard, proven by a long history as being able to guarantee a certain coherence and stability of the social life. As social psychologists have experimentally proven, there is in all of us a strong urge to conform to the majority. A normative pattern requires more than simple conformity, imposed by unconscious behavioural mechanisms, because it puts at work the human mind and understanding, which implies the active function of language.

The normative statements

As a matter of thought, we can be aware of a pattern of conduct by means of a normative statement – a combination of words, meaning that we ought to do something. A sentence is said to be normative when it contains at least one normative term – a word that does not refer to a material or ideal object, process or characteristic, but to a certain way of our doing or not doing something. The

most common and important normative terms might help in the classification of the normative statements.

- *Ought* and *must*. “He ought to do this” or “She must do that” are *obligations* or *duties*. I must give lectures to my students; they ought to study; he must treat his parents with respect, and we all ought to drive on the right side in Europe, and on the left side in Britain.

- In their negative forms, ought and must are contained by *interdictions* or *forbiddances*, such as “He ought not to do this” or “She must not do that.” I ought not to take bribe; my students must not copy while taking written tests, and everybody is forbidden to smoke in the classroom.

- Finally, we call *permissions* sentences such as “He *may* do this” or “She is *allowed to* do that.” In a weak sense, a specific behaviour is allowed whether nothing interferes with the free will of an individual. I may walk or catch a bus; you may drink soda, orange juice or coffee; he may write with a pencil, a fountain pen or a ball pen. In a stronger sense, a person is permitted to do something when an authority guarantees that person’s right to do something. I may frankly express my beliefs because I have the constitutional right to free speech – but I may not use dirty words in public or make false allegations. I may own a car, a house or a company because our constitution guarantees the private property – but I may not own another person, etc.³

The structure of norms

A norm cannot reduce to a normative statement. Any real and functional norm is a complex social relationship, which supposes a few necessary elements.

First, the *normative authority* is the social force that establishes a certain pattern of behaviour, being able to enforce it, and to make people follow the rule. For example, the state or the government are the authorities of all the legal and administrative regulations; God and the Holy Church are the source of all religious duties and forbiddances; the experts and their competence issue the technical instructions; the public opinion and tradition enforce the specific customs of a nation.

Second, the *subject* of a norm consists in a category of people, subordinated to the authority and supposed to comply with the rule. Sometimes, the subject is explicitly defined. For instance, all of the Romanian citizens must obey the Romanian laws, all the drivers in the world must follow the same rules, all the students ought to pass their exams, etc. In other cases, the subject is not clearly specified. There are norms that apply to everyone, such as “No smoking,” “Do not steal,” “Do not commit suicide,” “Pay your debts,” and so on. Finally, there are norms that everyone must accept if one wishes to accomplish certain tasks or to belong to a certain community. It is the case of technical instructions, such as “If the device stops, press the red button,” “Take two pills after meals,” etc. or the case of traditional customs.

Third, the *application field* of a norm is a class of situations and practical contexts in which the authority demands the subject to follow a certain rule. “Do

³ Crăciun, Dan, *Business Ethics. Basic Concepts and Principles*, Ed. ASE, Bucharest, 2012, p. 89.

not kill” is a valid rule in times of peace, but not valid for military at war. “Take the bullet into your chest” is a rule of honour for a body guard, but only when he is on duty and the target of the bullet is his boss, whereas a doctor must give medical attendance to anyone in need, even if he is not on duty.

Fourth, the *rule of action* or the content of the norm is the specific pattern of behaviour demanded by the authority.

Finally, the normative authority enforces any effective norm by means of certain *sanctions* – punishments and rewards, as consequences of the subject’s actions, which deserve a reward if he conforms to the established standard of conduct or a punishment if he breaks the rule.

This structure of norms in general might be of great help to distinguish between moral rules and other types of norms, such as the religious commandments and legal regulations. “Do not steal,” for instance, is a religious norm for those people who believe that stealing is forbidden by God’s will. Such a divine order has its source in the Supreme Being, which is far beyond this world and above the individual. The religious norms come from a transcendent authority, endowed with the magical power to reward or to punish the believer, both in his lifetime – spent here, on earth – and after his material death, deciding the fate of his immortal soul. The religious norms are external or *heteronomous* – because the individual gets his orders from outside his conscience; a separate force is telling him what to do and not to do, and his only free option is between compliance and disobedience. We all know there are many faithful thieves – people who believe in God and are perfectly aware of His forbiddance of theft; however, they keep on stealing, and hope that, listening to their prayers and confessions, God will forgive them in the end. But what about those people – and they are a lot nowadays – who have lost their faith in God? Most of them still accept and follow the rule “Do not steal,” even though they do not feel watched by the invisible eye of the Almighty God.

Moral norms and legal regulations

The elements we have included in the structure of norms might help to tackle the differences between law and morality from a different angle. One might say that people abstain from stealing because they are afraid of breaking the law; after all, before being an offence to God, theft is a legal offence. However, definitely this claim does not stand. Everyone must have experienced at least once a situation in which he could steal something, certain that he would escape legal punishment, but he did not steal. Such experiences show us the difference between legal and moral norms. The law is clearly heteronomous, like the religious commandments, except two important aspects. First, the legal authority is not transcendent; it belongs to this world, having different names: Parliament, Government, President, Administration, Court, etc. Secondly, the punishments given by the legal system have nothing in common with the afterlife – they all happen in this world.

A genuine moral norm is always *autonomous*: the individual follows the rule of action because his conscience, acting as an internal force, is telling him to do so. I must not steal not (only) because God forbids theft (after all, maybe God will

forgive my sin or perhaps I do not believe in God), and not (only) because I am afraid of the legal punishment (let us say I am certain that nobody will ever know that I have stolen). I must not steal because I do believe that theft is wrong, and wrongdoing would make me a bad person, and this holds true not only for me, but for everyone. The authority that establishes and enforces the moral norms is the so-called moral conscience – a complex human ability to judge what is good or bad, what is right or wrong, guiding our free will towards good and right deeds. Different ethical theories try to explain in various ways the origin, development, power, and limits of moral conscience. Despite the differences between different ethical theories, most of them emphasize this very important characteristic: moral norms originate in an internal (but not merely subjective) authority: the moral conscience.

The *subject* of any legal regulation is the citizen of a certain state or the member of a certain organization. Every one of us must obey the Romanian laws as long as we live in our country, and every one of us must conform to the laws of a foreign state when he or she is abroad. I must keep the deontological code of my profession, but I do not have the specific duties of a doctor, a fire fighter or a lifeguard. At present, there are no universal laws because there is no universal authority able to enforce them. The subject of any genuine moral norm is any human being; a moral norm claims to be valid for everyone. As moral duties, “Never lie,” “Never cheat,” “Never steal,” “Never kill,” etc. do not address a particular group of people, but each man and woman in the world. This does not mean that all of the moral norms really are universal. We know there are many moral duties and forbiddances specific to a certain social, cultural, and historical context. We also know there are, however, at least a few moral norms found in almost all the cultures of the world. Anyway, we have to emphasize that moral norms claim to be valid for everyone. This characteristic, called universalizability, is founded by the moral conscience, which also claims being a universal authority.

The same difference between law and morality appears as far as the *application field* of norms is concerned. The legal norm always applies to specific circumstances, and what the law does not forbid is legally permitted. The moral norms claim to be valid under any circumstances. In the U.S.A., a man prosecuted in court may refuse to speak against himself if he calls the Fifth Amendment of the American Constitution; morally speaking, he ought to tell the truth, no matter the consequences for himself. If a man has an illegitimate child, he has no legal obligation towards that child if the court could not prove that he is the natural father; from a moral standpoint, however, he ought to take care of his child and the child’s mother. There are many moments in our lives when the law does not tell us what to do or what to avoid in our behaviour. Yet there is no kind of situation with no moral significance and consequences. Every moment in our lives means something to us or to the others, and everything we do or do not do leads to certain outcomes, which could make human condition better or worse.

The clearest distinction between law and morality appears when we analyze the *rule of action* – the normative sentence that demands a specific pattern of behaviour. Both moral and legal norms are either affirmative (obligations or duties) or negative (forbiddances or interdictions). Very often, however, we notice

that the law only forbids, whereas morality forbids and urges to do something. Telling lies is forbidden both by the law and by morality, but only morality urges us all to tell the truth, even though being honest could be detrimental to our personal self-interest. Let us say I know that my neighbour is a thief or that he is in the habit of molesting his children when coming home drunk. If asked in court, being under oath, I must tell everything I know about my neighbour's behaviour, but otherwise I am not legally supposed to speak. According to morality, it is my duty to interfere, trying to determine my neighbour to stop stealing or molesting his children – if necessary, by calling the police and reporting his misbehaviour. Both law and morality forbid theft, but only in the moral field we can find a norm telling us not only “Do not steal,” but “Be generous, give to your peer in need from your plenty.” If I stole something and proved as a thief, I would be both legally and morally responsible. Yet no court of law shall ever prosecute, judge, and convict me because I refused to give my neighbour some money – the money he needed for paying his children's school taxes or his wife's urgent surgery, necessary to save her life. Legally clean, I should feel morally guilty of avarice and selfishness. Both the law and morality claim: “Do not kill,” but only morality urges “Save a life if you can, even taking risks for your own person.” I may not kill an innocent person. Whether I am a murderer, I should expect to be prosecuted and convicted, but if a man, a woman or a child is in danger – drowning or closed in a burning house – it is not my legal duty to risk my own life trying to rescue the potential victim, but it is my moral duty to do so.

This leads us to an important distinction regarding the social function of law and morality. The legal norms should establish a *minimal* sociability, enforcing rules that control our hostility towards our neighbours. Without strong legal regulations, the society would be pretty much a battlefield or a jungle – Hobbes's state of nature. The moral norms try to establish a *maximum* of sociability, enforcing rules that stimulate our solidarity and compassion with our neighbours. Strong moral norms would make our world a better place to live in. To sum up, the legal norms urge us to refrain from being dangerous, injurious or prejudicial to the others, whereas the moral norms do the same thing, but they also urge us to be good, friendly and helpful to the others.

History proves that a society can survive without strong and effective moral norms; our country, at present, is a sad example of a morally confused and incoherent society. However, no complex, historically evolved society could ever survive without the force of law. That is why there is an important difference between the legal and the moral *sanctions*. First, the legal system counts on punishments, but has no rewards – if we do not consider the fact of not being punished as a reward, and leaving aside that living in a society protected by law is much better than always being the potential victim of criminals. Morality inflicts punishments for the wrongdoing – shame, remorse, blame, contempt, isolation, etc. – but also offers rewards for the right behaviour – such as praise, gratitude, satisfaction, and joy. Secondly, the legal punishments are external and material, even physical sanctions: imprisonment, and all sorts of penalties, damage compensations, confiscations, etc. These punishments are inflicted by an external force, which constraints the convict to pay his sentence, no matter if he feels guilty and remorseful for his crime or not. The

most powerful weapon of law is the external physical force. The legal norm expects the subject to obey, not necessarily to approve of it. Even though I might disapprove of one legal norm or another, because I find it stupid or unfair, as long as I keep the rule I am legally innocent. However, if I break the law, even though I might approve of it, I am guilty and I have to pay. Morality has its own external sanctions, given by the other people: blame, contempt, isolation or even exclusion from community. Yet the most important and characteristic moral sanctions are internal and spiritual: shame, remorse, regret. These feelings arouse from our moral conscience. As long as I obey the moral rule because my moral conscience approves of it, my own “inner court” would condemn me when I break the moral law, forgetting about my duties.

The differences between moral rules and legal regulations explain why, so often, certain matters get opposite solutions from an ethical and a legal perspective. As John Boatright says, “approval from a company’s legal department does not always assure a successful legal resolution, and companies have prevailed in court only to suffer adverse consequences in the marketplace. As a practical matter, then, managers need to consider both the ethical and legal aspects of a situation in making a decision for many reasons”.⁴ There are several reasons for that. First, the law is inappropriate for regulating certain aspects of business activity. Not everything that is immoral is illegal. Some ethical issues in business concern interpersonal relations at work or relations between competitors, which would be difficult to regulate by law. Second, the law is often slow to develop in new areas of concern. The law is primarily reactive, responding to problems that people in the business world can anticipate and deal with long before they come to public attention. Good examples are sexual harassment or the legal protection of whistle blowers. Third, the law itself often employs moral concepts that are not precisely defined, so that it is impossible in some instances to understand the law without considering matters of morality. Examples of imprecisely defined legal concepts are the requirement of *good faith*, “fair dealing,” “best effort,” and “due care.” A fourth argument, closely related to the preceding one, is that the law itself is often unsettled, so that whether some course of action is legal must be decided by the courts. And in making a decision, the courts are often guided by moral considerations. Fifth, a pragmatic argument is that the law is a rather inefficient instrument, and an exclusive reliance on law alone invites legislation and litigation where it is not necessary. Although business leaders lament the explosion of product-liability suits by consumers injured by defective products, for example, consumers are left with little choice but to use the legal system when manufacturers themselves hide behind “If it’s legal, it’s morally okay.” Adopting this motto, then, is often short sighted, and businesses may often advance their self-interest more effectively by engaging in greater self-regulation that observes ethical standards.⁵ (Boatright, *op.cit.*, pp. 16-17)

The next two cases illustrate from different angles how legal matters conflict with ethical standards, showing that “legally clean” does not always mean “ethically justified.”

⁴ Boatright, John, *Ethics and the Conduct of Business*, 6th edition, Prentice Hall, Upper Saddle River, NJ, 2009, p. 15.

⁵ *Ibidem*, pp. 16-17.

Texaco in the Ecuadorean Amazon

Tom Beauchamp presents in his impressive treatise on business ethics this very eloquent case study.

The Ecuadorean Amazon is one of the most biologically diverse forests in the world and is home to an estimated 5 percent of Earth's species. [. . .] Ten thousand feet beneath the Amazon floor lies one of Ecuador's most important resources: rich deposits of crude oil. [. . .] For 20 years American oil companies, lead by Texaco, extracted oil from beneath the Ecuadorean Amazon in partnership with the government of Ecuador. They constructed 400 drill sites and hundreds of miles of roads and pipelines, including a pipeline that extends for 280 miles across the Andes. Large tracts of forest were clear-cut to make way for these facilities. [. . .]⁶

Officials estimate that the primary pipeline alone has spilled more than 16.8 million gallons of oil into the Amazon over an 18-year period. Spills from secondary pipelines have never been estimated or recorded; however, smaller tertiary pipelines dump 10,000 gallons of petroleum per week into the Amazon, and production pits dump approximately 4.3 million gallons of toxic production wastes and treatment chemicals into the forest's rivers, streams, and groundwater each day. (By comparison, the Exxon Valdez spilled 10.8 million gallons of oil into Alaska's Prince William Sound.) Significant portions of these spills have been carried downriver into neighbouring Peru.

Critics charge that Texaco ignored prevailing oil industry standards that call for the reinjection of waste deep into the ground. Rivers and lakes were contaminated by oil and petroleum; heavy metals such as arsenic, cadmium, cyanide, lead, and mercury; poisonous industrial solvents; and lethal concentrations of chloride salt, and other highly toxic chemicals. The only treatment these chemicals received occurred when the oil company burned waste pits to reduce petroleum content. Villagers report that the chemicals return as black rain, polluting what little freshwater remains. What is not burned off seeps through the unlined walls of the pits into the groundwater. Cattle are found with their stomachs rotted out, crops are destroyed, animals are gone from the forest, and fish disappears from the lakes and rivers. Health officials and community leaders report adults and children with deformities, skin rashes, headaches, dysentery, infections, respiratory ailments, and disproportionately high rates of cancer. In 1972, Texaco signed a contract requiring to turn over all of its operations to Ecuador's national oil company, Petroecuador, by 1992. Petroecuador inherited antiquated equipment, rusting pipelines, and uncounted toxic waste sites. Independent estimates place the cost of cleaning up the production pits alone at \$600 million. From 1995 to 1998, Texaco spent \$40 million on cleanup operations in Ecuador. In exchange for these efforts, the government of Ecuador relinquished future claims against the company.

Numerous international accords – including the 1972 Stockholm Declaration on the Human Environment signed by over 100 countries, including the United States and Ecuador – identify the right to a clean and healthy environment as a

⁶ Beauchamp, Tom L., Bowie, Norman E., & Arnold, Denis G., eds., *Ethical Theory and Business*, 8th edition, Pearson-Prentice Hall, Upper Saddle River, NJ, 2009, p. 555.

fundamental human right and prohibit both state and private actors from endangering the needs of present and future generations. Ecuadorean and Peruvian plaintiffs, including several indigenous tribes, have filed billion-dollar class-action lawsuits against Texaco in U.S. courts under the Alien Tort Claims Act (ACTA). Enacted in 1789, the law was designed to provide noncitizens access to U.S. courts in cases involving a breach of international law, including accords. Texaco maintains that the case should be tried in Ecuador. However, Ecuador's judicial system is notoriously corrupt [. . .] and lacks the infrastructure necessary to handle the case (e.g., the city in which the case would be tried lacks a court house). Texaco defended its actions by arguing that it is in full compliance with Ecuadorean law and that it had full approval of the Ecuadorean government.

In May 2001, U.S. District Judge Jed Rakoff rejected the applicability of the ACTA and dismissed the case on grounds of *forum non conveniens*. Judge Rakoff argued that since "no act taken by Texaco in the United States bore materially on the pollution-creating activities," the case should be tried in Ecuador and Peru. In October 2001, Texaco completed a merger with Chevron Corporation. Chevron and Texaco are now known as Chevron Texaco Corporation. In August 2002, the U.S. Court of Appeals for the Second Circuit upheld Judge Rakoff's decision.⁷

This is a clear case of conflict between legal technicalities, which can exonerate one corporation of tough legal sanctions, and the ethical standards of decency and integrity in business. It also shows that legal verdicts, taken by judges, frequently entail ethical debates and quandaries. From a strict legal point of view, Judge Rakoff could decide either in favour or against the interest of Texaco. He decided to support the corporation on certain ethical grounds; yet many observers and commentators of the case accused Judge Rakkof of immorality. As for Texaco, even though it kept the convenient legal regulations from Ecuador, from an ethical perspective the company had a loss of credibility, in an industry already stained by a very bad environmental record. The next case illustrates a different kind of disharmony between legislators and ethics: sometimes, good intentions materialize in legal regulations that entail absurd, perverse consequences.

Legal regulations and absurd consequences

This lack of nuance in the absolute rights approach is especially problematic when the costs of removing certain amounts of pollution are high in comparison to the benefits that will be attained. Consider the situation of a pulp business as reported by its president:

Surveys conducted along the lower Columbia River since completion of primary treatment facilities at our mills show that water-quality standards are being met and that the river is being used for fishing, swimming, water supply, and recreation. In all respects, therefore, the 1985 goals of the Federal Water Pollution Control act are presently being met [in 1975]. But the technical requirements of the act call for installation of secondary treatment facilities at our mills at Camas and Wauna. The cost will be about \$20 million and will not result in any measurable improvement of water quality on the river.

⁷ *Ibidem*, p. 557.

On the contrary, the total environmental effect will be negative. We calculate that it will take about \$7 million kwh of electricity and nearly 8,000 tons of chemicals to operate these unnecessary facilities. Total power requirements will involve burning 90,000 bbl/year of scarce oil, in turn creating 900,000 lb of pollutants at the generating source. [. . .] Similar trade-offs occur in the field of air-control technology. For example, moving from 98 percent to 99.8 percent removal of particulate matter requires four times as much purchased energy as it took to get from zero to 98 percent control.⁸

Protection of environment is in itself a praiseworthy idea; nonetheless, enacting legal regulations, which cause even more serious damages to the environment, is a short sighted approach of legislation, that deserves ethical criticism. Perhaps one the most striking examples of conflict between morality and legality might be the next almost incredible story, presented by John Boatright.

KPMG and the tax shelter industry

In the 1990s, KPMG, one of the “big four” accounting firms, began offering tax shelters to corporations and wealthy investors. In addition to standard audit and consulting services, KPMG aggressively developed and marketed a number of innovative ways for clients to avoid taxes. Not only did individuals and businesses reduce taxes on billions of dollars of gains, but KPMG partners pocketed many millions for their assistance.

Acting like any business developing a new product, KPMG established a “Tax Innovation Centre” to generate ideas and to research the accounting, financial, and legal issues. Previously, tax shelters had been individualized for particular clients, but the new ones were intended to be generic, mass-marketed products. Once a strategy was approved, it was energetically promoted to likely clients by the firm’s sales force. KPMG tax professionals were turned into salespeople. They were given revenue targets and urged to use telemarketing and the firm’s own confidential records to locate clients. The strategies – which bore such acronyms as OPIS, BLIPS, FLIP, and SOS – generally involved complicated investment with cooperating foreign and offshore banks that generated phantom losses that could be used to offset capital gains or income from other investments. The shelters were accompanied by opinion letters from law firms that assessed their legality. The gain to KPMG and their clients and the loss to the U.S. Treasury were significant. The four main tax shelters marketed by the firm generated over \$11 billion in tax deductions for clients, which yielded at least \$115 million in fees for KPMG and cost the government \$2.5 billion in lost tax revenue.⁹

During the period in which KPMG tax shelters were sold, no court or Internal Revenue Service (IRS) ruling had declared them illegal. However, KPMG failed to register the shelters with the IRS as required by law. Registration alerts the tax authorities to the use of the shelters and permits them to investigate their legality. One KPMG partner attributed this failure to a lack of specific guidance by the IRS on the rules for registration and the agency’s lack of interest in enforcing

⁸ Velazquez, Manuel, *Business Ethics. Concepts and Cases*, 6th edition, Prentice Hall, Upper Saddle River, NJ, 2006, pp. 230-231.

⁹ Boatright, *op.cit.*, p. 26.

the registration requirement. Furthermore, this partner calculated that for OPIS, the firm would pay a penalty of only \$31,000 if the failure to register were discovered. This amount was more than outweighed by the fees of \$360,000 for each shelter sold.

Until the courts of Congress explicitly outlaw a tax shelter, the line between legal and illegal tax strategies is often difficult to draw. The IRS typically employs the “economic substance” test: Do the transactions involved in a tax shelter serve a legitimate investment objective or is their only effect to reduce taxes? A tax shelter that offers no return beyond a tax saving is abusive in the view of the IRS. However, an IRS ruling is not legally binding until it is upheld by the courts, and the courts have occasionally held some shelters to be legal even if they do not involve any risk or potential return. One reason for such decisions is that tax shelters typically involve legitimate transactions combined in unusual ways. As one observer notes, “Most abusive shelters are based on legal tax-planning techniques – but carried to extremes. That makes it hard to draw sharp lines between legitimate tax planning and illicit shelters.” Even when a shelter like those sold by KPMG is found to be legal, a tax saving is almost always the only outcome. According to an IRS commissioner, “The only purpose of these abusive deals was to further enrich the already wealthy and to line the pockets of KPMG partners.”

When a tax shelter is found by the court to be abusive, the usual outcome is simply a loss of the tax advantage so that the client pays what would be owed otherwise plus any penalties. The issuer is seldom sanctioned. KPMG and other marketers of tax shelters generally protect themselves, first, by having the client sign a statement affirming that he or she understands the structure of the transaction and believes that it serves a legitimate business purpose. This makes it more difficult for the client to sue the firm. KPMG also sent all related documents to its lawyers in order to protect them from disclosure by claiming lawyer-client privilege.

Although some partners at KPMG thought that the tax shelters were illegal and raised objections, others argued for their legality – and, in any event, their shelters were an immensely profitable part of the firm’s business. Aside from the huge fees, the motivation to market the shelters came from the KPMG culture, which *New York Times* business reporter Floyd Norris characterized as that of a “proud old lion.”¹⁰

For those who believe that “If it’s legal, it is ethical too,” this case should be a reminder. High legal competence used for cheating the tax authorities fails to pass even the lowest ethical standards. This kind of situation upholds the opinion that some profits are not “reasonable” from a moral point of view. People call unscrupulous those individuals and companies that do not hesitate to use any available means to maximize their profit; they lack moral principles.¹¹

¹⁰ *Ibidem*, p. 27.

¹¹ Dienhart, John W., *Business, Institutions, and Ethics: A Text with Cases and Readings*, Oxford University Press, Oxford, 2000, p. 28.

REFERENCES

Beauchamp, Tom L., Bowie, Norman E., & Arnold, Denis G., eds., (2009), *Ethical Theory and Business*, Eighth edition, Upper Saddle River, New Jersey, Pearson-Prentice Hall.

Boatright, John, (2009,) *Ethics and the Conduct of Business*, 6th edition, Upper Saddle River, New Jersey, Prentice Hall.

Crăciun, Dan, (2003), *Business and Morality*, Bucharest, ASE Printing House.

Crăciun, Dan, (2012), *Ethical Business*, Bucharest, ASE Printing House.

De George, Richard T., (2006), *Business Ethics*, 6th edition, Upper Saddle River, New Jersey, Prentice Hall.

Dienhart, John W., (2000), *Business, Institutions, and Ethics: A Text with Cases and Readings*, Oxford, Oxford University Press.

Velazquez, Manuel, (2006), *Business Ethics: Concepts and Cases*, 6th edition, Upper Saddle River, New Jersey, Prentice Hall.

CURRENT TRENDS IN SUCCESSFUL PRACTICES OF HUMAN RESOURCE MANAGEMENT

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Abstract: *The focus of this article is the analysis and presentation of the main current trends in terms of successful practices in human resource management and their utilization to improve the chances of survival of an organization on the market in the context in which the business is located in a constantly changing and evolving environment. These lastly mentioned conditions force businesses to be proactive and reactive and develop management strategies that allow them to achieve and maintain a sustainable competitive advantage. The main contribution is represented by the highlighting of the importance of human resource management in achieving successful organizational performance.*

Keywords: *human resources management, successful practices.*

Introduction

Like the world in general, the business world is also dynamic, undergoing permanent changes. Especially in the context of the global economic and financial crisis, instability has not spared the business environment. All this causes global/regional/ national change that have repercussions on the economic agents, which operate in it, and hence on their managerial strategies and practices. The target of success is achieved only if the relationship with the customers/consumers is not neglected. The manager must always be able to adapt / revise the strategy, but should not neglect the focus on the individuals (the human resource of the organization), which have a strong set of values, values necessary to sustain the organization.

Today, when globalization also means openness and knowledge, managerial success is also given by the ability to surprise the audience/potential customers with innovative ideas put into practice as soon as possible. Then, the natural temptation is to keep the product that brought success on the market, without taking into consideration the changes that occur, subtly and amazingly fast.

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Precisely, this is where future success appears, when the manager is able to break away from the lure of success of the moment and not neglect the opinions that can forecast / predict the future demand trend of the consuming public.

An efficient manager values and creates added value from the potential of the human resources of the organization, being aware of the worth of each team member. Establishing a clear strategy and explaining it, in order to accomplish goals, is the first step to success. As will be presented below, there are many other factors that contribute to managerial success. Important in our opinion are the teams of people (the human resources of each organization) which must be determined and motivated to achieve goals, and especially need to be given confidence, in terms of their ability to achieve success.

Current trends in successful management practices

“As management necessarily involves people, it is of great importance the ownership of interpersonal skills – the ability to work with individuals and also with work teams. To be successful, a manager must fulfill several roles and functions... To be well prepared, a future manager needs a rich baggage of knowledge in multiple areas and skills that enable him to fulfill a number of functions; these will help him improve his decisions and abilities in terms of quality” (Cornescu et. al., 2003).

At the current pace characterized by economic and financial crisis and social insecurity, a manager is confronted with complex, changeable and unstable working conditions. These changes lead to quite frequent changes of the managerial strategies and policies in the hope of achieving the performance needed to survive the market.

A primary trend in current management, consequence of the recession is that the manager is obliged, in order to have a successful business plan, to make decisions, most often unanticipated, in unique conditions/situations, having no established procedures and most times relying on the probability of future events. Under these conditions, the high pressure that is exerted on the manager can be reduced through and effective relationship with the human resources of the organization. This is where a number of internal organizational factors intervene, such as: abilities, skills of the team members; involvement, loyalty, motivation of individuals to achieve objectives; organizational interdependence, communication, conflicts within its members, etc. Also there are a number of external factors that may influence management, among which: customers, suppliers, competitors, regulatory environment, technological developments, and so on.

“While many HRM practices and strategies have been successful under the condition of stable organisational environments, management situations in many companies today are more complex, dynamic, and characterised by increasing demands and paradoxical tensions for human resource management” (Ehnert, 2009).

A good cooperation with the team/s (of employees) helps the manager, giving him the opportunity to identify problems that can disrupt the smooth running of the organization and thus only channel his abilities to the central issues, the rest delegating to third parties in order to solve them. The manager

basically can fully concentrate on solving the problems strictly related to the set organizational objectives. Thus, to the successful implementation of a correct decision contributes not only the managerial inspiration and experience, but also the attachment of the human resources towards the organization.

“The overall purpose of human resource management is to ensure that the organization is able to achieve success through people” (Armstrong, 2006).

One of the current trends in human resource management is to grant autonomy and to trust team members in order to foster creativity. In many cases, the performance of the team members is sufficient to foster interest in more willingly supporting a project of the manager, of probable success.

Managerial success depends on the attention given to the human resources, on meeting the expectations that the team has towards their manager, on the real appreciation and support, on the degree of credibility that he's inspiring to the team. An organization's value depends on the managerial thinking of that organization, but also on every member of that particular organization. Therefore, for an efficient cooperation, an involvement and motivation from the manager is needed, and highlighting of the purpose of each of those individuals who make up the whole organization. Success cannot come from the participation of only one part of the system, so only a united team can sustain the activity of an organization, each individual being loyal to its group. This fosters teamwork, which is beneficial for the organization, empowering and motivating the human resources of the organization. Recognition of valuable results by the manager can support employees in the effective implementation of activities and in achieving the goals set by the management.

The importance of human resource management

People as organizational resources are trained according to the goals/objectives proposed to be achieved. Adequacy of organizational behavior to the required performance is a path to organizational success. The current socio-economic situation has a great influence on the human resources in organizations, because it accentuates the lack of jobs, economic instability, insecurity of work and low living standards.

Human resources demotivation is produced easily, this is also being reflected in the efficiency levels of their organization. Even if the people that were chosen are suitable for that system (with skills specific to the work environment), the manager often faces difficulty in stimulating, encouraging and updating particular skills, attitudes and abilities of employees, necessary so that the organization follows a proper course.

“Entrepreneurs sometimes fail to see the importance of sound human resource management practices of if they believe human resource management practices to be critical for success, lack the time, patience, and skill to fully utilize these practices” (Cooper & Burke, 2011).

Attracting and retaining skilled and qualified people is particularly challenging in today's world, in which managers are trying very hard to cope with all sorts of challenges. Performance evaluation must be fair and motivating, this being the reason for keeping and making loyal the values in each work team, this

benefitting the organization as a whole. The management of the entire complex activities and of the employee-manager relationship influences the success of the management.

“Since the purpose of leadership is to get results through others, one excellent way to get information about the values and practices should be is to ask followers what they need from their leaders to get results...the result is a set of values and practices that leaders need to demonstrate to influence people to take purposeful action” (Beaman, 2002).

By effectively using the individuals in the organization, the manager achieves the proposed goals and also satisfies the needs of his employees. Basically, the current management trend is to act in a permanent and effective interdependence with the human resources of the organization.

Today, human resource management is viewed as a potential point for organizational development, since the existence of a interrelationship between management success and satisfaction of the employees of the organization. The focus is to integratively correlate the systems concerning the human resources with the organizational strategies. In the context of a guaranteed success, human resource management must realize functions such as insurance, development, motivation and maintenance of human resources. For potential successful management, it is important that an effective management of the human resources is achieved. In an organization, each member must know from its manager what, how, and where, must be realized, but also with the help of whom to do it with and what are the resources available to do so.

Human resource management must be based on good communication between the members of the organization. Efficiency consists in the fact that it allows individuals from that organization to know what is expected of them and allows them to be aware of the importance of their role in the organization. By clarifying their roles, managers can establish an action plan tailored to target particular objectives and the individuals can direct their activity work towards achieving their own individual goals set, feeling that their input directly influences the outcome of the organization; The established objectives should be realistic, and therefore easily accepted by employees; improving communication leads to increased attachment to the organization by the employees.

“The long-term sustained success of an organization in today’s changing and challenging business environment involves top management’s commitment to designing and implementing human resource management programs geared to developing both high-performing employees and organizations” (Sims, 2002).

Also, the role of human resource management is to take into account the balance that needs to be created between the competitive realities of the organization and the human values and organizational culture; during this time, the manager who wants to obtain good results should not neglect the orientation towards the target customer.

Globalization and then, the global financial and economic crisis brought sudden changes by itself, and sometimes not at all anticipated consequences that have disrupted the social, economic and even political environment worldwide. Making no exception, the management of organizations has faced uncertainties in

making the right decisions and this implicitly had repercussions on the people working within them.

Human resource of an organization is essential for managerial success. The implantation of a successful management can only be achieved by people who have specific skills and competencies that the team work environment needs in order to be productive.

Conclusions

The success that some organizations have had in this unpredictable, unreliable and unstable socio-economic environment is due to sometimes favorable, capitalized circumstances, but especially due to managers who had the ability to anticipate the changes, make some inspired decisions and that were able to relate all these with the potential of the organizational human resources.

After all of the presented above, it appears that the main trend towards which successful management is going is one of involvement/engagement of man/woman - as creative human resource - in business, through its innovative potential, creating added value from its abilities, through the capacity of managers to effectively manage human resources, with the purpose of achieving and accomplishing the objectives of the organization.

Regarding the relationship between manager - individuals who make up the organization, it can be approached in many ways. Most successful managers were found to have a non-conventional approach in terms of human resources, selection criteria being different from the conventional ones. For example, some managers decided that working with people in their team should be made according to the uniqueness of those persons, on empathy and on their involvement in business. Specialized training is often left behind, managers relying more on talent, commitment, courage and confidence for the success of an established plan.

The success of a manager and his ability to capitalize the value of each subordinate employee, giving him the confidence that he is: supported, held responsible for his activities, encouraged, rewarded, motivated, understood, helped to develop his innovative capacity, important to the team and for the and for the good fulfilling of set objectives.

We have shown - through all presented – that it is not enough to have a brilliant plan, in order to put it into worth and succeed, to be a successful manager, you also need to have a team of people able to fulfill your objectives, which are tried so hard by the troubled current economic period. If it is not necessary to intervene with a change in strategy, but when something interferes in the smooth running of the business, the team joins the manager through the people that respond to changes with professionalism and devotion. By doing this, the team reflects the level of professionalism of the manager and the level of performance of the business. With the winning mentality, the manager can inspire confidence to his team and manage talented and passionate people, by increasing their self-esteem and self-worth.

A successful manager is considers the importance of the human resources, by the fact that it should be viewed as an investment that will create profit for the

organization when creativity is stimulated and feedback is supported. By optimizing the performance of human resources, success is easier to achieve. Future management success is guaranteed by the very valuable investment in human resources and by the empathic ability of the manager to listen, to collaborate, to communicate and to adapt to the constant changes going on, to understand them and to anticipate them on the fly.

REFERENCES

Armstrong, M., (2006), *A Handbook of Human Resource Management Practice*, 10th Edition, Kogan Page Limited, London, UK.

Beaman, K.V., (2002), *Boundaryless HR: Human Capital Management in the Global Economy*, International Association for Human Resource Information Management, Rector Duncan&Associates, Inc., USA.

Cornescu, V., Curteanu, D., Marinescu, P., Toma, S., (2003), *Management from Theory to Practice*, Bucharest, University of Bucharest Publishing.

Cooper, C.L. & Burke, R.J., (2011), *Human Resource Management in Small Business: Achieving Peak Performance*, Edward Elgar publishing Limited, UK.

Ehnert, I., (2009), *Sustainable Human Resource Management: A conceptual and exploratory analysis from a Paradox Perspective*, Dissertation at the University of Bremen, July 2008, Physica-Verlag, Berlin, Germany.

Sims, R.R., (2002), *Organizational Success Through Effective Human Resources Management*, U.S.A., Greenwood Publishing Group.

INFORMAL IMPERIALISM AND GLOBAL POLITICAL ECONOMY: DEVELOPMENTS IN ECONOMIC THEORIES OF IMPERIALISM

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Abstract: *Understanding the real face of the contemporary world economy is extremely important for achieving a projection of the future imperialism. Critical analysis of the links between imperialism, modernity, capitalism and imperialism impact on overall economic and political structures and national cultures in the contemporary world are at the center of intense academic debate, as reflected in the number of publications, books, articles and studies on this subject. Fundamental questions to ask on this topic are: What is imperialism, Is imperialism inevitably?, There will always be imperialism?, What are the links between capitalism and imperialism?, Can imperialism exist outside formal empires borders?, Can “good” empires exists without manifesting negative and exploitative nature of imperialism? What is the connection between globalization and imperialism?*

Keywords: *imperialism, dependency, empire, colonialism, globalization.*

“We’re an empire now, and when we act, we create our own reality. And while you’re studying that reality – judiciously, as you will – we’ll act again, Creating other new realities, which you can study too, and that’s how things will sort out.

We’re history’s actors...and you, all of you, will be left to just study what we do”¹.

Critical analysis of the links between imperialism, modernity, capitalism and imperialism impact on overall economic and political structures and national cultures in the contemporary world are at the center of intense academic debate, as reflected in the number of publications, books, articles and studies on this subject. Fundamental questions to ask on this topic are: *What is imperialism?, What consists in an empire?, Is imperialism inevitably?, There will always be*

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¹ “A senior adviser to Bush” in a conversation with the American journalist Ron Suskind in Ron Suskind, *Without a Doubt*, New York Times Magazine, 17 October 2004.

imperialism?, What is the difference between imperialism and expansionism?, What are the links between capitalism and imperialism?, Can imperialism exist outside formal empires borders?, Can “good” empires exist without manifesting negative and exploitative nature of imperialism? What is the connection between globalization and imperialism?

Deciphering the complex dynamics of imperialism past and present requires first a multidisciplinary approach and, on the other hand, knowing the context in which imperialism was defined and explained by different authors over the time. Periodization of history imperialism depends on how it was conceptualized, while the imperial systems are different, both in terms of historical epoch that existed and according to specific operating mechanism of each of them. The concept of imperialism² is an analytical tool for studying international relations and global power relations, relations involving the interaction of several types of imperialism (economic, political, social and cultural). The concept of empire, much more comprehensive than that of colonialism, it is more difficult to define, while the empire is not the only form of imperialism and therefore a coherent general theory of imperialism should explain both formal empires and informal ones. In this respect, in a succinct way, Michael Doyle defined the empire as effective control, formal or informal, of a company subordinated to imperial society³.

Analyses and interpretations of empire and imperialism and contemporary structures of global economic and political power have always assumed the existence of an ideological dimension and were influenced by intellectual or geographical positioning of different authors to the empire. Most theories of imperialism were created in the Western world starting in the second half of the nineteenth century, however, be noted that the first theorizing of imperialism were initially developed in Japan and China⁴. Ideologies have generated different interpretations of the relationship between capitalism and imperialism, globalization and natural modern world system and the impact of Western culture on the rest of the world. The conceptual framework adopted by the Marxist historian Eric Hobsbawm⁵ is totally different from that of a free market enthusiast as Niall Ferguson⁶, while the perspective offered by an author on non-Western imperialism tends usually to be negative. Therefore, in evaluating theories and their conceptual framework should be considered how to define the concept of imperialism and what influences the definition of how imperialism was conceptualized. It should also be taken into account that in order theory must be identified if the theory is a conceptual tool of analysis used by impartial history

² See H.L. Wessering, *Imperialism and Empire: An Introduction*, in Wolfgang Mommsen & Jurgen Osterhammel (eds.), *Imperialism and After, Continuities and Discontinuities*, German Historical Institute, London, 1986.

³ Michael W. Doyle, *Empires*, Cornell University Press, Ithaca, 1986, p.30.

⁴ H.L. Wessering, *op.cit.*, p.8.

⁵ See Eric Hobsbawm, *The Age of Empire, 1875-1914*, Sphere, London, 1989; Eric Hobsbawm, *The Age of Extremes: The Short Twentieth Century, 1914-1991*, Michael Joseph, London, 1994.

⁶ See Niall Ferguson, *Empire: How Britain Made the Modern World*, Allen Lane / Penguin, London, 2003; Niall Ferguson, *Colossus: the Price of America's Empire*, Penguin Press, New York, 2004.

(Cain and Hopkins⁷) or is an instrument used as a weapon in political and ideological activism (Hobson, Lenin, Chomsky⁸). Another question is whether the theory has universal application (Wallerstein), or is limited to specific cases (Robinson and Gallagher) and, in addition, it is important to know the cultural and political context in which the theory was developed. John A. Hobson's theories were a critique of British imperialism with reference to the South African Boer war (1899-1902), while Lenin's theory, strongly influenced by that of Hobson, was written in 1916, in world War context. Theoretical theses developed by Hobson and Lenin exerted a major influence on European intellectuals of the left and anti-colonialists and remained the main analytical framework of revisionist theories of imperialism to appear in the 1960's. Marxist theory was revived in the 1970's, amid Vietnam War and other manifestations of American imperialism, as dependency theory and world system theory which had influenced but not as big as the original Marxist theory of imperialism analysis. More recently, revisionist theories influenced by neoliberal ideology of the free market, predominant in the early 1980's and the collapse of socialism with the collapse of the Soviet bloc and the Soviet Union became prevalent, with postmodern and postcolonial theories that focused the analysis of Western European imperial heritage and ex-colonized world. Academic debates of the last decade have generated the emergence of theories difficult to classify, such as the theory of gentlemanly capitalism⁹, theory analysis focused on economic motivations of British imperialism that led to the revision of the older theories of Joseph Schumpeter and John A. Hobson, or Ronald Robinson's theory (theory of collaboration on the periphery) and the orientalism criticism made by Edward Said¹⁰.

The concept of empire refers to the expansion and extension of state power and its influence outside the own territory. This concept is more restrictive than the concept of imperialism that involves taking into account the established power relations from political, social and cultural field. Historians like Paul Kennedy used to emphasize the importance of modern nation-state in the organization of the contemporary world, the term great power in their research on the evolution of imperialism¹¹. Others, like Immanuel Wallerstein¹², stressed that focusing the analysis on great power concept is like underestimation of the importance of transnational structures of global power established through the expansion of capitalism and that of the colonies that have always played the role

⁷ See Peter Cain, Anthony G. Hopkins, *British Imperialism, Vol.1, Innovation and Expansion, 1688-1914*, Longman, London, 1990; Peter Cain, Anthony G. Hopkins, *British Imperialism, Vol.2, Crisis and Decolonization, 1914-1990*, Longman, London, 1993.

⁸ See Noam Chomsky, *Hegemony or Survival: America's Quest for Global Dominance*, Hamish Hamilton, London, 2003; Noam Chomsky, *World Orders Old and New*, Pluto, London, 1994; Noam Chomsky, *American Power and the New Mandarins*, New Press, New York, 2002.

⁹ See Shigeru Akita, *Gentlemanly Capitalism, Imperialism and Global History*, Palgrave Macmillan, New York, 2002.

¹⁰ See Edward W., Said, *Culture and Imperialism*, Vintage Books, Random House, New York, 1993.

¹¹ See Paul Kennedy, *The Rise and Fall of the Great Powers*, Unwin Hyman, London, 1988.

¹² See Immanuel Wallerstein, *Historical Capitalism with Capitalist Civilization*, Verso, London, 1996.

of pawns in the game of global power¹³. Imperialism, the word with a strong polemic load, imprecise analytical and theoretical but with numerous historical variants, initially described the period of rapid expansion of Western Europe in the nineteenth century and early twentieth century and, at least in the Anglo-Saxon, was used to describe expansionist Napoleonic policy in France, and later to describe aggressive imperial policy promoted by Benjamin Disraeli. Negative connotation and perception of the term imperialism underwent a change in the late nineteenth century imperialism theorists. Once found in social Darwinism and philanthropy argue that imperialism is a good thing for humanity as a whole and that it is the white man's burden of civilized nations to assume a civilizing mission (Rudyard Kipling¹⁴). So called moral valence of imperialism were challenged by John A. Hobson that denounced the moneylending classes dressed as imperialists and patriots.

John A. Hobson, one of the first critics of British Imperialism in his paper *Imperialism: A Study* (1902, 1905, and 1972) pointed out that the global expansion of capital and world domination exerted by powerful financial interests of capitalist represent and defines the nature and dynamics of international economic relations. In the conception of Hobson, Imperialism involves using government mechanisms and structures by private interests, mainly capitalist, to achieve economic gains outside their country¹⁵. Economic roots of imperialism is the desire strong industrial and financial interests organized to develop and gain private markets for surplus goods and capital through the use of public resources and through the instruments of state power¹⁶. For Hobson, growing cosmopolitanism of capital was the biggest economic change of last generation. Every nation industrially advanced tending to place much of the capital in the colonies, beyond space over which it exercises political control, hence extract increasingly greater income. The aggressive imperialism is a major source of earnings for investors who can't get capital gains from the use of the metropolis, investors are therefore cause pressure on the government to help them to earn from investments in colonies or other areas controlled by the metropolis¹⁷.

Analysis conducted by Hobson on British imperialism was extended to the rest of the capitalist world by placing it in historical context and its treatment in terms of class struggle by Rudolf Hilferding¹⁸, Karl Kautsky¹⁹, Rosa Luxemburg²⁰ and VI Lenin²¹, who developed the Marxist general theory of capitalist imperialism seen as an extension of the logic of capital accumulation and

¹³ Jurgen Osterhammel, *Colonialism*, Marcus / Ian Randle, Princeton and Kingston, 1997, p.3.

¹⁴ Carl Cavanagh Hodge (ed.), *Encyclopedia of the Age of Imperialism, 1800-1914*, Greenwood Publishing Group, Westport, 2008, p.340-341.

¹⁵ John A. Hobson, *Imperialism: A Study*, University of Michigan Press, Ann Arbor, 1972, p.94.

¹⁶ Idem, p.106.

¹⁷ Ibidem, p.55.

¹⁸ See Rudolf Hilferding, *Finance Capital. A Study of the Latest Phase of Capitalist Development*, Routledge & Kegan Paul, London, Boston and Henley, 1981 (1910).

¹⁹ See Karl Kautsky, *Ultra-imperialism (Der Imperialismus)*; first published, 1914, and reproduced in *New Left Review*, 59, January-February, 1970.

²⁰ See Rosa Luxemburg, *The Accumulation of Capital*, Yale University Press, New Haven, 1951.

²¹ See V.I. Lenin, *Imperialism: The Highest Stage of Capitalism. Selected Works*, vol.1, Foreign Languages Publishing House, Moscow, 1975.

capitalist development worldwide. Rosa Luxemburg tried to prove that inevitably capitalism will collapse and believed imperialism is a conflict between capitalist nations like a crisis generator in their struggle for their industrial outlets for excess production²². Lenin redefined imperialism as the highest stage of capitalism based on the argument that the final stage of capitalism is the essence expansionist and therefore it can be defined as imperialism. These arguments of imperialism theorists have been developed recently, a leftist ideological perspective of contemporary globalization process applied by Berch Berberoglu explained that the new phase of globalization of capital and the impact of this process on the nation-state by applying Marxist theoretical framework. Berberoglu starting premise is that globalization is not a new phenomenon or a new stage in the global economy. Globalization stage is characterized by the existence of new forms of international relations qualitatively different from the previous ones that promotes development and social progress on the world plan. In his view, contemporary globalization is under transnational monopoly capitalism, the Highest Stage and most accelerated capitalist imperialism, is seen as a global increase of transnational capital and the entire capitalist system that penetrated every corner of the world with speed and exceptional intensity²³.

Paul Baran is considered one of the leading theorists of imperialism in the post-war period, his analysis exerting influence on extremely high dependency theory. Paul Baran classic study conducted by British imperialism manifested for relations with India. The study emphasizes that the British exploited India by creating an economy based on raw material extraction and industrialization prevent British industry sectors that could compete. In Baran's vision, Indian politics, education, finance and all other institutional arrangements have been restructured with the sole purpose of maximizing earnings in Britain²⁴. Baran has not identified underdevelopment and backwardness of imperialism and colonialism but abandoned the idea that the backwardness is the result of structures or pre-capitalist modes of production. He considers that underdevelopment is the result of a certain type of capitalist development. For Baran, capitalism as global system is not homogeneous but a hierarchical system internationally developed countries in which it operates on the least developed. This operation is achieved by directly transferring a part of the economic surplus achieved in developing countries by developed countries and, on the other hand, through a second type of transfer represented the oligarchic consumption luxury elite of local underdeveloped countries. In Baran's view, because of underdevelopment is the loss or misuse of this surplus, while the opposing imperialism center developed through alliances with the efforts of local elites from developing countries towards industrialization. Capitalism, in its new monopolist phase, is not for Baran an expansive and dynamic force, but one that leads to stagnation, especially in less developed countries and therefore the only

²² Carl Cavanagh Hodge (ed.), *Encyclopedia of the Age of Imperialism, 1800-1914*, Greenwood Publishing Group, Westport, 2008, p.437.

²³ Berch Berberoglu, *Globalization of Capital and the Nation-State. Imperialism, Class Struggle, and the State in the Age of Global Capitalism*, Rowman & Littlefield Publishers, Inc., Lanham, Boulder, New York, Oxford, 2003, p.viii.

²⁴ See Paul Baran, *The Political Economy of Growth*, Monthly Review Press, New York, 1967.

chance for these countries to abandon capitalism and adopt socialist path development²⁵.

In the conception of Johan Galtung, imperialism is defined as a relationship between a nation and a periphery Center, relationship characterized by: 1) the existence of harmonious interests between center and peripheral nations; 2) the existence of divergent interests between center and periphery within nations, which are more pronounced in the case of peripheral nations and 3) disharmony of interest existence between the periphery of the central nations. The definition provided by Galtung, strongly influenced by that of Lenin, starts from the idea that the nation's center is closely linked by common interests through such belts multinational companies, for example, peripheral nation center. Through economic mechanisms, the surplus extracted from the periphery to the center nation gets partially through mechanisms such redistribution policies of the welfare state existing on the periphery and center nations. Therefore the whole arrangement works more for the interest of periphery Center. All this complex game of interests, center periphery is considered more of a partner than a partner center of the nation's center periphery of peripheral nation. Alliances had formed between the two suburbs, the center and the periphery, which is hampered by the center and thus the nation Center. Center nations have increasingly greater cohesion, while periphery nations are increasingly less cohesion which prevents them from developing long-term strategies²⁶. These symbiotic relationships between metropolis and satellite/center-periphery relations of domination ensure perpetuation of underdeveloped to developed countries and transfer the economic surplus from periphery to the center, regardless of any economic transformation.

Michael Hardt and Antonio Negri in their paper entitled *Empire* (2000) pointed out that although imperialism as he was known in the past may have disappeared, the empire is still alive, and its revival is reflected by building a new political, economic and global cultural order²⁷. The globalization of capital, a process characterized by the accumulation of capital shift from national to international level through transnational corporations operating worldwide and the formation of large capitalist empires, was long before the emergence of the concept of globalization. In 1990, Zbigniew Brzezinski has designed a vision of the contemporary world in terms of imperial explicit, stating that global supremacy resembles America in terms of organization and exercise control over various regions of the world with the previous empires exercised in the past, the whose power was based on hierarchical organization of vassals, tributaries, protectorates and colonies and those outside the control treatment as barbarians²⁸.

Understanding the real face of the contemporary world economy is extremely important for achieving a projection of the future imperialism. Dominant theory and international relations theorists have predicted structural

²⁵ Jorge Larrain, *Theories of Development. Capitalism, Colonialism and Dependency*, Polity Press & Basil Blackwell, 1989, Cambridge, p.115.

²⁶ Johan Galtung, *A Structural Theory of Imperialism*, Journal of Peace Research, Vol.8, No.2 (1971), 81-117, p.84.

²⁷ See Michael Hardt, Antonio Negri, *Empire*, Harvard University Press, Cambridge, Massachusetts, 2000.

²⁸ Zbigniew Brzezinski, *The Grand Chessboard*, New York, 1998, p.10.

realism immediately after the collapse of the USSR and the disappearance of the Soviet bloc in Europe. That phase that will follow will be a transition as US hegemony at a time will cause a coalition that will try, as pointed out by Kenneth Waltz in 1993, to restore the balance of political, military and economic power²⁹. Despite the fact that predictions of realists structuralism does not materialized in the timeframe that they estimated the prospect of a further rebalancing of the system is still considered. Single polarity since 1991 is considered by authors such as William Wolfsworth as a stable time with non-transitory moments in international relations, because on the one hand, US capabilities, both soft power and hard power ones, are much higher than those of any other contemporary powers. Other perspective is that geopolitical fragmentation of Eastern Europe and Asia makes it difficult for any state centralization and concentration of resources on a scale comparable to that achieved by the United States and therefore impossible American hegemony is still questioned³⁰. For realists, economic relations and economic power in general are relevant only insofar as they affect the material and the relative power capabilities of the states.

The liberal internationalist's main argument is that the development of modern capitalist economy has turned international trade into a positive-sum game. International trade stimulates internal states with liberal and capitalist socio-political structures to cooperate and to institutionalize this cooperation, thereby reducing the likelihood largely triggered wars between them. Andrew Moravcsik, a sophisticated review of liberal theory of international relations, stressed that global economic development over the past 500 years has been accompanied by an increase in wealth per capita, democratization, the emergence of the education that strengthened collective identities and new incentives increasingly higher performance of cross-border transactions processing which are considered to be theoretical important by realist theorists³¹. From this point of view, there are some similarities between the Marxist theory and classical liberal internationalist, given that both consider that in good economic times, such as during the western economic boom of the 1950's and 1960's, dynamic capitalist development of the productive forces can simultaneously increase profits on the real wage. However, the convergence between liberalism and Marxism is partial, while the liberal theory involves the idea of a beneficial global economic hegemony where the hegemon is the provider of public goods, such as a stable international monetary system, which stimulates other states of the system to comply and cooperate. In contrast, Marxist political economy conceptualized as a process inherently contradictory and unstable permanently based to lead to destructive crises, which causes a type of unique development system. As noted Alex Callinicos, any honest analysis of the contemporary world economy must

²⁹ Kenneth Waltz, *The Emerging Structure of International Politics*, International Security, 18 (1993): 77; Kenneth Waltz, *Structural Realism after the Cold War*, International Security, 25 (2000): 27.

³⁰ See William Wolfsworth, *The Stability of a Unipolar World*, International Security, 24 (1999).

³¹ Andrew Moravcsik, *Taking Preferences Seriously: A Liberal Theory of International Politics*, International Organization, 51, (1997): 535.

recognize that Marxist perspective on contemporary capitalism reflect present realities with greater accuracy compared to competing ideological perspectives³².

Contemporary imperialism is obviously best illustrated by the United States, arguably the greatest imperial power of the 21st century. United States, a largely informal empire which assumes the status of the empire at least at the political discourse type exercising imperial control over the country, although not formally subordinated to political and retains its sovereignty, are controlled by a complex set of relations more or less institutionalized. This control is exercised through what John Gallagher and Ronald Robinson called “free trade imperialism”, based on the consent of limiting the exercise of sovereignty to create security for trade³³. In the mid-1990’s, both the United States and the European Union began to impose the imperialism of free trade, both by institutional type the World Trade Organization and the conceptual construction of an affordable reality, based on kind theses promoted by Thomas Friedman that the world of globalized capitalism is one in which countries will be integrated into the system and will open markets for capital and goods from Northern countries will prosper, while those who will oppose will be condemned the perpetual underdevelopment³⁴.

In the 1990’s, American informal empire expansion was achieved by the Clinton administration, as shown by Joseph Stiglitz using means such soft power by promoting an agenda of globalization of trade by opening markets and promoting the ideology of globalization, market ideology available adopted by Anglo-American elites since the 1980’s, ideology which aimed to create a favorable intellectual climate initiatives towards privatization of public enterprises, abandonment regulations and state control, reduce public spending, trade liberalization, massive tax cuts and strict control of trade unions³⁵. In 2000, the new Bush administration coming to power in the US, the terrorist attacks of 11th September 2001 and generated by the climate and the war on terror by American empire pushed globalism and American informal empire into a new phase, more militaristic. This new phase was dominated by neo-conservatives speech Republicans who had the opportunity to pursue a political agenda theorized in The Project for the New American Century, which contained the principles of Paul Wolfowitz, Donald Rumsfeld and Dick Cheney. The new phase of US imperialism has resulted in informal adoption in 2002 of the new national security strategy offering a vision of a unilateral American empire using globally hard power and performs preventive strikes even against traditional allies to potential competitors from even aspiring to a larger regional or global status³⁶.

³² Alex Callinicos, *Imperialism and Global Political Economy*, Polity Press, Cambridge, 2009, p.199.

³³ John Gallagher, Ronald Robinson, *The Imperialism of Free Trade*, *Economic History Review*, 2/VI (1953), p.6.

³⁴ See Thomas L. Friedman, *The Lexus and the Olive Tree: Understanding Globalization*, 1999; Thomas L. Friedman, *The World is Flat. The Globalized World in the Twenty-First Century*, Penguin Books, London, 2006.

³⁵ See Joseph Stiglitz, *The Roaring Nineties*, Penguin Books, London, 2003.

³⁶ Manfred B. Steger, *Globalism. Market Ideology Meets Terrorism*, Second Edition, Rowman & Littlefield Publishers, Lanham, Boulder, New York, 2005, p.16.

If US imperialism of free trade imperialism of the open door, a project that, as Appleman William³⁷ showed, rallied the American political and economic elites from the beginning twentieth century when, amid the annexation of the Philippines after the Spanish-American war, America has faced national resistance movement and an internal opposition against the atrocities imperial policy, showing that better controlled areas should be allowed to govern themselves in so far as it does not interfere with the free movement of capital and goods, and military power to be exercised preferably as naval and air bombardment against those who do not obey the sacred freedom and freedom of capital and goods³⁸. From the perspective of free trade imperialism, the US informal empire generalized strategy used by Britain in the nineteenth century, noting that US free trade promotes asymmetric meaning that attempts to open international trade markets and not its own domestic market. Transnational institutions of the contemporary works to the advantage of American capitalism as the specific structure and its global influence enable it to dominate and lead other capitalist countries without traditional territorial build an empire, while the non-territorial imperialism of the Open Door is more conducive in achieving US interests.

Robert Brenner has provided a possible answer to the question why American hegemony in the post-war period did not cause inter-imperialist rivalry leading to war and why this hegemony has not taken shape, in the meaning given the term imperialist David Harvey, respectively, application for consolidation of political power, and getting permanent exacerbation of economic benefits. The conception of Brenner, American hegemony has not worked to serve the interests of American capital against capital from other advanced economies, but operated general conditions favorable towards institutionalizing all capital, US and foreign³⁹. Type of control that the United States seeks to exercise is one based on open access to capital and goods from many advanced capitalist states allied and does not have, at least in theory, based on an exclusive economic strategy, part of a predatory forms hegemony. United States uses its military power to establish a US geopolitical expressing preference for a model of the world economy based on a liberal international order that is generally considered beneficial to the US capital. Because American hegemony can operate in a relatively stable environment, it is imperative that the United States provide significant benefits and other capitalist states in the global system. Institutions and economic policies built on the initiative and with massive US support after the war and later, during the next collapse of the Soviet bloc aimed mainly as revealed in a liberal institutional perspective John Ikenberry. In his view international constitutional order was to maximize the long-term economic and political strategic benefits of all the advanced capitalist countries⁴⁰.

³⁷ See W.A. Williams, *The Tragedy of American Diplomacy*, New York, 1991.

³⁸ Alex Callinicos, *op.cit.*, p.9-10.

³⁹ Robert Brenner, *What is, and What is not, Imperialism?*, *Historical Materialism*, 14/4 (2006): 90; Robert Brenner, *Imperialism and Neoliberalism*, (2007) in Alex Callinicos, *op.cit.*, p.189-190.

⁴⁰ G.J. Ikenberry, *After Victory. Institutions, Strategic Restraint, and the Rebuilding of Order after Major War*, Princeton University Press, Princeton, 2001, p.255.

As shown by Robert Wade, the international financial architecture built at Bretton Woods was organized to operate in the interests of American capitalism, while the currency gained hegemonic power reserve currency role of international financial markets have dominated US and international markets by creating a single integrated market for private capital without entry or exit barriers. All of which are overseen by many international organizations that only gives the impression that relies on the cooperation of Member States, thus conferring legitimacy of multilateralism. US hegemonic position is reflected by the ability to set rules and to block measures contrary to US interests and the ability to exercise coercive measures by an overwhelming military machine. In Wade's view, such an international financial architecture hegemonic state allows citizens to consume more than they produce, and capital allows firms based in the hegemonic state to go out quickly to other markets, maximizing short-term profits, provide annuities in technology around the world, stimulating firms that innovate based on hegemonic state allows finance a large tremendous military power and geopolitical ensure global domination⁴¹.

Thesis that the international financial architecture works in the interest of the US is supported by Peter Gowan that showed how US economic benefits obtained from financial instability of the 1970's and 1980's, especially after the Volcker Shock of October 1979 when Paul Volker, the head of the Federal Reserve raised interest rates by imposing a drastic monetary discipline on US and the rest of the economy, in order to build what he called the dollar-Wall Street regime, which although was not covered in gold. This action created a financial advantage that US used to promote global neoliberal policies to the interests of US corporations and investment banks⁴².

In 1994-1995, during the financial crisis in Mexico, the Clinton administration created serious tensions in relations with Germany and Britain on the Group of seven advanced industrial states to approve a rescue package that saved mainly American investors. The East Asian crisis of 1997-1998, the same Clinton administration blocked a proposal from the Japan to establish an Asian Monetary Fund that would limit the ability of the IMF to intervene with their own instruments and policies for crisis resolution. In tandem with the IMF, the US pressured Asian governments to increase adoption of neoliberal economic policies, for, on the one hand, to weaken the structures of the so-called Crony Capitalism economic model typical for East Asian states based on the close ties between the state, banks and corporations, and, on the other hand, to allow economies affected by the crisis for American capital penetration⁴³. After the Soviet collapse in 1989-1991, the US, although initially agreed that Germany remain in NATO in exchange for promises that NATO would not expand eastward, they began to apply a type of Realpolitik both in terms of economic exploitation of Russia located the economic collapse in the 1990's, and in terms of the expansion of NATO and the EU by incorporating Member States of the former

⁴¹ Robert H. Wade, *The Invisible Hand of the American Empire*, Ethics and International Affairs, 17 (2003): 77.

⁴² See Peter Gowan, *The Global Gamble*, London, 1999.

⁴³ Alex Callinicos, *op.cit.*, p.191.

Soviet bloc, in a policy inspired by the ideas of Zbigniew Brzezinski, that the EU is the bridgehead for the expansion of American power and the global economic system in Eurasia⁴⁴. American policy of expanding economic and political domination instruments east was described as a new Iron Curtain reversed, which had the effect of remilitarization of Russian-American relations led by Vladimir Putin adoption of a policy of force, reflected by outbreak of conflict in South Ossetia, Georgia, Crimea and Ukraine. These examples show, on the one hand, the international financial architecture and institutions primarily serve American interests and, on the other hand, reveals that although the advanced capitalist states are aware of this, they continue to be partners of the USA, because their interests converge with the US.

United States, the dominant capitalist power at the beginning of the 21st century, manage to maintain with increasingly greater difficulty hegemonic position and seek increasingly higher in three key regions - Europe, East Asia and Middle East. Contemporary economy is an unstable situation and affect informal American empire because, on the one hand, global economic power may limit the resources of the United States along with diversification options and other advanced countries, on the other, although capabilities US economic and military are higher than any others, in a world of increasingly centrifugal is increasingly difficult for the US to lead the way in which it did in recent decades. The world economy is not as stated neoliberal ideology, an unlimited source of growth and prosperity, but, as shown by the economic crisis of 2007-2008 and its aftermath, it may be through its internal operating mechanism itself a very powerful force destabilizing imbalances that create crises and structural trends reflecting the capitalist mode of production. US invasion of Iraq and Afghanistan conflicts in the former Soviet space resulting from the expansion of NATO in Eurasia and the Middle East conflict shows that it is unlikely that the 21st century is characterized by the existence of a globalized world that capitalizes neoliberal prosperity and to be organized and conducted on the basis of harmonious cooperation between advanced industrialized powers. More likely, inter-imperialist rivalries further characterize the contemporary international system and the outcome of this confrontation will depend on the future of capitalism and capitalist imperialism, formal or informal, which has always been a system of domination and economic exploitation being reformed and transformed throughout history always top-down strategies formulated and implemented for the benefit of States which have dominated and controlled the system.

Clashes in the global economic, political, religious and cultural roots in the classic era formal imperialism, economic exploitation, genocide, racial inequalities and exclusion in the contemporary world, questioning the vision of a post-colonial world and provide arguments for the thesis contemporary neoliberal globalization that is simply a new stage in the evolution of Western imperialism. The global economic system, as noted Andrew Gamble, even if it has a greater tendency toward cohesion and interconnection remains politically

⁴⁴ See Zbigniew Brzezinski, *The Grand Chessboard*, New York, 1998.

fragmented and never has been transformed into a global system⁴⁵. The contemporary world is more in conformity with the description made in the middle 1990's by Paul Hirst and Graeme Thomson who questioned the thesis that the world is moving towards a unified global economy and found that the trend will be towards a world fragmented into blocks within which works different specific models of capitalism⁴⁶. Future developments will show if Robin W. Winks's prediction that world events will show a reinterpretation of imperialism far more comprehensive than any from the fall of the modern classic empires.

REFERENCES

Akita, Shigeru, (2002), *Gentlemanly Capitalism, Imperialism and Global History*, , New York, Palgrave Macmillan.

Baran, Paul, (1967), *The Political Economy of Growth*, New York, Monthly Review Press.

Berberoglu, Berch, (2003), *Globalization of Capital and the Nation-State. Imperialism, Class Struggle, and the State in the Age of Global Capitalism*, Rowman & Littlefield Publishers, Inc., Lanham, Boulder, New York, Oxford.

Brzezinski, Zbigniew, (1998), *The Grand Chessboard*, New York.

Cain, Peter, Hopkins, Anthony G., (1990), *British Imperialism, Vol.1, Innovation and Expansion, 1688-1914*, Longman, London.

Cain, Peter, Hopkins, Anthony G., (1993), *British Imperialism, Vol.2, Crisis and Decolonization, 1914-1990*, Longman, London.

Callinicos, Alex, (2009), *Imperialism and Global Political Economy*, Polity Press, Cambridge.

Chomsky, Noam, (1994), *World Orders Old and New*, Pluto, London.

Chomsky, Noam, (2002), *American Power and the New Mandarins*, New Press, New York.

Chomsky, Noam, (2003), *Hegemony or Survival: America's Quest for Global Dominance*, Hamish Hamilton, London.

Doyle, Michael W., (1986), *Empires*, Cornell University Press, Ithaca.

Ferguson, Niall, (2003), *Empire: How Britain Made the Modern World*, Allen Lane / Penguin, London.

Ferguson, Niall, (2004), *Colossus: the Price of America's Empire*, New York, Penguin Press.

Friedman, Thomas L., (1999), *The Lexus and the Olive Tree: Understanding Globalization*, Farrar, Strauss and Giroux, New York.

Friedman, Thomas L., (2006), *The World is Flat. The Globalized World in the Twenty-First Century*, London, Penguin Books.

Gallagher, John, Robinson, Ronald, (1953), *The Imperialism of Free Trade*, Economic History Review, 2/VI (1953).

⁴⁵ Andrew Gamble, *Hegemony and Decline: Britain and the United States*, in O'Brien and Clesse (eds.), *Two Hegemonies: Britain 1846-1914 and the United States, 1941-2001*, Aldershot, Ashgate, 2002, p.129.

⁴⁶ See Paul Hirst, Graeme Thomson, *Globalization in Question: The International Economy and the Possibilities of Governance*, Longman, London, 1996.

- Galtung, Johan, (1971), *A Structural Theory of Imperialism*, Journal of Peace Research, Vol.8, No.2 (1971).
- Gowan, Peter, (1999), *The Global Gamble*, London, 1999.
- Hardt, Michael, Negri, Antonio, (2000), *Empire*, Harvard University Press, Cambridge, Massachusetts.
- Hilferding, Rudolf, (1910, 1981), *Finance Capital. A Study of the Latest Phase of Capitalist Development*, Routledge & Kegan Paul, London, Boston and Henley.
- Hirst, Paul, Thomson, Graeme, (1996), *Globalization in Question: The International Economy and the Possibilities of Governance*, Longman, London.
- Hobsbawm, Eric, (1989), *The Age of Empire, 1875-1914*, Sphere, London.
- Hobsbawm, Eric, (1994), *The Age of Extremes: The Short Twentieth Century, 1914-1991*, Michael Joseph, London.
- Hobson, John A., (1972), *Imperialism: A Study*, University of Michigan Press, Ann Arbor.
- Hodge, Carl Cavanagh (ed.), (2008), *Encyclopedia of the Age of Imperialism, 1800-1914*, Greenwood Publishing Group, Westport.
- Ikenberry, G.J., (2001), *After Victory. Institutions, Strategic Restraint, and the Rebuilding of Order after Major War*, Princeton University Press, Princeton.
- Kautsky, Karl, (1914, 1970), *Ultra-imperialism (Der Imperialismus)*; first published, 1914, and reproduced in *New Left Review*, 59, January-February, 1970.
- Kennedy, Paul, (1988), *The Rise and Fall of the Great Powers*, Unwin Hyman, London.
- Larrain, Jorge, (1989), *Theories of Development. Capitalism, Colonialism and Dependency*, Polity Press & Basil Blackwell, Cambridge.
- Lenin, V.I., (1975), *Imperialism: The Highest Stage of Capitalism. Selected Works*, vol.1, Foreign Languages Publishing House, Moscow.
- Luxemburg, Rosa, (1951), *The Accumulation of Capital*, Yale University Press, New Haven.
- Mommsen, Wolfgang, Osterhammel, Jurgen (eds.), (1986), *Imperialism and After, Continuities and Discontinuities*, German Historical Institute, London.
- Moravcsik, Andrew, (1997), *Taking Preferences Seriously: A Liberal Theory of International Politics*, *International Organization*, 51, (1997).
- Osterhammel, Jurgen, (1997), *Colonialism*, Marcus / Ian Randle, Princeton and Kingston.
- Said, Edward W., (1993), *Culture and Imperialism*, Vintage Books, New York, Random House.
- Steger, Manfred B., (2005), *Globalism. Market Ideology Meets Terrorism*, Second Edition, Rowman & Littlefield Publishers, Lanham, Boulder, New York.
- Stiglitz, Joseph, (2003), *The Roaring Nineties*, Penguin Books, London.
- Wade, Robert H., (2003), *The Invisible Hand of the American Empire*, *Ethics and International Affairs*, 17 (2003).
- Wallerstein, Immanuel, (1996), *Historical Capitalism with Capitalist Civilization*, Verso, London.
- Waltz, Kenneth, (1993), *The Emerging Structure of International Politics*, *International Security*, 18.

Kenneth, Waltz, (2000), *Structural Realism after the Cold War*, International Security, 25.

Williams, W.A., (1991), *The Tragedy of American Diplomacy*, New York.

Wolfsworth, William, (1999), *The Stability of a Unipolar World*, International Security, 24.

CRITICISM OF CONVENTIONAL ECONOMY AND OF THE HOMO OECONOMICUS PARADIGM IN THE PHILOSOPHY OF ISLAMIC ECONOMY

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Abstract: *A significant segment of the specialised literature developed by the Islamic economists announces the possibility of creating a new economic paradigm as a solution to the failure of the paradigm of conventional economy. In this article we are attempting to highlight the relevance of the criticism expressed by the Islamic economists as regards the methodology of mainstream economy, as well as the basic presuppositions of various schools of Western thought about homo oeconomicus, while at the same time clarifying the Islamic perspective on the economic methodology and on the economic agent called homo islamicus.*

Keywords: *Sunnah, Fiqh, Shari'ah, maslahah, homo oeconomicus, homo islamicus.*

In the discourse of Muslim theorists on the philosophical substance of economy, we find the recurring theme of degradation of the object, methodology and finality of Islamic economy, observed at the level of evolutions that transcend or betray the presumed assumed direction: that of substituting the paradigm of conventional economy. The criticism goes in a double direction: a) Islamic economy - unsuccessful analogon of the dominant Western, secular paradigm and b) unrealism of Islamic economy, under the pressure of exacerbated theological ideals.

Nowadays especially, once with the development of the Islamic financial and banking system, the critical approaches of the paradigm of the dominant economy and of the "epigonic" Islamic economy explodes in extremely varied registers: from the pluralism of definitions and methodologies, to the conflicting assumptions regarding the rationality or typology of the economic man (*homo oeconomicus* versus *homo islamicus*).

We cannot understand the genesis of contemporary Islamic economy without identifying the essential factors involved in this process: the existence of Islamic sources (the *Quran* and *Sunnah*) of *Sharia'ah*, of Islamic law (*fiqh*), but also of reformist movements that proposed, as a result of the processes of colonization, the creation of modern political and economic structures, especially in the India and Egypt of the nineteenth century, based on the ideas contained in the revealed Islamic texts. It should be noted that the Islamic reformists have also

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been the promoters of various Western ideologies (liberal, social-democratic or socialist), paving the way for the uptake of endogenous cultural traditions¹. In the last century, as in the present one, we can identify a movement opposed to reformism, usually found under the name of “Islamic revival”, advocating for the annihilation of the process of secularization and Westernization of the Islamic world. In this approach, the economy must be conceived exclusively in an Islamic, non-Occidental perspective, as claimed by authors such as Muhammad Baqir Al-Sadr or Mawlana Mawdudi². Neither Islamic reformists, nor “Renaissantists” succeeded, however, in developing cohesive theories on economic processes. In general, it is difficult to find a study on the politics of Islamic economy, essentially normative, to be based on rigorous empirical knowledge. Starting with the years 1970-1975, a project of “Islamization of knowledge” was even drafted, with significant repercussions (not necessarily in the sense of value) as regards the establishment of Islamic economics as a discipline³.

First, the criticism and substitution of the categories/concepts of Western economy with the Islamic ones was undertaken in order to rebuild, from scratch, an economic philosophy on the fundamentals of Islamic theology⁴. The most difficult undertaking is the attempt to appropriately define Islamic economy, Rahim⁵ locating no less than seventeen variants. A definition which synthetically covers them all was devised by Mirakhor: “Islamic economics can be considered as a discipline concerned with: (a) the rules of behavior (institutions) prescribed by

¹ M. Siddiqi, *Modern Reformist Thought in the Muslim World*, Delhi, Adam Publishers & Distributors, 1993; N. Zayd, *Reformation of Islamic Thought. A Critical Historical Analysis*, Amsterdam, Amsterdam University Press, 2006; T. Parray, “Islamic Modernist and Reformist Thought: A Study of the Contribution of Sir Sayyid and Muhammad Iqbal”, in: *World Journal of Islamic History and Civilization*, vol.1, no. 2, 2011, p. 79-93.

² R. Wilson, “The Contribution of Muhammad Baqir Al-Sadr to Contemporary Islamic Economic Thought”, in: *Journal of Islamic Studies*, vol. 9, no. 1, 1998, pp. 46-59; M. Chapra, “Mawlana Mawdudi’s Contribution to Islamic economics”, in: *The Muslim World*, no. 94, 2004, pp. 163-180.

³ I. Al-Faruqi, *Islamization of knowledge: The Problem, Principles and the Workplan*, Herndon, USA, IIIT, 1982; M.A. Ahsan, A.K.M. Shahed & A. Ahmad, “Islamization of Knowledge: An Agenda for Muslim Intellectuals”, in: *Global Journal of Management and Business Research Administration and Management*, vol. 13, no. 10, 2013; M. Ul-Hassan, “The Islamization of the Economy and the Development of Islamic Banking in Pakistan”, in: *Kyoto Bulletin of Islamic Area Studies*, no. 1-2, 2007, pp. 92-109; S. M. N. Al-Attas, “The Dewesternization of Knowledge”, Cap. 4, in: *Islam and Secularism*, Kuala Lumpur, Muslim Youth Movement of Malaysia (ABIM), 1978, p. 133-150; Z. Hasan, “Islamization of Knowledge in Economics: Issues and Agenda”, in: *IIUM Journal of Economics and Management*, vol. 6, no. 2, 1998; M. Kahf, “Islamic Economics: Notes on Definition and Methodology” in: *Review of Islamic Economics*, vol. 13, 2003, pp. 23-48; M. A. Haneef & R. M. Amin, “Some Conceptual and Practical Dimensions of Islamization of Knowledge: A Case Study of the Economics Program at the IIUM”, in: *American Journal of Islamic Social Science*, vol. 14, no. 2, 1997, pp. 188-207; L. Safi, “The Quest for an Islamic Methodology: The Islamization of Knowledge Project in Its Second Decade”, in: *The American Journal of Islamic Social Sciences (AJISS)*, vol. 10, no. 1, 1993, pp. 23-48.

⁴ S. Nagaoka, “Critical Overview of the History of Islamic Economics: Formation, Transformation, and New Horizons”, in: *Asian and African Area Studies*, vol.11, no. 2, 2012, pp. 114-136.

⁵ D.A. Abd Rahim, “An Analysis on Selected Fundamental Concepts in Islamic Economics”, in: *Proceedings of the 2nd Islamic Conference (IECONS2007)*, Faculty of Economics and Muamalat, Islamic Science University of Malaysia, 2007, 15 p.

Islam as they relate to resource allocation, production, exchange, distribution and redistribution; (b) economic implications of the operations of these rules and; (c) policy recommendations for achieving rules compliance that would allow convergence of the actual economy to the ideal economic system envisioned by Islam”⁶. One can observe that this resonates with the definitions of conventional economy, emphasizing resource allocation, production, exchange, distribution and redistribution. We also recognize the common positive-normative distinction: the ethical foundations prescribe “rules” that govern the acceptable behavior, however, the expressed concern for formulating normative politics requires “positive” knowledge of the manner in which a real economy functions, but also of the practical implications of these normative “rules”, if they were imposed⁷.

As Mariyani-Squire⁸ shows, by analyzing a survey carried out by Muqorobin⁹, the literature in the English language on the topic of Islamic economy encompasses macroeconomic subjects (fiscal policy, monetary policy and economic development), as well as constructions of macroeconomic models. The microeconomics studies, both theoretical and empirical, cover issues such as commerce, insurance, real estate, trusts, marketing, labor, agriculture, corporations and heritage. The most extensive and prolific research is the one on banking and financial issues, accounting for almost 50% of all publications in the English language on Islamic economy in the period between 1994 and 2005, while only 19% are dedicated to general methodology and the theoretical framework of Islamic economy. The discussions on the methodology of Islamic economy are intertwined with the criticism brought on the theories and methods of “secular”, Western economy. There are Muslim economists who base their work on the theories and methods of “secular” economy, while at the same time maintaining the Islamic economic precepts. On the other hand, many Islamic economists emphasize the incompatibility of this theoretical framework with that of Islamic economy. They express concern over this inadequacy which not only undermines, but also contradicts the ethical or epistemic principles of a pure Islamic discipline. It is true that Islamic economists have questioned the methods and hypotheses of neoclassical economy; however, as noted by Ali Khan¹⁰, there are numerous deficiencies in some of their writings. It is not just about the use of an inappropriate or incorrect language. In general, they are not familiar with the specialized literature of conventional economy and are unclearly positioned in relation to the paradigm of neoclassical economy. First of all, the Islamic

⁶ A. Mirakhor, “Islamic Finance and Globalization: A Convergence”, in *Journal of Islamic Economics, Banking and Finance*, vol. 3, no. 2, 2007, p. 32.

⁷ For further details, see: L. Bosca, “Categorii etico-religioase în filosofia economiei islamice”, in: *Studii de teorie categoriilor*, vol. VI, 2014, Bucharest, Ed. Academiei Române, 2014, pp. 135-168 and L. Boşca and D. Şt. Georgescu, “Economia islamică versus economia convenţională”, in: *Cogito*, vol. VI, no. 2, iunie, 2014, pp. 65-76.

⁸ E. Mariyani-Squire, “Tensions in Islamic Economics”, in: *Trikonomika*, vol. 12, no. 1, 2013, p. 2.

⁹ M. Muqorobin, “Journey of Islamic Economics in the Modern World”, in: *Proceedings of the Seventh International Conference on Islamic Economics*, Jeddah, Saudi Arabia, 1-3 April 2008, pp. 385-402.

¹⁰ M. Ali Khan, “Review: Journal of King Abdulaziz University”, in: *Islamic Economics*, vol. 3, 1991, pp. 97-177.

economists almost never mention the existence of Western economic schools of thought which criticized certain aspects of neoclassical thought. Post-Keynesians, institutionalists, neo-Austrians from the United States and neo-ricardians, to name just a few, questioned the different paradigms of this school. Moreover, the Islamic economists ignore or are not aware of the fact that the representatives of conventional economy present competing theories, many of them converging, upon careful analysis, with the Islamic economic system.

In conventional economy, the methodological debate is circumscribed to some particular issues. First, the method appropriate to understanding and evaluating economic theories is analysed. In this segment, the controversies of economic methodologies that concern Popperian Falsificationism and its version in Imre Lakatos, Thoman Kuhn's conception of scientific revolutions, postmodernism or constructivism, can be classified, all of which have a major influence on the economic discourse. Secondly, the debate on methodology involves analyzing the relative merits of different methods of investigation in economics (deductive, inductive, experimental etc.). Thirdly, the methodological debate comprises the issue of the hypotheses based on the various schools of thought as regards the norms of conduct of individual economic agents (rationality, utility and maximizing profit, personal interest in relation to altruism, subjectivity or objectivity of knowledge, etc.) Last but not least, the methodological debate attempts to define the scope of economy or its purpose: whether positive or normative, a "pure" science, a social science or an art, as well as whether it can be autonomous in relation to psychology, sociology, politics or anthropology. The Islamic economists focused on the last two methodological concerns, the first two being clarified from the outset. Any controversy regarding the principles of Islamic economy is governed by Islamic law (*fiqh*) and the conception on "scientificity" of a popperian-type of a normative Islamic economic theory is unconceivable for the Islamic specialists.

From their point of view, it is difficult to corroborate a normative conception on economy with epistemology of a falsificationist type, and Western economists would not encounter this type of difficulty due to the strict positivist character of their discipline. Once again, we notice that Islamic economists ignore the fact that many economists of Western economic traditions have convincingly supported the normative character of economy: "Modernism promises knowledge free from doubt, free from metaphysics, morals and personal conviction. What it is able to deliver renames as scientific methodology, the scientist's and especially the economic scientist's metaphysics, morals and personal convictions. It cannot deliver what it promises"¹¹.

In fact, the criticism on falsificationism as a method in the economic science is not the invention of Islamic economists. Western economists themselves have generally agreed on the fact that a single piece of empirical evidence brought against an economic theory does not lead to its final rejection. Although Popper's critical rationalism was generally appreciated, many doubted the fact that there could be a unique, dominant paradigm in the economy in a given period of time.

¹¹ D.N. McCloskey, *The Rhetoric of Economics*, Madison, Wisconsin, USA, The University of Wisconsin Press, 1985, p. 16.

It is precisely the multiplicity of Western schools of economics that confirms the existence of a multi-paradigm (Marxism, neoclassicism, Keynesianism or institutional economics, for instance). Roger E. Backhouse, in *Introduction: New Direction in Economic Methodology*¹², summarizes the directions of the evolution of the debates held by Western economists on methodology, especially after 1980, and references about this contribution are almost entirely absent in the Islamic literature dedicated to the subject. S.A. Sidiqqi¹³ is one of the few Islamic economists who draw attention to the criticism expressed by the Western economic thought as regards the positivist and falsificationist approaches, being conquered by the idea of applying, nonetheless, the methodology of the program of scientific research proposed by Lakatos in the perimeter of Islamic economy.

In what concerns the methodological debate on the fundamental hypotheses of the various schools of thought on the norms of conduct of individual economic agents, one fundamental criticism concerns the concept of *rationality* in neoclassical economy. There are not few those who consider that it is not adequate to non-Western societies. The Islam, for example, while admitting the existence of personal interest, does not recognize its centrality within the economic behavior.

In fact, as Lewin emphasized, the roots of the debate on rationality lay in the controversy of the “declaration of independence” of economy in relation to psychology, which followed the passage from the cardinal utility theory to the ordinal utility one¹⁴.

According to Malinwaud, the formal definition of rationality, which simply speaks about a certain “coherence in choices”, is philosophically and psychologically neutral. However, this “coherence” of choices is unverifiable in the field of business. The more substantial (material) definitions of rationality often impose a more restrictive view on human conduct, hence the shaping of the *homo oeconomicus* profile.

Since its emergence, neoclassical economy has been subject to constant criticism as regards its capacity to explain reality. The main reproach went to the alleged universalism of the theories based on incomplete visions on human psychology. Could it not be possible that the identity and statute of the Islamic economic agent be configured differently from those of the Western agents? Can Western economic theories help us to understand it?

Therefore, a type of Islamic criticism is that neoclassical economy admits *ab initio* that its theories and policies are universally applicable, regardless of cultural, religious and social particular backgrounds. Certain Islamic economists claim that the Muslim economic agent would display a behaviour that would be significantly different from the one being theorized and shown by neoclassical economists. In this respect, the methodology of Islamic economy, its paradigms

¹² R.E. Backhouse (ed.), *New Direction in Economic Methodology*, London, New York, Routledge, 1994, pp. 1-27.

¹³ S.A. Sidiqqi, “A Suggested Methodology for the Political Economy of Islam”, in: *Journal of King Abdulaziz University: Islamic Economics*, vol. 13, 2001, pp. 6-7.

¹⁴ S.B. Lewin, “Economics and Psychology: Lessons for Our Own Day from the Early Twentieth Century”, in: *Journal of Economic Literature*, vol. XXXIV, September, 1996, pp. 1293-1323.

and political implications would necessarily be different. Khan believes that: “The basic assumptions of economics have influenced its method as well. The economist assumes that human beings are selfish, rational, maximisers of their own material well-being and possessors of perfect knowledge in the future. These assumptions led to the hypothetico-deductive method with a limited number of variables. Islamic economics does not agree with any of these assumptions. In Islamic economics there are high-level assumptions derived from the divine texts and low-level assumptions based on human reasoning. The high level assumptions need no verification”¹⁵. The author’s conclusion is clear: not only must the validity of these assumptions not be questioned, but their application is necessary even *against* the criteria of rationality and empirical evidence.

Some Western authors advocated as well for the development of economic theories specific to non-Western economic systems. In the spirit of Hershkovitz and Polany, questioning the universal dimension of the dominant economic theory was materialized in the conception of some substantialist anthropologists, by denying any validity of the economic concepts for the study of primitive and archaic economies. The German historicists insist on the provisionally conditional nature of economic laws. If history alters circumstances, through the emergence of new facts, theory cannot be a definitive construction¹⁶. The exact sciences are also subjected to evolution, having to transgress the caducity of older formulas, as certain disruptive factors can significantly alter the conditions of experience. Even if the economic theory is not a “hard” science, its relativism is not compelling, but neither is it essentially different from that of the natural sciences. Arguing that Islamic societies “produce” people who tacitly conform to different values, motivations and institutions, the group of “Westernized” Islamic economists sought to amend the instruments of Western economy in order to take these specificities into consideration, in view of constituting theories in a “scientific” manner that would describe, explain and predict economic phenomena. In such a perspective, the Islamic theoretical framework implies idealization and abstraction starting from reality, and the theories are subject to criteria of logical coherence and empirical verification of predictions.

The effort is not directed towards developing a new economic theory, but towards the use of the theoretical content of conventional economy (mathematical methods, econometric tests), modifying it with the aim of Islamizing it. Unfortunately, this compromise proves to be unacceptable for those who, especially after 1990, challenge the fact that “In attempting to ground itself on a theory of rational man and a hypothetical-deductive methodology. (..) (Islamic economics) has merely substituted Islamic terms for neoclassical ones, retaining the latter’s assumptions, procedures and modes of analysis”¹⁷.

Giving up the neoclassical heritage, however, places Islamic economy in a major methodological vacuum: “There is substantial evidence that the

¹⁵ M.A. Khan, “Methodology of Islamic Economics”, in: *Journal of Islamic Economics*, vol.1, no.1, 1997, pp. 24-25.

¹⁶ C. Gide C., C. Rist, *Histoire des doctrines économiques*, Paris, Sirey, 1929, p. 465.

¹⁷ S. Alatas, “The Sacralization of the Social Sciences: A Critique of an Emerging Theme in Academic Discourse”, in: *Archives de Sciences Sociales des Religions*, vol. 40, no. 91, 1995, p. 95.

development of the discipline of Islamic Economics is currently in crisis (...) most Muslim economists have accepted too many of the ideas of Western economists uncritically. The methodological framework, and underlying assumptions are wrong, and in conflict with Islamic views”¹⁸. These “Islamic visions”, drawing on the Divine Law, would lead to better results from the point of view of the individual and collective interest.

The fundamentals of the religion of Islam offer a clear guidance for Islamic economy: the behavior of *homo oeconomicus* degrades the ethical values of *homo islamicus*. The central motivation of the economic behavior of the Muslim is not personal interest, but the adherence to justice or to the rights offered by God; the private utility must be replaced by *maslahah* (collective interest), and rationality must be substituted by *taqwa* (piety). It is understandable, then, why *homo oeconomicus*, even “adapted” to Islamic economic requirements or realities, seems to be nonsensical.

Chapra identifies the source of the concepts that underlie the paradigm of conventional economy in the secular conception about the world. Without serving the social interest or normative aims, the rational behaviour of *homo oeconomicus* is explained by resorting to a “materialist and socio-Darwinist” conception about the world¹⁹.

The Islamic economists do not deny that there is rationality in the human behavior, but they agree with Sen on the differences of opinion with regard to its definition²⁰. First of all, the Islamic economic rationality can not consist in the pursuit of the egoist interests, of the self-interest, through richness maximization and satisfaction pursuit. The pursuit of the self-interest, considered as “the moral equivalent of the gravitational force of the nature”²¹ can only be the exclusive result of a Darwinian, materialist and utilitarian conception on the human being. On the contrary, the Islam must build the economic profile of a *homo islamicus* starting from, as Asutay asserts, certain axioms which should structure the entire economic analysis: the unity of God and his sovereignty over all things (*tawhid*), but also people’s vice regency on the Earth (*khilafah*). It involves the selection of the “perfect path” for the achievement of the social harmony (*rububiyyah*), namely justice and benevolence (*al 'adl wa'l ihsan*), starting from the existence of the free agency (*ikhtiyar*) and from the obligations towards the Divine Law (*fard*)²². In convergence with the same point of view, Arif postulates that “The representative economic unit in an Islamic society is a Muslim - one obedient to

¹⁸ A. Zaman, “Crisis in Islamic Economics: Diagnosis and Prescriptions”, in: *Eighth International Conference on Islamic Economics and Finance*, 19-21 December, Doha, Qatar, 2011, 19 p.

¹⁹ M.U. Chapra, “Qu’est que l’économie islamique?”, in: *Série de Conférences d’Eminents Erudits*, no. 10, Djeddah, Arabie Saoudite, Institut Islamique de Recherche et de Formation Banque Islamique du Developpement, 1996, p. 14.

²⁰ A. Sen, *On Ethics and Economics*, Oxford, Basil Blackwell, 1987, pp. 11-14.

²¹ M. Myers, *The Soul of Modern Economic Man: Ideas of Self-Interest - Thomas Hobbes to Adam Smith*, Chicago, University of Chicago Press, 1983, p. 4.

²² M. Asutay, “A Political Economy Approach to Islamic Economics: Systemic Understanding for an Alternative Economic System”, in: *Kyoto Bulletin of Islamic Area Studies*, nr. 1-2, 2007, pp. 3-18; M. Asutay, “Conceptualisation of the Second Best Solution in Overcoming the Social Failure of Islamic Banking and Finance: Examining the Overpowering of *Homoislamicus* by *Homoeconomicus*” in: *IIUM Journal of Economics and Management*, vol.15, nr. 2, 2007, pp. 167-195.

Allah. His spirit of obedience demands that he follows the path of Islam by acquiring the knowledge of *Shari'ah* and applying it to solve all his problems including the economic ones. Thus Islamic rational behavior is built into his personality and thinking. Consequently he always follows the injunctions and the rules of the *Shari'ah* in all walks of his life”²³.

But, it is precisely the behavior of the economic agents in an Islamic economics that is the most difficult to theorise. For this reason, one of the most important critics of the Islamic economics asserts that the proposed Islamic behavioral norms are full of ambiguity and that it is unlikely that they have a wide adherence in a larger society. In practice, many of them should be treated as laws imposed by the State. Kuran concludes that there is no means of ensuring that State officers would adopt a correct Islamic behavior²⁴.

Siddiqi drafts a list of the five basic hypotheses of the neoclassical economics regarding the behavior of the economic agents, which are criticized by the Muslim economists:

- a) the human being is egoistic by nature and he behaves rationally;
- b) the material progress is the supreme purpose of *homo oeconomicus*;
- c) in any person there is the inherent tendency of maximizing his material welfare;
- d) moreover, any human being has the knowledge and the capacity to decide what is good for him;
- e) the utility of an individual is independent on others' utility²⁵.

To these working hypotheses specific to the conventional economics, the Islamic economists balance postulates which define the economic profile of *homo islamicus*, so that the economic activity takes place in social justice terms:

- a) the individuals are created as “sociotropes”, not exclusively egoistic, their social concerns being connatural;
- b) the individuals have the sociability attribute and they are aware of the existence of God; therefore, they follow up their self-interests concomitantly with the concern for the social welfare, in accordance with the divine precepts;
- c) the Islamic economic agents develop rational activities, in accordance with the Islamic constraints regarding the social environment and the Beyond;
- d) in the assay of maximizing his profit, the individual follows the maximization of his social welfare, taking into account not only the criteria of the social justice from the current life, but also the reward or the divine punishment in the future life.

This bidimensional function of the utility - in the current life and in the future life – configures the idea of *homo islamicus* as *tab'ay* (submissive): “In order to be a good Muslim it is compulsory, but not sufficient, to be a *tab'ay*”²⁶.

²³ M. Arif, “Towards a Definition of Islamic Economics: Some Scientific Considerations”, in: *Journal of Research in Islamic Economics*, vol. 2, nr. 2, 1985, p. 84.

²⁴ T. Kuran, “The Economic System in Contemporary Economic Thought”, in Jomo, K.S. (ed.), *Islamic Economic Alternatives: Critical Perspectives and New Directions*, London, Macmillan Academic and Professional Ltd., 1992, p. 39.

²⁵ S.A. Siddiqi, “A Suggested Methodology for the Political Economy of Islam”, in: *Journal of King Abdulaziz University: Islamic Economics*, vol. 13, 2001, pp. 7-8.

In order to get the *tab'ay* appellation, the human being must enforce the Islamic principles in every aspect of his life, which is almost impossible, because of the contradictory nature of these principles. The realism of this ideology is tested through the unhappy evolutions which took place in the real Islamic economics. The situation in the Islamic financial system seems to be different, as it gave up to the system of values, to the identity policy and to the systematic understanding of the Islamic economics, becoming a part of the international financial system, even if it is drastically criticized, for its materialism, by the Islamic economists from other branches. As Asutay²⁷ notices, the Islamic economics, through the theory of *homo islamicus* only succeeded to propose a normative or utopian world which sends towards what people should be, in total disagreement with the manner in which they are inclined to behave²⁸. The Islamic financial system, at least, deviating from the norms and axioms of the Islamic economics, adopted a more realistic attitude, based on positivism, not on compulsoriness, and gave up to the utopia imposed or attributed to the Islamic economics. This epistemological change of perspective is due to the current interpretation of the Koran verses and of the Islamic bids. The Islamic finances system adopts a pragmatic position, based on the certainty that the *Koran* itself symbolizes rational economic principles which are consistent enough with the modern hypotheses of the neoclassical economic theory. Briefly, in the *Koran*, “*homo islamicus* and *homo oeconomicus* are the same”²⁹. Monzer Kahf³⁰ considers too the human behavior as being universal and regulated by similar norms. Why could not the Islamic finances highlight the *Shari'ah* interpretations focused on rationality and formal equality? *Riba* interdiction, for instance, in a market economy, can be understood as a mechanism of the rational decision. The other types of interpretation of the theological bases of the Islamic economics concern the social justice, but they crystallize rather an economic speech having a political purpose. Such an understanding of the Islamic economics is called by Tag El-Din, *moralist modelling methodology*³¹.

Ultimately, if we accept the existence of these typologies (*homo oeconomicus* and *homo islamicus*), the difference between the two does not necessarily concern their *nature*, but rather, the result of a certain subdivision of the

²⁶ M. Arif, 1989. “Towards Establishing the Microfoundations of Islamic Economics: The Basis of the Basics”, in: A. Ghazali și S. Omar (eds.), *Readings in the Concept and Methodology of Islamic Economics*, Selangor Darul Ehsan, Pelanduk Publications, 1989, p. 91.

²⁷ M. Asutay, “Conceptualisation of the Second Best Solution in Overcoming the Social Failure of Islamic Banking and Finance: Examining the Overpowering of *Homoislamicus* by *Homoeconomicus*” in: *IIUM, Journal of Economics and Management*, vol.15, nr. 2, 2007, pp. 175-177.

²⁸ Ibrahim Warde, *Islamic Finance in the Global Economy*. Edinburgh, Edinburgh University Press, 2000, p. 47.

²⁹ Bill Maurer, “Re-formatting the Economy: Islamic-Banking and Finance in World Politics”, in: Nelly Lahoud și Anthony H. Johns (eds.), *Islam in World Politics*, New York, Routledge, 2005, pp. 55-56.

³⁰ Monzer Kahf, “Islamic Economics: Notes on Definition and Methodology”, in: *Review of Islamic Economics*, nr. 13, 2003, pp. 23-48.

³¹ Seif El-Din Ibrahim Tag el Din, “The Elimination of Riba: A Measure Truly Dedicated to Poverty Alleviation”, in: Munawar Iqbal (ed.), *Islamic Economic Institutions and the Elimination of Poverty*, Leicester, Islamic Foundation, 2002, pp. 187-233.

knowledge, which predetermines the human actions and relationships. Daromir Rudnyckij conceives *homo islamicus* as an analogon of *homo oeconomicus* adapted to the requirements of the Islamic moral economics. On the other hand, from the perspective of the “*Shari’ah* economy”, Valentino Catellan signals that “On the other side, and to a certain extent paradoxically, the more IME (moral economy of Islam) depicts *homo-Islamicus* in terms of an ethical opposition to the rational/secular *homo-economicus*, the more it contributes to re-affirm the validity of conventional economics as unique ‘logic’ (i.e. as a rational discourse enjoying the status of a universal scientific paradigm), without disclosing, in contrast, the autonomy of *Islamic rationality*. As a result, *Shari’ah* economics is reduced to an ethical ‘particular’ of a ‘universal’ as they were *ana-logues* (from the Greek *ana-*, ‘again’, and *logos*, ‘discourse’ = ‘similar discourses’ resembling one another) when, in actual facts, they are not: in a classic default of anti-thetical reasoning, the ‘thesis’ is implicitly confirmed by re-naming its validity as starting point of the discussion. Thus, not by chance, the idea of *homo-Islamicus* always stands by opposition to *homo-economicus*, which paradoxically remains, in this way, the real ‘protagonist’ of the discourse”³².

Munawar Iqbal laments for the fact that, after 1950, the Muslim specialists came at developing a new economic paradigm according to the laws of the Newton’s physics, without understanding the danger of capturing the diversity of the human beings under the form of the unique model of *homo oeconomicus* proposed by the Western people. In his opinion, the invention called *homo oeconomicus* is the result of the attempt to present the economics as an exact science, whose “laws” have lead to the typification of the human beings’ behavior. Starting from this model invented by the conventional economics, the Islamic economists came at inventing *homo islamicus*. In fact, it is nothing but a symbolic manner of discussing on the economic decisions in which the laic values could be replaced with the Islamic ones: “Unfortunately, just as *homo oeconomicus* does not exist, there is no *homo Islamicus*”³³. From this point of view, the creation of *homo islamicus*, in contradiction to the conventional *homo oeconomicus*, does not represent at all the construction of a new paradigm. With no ingrown impulses, built and spread in the Islamic religion, *homo islamicus* does not exist. Each individual, Muslim or non-Muslim, is different, manifesting at the same time egoistic and altruistic tendencies. The paradigm of the Islamic economics should not explain “what is”, but should educate in the sense of “what should be”, namely it would need a multidisciplinary approach, of the type “grid of enquiry”, which involves concomitantly the Islamic history, theory and culture, as Ali Khan³⁴ suggests.

³² V. Catellan, “Shari’ah Economics as Autonomous Paradigm: Theoretical Approach and Operative Outcomes”, in: *Journal of Islamic Perspective on Science, Technology and Society*, vol. 1, nr. 1, 2013, p. 5.

³³ Munawar Iqbal, “Development of Theory of Islamic Economics: Problems and Proposals”, in: *Workshop on the Future of Islamic Economics*, Saudi Arabia, Islamic Economics Institute King Abdulaziz University Jeddah, 12-13 November, 2012, p. 281.

³⁴ M. Ali Khan, “Globalization of Financial Markets and Islamic Financial Instruments”, in: *Islamic Economic Studies*, vol. 8, nr.1, 2000, pp. 19-66.

From this point of view, the claimed superiority of *homo islamicus*, awarded by the type of the economic action, is not supported. The ethical-religious norms of the Islam do not necessarily lead to altruistic, right, “optimal” and collectively “efficient” economic behaviors. Indeed, none of the Islamic economics works published so far clarifies the method through which *homo islamicus* has an intrinsic motivation to be altruistic. The assumption that *homo islamicus* has an intrinsic motivation to be altruistic is as controversial as the hypothesis of the existence of a perfectly responsible Muslim economic agent.

The criticisms of the Islamic economists addressed to the conventional economics and to the *homo oeconomicus* paradigm are unsubstantial and inconclusive. Moreover, they still face the most difficult problem in the area of the Islamic philosophy, of the relation among predetermination, free will, decision and human action. The solutions offered to it over the time, mostly unsatisfactory, generated main impediments for the evolution of economics philosophy in the Islam. Even if there are plenty of specialty literature works dedicated to the economic decisions and actions, according to the criteria of the Islamic faith, there is no serious study which can exhaustively analyze the Islamic economic behavior, fact signaled by several authors. Therefore, the challenge of the Islamic economics of using its own ontological and epistemological sources (the *Koran* and the *Sunnah*) so as to determine the framework of the system of economic values, the operational dimension of the economics and the behavioral norms of the Muslim people has not been materialized so far.

REFERENCES

Ahsan, M.A., Shahed, A.K.M. & Ahmad, A., (2013), “Islamization of Knowledge: An Agenda for Muslim Intellectuals”, in: *Global Journal of Management and Business Research Administration and Management*, vol. 13, nr. 10.

Al-Attas, S.M.N., (1978), “The Dewesternization of Knowledge”, Cap. 4, in: *Islam and Secularism*, Kuala Lumpur, Muslim Youth Movement of Malaysia (ABIM).

Alatas, S., (1995), “The Sacralization of the Social Sciences: A Critique of an Emerging Theme in Academic Discourse”, in: *Archives de Sciences Sociales des Religions*, vol. 40, nr. 91.

Al-Faruqi, I., (1982), *Islamization of knowledge: The Problem, Principles and the Workplan*, Herndon, USA, IIIT.

Arif, M., (1985), “Towards a Definition of Islamic Economics: Some Scientific Considerations”, in: *Journal of Research in Islamic Economics*, vol. 2, nr. 2.

Arif, M., (1989), “Towards Establishing the Microfoundations of Islamic Economics: The Basis of the Basics”, in: A. Ghazali și S. Omar (eds.), *Readings in the Concept and Methodology of Islamic Economics*, Selangor Darul Ehsan, Pelanduk Publications.

Asutay, M., (2007), “A Political Economy Approach to Islamic Economics: Systemic Understanding for an Alternative Economic System”, in: *Kyoto Bulletin of Islamic Area Studies*, nr. 1-2.

Asutay, M., (2007), "Conceptualisation of the Second Best Solution in Overcoming the Social Failure of Islamic Banking and Finance: Examining the Overpowering of *Homoislamicus* by *Homoeconomicus*" in: *IIUM Journal of Economics and Management*, vol.15, nr. 2.

Backhouse, R.E. (ed.), (1994), *New Direction in Economic Methodology*, London, New York, Routledge.

Boşca, L., (2014), *Ethico-religious Categories in the Philosophy of the Islamic Economy* in: *Studies of Category Theory*, vol. VI, 2014, Bucharest, the Romanian Academy Printing House.

Boşca, L. și Georgescu, D. Şt., (2014), „Economia islamică versus economia convenţională”, in: *Cogito*, vol. VI, nr. 2, iunie.

Catellan, V., (2013), "Shari'ah Economics as Autonomous Paradigm: Theoretical Approach and Operative Outcomes", in: *Journal of Islamic Perspective on Science, Technology and Society*, vol. 1, nr. 1.

Chapra, M.U., (2004), "Mawlana Mawdudi's Contribution to Islamic economics", in *The Muslim World*, nr. 94.

Chapra, M.U., (1996), "Qu'est que l'économie islamique?", in: *Série de Conférences d'Eminents Erudits*, nr. 10, Djeddah, Arabie Saoudite, Institut Islamique de Recherche et de Formation Banque Islamique du Developpement.

Furqani, H., (2010), "The Micro-foundations of Islamic Economics: Exploration of Key Terminologies", in: *Ninth Australian Society of Heterodox Economists Conference*, 6-7 December, Sydney, Australia.

Hasan, Z., (1998), "Islamization of Knowledge in Economics: Issues and Agenda", in: *IIUM Journal of Economics and Management*, vol. 6, nr. 2.

Haneef, M.A. & Amin, R.M., (1997), "Some Conceptual and Practical Dimensions of Islamization of Knowledge: A Case Study of the Economics Program at the IIUM", in: *American Journal of Islamic Social Science*, vol. 14, nr. 2.

Iqbal, M., (2012), "Development of Theory of Islamic Economics: Problems and Proposals", in: *Workshop on the Future of Islamic Economics*, Saudi Arabia, Islamic Economics Institute King Abdulaziz University Jeddah, 12-13 November.

Kahf, M., (2003), "Islamic Economics: Notes on Definition and Methodology" in: *Review of Islamic Economics*, vol. 13.

Khan, M.A., (2000), "Globalization of Financial Markets and Islamic Financial Instruments", in: *Islamic Economic Studies*, vol. 8, nr.1.

Khan, M.A., (1997), "Methodology of Islamic Economics", in: *Journal of Islamic Economics*, vol.1, nr.1.

Khan, M.A., (1991), "Review: Journal of King Abdulaziz University", in: *Islamic Economics*, vol. 3.

Kuran, T., (1992), "The Economic System in Contemporary Economic Thought", in: Jomo, K.S., (Editor), *Islamic Economic Alternatives: Critical Perspectives and New Directions*, London, Macmillan Academic and Professional Ltd..

Lewin, S.B., (1996), "Economics and Psychology: Lessons for Our Own Day from The Early Twentieth Century", in: *Journal of Economic Literature*, vol. XXXIV, September.

Mariyani-Squire, E., (2013), "Tensions in Islamic Economics", in: *Trikonomika*, vol. 12, nr. 1.

Maurer, B., (2005), "Re-formatting the Economy: Islamic-Banking and Finance in World Politics", in: Nelly Lahoud și Anthony H. Johns (eds.), *Islam in World Politics*, New York, Routledge.

McCloskey, D.N., (1985), *The Rhetoric of Economics*, Madison, Wisconsin, USA, The University of Wisconsin Press.

Mirakhor, A., (2007), "Islamic Finance and Globalization: A Convergence?", in: *Journal of Islamic Economics, Banking and Finance*, vol. 3, nr. 2.

Muqorobin, M., (2008), "Journey of Islamic Economics in the Modern World", in: *Proceedings of the Seventh International Conference on Islamic Economics*, 1-3 April, Jeddah, Saudi Arabia.

Myers, M., (1983), *The Soul of Modern Economic Man: Ideas of Self-Interest - Thomas Hobbes to Adam Smith*, Chicago, University of Chicago Press.

Nagaoka, S., (2012), "Critical Overview of the History of Islamic Economics: Formation, Transformation, and New Horizons", in: *Asian and African Area Studies*, vol.11, nr. 2.

Parray, T., (2011), "Islamic Modernist and Reformist Thought: A Study of the Contribution of Sir Sayyid and Muhammad Iqbal", in: *World Journal of Islamic History and Civilization*, vol.1, nr. 2.

Rahim, D.A. Abd, (2007), "An Analysis on Selected Fundamental Concepts in Islamic Economics", in: *Proceedings of the 2nd Islamic Conference (IECONS2007)*, Faculty of Economics and Muamalat, Islamic Science University of Malaysia.

Safi, L., (1993), "The Quest for an Islamic Methodology: The Islamization of Knowledge Project in Its Second Decade", in: *The American Journal of Islamic Social Sciences (AJISS)*, vol. 10, nr. 1.

Sen, A., (1987), *On Ethics and Economics*, Oxford, Basil Blackwell.

Sidiqqi, S. A., (2001), "A Suggested Methodology for the Political Economy of Islam", in: *Journal of King Abdulaziz University: Islamic Economics*, vol. 13.

Siddiqi, M., (1993), *Modern Reformist Thought in the Muslim World*, Delhi, Adam Publishers & Distributors.

Tag el Din, S. El-Din I., (2002), "The Elimination of Riba: A Measure Truly Dedicated to Poverty Alleviation", in: Munawar Iqbal (ed.), *Islamic Economic Institutions and the Elimination of Poverty*, Leicester, Islamic Foundation.

Ul-Hassan, M., (2007), "The Islamization of the Economy and the Development of Islamic Banking in Pakistan", in: *Kyoto Bulletin of Islamic Area Studies*, nr. 1-2.

Wilson, R., (1998), "The Contribution of Muhammad Baqir Al-Sadr to Contemporary Islamic Economic Thought", in *Journal of Islamic Studies*, vol. 9, nr. 1;

Zaman, A., (2011), "Crisis in Islamic Economics: Diagnosis and Prescriptions", in: *Eighth International Conference on Islamic Economics and Finance*, 19-21 December, Doha, Qatar.

Zayd, N., (2006), *Reformation of Islamic Thought. A Critical Historical Analysis*, Amsterdam, Amsterdam University Press.

THE ETHICS OF IMPOSED HUMAN RIGHTS EXERCISE LIMITS¹

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Abstract: *Since the dawn of humanity and throughout its evolution, scientists, scholars, clairvoyants, contributed to the recognition and consecration of individual rights as: freedom, equality, solidarity, etc., which gradually led to the mitigation of brute force social relations, in the favour of human emancipation.*

The human must be defended from abuses of any kind, especially those from the state organisms, also in order to not deprive rights, the human needs to have some duties, regarding the protection of the rights of others and public order. Thus, ones rights include correlative obligations as well; designated to insure the respecting of others rights, social reality imposing the existence of some limits which prevent the right abuse.

Keywords: *human rights, duties/dues, correlation, right abuse, limited freedom.*

Introduction

The human rights are established globally and regionally through international conventions and nationally by constitutions and laws, in the centre of organisms concerns which consecrate them by necessity of insuring all human beings to equality, their unabated manifestation possibility, according to dignity and freedom, because the human by its nature represents a free and worthy being.

The idea that to the human being, by its nature, some immutable² rights are considered as its own – even if in the first place they do not correspond or correspond only partially to positive legal norms, which need to be consecrated, that existed from ancient times, being affirmed and reasoned by stoic philosophy, and as well as by scholars who lived all historic ages – sometimes inspiring themselves from religious dogmas, sometimes only from „the light of ration”³.

¹ This paper has been financially supported within the project entitled “*Horizon 2020 - Doctoral and Postdoctoral Studies: Promoting the National Interest through Excellence, Competitiveness and Responsibility in the Field of Romanian Fundamental and Applied Economic Research*”, contract number POSDRU/159/1.5/S/140106. This project is co-financed by European Social Fund through Sectoral Operational Programme for Human Resources Development 2007-2013. *Investing in people!*”

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² See Hugo Grotius, *On the Law of War and Peace*, Bucharest, Scientific P.H., 1968, p. 109.

³ Giorgio Del Vecchio, *Diritto naturale e unità europa*, Roma, 1959, p. 95.

In the thinking concept of ancient Greeks, the fundamental rights of the human being were eternal and immutable, deriving from nature of things, thus the law is not only the expression of this nature⁴, recognising, by its provisions, rights which derive from human nature.

The positive doctrine sustains that the only rights is the one that is positive, but if the human rights and freedom would depend only of a positive one, establishing only on state authority, that would be dangerous, because it could open the way to arbitrary and totalitarianism⁵, which can only be faded by the presence of the natural right, which tries to link the human rights to the „superior principles”⁶.

In addition to the classical doctrine of the natural right – which situates the human right, ontologically, before the birth of the individual = and positively, which is at the other extreme, considers that the rights are exclusively linked by state will, and there is also the option according to which the genesis of this rights is social but it situates itself in a *pre-legal* and *extra-legal* phase, gaining only in the end, by consecration and legal protection of the respective value, a normative character⁷.

The human rights concept

The human rights represent firstly a *philosophical concept*, a condensation of everything that made essence the human philosophy from ancient times till present day, which considered by the human – rational being, born free – a measure of all things, as purpose and never in the middle, representing the supreme value by which all purposes of the politically organized society in the state⁸ needs to focus on.

The realization of the modern concept of „human rights” is the result of a synthesis operation, consisting in the generalization of consecrated ideas in different countries, with a rich moral and political content, formulated by prestigious jurists⁹, and clotting a coherent theory and some effective practices regarding the rights being the product of a long period, during which necessary permissions were accumulated for the crystallization of the legal basis of the human rights¹⁰.

Additionally to the extra-legal fundament, axiological, the human rights gain, upon recognition or their consecration by internal regulations of states, a distinctive *legal* nature – the one of subjective rights, adding to that an

⁴ Irina Moroianu Zlătescu, Radu C. Demetrescu, *The history of human rights*, Bucharest, Romanian Institute for Human Rights, Title: Autonomous Official Gazette, 2003, p. 10; Ionel Cloșcă, Ion Suceavă, *Treatise of human rights*, Bucharest, Europa Nova P.H., 1995, pp. 25, 26.

⁵ Claude-Albert Colliard, *Libertés publiques*, Paris, Précis Dalloz, 2005, 8th edition, p. 11.

⁶ Yves Madiot, *Droits de l'homme*, Paris, Masson, 1991, 2nd edition, p. 21; Emmanuel Dreyer, *La fonction des droits fondamentaux, dans l'ordre juridique*, Paris, Chron, 2005, p. 748.

⁷ Adrian Năstase, *Human Rights – the end of the century religion*, Bucharest, The Romanian Institute for Human Rights, 1992, pp. 206-209.

⁸ Stelian Scăunaș, *International Human Rights Law*, Bucharest, All Beck P.H., 2003, p. 3.

⁹ Victor Duculescu, *Legal protection of human rights*, Bucharest, Lumina Lex P.H., 2008, p. 23.

¹⁰ Charles E. Wyzanski, *The Philosophical Background of the Doctrines of Human Rights*, in *Human Dignity: the Internationalisation of Human Rights*, coordinator A. Henkin, Aspen Institute of Humanistic Studies, 1979, p. 10.

instrumental dimension and a positively determination, which derives from their constitutional genesis¹¹.

From the legal point of view, the concept of „human rights” refers to *subjective rights of a person*, which regards to its position in report with the public power and other humans, but they also represent a veritable legal institution, formed from an assembly of internal and international rules which have a ruling objective the promoting and insuring of human rights and freedom, its defence against state abuse and dangers of any nature¹².

Abstractly, the human rights are defined as *prerogatives* governed by rules, over which a person holds in relation with particulars and with the state¹³, and according to the diplomatic dictionary, „the human rights are those rights inherent to the human being, individually or as a part of a socially determined group. The human being is the holder of these rights by simple fact of being man or woman, being granted with the same attributes and aspiring to the same freedom, no matter the race, ethnicity, sex, belief or nationality”¹⁴.

Justifying duties and limits in exercising human rights

Since ancient times, scholars as: Platon, Aristotel, Socrate, Zenon, Papinian, Paul, Ulpian, Modestin and other legal consultants of Rome, as well as a lot of thinkers from the contemporaneous era, as Auguste Comte, Léon Duguit, Mircea Djuvara a.s.o. approached the complex problem of „the fundamental duties of the human being”, stating that upon obligation fulfilment there is a natural component of the human existence¹⁵, enabling „life to be possible, and humans to progress”¹⁶.

According to Montesquieu¹⁷, who shown for the first time that the world was subjected to some *subjective laws*: „laws, in the widest meaning, are necessary reports deriving from nature of things, and in this way, all that exist has laws”, and freedom assumes „the right to do all that law tolerates”, thus if one does the opposite, „one should never have freedom, because others might do the same”. These statements lead to the conclusion that the practice/exercise of rights need to be done in the limits of the universally international and regional conventions, and as well as state laws, respecting the peers rights.

Man discards its natural freedom, within state politically organised societies, and accepts a type of limited freedom¹⁸, which insures as insured to others, the

¹¹ Adrian Năstase, *The Contemporary Destiny of International Law. Reflection from a European Perspective*, Bucharest, „Nicolae Titulescu” University P.H., 2004, p. 210.

¹² Stelian Scăunaș, *International Law, op.cit.*, pp. 3-4.

¹³ Jacques Mourgeon, *Les droits de l'homme*, Paris, PUF, Collection „Que sais-je?”, 1996, 6th edition, p. 6.

¹⁴ *Diplomatic Dictionary*, Bucharest, Political P.H., 1979, p. 388.

¹⁵ Dumitru Mazilu, *Human rights – concept, requirements and contemporary realities*, Bucharest, Lumina Lex P.H., 2003, 2nd edition, pp. 119-200.

¹⁶ Charles Louis De Secondat Montesquieu, *About the Spirit of Laws, op.cit.*, pp. 134 și urm.

¹⁷ Charles Louis De Secondat Montesquieu, *About the Spirit of Laws*, Bucharest, Scientific P.H., vol. I, 1964, p. 193.

¹⁸ Immanuel Kant, *Moral and Political Writings*, Bucharest, Scientific P.H., 1991, p. 182, which shoes that the acceptance of this limitation of freedom represents an essential condition for the existence of the society.

safety of existence and the possibility of rights achievement. Thus, in the social life, the freedom makes sense only in limitations, because in order to be manifested, it needs to depend on something, to be within certain coordinates¹⁹.

In consequence, the rights of the human being also imply correlative obligations, both in the service of states²⁰, which need to take necessary measures for them to be respected, but also in the service of individuals, one from another.

The existent reports between the duties and rights of the human being denotes the existence of some necessary links between component parts of the relation individual-state, individual-society²¹, but also of reports between natural persons or between them and legal persons of public or private right.

Likewise, the idea of „responsibility”, which derives from the pair of „rights – duties”, is sustained by numerous authors, who support the necessity of granting to individuals a full legal status, because the human being does not need only rights, each of the ones who beneficiate from them is obligated to respect the same rights for which the owners are the rest of the human beings²².

Placing the duties in the shade of rights, as a negligible reality, comparatively, it is critical in the doctrine²³, existing feisty debates if the human rights need or not to be exclusively evoked, without reference to its obligations²⁴, as founded in numerous universal international or regional conventions or in the contents of other rules.

The human rights, regulated by states, represent *subjective rights*, meaning faculties, possibilities of other humans to participate at legal reports, to exercise certain prerogatives and to request the other parties to have a proper attitude, under the warranty of public authority²⁵.

The international protection of human rights implies training, in the states duty, of certain obligations of which exercise does not have at basis the principle of subordination, as internal right, being, generally, international conventional obligations, which conditions the exercise by the state of its territorial competency, to respect regulations and international principles regarding the human rights.

Thus, the state which is a part of an international convention regarding the human rights doesn't just have the obligation to insure the protection of own nationals rights but the rights of all individuals found on its territory, no matter the nationality²⁶.

¹⁹ Gabriel Liiceanu, *About Limit*, Bucharest, Humanitas P.H., 1994, p. 11, which shows that: „human freedom is interpreted in a bundle of limits that are the condition of its exercise”.

²⁰ Augustin Fuerea, *European Union Manual*, Bucharest, Universul Juridic P.H., 2010, 4th edition, revised and amended after the Lisbon Treaty, p. 268.

²¹ Doina Micu, *Ensuring Human Rights*, Bucharest, All Beck P.H., 1998, pp. 8-9.

²² Stelian Scăunaș, *International law, op.cit.*, p. 151.

²³ Hugues Doumont, François Ost, Sébastien Van Drooghenbroeck (coord.), *La responsabilité, face cachée des droits de l'homme*, Paris, Bruylant, 2005, pp. 5 și urm.

²⁴ Jean-François Renucci, *Treaty of European human rights law*, Bucharest, P.H. Hamangiu, 2009, p. 2.

²⁵ Stelian Scăunaș, *Constitutional and Military Law*, Sibiu, P.H. Academiei Trupelor de Uscat, 1995, vol. I, p. 168.

²⁶ Frédéric Sudre, *European Law and International Human Rights Law (translation)*, Iași, P.H. Polirom, 2006, p. 95.

Likewise, concomitant with the respect developed from the rights of states, the recognition of state responsibility has evolved and from the institutionally international obligations accepted to be followed, the respect of human rights is inclusive²⁷.

Satisfying own interests, by exercising rights does not need to break public order, the rights of others or to prevent other persons to value their own rights, because it will be illogically to not recognize the rights of someone to allow such immoral acts or contrary to the justice idea²⁸, wiping out rights of one-another or public order.

Conclusions

The freedom follows the human being from birth and it is intimately linked to the dignity of any human, which makes sense only in the condition of some limitations²⁹ (of some obligations), because, in order to be manifested, it needs to be submitted within some coordinates.

Recognition of some rights, with no obligation, the absence of limitations and conditions of exercise foreseen by law or by legal instruments of international calibre may lead to arbitrary or right abuse, because, it would not allow the differentiation of a legal behaviour from an illegal one³⁰. That is why, the determination legally, of some duties and limitations regarding the exercise of some rights are responsible, mainly, to the need to insure the legal safety of rights and freedom of others, in the perspective of individual or group interest achievement, in concordance with public order³¹.

Although, we appreciate that it cannot be admitted, under the „general interest”, for the authorities to limit discretely and abusively the natural rights exercise, engaging even in affecting the democracy, on behalf of its protection.

That is why, between *the measures which limit the exercise of rights*, *the actual situation* and *the legitimate purpose* needs to be a certain proportionality, in order to insure the achievement of rights, and to avoid the right abuse and power excess.

Therewith, it is necessary that, in all national and international regulations regarding human rights, correlative duties need to be foreseen, as well as limitations in rights exercise, which does not need to be interpreted as privileges from others, but as possibilities of being equal with other, in order to prevent right abuse from anywhere.

²⁷ Theodore S. Orlin, *Evolution of Sovereignty Limitations for a New Global Community “Limiting Leviathan by international law” (Part I)*, *Romanian Journal of International Law*, nr. 8 ianuarie-iunie 2009, p. 8.

²⁸ Mircea Djuvara, *About the Idea of Subjective Right and Obligation*, in *Public Law magazine* no. 14 din 1939, pp. 109 and the following.

²⁹ Gabriel Liiceanu, *About Limit*, cited work, p. 13.

³⁰ Marius Andreescu, *Restriction of Certain Rights and the Principle of Proportionality*, in the book *“Justice and the Rule of Law and Legal Culture”*, Bucharest, Legal Universe P.H., 2011, p. 991.

³¹ George Coca, *The General Interest and Fundamental Human Rights*, Bucharest, P.H. Universul Juridic, 2009, p. 187.

REFERENCES

- Andreescu, Marius, (2011), *Restriction of Certain Rights and the Principle of Proportionality, in the book "Justice and the Rule of Law and Legal Culture"*, Bucharest, the Legal Universe P.H.
- Cloșcă Ionel, Suceavă Ion, (1995), *Treatise of Human Rights*, Bucharest, P.H. Europa Nova.
- Coca, George, (2009), *The General Interest and Fundamental Human Rights*, Bucharest, the Legal Universe P.H.
- Colliard, Claude-Albert, (2005), *Libertés publiques*, Paris, Précis Dalloz, 8th edition.
- (1979), *Diplomatic Dictionary*, Bucharest, Political P.H.
- Djuvara, Mircea, (1939), *About the Idea of Subjective Right and Obligation*, From the Public Right Magazine, No. 14.
- Doumont, Hugues, François Ost, Sébastien Van Drooghenbroeck (coord.) (2005), *La responsabilité, face cachée des droits de l'homme*, Paris, Bruylant.
- Dreyer, Emmanuel, (2005), *La fonction des droits fondamentaux, dans l'ordre juridique*, Paris, Chron.
- Duculescu, Victor, (2008), *Legal Protection of Human Rights*, Bucharest, P.H. Lumina Lex.
- Fuerea, Augustin, (2010), *European Union Manual*, Bucharest, P.H. Universul Juridic, 4th edition, revised and amended after the Lisbon Treaty.
- Grotius, Hugo, (1968), *On the Law of war and Peace*, Bucharest, Scientific P.H.
- Kant, Immanuel, (1991), *Moral and Political Writings*, Bucharest, Scientific P.H.
- Liiceanu, Gabriel, (1994), *About Limit*, Bucharest, P.H. Humanitas P.H.
- Madiot, Yves, (1991), *Droits de l'homme*, Paris, Masson, 2nd edition.
- Mazilu, Dumitru, (2003), *Human Rights – Concept, Requirements and Contemporary Realities*, P.H. Lumina Lex, 2nd edition.
- Micu, Doina, (1998), *Ensuring Human Rights*, Bucharest, P.H. All Beck.
- Montesquieu, Charles Louis De Secondat, (1964), *About the Spirit of Law*, Bucharest, Scientific P.H., vol. I.
- Mourgeon, Jacques, (1996), *Les droits de l'homme*, Paris, PUF, Collection „Que sais-je?”, 6th edition
- Năstase, Adrian, (1992), *Human rights – The End of the century Religion*, Bucharest, The Romanian Institute for Human Rights.
- Năstase, Adrian, (2004), *The Contemporary Destiny of International Law. Reflection from a European Perspective*, Bucharest, “Nicolae Titulescu” University P.H..
- Orlin, Theodore S., (2009), *Evolution of Sovereignty Limitations for a New Global Community "Limiting Leviathan by International Law" (Part I)*, Romanian Magazine for International Right, no. 8 January-June 2009.
- Renucci, Jean-François, (2009), *Treaty of European Human Rights law*, Bucharest, P.H. Hamangiu.
- Scăunaș, Stelian, (1995), *Constitutional and Military Law*, Sibiu, P.H. Academiei Trupelor de Uscat, vol. I.

Scăunaș, Stelian, (2003), *International Law of Human Rights*, Bucharest, All Beck. P.H.

Sudre, Frédéric, (2006), *European Law and International Human Rights Law (translation)*, Iași, Polirom P.H..

Vechio, Giorgio Del, (1959), *Diritto naturale e unità europes*, Rome.

Voiculescu, Marin, (2003), *Human Rights and Contemporary Global Issues*, Bucharest, Odeon P.H.

Wyzanski, Charles E., (1979), *The Philosophical Background of the Doctrines of Human Rights*, in *Human Dignity: the Internationalisation of Human Rights*, coordonator A. Henkin, Aspen Institute of Humanistic Studies.

Zlătescu, Moroianu Irina, Radu C. Demetrescu, (2003), *The History of Human Rights*, Bucharest, The Romanian Institute for Human Rights, Title: Autonomous Official Gazette.

THE LEGITIMATE RIGHT TO APPLY LEGAL SANCTIONS¹

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Abstract: *If from the beginnings of humanity the justification of sanctions had at its basis legal principles derived from the instinct of beings of self-preservation from the aggression of other, in present time the regulation and application of these sanction is based on the ration that, by their right finds their proper achievement insuring the finalization of call to legal account of those who break or ignore the rightful order, in the purpose of defending the civil society and of individual against reaches and injuries by illicit action as well as for reestablishment of violated rights, interests and values. Likewise, but not lastly, the legal sanctions have as purpose the limitation of acts through which rightful rules are broker, thus achieving the desire of special and general prevention.*

Keywords: *sanctions, legal responsibility, legitimacy, role of sanctions, rightful order.*

Introduction

Since the beginning of history the humans have established certain methodologies, by which they considered to be in harmony with de divinities, and tried to enter into their “graces” by certain rituals (for e.g., sacrifices) thus imposing a way of life under the power of some “imaginary authorities”².

Likewise, they have tried to acquire the sanctioning way of the divinities and interpreted some “signs” if nature as being “heavenly sanctions”. For example, humans considered that a larger rain, that would destroy their crops, would be a punishment from God because they’ve work on holydays.

It was considered that the first sanction applied by God was the banishment of Lucifer and other angels who rebelled against him. Other “applied” sanctions by God would be: the banishment from Heaven of Adam and Eva, as repression to His command regarding “the forbidden fruit”; the punishment of Cain for murdering his brother Abel (considered the first offence known by humans); Noah’s flood given to punish humans who left the religious precepts; destruction

¹ This paper has been financially supported within the project entitled “*Horizon 2020 - Doctoral and Postdoctoral Studies: Promoting the National Interest through Excellence, Competitiveness and Responsibility in the Field of Romanian Fundamental and Applied Economic Research*”, contract number POSDRU/159/1.5/S/140106. This project is co-financed by European Social Fund through Sectoral Operational Programme for Human Resources Development 2007-2013. *Investing in people!*”

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² Daniel-Ștefan Paraschiv, Gavril Paraschiv, Ramona-Gabriela Paraschiv, *The Evolution of Punishment in International Law and Criminal Law. Critical Reflections on the New Criminal Code*, Bucharest, Pro Universitaria P.H., 2014, pp.and the following.

of Sodom and Gomorrah to punish the guilty of sexual perversions committed in those cities³ etc.

Sanctions considered to be “applied” by God for the humans are considered to be: *spiritual* (sadness, ignorance, error, will infirmity) or *physical* (famine, war, theft, captivity, disease). To these the *bad* (*punishment*) came from natural phenomena: earthquakes, thunders, drought, floods, hailes etc.⁴

The contribution of religion to the justification of sanction applied to humans

What fidgets the society from its beginnings, were the antisocial action taken by humans, which weaken the community under different aspects (for example, murdering a person, member of a tribe, had the following outcomes: reducing the workforce of a tribe, as well as the power to harvest food or defence against animals or other tribes etc.).

The leaders of the injured communities, although they had a certain power over the humans, they needed a justification for sanctioning the guilty ones, so they’ve used religion, which had a very big influence over humans, the rights of humans to punish being imposed, at the beginnings, by invoking the name of divinities.

The methodology of sanctions for the antisocial acts were included in the religious writings (the Bible, the Quran etc.), considering that in these books God, by prophets voice, made clear to humans that He established that it is immoral or contrary cohabiting harmoniously with those people. Thus, as example, in the Bible we are shown that one who stole a veal, needed to pay the value of 5 catle.

The orthodox Christians believed that the human justice, generally, was relative, due to the ancient sin, resulting that there is no punishment no matter of its type, because the soul is the one that drives the action (to punishment) and it lost its purity by becoming impure, and what is impure gives birth to something else impure (thus the punishment being impure)⁵.

In the Muslim world, the Quran, being the book of their religion, is in present time right inspiration, laws (*shari’a* – way, the rights way) consisting precepts from Quran, thus the link between religion and justice is more powerful than the link between what exists and the Christian world. According to the Quran, any divine punishment consists in the inversion of an inversion; as the sin is an inversion in report to the primordial balance, we can speak of “offences” brought to Allah⁶, which is the only entitled to apply punishments, fact that denies the power of people to sanction, thus they sanction illegally, not having any authority in this way⁷.

³ Georges Minois, *History Hells* (translated from French by Alexandra Cuniță), Bucharest, Humanitas P.H., 1998, pp. 19 and the following

⁴ Constantin C. Pavel, *The Problem of Evil in St. Augustine*, Bucharest, P.H. Bible and Mission Institute of the Romanian Orthodox Church P.H., 1996, p. 101.

⁵ George Remete, *Orthodox Dogmatic*, Alba-Iulia, P.H. Ortodox Episcopate, 1997, p. 199.

⁶ Frithjof Schuon, *Understanding Islam. Introduction to the Spirituality of the Muslim World*, Bucharest, P.H. Humanitas P.H., 1994, p. 103.

⁷ Sayyid Mujtaba Musavi Lari, *God and his Attributes, Islamic Doctrine Lessons*, Cluj-Napoca, P.H. Argus, 1998, p. 141.

The divine sanctions were invoked by Chinese people as well, supporting that the punishment by gods of the giant Pufu and his wife, who were left naked in “The great desert”, without being permitted to eat or drink water, only heavenly dew, because they failed to fulfil the command to stop the floods⁸.

In contradiction to the theory regarding the existence of divine sanction, the opinion appeared⁹ according to which the fetishism of a certain reality starts when instead of its “natural qualities”, the human assigns attributes resulted from its fake representations.

Later, with the religious model of sanctioning, humans created other sanctions, considered enough to be oppressive, to stop the pre-judiciable acts, The Code of Hammurabi, sculpted on a block of diorite and discovered in the old city Susa, the former capital of the elamite state¹⁰, considered to be one of the sources consisting methodology regulations and applicable sanctions in case those were broken.

A lot of juridical works include dispositions with religious character, as for example, *Practica Inquisitionis heretice Pravitatis*, of the inquisitor from Toulouse, Bernard Guy, Dominican monk, which surprises an episcopal condemnation meeting regarding a person guilty of desecration of communion and other holy things¹¹.

The connexions from human justice and divinity can be deduced from the “law” system which instituted “tariff penance” (VI-VII – XI-XII century), having at its basis the principle “*contraria contrariis*”, and consecrating the gourmet fasting, work the lazy, the abstinence of wantons a.s.o. The confessor appeared as judge who did the interrogation, investigation and pronounced the sentence, after which the mistakes were “weighted”, taking into account the *material mistake* rather the intention, and *the concrete atonement* more than repentance¹².

As time passed, the legal thinking progressed, changing its fundamentals from the basis of sanctions, thus certain punishments were altered under different aspects: way of enforcement, quantum (fines), duration (the ones of freedom restriction), and the others vanished, never being applied, appearing new sanctions.

And in present time some connexions between divinity and the human justice are being done. Thus, the justice from numerous communities are under the “wing” of the Greek goddess Themis, of whose statue is placed over the majority of buildings where legal instances are operated. Likewise, according to the Romanian penal procedure and from other countries, the witnesses, before the proper hearing, are obliged to swear oath that they will speak the truth, under

⁸ Ke Yuan, *Myths of Ancient China*, P.H. Scientific and Encyclopaedic, Bucharest, 1987, p. 208.

⁹ Iuri Pavlovici Franțev, *The Sources of Religion and Free Thinking*, Bucharest, P.H. Scientific, 1968, p. 93.

¹⁰ Vladimir Hanga, *Large Legislators of the World*, Bucharest, P.H. Scientific and Encyclopaedic P.H., 1977, p. 29.

¹¹ Alfonso M. Di Nola, *Devil allegedly Exploits the history of Satan and Evil Presence to all the Peoples of Antiquity until Today*, Bucharest, P.H. Bic All, 2001, pp. 241-242.

¹² Jean Delumeau, *Sin and Fear, Guilt in the West (sec XIII – XVIII)*, Iași, P.H. Polirom P.H., 1997, vol. I, p. 237.

the condition of punishment for fake testimony. Likewise, in current language (maybe involuntarily) it is referred to divine sanctions, by using some expressions as: „May God have mercy on you” or „God sees all”, which can have the meaning of curse or invocation of divinity to punish an injustice¹³.

The fundamentals of legal sanctions

Sanctions applied by statutory organisms have appeared together with the societies organisation, coexisting a period with the private justice, besides the churchly sanctions.

The reason of sanctions applying, generally, including the legal ones, was at the beginning, the instinct of human beings to respond to those who injured them, the response being on a lot of occasions powerful¹⁴, and later at the basis of sanctions stood the sentiment of revenge of the one affected by the injustice of breaking ones rights (the law of retaliation, according to which the injured part had the right to avenge itself over the aggressor, for the aggressor’s action, usually by the same means and in the same amount).

Other reasons for the application of the sanction – which replaced, gradually, the system of revenge – were represented by the necessity to insure order in the relations with the member of the community and the wish to prevent certain harmful acts to people and societies in general.

In its evolution, the philosophy of right was dominated by two very different questions of length, weight and importance:

- If the society has the right to punish?
- What is the fundament of this right?

a) *The validity of the right to punish* was often contested, but always without sufficient arguments because “it generally begins by questioning the legitimacy of law is to punish, but ends by adopting a philosophical systems which admit this right”¹⁵.

Since the early twentieth century, the authors felt that it is absurd to further discuss the legitimate right to punish, stirring philosophical discussions with rigor law that needs to be based on facts, not assumptions and metaphysical abstractions¹⁶.

Even some paradoxical or mystical spirits , as they were by Emile Girardin and Leon Tolstoy, who did not support the right of society to punish offenders seem to admit though that right, if the penalty is useful; however they denied its

¹³ Alexandru Stănciulescu-Bârda, *Proverbs and Religious Expressions*, Bârda, P.H. Romanian Conscience, vol. II, 1991, pp. 20, 42.

¹⁴ Ion Craiovan, *Elementary Treaty of General Theory of Law*, Bucharest, P.H. All Beck, 2001, p. 284-285.

¹⁵ Emmanuele Carnevale, *The Criminal Criticize*, Lipari, 1889, p. 50, quoted by Ioan Tanoviceanu in the Treaty of Criminal Procedure, Bucharest, Typography „Judicial Courier”, 1924, 2nd edition regarding „The Course of Criminal Law and Procedure”, revised and amended volume 1, p. 26.

¹⁶ Vincenzo Manzini, *Tratatto di diritto penale*, I, Torino, 1908, p. 3-6, quoted by Ioan Tanoviceanu, Treaty of Criminal Procedure, *cited works.*, p. 27.

salutary nature, arguing that evidence of the ineffectiveness of punishment, many relapses committed by previously sanctioned¹⁷.

b) If, in principle, it is admitted that the society has the right to punish (*jus puniendi*) in this foundation as there are many opinions and theories it can be grouped into three systems:

- The system of *absolute theory*, according to which the punishment is considered as being a counter equivalence of evil/bad made by action (*malum passionis propter malum actionis*), thus the purpose of the sanction is represented by repression (*punitur quia peccatum est*), the type theory in this system being the one of *retribution*;

- The system of *relative theory*, where the repression no longer has the purpose of punishment, this representing a mean to prevent evil/bad not to repeat itself (*punitur ut ne peccetur*), the type theory in this system being *social defence*;

- *The eclectic system*, which consist in the opinions according to which the sanction has a double character, being at the same time an equivalence of the done bad/evil, but not a mean to prevent its repeat (*punitur quia peccatum est et ut ne peccetur*).

Maybe what is more interesting is not the fundament of the sanction but its *functionality*, between the two aspects being the same report as purpose to mean, from what is known as purpose, is easy to state the means.

Consequently, considering the principle that the human society has the right to sanction according to some juridical rules is a full won truth for science, the attention needs to be brought especially to the problem which is more useful to the function of sanctions, their regulation and appliance needing to be achieved in such a manner for them to contribute at the rehabilitation of the rightful order and to the prevention of other injuring acts, of the same or other nature.

Of the many possible aims, only some can be found in the case of certain penalties, while for others applications, most or all of these purposes can be found.

As ending of sanctions appliance we exemplify:

- the repressive function of sanction imposition, by which a constrain is led for the guilty one because of committing an act by nature to damage interest or rights to other entities;

- the reparatory function, which consists in bringing the parties from conflict to a previous situation of peacefulness;

- the exemplarity function, respectively the echo which the sanction has among other members of the community, where this was applied;

- The prevention function, consisting in keeping the rightful order by simple fact of providing some sanctions for the forbidden situations, sanctions applicable in case these situation happen¹⁸.

- the function of re-education, expressing its good effect of remodelling and reintegration from the social point of view of the guilty person who committed a forbidden act organisationally, determined by sanction appliance.

¹⁷ Ioan Tanoviceanu, *Treaty of Criminal Procedure, cited works*, p. 26.

¹⁸ Nicolae Popa, *General Theory of Law*, Bucharest, All Beck P.H., 2002, p. 149.

Conclusions

The notion of sanction may have a wider understanding, as a punitive measure of any kind, and a restrained meaning as legal sanction.

Generally (*lato sensu*), the sanction represents the society's response to illegal, immoral or irregular acts of a person: there are religious sanctions, moral sanctions (e.g.: society blame). Sportive sanctions (applied during sportive competitions), a.s.o.

The legal sanction refers to a repression of physical or psychologically supported by someone who committed a damage or suffering, unjustifiably to another; taking into account that the incident is a social product, the human ration considers that the doer has legally a material or moral sanction for the damage brought to its kind¹⁹.

Analysing the three theory systems which refer under legal sanctioning, we consider that the eclectic one responds better to the social need of defence and rightful order, in general, because between the repressive and the preventive character of sanction there's a tight interdependency; general prevention, but especially the one that is done due to repression over the doer, who, in the future will avoid being in the situation of new sanctions being applied, nevermore containing forbidden acts²⁰.

REFERENCES

Cantemir, Dimitrie, (1977), *The System or the Preparation of the Muhammedane Religion*, Bucharest, Minerva P.H.

(1996), *Quran*, Cluj-Napoca, ETA P.H..

Craiovan, Ion, (2001), *Elementary Treaty of General Theory of Law*, Bucharest, All Beck P.H..

Delumeau, Jean, (1997), *Sin and Fear, Guilt in the West (XIII – XVIII Century)*, Iași, P.H. Polirom, vol. I.

Di Nola Alfonso M., (2001), *Devil Allegedly Exploits the History of Satan and Evil Presence to All the Peoples of Antiquity until Today*, Bucharest, P.H. Bic All P.H..

Djuvara, Mircea, (1999), *General Theory of Laws. As Rational, Springs and Positive Law*, Bucharest, P.H. C.H. Beck.

Dogaru, Ion, Dănișor Dan Claudiu, Dănișor Gheorghe, (1999), *General Theory of Law*, Bucharest, Scientific P.H..

Franțev, Pavlovici Iuri, (1968), *The Sources of Religion and Free Thinking*, Bucharest, P.H. Scientific.

Hanga, Vladimir, (1977), *Large Legislators of the World*, Bucharest, P.H. Scientific and Encyclopedic P.H..

Lari, Sayyid Mujtaba Musavi, (1998), *God and his Attributes, Islamic Doctrine Lessons*, Cluj-Napoca, Argus P.H..

¹⁹ Mircea Djuvara, *General Theory of Laws. As Rational, Springs and Positive law*, Bucharest, C.H. Beck P.H., 1999, p. 354 and pp. 268-269.

²⁰ Ion Craiovan, *Basic treaty, op.cit.*, p. 285.

Minois, Georges, (1998), *History hells* (translation from French by Alexandra Cuniță), Bucharest, Humanitas P.H.

Paraschiv, Daniel-Ștefan, Paraschiv Gavril, Paraschiv Ramona-Gabriela, (2014), *The Evolution of Punishment in International Law and Criminal Law. Critical Reflections on the new Criminal Code*, Bucharest, Pro Universitaria P.H..

Pavel, Constantin C., (1996), *The Problem of Evil in St. Augustine*, Bucharest, Bible and Mission Institute of the Romanian Orthodox Church P.H..

(1997), *Pentateuch*, Bucharest, Bible and Mission Institute of the Romanian Orthodox Church P.H., 2nd book, chapter. 21, v. 6.

Popa, Nicolae, (2002), *General Theory of Law*, Bucharest, All Beck P.H..

Remete, George, (1997), *Orthodox Dogmatic*, Alba-Iulia, Ortodox Episcopate P.H..

Schuon, Frithjof, (1994), *Understanding Islam. Introduction to the Spirituality of the Muslim world*, Bucharest, Humanitas P.H.

Sherbok-Cohn, Lavinia, Sherbok-Cohn Dan, (2000), *Introduction to Judaism*, Bucharest, P.H. Hasefer.

Stănciulescu-Bârda, Alexandru, (1991), *Proverbs and Religious Expressions*, Bârda, P.H. Romanian Conscience P.H., vol. II.

Tanoviceanu, Ioan, (1924), *Treaty of Criminal Procedure*, Bucharest, Typography „Judicial Courier”, 2nd edition regarding „The Course of Criminal law and procedure”, revised and amended, volume I.

Yuan, Ke, (1987), *Myths of Ancient China*, Scientific and Encyclopaedic P.H., Bucharest.

ART AND LANGUAGE CONTRIBUTIONS OF ROMANIAN THINKERS TO THE ANALYSIS OF ARTISTIC LANGUAGE

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Abstract: *Art is central to the cultural system. Following the radical changes the modernist and avant-garde movements have produced in the forms of representation and artistic expression, the analysis of artistic language has become a priority issue for the new approaches to aesthetic theories. An objective of this study is to highlight the contribution of Romanian thinkers to the study and definition of the specific features of artistic language. They are less known authors (Tudor Vianu, Pius Servien, Solomon Marcus) but, by their innovative studies in this domain, they prove to be the precursors of ideas and approaches that are well recognized and established today.*

Keywords: *culture, art, language, reception, interpretation.*

The place of art within the mainframe of culture

Along with science and religion, art is a fundamental domain of culture, a form of human creation present in all societies and historical periods. Undoubtedly, the encounters with art, the variety of its hypostasis, occupy a privileged place in contemporary human life, although it is suffocated by other concerns, by technology and the fast-paced changes in the field of everyday reality. Of course, the art was affected in the last century by the expansion of cultural industries, nonetheless it preserved, in its authentic forms, its autonomy against the logics of commercial mechanisms. Artistic creations, triggered by an organic human impulse to express itself, take part today, as always, in the definition and construction of the meaning of human existence. Many thinkers have correlated this capacity of art to encode the symbolic forms of cognitive and practical human experience with its metaphysical purpose, which is to ensure communication among people, between man and nature, between man and divinity.

A testimony thereon is made by Wolfgang Iser, an illustrious representative of the School of Konstanz, the school which has developed and instituted a new paradigm for understanding the artistic communication. In a conference held in Bucharest in 2006, Iser argues that arts alone, by their „gratuity” and „inutility” from a pragmatic viewpoint, hold the privileged position from which they „can track and monitor the increasingly higher complexity of our world”. Consequently, arts now occupy a central place within the mainframe of culture, a place once taken by religion (in pre-modern societies) or by science (in the modern, secularized world), because only arts (or some form thereof) can circumvent the gravitational field of practical interests. They can build and communicate a complex picture about irresolvable contradictions in which we are

entangled, they „can show the functioning” of society and culture, being symbolic ways wherein we build possible worlds.¹

In the Romanian thinking, Lucian Blaga, Tudor Vianu and G. Călinescu have developed consistent theories on the particular status of art in the context of culture, emphasizing its spiritual sense, irreplaceable to human life. Lucian Blaga believed that art is a form of creation and a specific language through which man tries to decipher the „mystery” of the world. Participating in an act of artistic communication, man experiences the intense feeling that he shares the experience of others, that he updates somehow his creative destiny. Moreover, art fosters an unparalleled subjective experience to its receptors. Through art, man ascends to a condition that differs from everyday life, because he „feels his existential accent shifting actually toward the horizon of mystery and revelation.”²

Blaga's theory should be also mentioned for another important idea it contains. According to him, science, religion and art are complex structures of ideas, beliefs and languages shaped up by profound abysmal factors, acting from within the collective unconscious. These factors form a „stylistic matrix”, which imprints a certain spiritual orientation convergent to all forms of creation within a cultural epoch. Thus, „in-between cubist Picasso and physicist Einstein there is a kinship attitude they do not even dream of”.³ But this kinship and these parallelisms are less obvious to the common consciousness.

Another Romanian author who has made significant contributions to the analysis of artistic language is Tudor Vianu. He strongly emphasized the autonomous nature of the work of art, but he also stressed its heteronomous character, i.e. its power to transfigure and represent symbolic contents, situations and actions that form the prosaic „matter” of human and social life. Art is bound by thousands of threads to the varied manifestations and registers of human life, so that, by its vocation to build up symbolic, imaginary and possible worlds, it naturally fulfills an essential function of communication in the social space, contributing to solidarization of individuals around common values and shared meanings.⁴

The privileged place of art in contemporary human life can be also confirmed by an everyday experiment, accessible to anyone. Imagine what would happen if you ask a man on the street, taken at random, what he thinks culture is. Most likely he would tell you, „Yes, I know what culture is: it is music, film, literature, dance, theater, painting ...”. He may also mention television, Internet, the entertainment with friends at a club or a concert, the participation at a book fair or an exhibition of caricatures. Finally, we could conclude that *the word culture is*

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¹ Wolfgang Iser, *What is the culture today*, in vol.: Mircea Martin (coord.), *The conferences “The Word”: Romanian identity – European identity*, vol. II, Bucharest, Cuvântul Publishing House, 2008, p. 35.

² Lucian Blaga, *The philosophy of culture*, în *Works*, vol. 9, Bucharest, Minerva Publishing House, 1985, p. 535.

³ Lucian Blaga, *Horizons and stages*, Bucharest, Humanitas Publishing House, 2003, p.150.

⁴ Tudor Vianu, *Aesthetics*, Bucharest, The Publishing House for Literature, 1968, pp. 194-198.

strongly associated with the works, practices and events within the vast perimeter of art.

Why culture is not as strongly associated with science, religion or with moral and political values? Why are fewer chances that the “statistical” individual on the street, gives us other responses, such as: culture is knowledge, knowledge is a system of useful and verified knowledge, the more so as we aspire to build a “knowledge-based society.” Finally, we may wonder why we have not received an answer which places culture in relation to values, beliefs and norms of behavior, shared and respected by the community. Perhaps, people even today appreciate art as a form of noble creation, detached from practical and economic interests. It concurrently addresses man’s sensitivity, soul and mind. Art is a tangible everyday presence in the people’s lives, having also a recreational, playful, entertaining function, whereas science and religion are not enjoying these attributes. That the young people attend art, even if their aesthetic experiences do not meet only authentic works, is actually beneficial for their spiritual formation. As we know, reading has a formative role for the development of thinking, but the media habitat wherein the young people live today encourage neither reading nor attending libraries.

Ever more scholars warn us that new communication technologies have also side effects, which take us off “the context of the word” and introduce us “in the context of image”, with contradictory effects. On these grounds Giovanni Sartori argues that the much praised civilization of the image produces a slow involution of human cognitive capacities.⁵ We live in an era of “the global screen” when, on all the screens around us, from the huge ones on the streets, stadiums and airports, to those on tablets and mobile phones, endless images are running, catching our attention. “With the establishment of the global screen era, a huge cultural shift is being produced, which affects ever wider aspects of creation, but also of existence itself.”⁶ We must study and understand this transformation that affects us all. Genuine art could be an effective antidote to the spiritual diseases caused by the invasion of new technologies in the digital age, because the artistic image carries different effects than the images circulating through the audiovisual system, through the cultural industries and through the *new media*. An art theoretician, René Huyghe, considered, half a century ago, that the environment modern man lives in is oversaturated with images, sonorous and visual, from the “sonorous fervor” of the radio, to the omnipresent and obsessive images of advertising, from shop-windows, posters, illustrated magazines and comics to “the audible and visual spasms of the cinema” and “the fast-moving phantasms of television.” All this led to “the triumph of image”, a triumph which was amplified in recent years by the computer with multimedia possibilities. In this context, art “acts as a providential antidote”, because the artistic image acts on the spectator in sheer opposition with advertising, television or cinema, which put asleep our faculty of control and entail the docility of attention”.⁷

⁵ Giovanni Sartori, *Homo videns*, Bucharest, Humanitas Publishing House, 2005, p. 33.

⁶ Gilles Lipovetsky, Jean Serroy, *The global screen. Culture, mass-media and the cinema in the hypermodern era*, Iași, Polirom Publishing House, 2008, p. 8.

⁷ René Huyghe, *The power of image*, Bucharest, Meridiane Publishing House, 1971, pp. 19-22.

The language of art as an object of research

The thinkers interested in deciphering the “mystery” of art, from Plato and Aristotle, who spoke of the purifying effect of art (*Katharsis*) to Heidegger and the theoreticians animating the current debate on postmodern culture, have always emphasized a fundamental fact: *art is a specific language and a form of privileged communication*, having a status of excellence in all cultural creations. This idea has followed a complicated path in the European thought, from ancient times to these days. There is an underground connection between the changes in the field of art creation and those in the sphere of the theories on art. The artistic practice and the theories on art have followed certain conjugated, convergent, similar developments. The philosophical reflections on art and traditional aesthetics mainly dealt with the process of artistic creation or the structure of the work of art. The concerns about the language used by the artist to convey the original message were sporadic and came mainly from the sphere of the rhetoric or the literary theory. The emphasis was on the content of ideas, on the attitude and vision of the artist, on the message of the work, and not on the means of expression. The dominant representation was that in the relationship between content and form, between idea and language, between meaning and expression, important are the first components. Language was appreciated only for its ornamental function to a content that would pre-exist and would be independent of its form of expression.

These representations changed in the wake of the Romanticist movement and the assertion of modernist trends, which cultivated imagination, freedom of speech and language games. The tendency to analyze art as a specific language was encouraged by variety of these aesthetic experiences and especially by the radical changes the avant-garde movements produced in the first half of the twentieth century. The avant-garde made an aesthetic revolution at all levels, a shift in vision and language, comparable, in depth and consequences, only with Renaissance movement. The changes in language can be illustrated by the renunciation at the illusion of realistic representation and at the figurativism in painting, the search for new grammar of visual forms, the use of the musical power of the words, “the replacement of the character with a mask or a voice” or the breaking up of the narrative into various planes. With reference to these changes, some theoreticians spoke of „the primacy of form at the expense of content”⁸, while others described them using the concept of “open work”. Umberto Eco says that there is a semantic opening of the first degree, which means that any work of art sustains multiple, variable interpretations, function of the specific data of the receiver and the historical context of reception. Instead, avant-garde and post-avant-garde creations, surreal and abstract painting, serial music or the prose-writing of James Joyce and, in general, the artistic structures built on the principle of indeterminacy and ambiguity, are characterized by an “opening of the second degree”. In these works, there is the “intention of explicit opening, pushed to the extreme limit.”⁹ Thus, the contemporary artist in his

⁸ Sorin Alexandrescu, *Introduction into modern poetics*, in vol. *Poetics and stylistics. Modern orientations, Prolegomena and anthology* (coord. by Mihai Nasta and Sorin Alexandrescu), Bucharest, Univers Publishing House, 1972, p. LXXVII.

⁹ Umberto Eco, *The open work*, Bucharest, The Publishing House for World Literature, 1969, pp. 73-77.

obsessive search to be original, intentionally builds up a work with an ambiguous message that contradicts the expectation horizon of the public, being intended for open aesthetic consumption.

By their tendency to innovate in terms of expression and to “encrypt” the artistic message, the avant-garde modernist movements have also produced a serious fissure in the communication between art and the public. “The artists set the pace, challenging tradition, innovating, defying public preferences. In response, the idea has spread that the public is the co-author of the work, that his freedom of interpreting the work is as not second the creator’s.”¹⁰ Tudor Vianu captures the paradox of art in the modern world, by stating that “the autonomization of art favored its creative drive, but it reduced its touching basis with the extent of social life, allowing an overflowing wave of ugliness over things and human settlements.”¹¹

Under the influence of these artistic trends and experiences, the study of artistic language has acquired a central place on the agenda of disciplines such as the philosophy of language, the communication theory, semiotics, information aesthetics, and the phenomenological approaches to art. These new insights into the artistic phenomenon have led to the “discovery of the receptor and its role in the process of aesthetic communication.”¹² Unlike science and religion, which want to discover truths and impose beliefs, art is oriented primarily toward communication. “The work of art is created only for its reception,” and this feature confers upon it specificity in relation to all artifacts created by man.¹³

This change of perspective was carried through by several schools of thought in the interwar period and after World War II. Linguists and semioticians are at the head of those who highlighted the peculiarities of artistic language. For example, Roman Jakobson defined the “poetic function” of language by the tendency of the message to get oriented on itself, thus becoming self-referential and self-reflexive. Umberto Eco has substantiated the “open” and ambiguous nature of the artistic language, from which also derives the possibility of various interpretations of the work of art. Close to these theorists, it is natural to emphasize the contribution made by Romanian thinkers, less known, but who developed innovative studies in this area and prove to be precursors of ideas and approaches which are well-established and recognized today. I will refer to the studies of Tudor Vianu about the “dual intent” of language, to Pius Servien and at his distinction between scientific and artistic language, and to Solomon Marcurs who deepened the research of artistic language from a semiotic perspective.

A major distinction: transitive and reflexive

Tudor Vianu (1898-1964) studied thoroughly the specificity of the artistic language and developed the thesis on “dual intention of language”. He considered

¹⁰ Radu Cezar, *Art and convention*, Bucharest, The Scientific and Encyclopaedic Publishing House, 1989, p. 170.

¹¹ Tudor Vianu, *op.cit.*, p.197.

¹² Victor Ernest Mașek, *The art of being a spectator*, Bucharest, Meridiane Publishing House, 1986, p. 8.

¹³ *Ibidem*, p. 156.

that we could differentiate between messages with a transitive function (those which convey information only) and those which are intransitive and reflexive by nature. The transitive function is present and is important in the scientific and the common language. The intransitive and reflexive function is important in the artistic language. In artistic language, “Who speaks” “communicates” and “communicates oneself”. He does that for others and also for himself. The language delivers an individual state of mind and a social relation is organized”.¹⁴ In the case of the works of art, “transitivity is bounded, their reflexivity is infinite”. The meaning Vianu gives to the reflexive nature of artistic language would correspond to the expressive and poetic function from Roman Jakobson's schema. The artistic expression draws the receptor's attention to the form itself, to its original syntactic and stylistic organization, thus intensifying its self-reflexive and self-referential character. In exchange, the *transitive* function can be assimilated with the *referential* one and is prevailing in the case of common and scientific language. Vianu states that, by the reflexive nature of the language used, the writer introduces a „communication supplement” that gives depth and subjective color to the situations described. In this way, the writer also increases the receptor's interest in the „strictly artistic” aspect of expression, which makes it more difficult to understand the meaning encoded.

Art moves in-between these two parameters, being “stalled by two dangers arising from the very nature of language”: if a work is heavily oriented toward language transitivity, it loses in terms of originality, but it becomes more accessible. If its language is oriented mainly toward reflexive intentions, it increases its originality, but it decreases its social accessibility. Here is the paradox of art, bound to find a balance between these opposing tendencies. By comparison with the works of theoretical thinking, Vianu pointed out that the meanings of a work of art “are so inextricably linked to the form of its material appearance” that any change in the language plane modifies the meaning and value of the work. In this way, the work of art has an “immutable” nature, *the expression cannot be changed without changing simultaneously the meaning*. In the case of artistic language, the relation between meaning and expression is one of “immanence”, the two „being firmly attached”.

In his studies on stylistics, Vianu states that “there are poetic creations into which we look like into a bottomless abyss.”¹⁵ What “abyss” is it about? It is about the abyss of meanings and interpretations, that are multiplied to infinity and are inexhaustible, being also supportive of the unique form of expression. Within the sensitive fabric of the artistic image pulsates a “richer meaning”, which cannot be conceptually summed up. “The artistic symbol is therefore boundless. Artistic originality is not only immutable, but also symbolically boundless.”¹⁶

¹⁴ Tudor Vianu, *Studies on stylistics*, in *Works*, vol. 4, Bucharest, Minerva Publishing House, 1975, p. 30.

¹⁵ *Ibidem*, p. 31.

¹⁶ Tudor Vianu, *Studies on aesthetics*, in *Works*, vol. 7, Bucharest, Minerva Publishing House, 1979, pp. 517-518.

Two poles of language: the scientific language and the poetic language

An outstanding contribution to the analysis of artistic language has made Servien Pius (1903-1959), a complex personality, less known, who had multiple qualities: a thinker, a scientist, an artist, a literary theoretician. Servien engages into a very ambitious theoretical project, namely to substantiate a *new aesthetics*, a new research direction of the artistic phenomenon, starting from the analysis of the specific language of art. Through numerous studies published in French in the interwar period, he emerged as a powerful and original theoretician.¹⁷ The ideas he launched in this area are summarized in his *Aesthetics*, published in 1953 in French.¹⁸ The Romanian author's originality was noticed by Paul Valéry, for instance, who praised Servien's study of 1930: *Les rythmes comme introduction physique à l'esthétique*. Valéry considers that this study is „the most daring attempt to capture the poetic hydra”. This hydra of the poetic language, writes the French poet, has not been overcome until now because „it has been cut one head or the other at a time, but never both of them.”¹⁹

Servien was a scientist and a poet, so he had the qualities required to undertake a *scientific* analysis of the poetic language. Servien believes that to comment art through an artistic language as well (through and impressionistic and metaphorical criticism) means to stay into a pre-scientific zone, a zone of approximations. The fundamental requirement that Servien imposed was that meta-language (the language in which we analyze and judge the works of art) *should not be part of the same sphere with the object language, i.e. with the artistic language*. Therefore, the analysis is based on the separation of the two poles within the natural language: the scientific language and the artistic (poetic) language. The two types of languages have opposite virtues and properties. Of course, the author states, in-between these poles there are many intermediate positions.

In the scientific language, “there are equivalent phrases, so that one phrase can be replaced by another. For example, it is the same thing when you say: I add three to two or I add four to one. This is a fundamental property of the scientific language”.²⁰ Here is the starting point of Servien's theory. In the scientific language, expressions (phrases) may interchange, and meaning can remain “invariably” unchanged. There are numberless phrases that can convey the same meaning. This means that meaning is univocal, fixed, invariable, clear, denotative, and the expressions can be multiple.

¹⁷ Pius Servien (pseudonym of Serban Coculescu) was born in Bucharest, in a family of intellectuals. His father was a professor of mathematics and the director of the Institute of Astronomy. In 1927 he graduated from the Sorbonne Faculté des lettres, and, after a brief career as a journalist in Romania, he settled in Paris, where he published his scientific studies devoted to themes of aesthetics and also the issues related to the philosophical interpretation of the new discoveries in natural sciences, among which we mention: *Base physique et base mathématique de la théorie des probabilités* (1942), *Probabilité et quanta* (1948), *Science et hasard* (1952).

¹⁸ Pius Servien, *Aesthetics*, Bucharest, The Scientific and Encyclopaedic Publishing House, 1975.

¹⁹ Victor Ernst Mașek, *Foreword*, to Pius Servien, *op.cit.*, p. 10.

²⁰ Pius Servien, *op.cit.*, p 39.

In the poetic (artistic) language, it is just the opposite. A phrase from the poetic language “does not allow equivalent phrases”. The meanings of a phrase from the poetic language “are not always the same”, they depend on the receiver and the context of reception. If the word “great” may have a single meaning in a scientific text, “in a poetic phrase its meanings are infinite”.²¹ In the literary language, for instance, the meaning is dependent on the very sonorous and rhythmic layer of expression, the same as in music and fine arts the message of the work is dependent on the sensitive expression, it is “encoded” in expressive data. Any change in expression entails a change in meaning, which does not happen in scientific language, where we can alter the expression without changing the message. So, Servien established this capital distinction: *in scientific language, meaning is independent of expression, whereas in artistic language meaning is dependent on expression.*

Starting from the ideas of Servien, but also of other authors (R. Jakobson, U. Eco, A. Moles, Max Bense), Solomon Marcus developed and systematized the oppositions between scientific and poetic languages in his *Mathematical poetics*,²² a work with a remarkable international echo. Later on, in another work,²³ Marcus re-problematized the theme of the artistic language and nuanced some considerations. After an extensive research, he established 53 oppositions between the two types of languages. The two languages are used for different communication tasks, they have different values and characteristics. They express two contradictory poles of the cultural universe. Interferences are possible and natural. The natural, everyday language is at the crossroads of these two types of language.

REFERENCES

Alexandrescu, Sorin, (19712), *Introduction into modern poetics*, in vol. *Poetics and stylistics. Modern orientations, Prolegomena and anthology* (coord. by Mihai Nasta and Sorin Alexandrescu), Bucharest, Univers Publishing House.

Bлага, Lucian, (1985), *The philosophy of culture*, in Works, vol. 9, Bucharest, Minerva Publishing House.

Bлага, Lucian, (2003), *Horizons and stages*, Bucharest, Humanitas Publishing House.

Cesar, Radu, (1989), *Art and convention*, Bucharest, the Scientific and Encyclopaedic Publishing House.

Eco, Umberto, (1969), *The open work*, Bucharest, the Publishing House for World Literature.

Iser, Wolfgang, (2008), *What is the culture today?*, in vol.: Mircea Martin (coord.), *The conferences “The Word”. Romanian identity – European identity*, vol. II, Bucharest, Cuvântul Publishing House.

²¹ *Ibidem*, p. 58.

²² Solomon Marcus, *Mathematical poetics*, The Publishing House of the SRR Academy, 1970, pp. 31-54.

²³ Solomon Marcus, *Art and science*, Bucharest, The Scientific Publishing House, 1986, pp. 79-113.

Huyghe, Rene, (1971), *The power of image*, Bucharest, Meridiane Publishing House

Lipovesky, Gilles, Serroy, Jean, (2008), *The Global Screen. Culture, media and cinema in the hypermodern era*, Iași, Polirom Publishing House.

Mașek, Victor E., (1986), *The art of being a spectator*, Bucharest, Meridiane Publishing House.

Marcus, Solomon, (1970), *Mathematical poetics*, Bucharest, The Publishing House of the SRR Academy.

Marcus, Solomon, (1986), *Art and science*, Bucharest, The Scientific Publishing House.

Sartori, Giovanni, (2005), *Homo videns*, Bucharest, Humanitas Publishing House.

Servien, Pius, (1975), *Aesthetics*, Bucharest, The Scientific and Encyclopaedic Publishing House.

Vianu, Tudor, *Aesthetics* (1968), Bucharest, The Publishing House for Literature.

Vianu, Tudor, (1975), *Studies on Stylistics*, in *Works*, vol. 4, Bucharest, Minerva Publishing House.

Vianu, Tudor, (1979), *Studies on Aesthetics*, in *Works*, vol. 7, Bucharest, Minerva Publishing House.

TUDOR ARGHEZI'S EXCLUSION FROM THE ROMANIAN LITERATURE UNDER THE COMMUNIST REGIME

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Abstract: *This article analyzes the impact of the decisions made by the communist regime in Romanian literature when social realism was introduced as a new rule in the arts. The new cultural trend was not accepted by the Romanian poet because it didn't reflect his belief. Although he was Romania's most important poet in 1947, the authorities' decision was to eliminate him from our culture and literature. The result was Tudor Arghezi's "literary exile", which lasted until 1956.*

Keywords: *Tudor Arghezi, communism, Romanian literature.*

Introduction

In Romanian literature, August 23, 1944 is the beginning of a shift to social realism in literature, a style which has to be followed by all writers. From now on, literature will serve the politics and will be a means of spreading the communistic ideology. The writers who do not adhere to the new direction will be considered dangerous. Literature now represents the main means of people's indoctrination.

Everything must be legitimized now: the communists' glorious past and the present in which a new man is created in a new culture and literature that will reflect the people's struggle to build the new Romania. Tudor Arghezi is the main target of the communists because his past is full of disputes with the previous political regimes and even detentions, all which turn him into a symbol of struggle and disobedience.

Writers are undergoing a process of ideological alignment to the guidelines of the present. The official directions are clear: those who do not obey will be eliminated. But not all of them are completely isolated. Newspapers and magazines sometimes publish propagandistic articles signed by those who were undesirable, though such articles were followed by periods of silence. Others have the chance to be rehabilitated after they are convinced by the authorities to follow the new rules. Romanian writers are attacked in articles published in *Flacăra*, *Contemporanul* and *România liberă*, but they were also given the chance to

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change their mind and adhere to the new political orders in culture and literature¹. This happens in the case of G. Călinescu, Victor Eftimiu, Demostene Botez, Al. Philippide, Cezar Petrescu, Lucian Blaga and Ion Barbu.

The official literary critics start a *purification* process by which *unhealthy influences* will be eliminated. They do everything possible to impose social realism in Romanian literature. The authorities start a campaign to attract writers to the new ideology. The decisive step is made once with the elections held at the Romanian Writers Society and those at the Trade Union Congress of Artists, Writers and Journalists in the fall of 1947.

In this context, Tudor Arghezi's disobedience will be a challenge both for him and the new political regime of our country. There are moments of normality when the authorities try to make him write at their command, but these moments are followed by difficult times when the poet falls into disgrace. His determination not to follow such orders makes him a vulnerable and favourite target for the communists. Not only he, but also his family is attacked now. The journalists Sorin Toma and Miron Radu Paraschivescu were two of the most determined opponents of Tudor Arghezi.

A cordial relationship with the communist political regime

In December 1944, Tudor Arghezi is released from Târgu-Jiu camp. He launches again his small newspaper called *Bilete de Papagal*. Its third series was banned in February 1938. Now, in 1944, the newspaper is published daily, in a two-page large format. In the first article, 'Bilete noi de papagal', Arghezi mentions the most important moments in the history of this newspaper, and also of the problems his articles (which he called tablets) brought about in his life. The poet reinforces his determination and makes a statement of his independence, thus foreseeing future problems: „we will not stop writing because of any press thief we might meet along the way”².

The newspaper appears until the 15th of February, 1945. After this moment, Arghezi publishes one more article in *Scânteia* ('Henri Barbusse'), on the 31st of August, 1945, and 18 articles in *Revista Fundațiilor Regale*, between August 1945 and March 1946. In these 18 articles written by him we can see recurrent themes of his publishing activity, such as the relationship between publishers and writers, the status of Romanian writers in our culture, the need for copyright laws ('Hoțul cu condeiu', 'Noile edituri', 'Procedee culturale'), those that concerned Romanian language and the art of writing. He tries to avoid controversial subjects, such as politics, and takes refuge in his household.

Miron Radu Paraschivescu, the fierce opponent of Tudor Arghezi, attacks him insistently. His hatred towards the poet is sincere, and not manufactured in the communists' propaganda laboratory. In 1945, Tudor Arghezi receives the National Award for poetry from a committee chaired by the minister for arts, Mihail Ralea. His relationship with the communist regime is somewhat a good one, at least temporarily. Due to this award, the poet is praised in many

¹ Cristoiu, I., 'The Arghezi Case' in *Amfiteatru*, XIV, no. 6, June 1979, p. 8.

² Arghezi, T., *Writings IX. Articles in periodicals (1941-1947)*, Encyclopaedic Universe Publishing House, Bucharest, 2006, p. 688.

newspapers, but the first attacks against him are also published now. Miron Radu Paraschivescu signs an article called 'An impostor: Mr. Tudor Arghezi'³, in which he tries to point out biographical information from the poet's past, so that he can compromise both the poet and the man, Tudor Arghezi.

In June 1946, Tudor Arghezi receives the National Award for Poetry. He is also given the decoration called The Cultural Merit. The relationship between him and the communists seems to be good, Tudor Arghezi writing in his articles about certain gestures of courtesy. He receives the literary award not for his present merits, but for his entire career. It is also an incentive for a future obedience.

In 1946, Tudor Arghezi publishes three books. Moreover, on the 29th of December, 1946, the Romanian authorities celebrate 50 years of literary activity of Tudor Arghezi and Gala Galaciton. The celebrations are held at the Ministry of Arts and the Romanian Atheneum. Tudor Arghezi gives a speech at the Romanian Atheneum, in which the poet reaffirms his constant attitude towards his political disobedience: "I would not say that if I had wanted I wouldn't have been accepted at receptions presided by Mr. Dictators of the literature: I think I would have been accepted first and foremost as a waiter. I didn't want that."⁴

The degrading articles published by Sorin Toma in *Scânteia*

Between 1944 and 1946, Tudor Arghezi is attacked constantly in *Scânteia*. It is a reaction to the articles he published in other newspapers. But the communists still believe that Arghezi can't support socialism. He chooses, however, to maintain a neutral attitude when writers are asked to use their reputation to convince the Romanians to accept the new political regime of the country. In March 1947, Miron Radu Paraschivescu publishes the article named 'The Roads of a Poet: Tudor Arghezi'⁵. In this article he describes the problems writers and citizens encounter in Romania. Arghezi also blames the censorship imposed on writers in those years in which they didn't have paper to write on. His opinion is that the everyday life of citizens and writers is truly a "mess".

In 1947, the communists start a campaign against decadentism. So far, the efforts had been focused on attracting new writers to social realism, which represented a type of literature fighting for the regime's propaganda. On September 14, 1947, Victor Eftimiu is elected as President of the Romanian Writers Society. In an article he publishes in the same day he supports social realism⁶. The second Trade Union Congress of Artists, Writers and Journalists, held between 18-19 of October 1947, is a very important step in the process of imposing social realism in our literature and culture. Among other speakers, Nicolae Moraru and Iosif Chișinevschi express their ideas concerning the problems that the Romanian literature is facing. Their ideas will be further amplified by Sorin Toma in his feuilleton from January 1948, 'The poetry of putrefaction or the putrefaction of poetry'. Tudor Arghezi is considered a

³ *România liberă*, III, no. 172, Wednesday, February 21, 1945, p. 2.

⁴ ["Tudor Arghezi's speech"], apud *Writings IX. Articles in Periodicals (1941-1947)*, p. 1249.

⁵ *Scânteia*, XVI, no. 764, Monday, March 3, 1947, p. 2.

⁶ The prejudice of inspiration. Any age is favourable to the creative art', in *the Literary Review*, III, no. 31, September 14, 1947.

“decadent” poet. Miron Radu Paraschivescu, Sorin Toma, Nicolae Moraru, Miron Constantinescu, and Leonte Răutu criticise the Arghegian poetry and highlight its “decadent” elements.

In the fall of 1947, Tudor Arghezi publishes the volume of poetry *One hundred one poems*. Because of the the conflict between him and the authorities, the volume is immediately withdrawn from the libraries. The satirical tone and the apocalyptic vision of the new world presented in some poems are clearly upsetting⁷. The annexation of Tudor Arghezi to the communistic ideology is an unpredictable failure for the communist regime. Arghezi is a peasant who likes living like a rich man; he loves money and lives in a big house, which is rather atypical for a representative of socialism.

The head of the state, Gheorghe Gheorghiu-Dej, is not satisfied with the results given by Miron Radu Paraschivescu’s articles and decides to give this difficult task to Sorin Toma. He is instructed to write a series of articles, helped by the editorial board of *Scânteia* propaganda newspaper. ‘The poetry of putrefaction or the putrefaction of poetry’ is published in *Scânteia* in January 1948 (numbers 5, 6, 7, 10). This feuilleton is an important moment in imposing social realism in Romanian literature. The starting point of this article is the poet’s answer (exposed in the article ‘How we read and understand’) to a question about the role of artists in society. Arghezi was against a question like “What does the artist mean?”, considering that literature is not possible beyond it. This article is just a pretext for Sorin Toma because he further analyzes the Arghegian poetry. It is, in fact, the main target of his article. He explores Tudor Arghezi’s past, trying to find arguments which can show a consistent decadent attitude of Tudor Arghezi. The Arghegian literature is analyzed from the perspective of the “decadent bourgeois art” emergence. He tries to drag Arghezi’s poetry into the chaos of the bourgeois art, which, in his opinion, transmits a message of deep pessimism. In order to accomplish his goal, Sorin Toma first analyzes the “positive” part of Arghezi’s poetry but he advances rapidly to an attack in which words like “selfishness”, “pessimism”, and “decadence” are mentioned constantly.

He gradually insinuates that Tudor Arghezi be excluded from the Romanian literature and society, the communistic journalist trying to highlight the negative ideas promoted by Tudor Arghezi in his poetry. According to Sorin Toma, the darkness of this poetry results from the poet’s lack of respect towards his readers. Moreover, this type of poetry is dangerous because it can spread to younger poets. Intellectuals and writers are asked now to be an example of humanity through the advice they can give to the youngsters. From this perspective, Arghezi’s poetry does not transmit a positive message and is considered decadent, bringing to light only outcasts and thieves. Sorin Toma’s opinion is that the Arghegian poetry sends its readers to the madhouse. In his analysis, the journalist uses words taken from a “putrid” vocabulary similar to the well-known Arghegian “aesthetics of ugliness”. Thus, his literature is turned against him and becomes, in Sorin Toma’s articles, “The poetry of putrefaction”.

⁷ Diac, C., *Taming the writers*, in the *National Journal*, XV, no. 4198, Tuesday, January 9, 2007, p. 27.

The conclusion of this study is that, through his poetry, Tudor Arghezi offers only “spiritual poisons”, deviating from the people's parlance, illustrating his poetic ideas only through trivialities gathered from slums. Due to this article-feuilleton of Sorin Toma, Tudor Arghezi will be persona non grata in Romanian literature for eight years, until 1956.

Arghezi tries to give a written reply to the denigrating articles right in *Scântea*, then in *România liberă*, but is refused by both publications. Firstly, he publishes in the magazines *Vatra* (December 1997) and *Adevărul literar și artistic* (January 1998) an open letter (“Which is the truth in <<the Arghezi case>>?”) addressed to professor Mircea Zăciu. In this letter, it is mentioned that the task and indications for writing the anti-Arghezi article were received from Iosif Chișinevschi, and the final draft of the article was approved by Gheorghiu-Dej himself. The article of Sorin Toma is a success, being offered as a model of Marxist criticism and even introduced as an object of study in the education of party and state.

After Sorin Toma's article, beginning with 1948, for Tudor Arghezi starts a true frost, being at the same time a blow to the Romanian culture. *The Exile from Mărțișor*, as we can call the seven-year period in which Arghezi is held in literary isolation, is practically the third (also the longest) detention which he endures.

Starting with January 1948, after the feuilleton of Sorin Toma, the poet is cornered from all sides by the authorities, being helped by only a few friends. Everything is done to show the poet the dark side of his insubordination. The measures taken are of the nature of constraining him to yield in front of the pressures and determining him to become an active combatant on the line of the ideologic fight: the typography which he built and became functional is destroyed in 1949, the rest being nationalized. Once the thaw begins from the long eight-year winter (1948-1956), all start coming back to normality for him, the poet being reinstated in the literary life of the country. His volumes are reedited, and Tudor Arghezi thus regains his leading place in Romanian literature.

Conclusion

The refusal of Tudor Arghezi of obliging to the instructions given by the communist regime to the Romanian writers brought him the exclusion from the Romanian literature. Especially in the years 1946-1947, Tudor Arghezi was attacked numerous times, especially in the newspaper *Scântea*. Starting with the year 1948, he enters a very difficult period, his volumes being refused at the typography, and his articles not being accepted by any publication. The year 1956 was the one in which Arghezi returned in the foreground of Romanian literature, being restored in his rights.

REFERENCES

Arghezi, T., (2006), *Writings IX. Articles in Periodicals (1941-1947)*, Bucharest, Encyclopaedic Universe Publishing House.

Periodicals:

Diac, C., *Taming the writers*, in *Jurnalul Național*, XV, no. 4198, Tuesday, January 9, 2007.

Amfiteatru, XIV, no. 6, June 1979.

România liberă, III, no. 172, Wednesday, February 21, 1945.

Scântea, XVI, no. 764, Monday, March 3, 1947.

Adevărul, LXI, no. 16796, February 23, 1947.

Revista literară, III, no. 31, 14 September 14, 1947.

WORLD WAR II IN DINU ZARIFOPOL'S NOVEL

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Abstract: *Mankind has always known fear out of various reasons. But we can hardly think of something more frightening and destructive in the history of mankind than war and this may be due to the fact that, first of all, war means death.*

War experience has been one of the main themes approached by literature of all times, all over the world, and the Romanian literature is no exception. There are famous Romanian novelists, who were inspired by war in their writings, but less popular writers have also approached the theme and Dinu Zarifopol is one of them. He is the author of four related autobiographical novels – Naufraziul (The Shipwreck), Moartea lui Levi (Levi's Death), Sah la rege (The King is in Check) and Crima generalului (The general's Crime) - about World War II and its consequences upon the Romanian people.

Keywords: *fear, war, death, fight, courage.*

In his book, *The Language of War. Literature and Culture in the U.S. from the Civil War through World War II* (2002), James Dawes devotes the chapter "Language, Violence and Bureaucracy" to World War II. The chapter begins with the following paragraph: "World War II exceeded all boundaries. Dozens of countries entered the war at an estimated cost in material resources of \$ 1.15 trillion. The Axis forces mobilized approximately twenty million men; Allied forces mobilized twice that number. Two million men fought in the battle of Kursk in the Soviet Union; fifty-five thousand civilians were killed in the bombing of Hamburg; forty thousand in Nagasaki; eighty thousand in Hiroshima; one hundred and thirty-five thousand in Dresden; one million died during the siege at Leningrad; and six million Jews were murdered in Axis concentration camps. By 1945 over sixty million people had been killed, as many as half of them civilians. Many of these estimates are considered conservative"¹.

Reading the quote above is probably enough to make most of the people feel insecure and fearful as it is not difficult to imagine all the atrocities and the suffering war can provoke. Such a painful experience can never be forgotten and this is the main reason why so many writers have chosen war as the topic of their writings. World War II was a source of inspiration for fiction-writers such as Joseph Heller (*Catch 22*), John Steinbeck (*The moon is down*), Markus Zusak (*The book thief*), Kurt Vonnegut (*Slaughterhouse - Five*), Günter Grass (*The Tin*

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¹ Shinagel, Michael, *Harvard Review No. 24 (Spring 2003)*, p. 147.

Drum), Thomas Pynchon (*Gravity's Rainbow*) and many others. Besides fiction, World War II was "preserved" in hundreds of memory books, diaries that were published² and autobiographical novels.

There are more or less famous books about World War II in the Romanian literature. *Delirul (The Delirium)* or *Viața ca o pradă (Life as a prey)* are two well-known novels written by Marin Preda, also including the author's war experience while he was on military-service between 1943-1945.

World War II was only the beginning of what the Romanians will always remember as the worst period in their people's history - the communist regime. Thus, many of the writings - either fictional or memories, diaries - could be published only after the 1989 revolution which meant the end of communism in Romania, as their authors had criticized the communists or they had been victims of the communist torture themselves. Ioan Hudita's "Political Diary" (published in volumes covering a period from 1940 to 1945) and Grigore Gafencu's "Diary", for example, are valuable works from the historical point of view.

One of the few complex writings in the Romanian literature about World War II and Romania's fate after this destructive war - a war in which more than one hundred thousand Romanian soldiers lost their lives - consists of four related autobiographical novels: *Naufraziul (The Shipwreck)*, *Moartea lui Levi (Levi's death)*, *Crima generalului (The general's crime)* and *Șah la rege (The king is in check)* by Dinu Zarifopol. Unfortunately, the author is unknown to most of the common people and even to scholars. His first novel, *Naufraziul (The Shipwreck)* was published in 1994, when Dinu Zarifopol was seventy-three years old. In her book, *Searching for Cioran*, one of Dinu Zarifopol's two daughters, Ilinca Zarifopol-Johnston, writes about this event (in the second part of the book - *Memoirs of a Publishing Scoundrel*): "His novel has come out in a cheap edition, with innumerable typos, even occasional text changes. His editor is either illiterate - and that wouldn't surprise me a bit - or he took liberties. My father, however, is immensely pleased and doesn't seem to mind. He never thought he would see his novel in print. He has been writing this book for thirty years. It was his hobby. He wrote it the way other people play tennis or golf or watch movies. Any time he would feel depressed, he would shut himself in his room and write a few pages. It is a romanticized version of his family saga covering two world wars and the post-war Communist takeover. My father exorcized his demons by writing. To my mother, his writing was a sign of weakness. He wasn't good for anything else; he wasn't made for real life the way she was. But look at him now, basking in his success, with his nearly two thousand pages of manuscript behind him"³. Indeed, as the writer himself confessed in an interview published in the *Vatra* journal in 2000, he had had no idea that he had written a *roman de sertar (drawer novel)*, a phrase used after 1989 for the writings that had been written and kept "in a drawer" as they could have never been published during the communist regime). He had three copies of the manuscript; one of them was taken to the United States of America to Zarifopol's other daughter, Christina Zarifopol-Illias, who had emigrated there in 1980 and the other two were kept "in a drawer" for real.

² See <http://www.bbc.co.uk/history/ww2peopleswar/>

³ Zarifopol-Johnston, Ilinca, *Searching for Cioran*, Indiana University Press, 2009, p. 182.

But who was this Zarifopol family? They have Greek origins and, the same as the Culianu and the Nanu families (to whom they are related), they are a famous Moldavian family. Dinu Zarifopol grew up in a cultural environment; all his relatives had intellectual concerns, being teachers (his grandfather, Gheorghe Zarifopol), lawyers (his father), diplomats, politicians, literary critics or writers. He married Maria Economu and they had two daughters who became professors at universities in the USA. Thanks to Maria Zarifopol and, later, to her daughter, Christina Zarifopol-Illias, the Romanian literature was given a gift of an incredible value: letters written by Mihai Eminescu and Veronica Micle to each other, letters that had never been public before.

This article will focus on the first novel of this “saga”, as the writer calls it. *Naufagiul (The Shipwreck)* symbolizes, above all, the fall of a world, the one to which the author belonged – the Romanian boyars or the so-called *moșieri* (landowners). In Zarifopol’s opinion, the country boyars – whose role in creating the modern Romania between the two World Wars was critical – will never reappear, but they will be replaced by upstarts who made a fortune by illegal businesses. The writer also confessed that, while writing, he was evoking “other moments, other moods, other people who remained unknown due to the negative changes that the Romanian society had suffered”⁴, adding: “I described those times the way I knew them and the way they should have continued to be unless that unfortunate war we fought in the east, due to the incapacity to escape contemporary history, had existed. I wished that people would not forget the world that had existed in our country before the communism that destroyed the best we had ever had”⁵. After all that terrible experience, Zarifopol’s greatest fear was that he would not be able to write the novel that “will rehabilitate him to himself”⁶. However, fear is the feeling which is omnipresent all through the novel as all the characters are afraid of the upcoming war.

The action mainly happens in Moldavia, at Ramureni (Carligi village in the County of Bacau). The safety of this place where nothing evil happens - a concept earlier developed in our literature by writers such as Duiliu Zamfirescu in *Viata la tara (Life in the countryside)* - is now threatened for the first time by the imminent danger represented by World War II. Vincent Renda, the author’s alter-ego, experiences this fear gradually. Living his life at Ramureni, Vincent has no major worries; although war has started, “it had been only an abstraction, something happening somewhere else; something happening to other people. He had adopted a comfortable philosophy, which had helped him times and times again: the things he cannot see, the things he cannot hear, do not exist!”⁷ Consequently, God does not exist for Vincent, either. He is going to take the exam of his life and feels the need to ask for one last postponement, but he has no idea to whom he could ask for this favour. He has not prayed to God since he was eight, before his mother’s death. As God would not answer to his prayer and his mother died, Vincent quit praying and believing in such a merciless God.

⁴ Malamen, Iolanda, *Dialogue with Dinu Zarifopol*, Vatra Journal, no. 1/2000, p. 50.

⁵ Idem

⁶ Zarifopol, Dinu, *Naufagiul*, Lorelei Publishing House, Iasi, 1994, p. 148

⁷ Idem, p. 50

Being asked about his relationship with God, Dinu Zarifopol answered: “My doubts appeared when I understood that it was not God who created the man, but it was the man who created God because he wanted to feel that he was not alone on this sad planet (...). Life after death is only an invention of this human being who wishes for a place where the good can be rewarded and the evil can be punished, because the opposite usually happens on earth”⁸

The dominant figure at Ramureni is that of the Master, Iorgu Sumariotis (the figure of Gheorghe Zarifopol, Dinu’s grandfather). All his life, he has been honest, courageous, hard-working and respected by everybody. But now he is quite old, he understands that his time is over, he cannot fight anymore, accepts that there is nothing he can do; he cannot prevent war from reaching Ramureni. Facing death, aware of his sins, Iorgu is afraid and all he can say is “Help me, God, help me now that I’m dying!”⁹, praying to the same God he has ignored all his life. Iorgu dies and this is how the novel ends. The real tragedy – and Vincent understands this – is the fact that an entire world, the aristocracy, dies with Iorgu. The “shipwreck” cannot be avoided.

One of the major problems during World War II was the situation of the Jews and Dinu Zarifopol also approaches this topic in his novel. Characters such as Levi Bruckner, Wanda Krasnovics, Marcel Herskovics are Jews whose lives are completely changed by war. In fact, Levi’s war experience may be considered the most terrifying of all: “I do not want you to call me *pal*... I’m no one’s pal and no one is my pal... What do you know about life, Sumariotis...what do you all know about life? Life means something different for each of you... it might be the sun and the shadow, the snow and the fir-trees for you... for me, it will always be the stench of the corps in my nostrils... you see life through your boyar eyes... I’ll see it through my Jew proletarian eyes... what do you know about the stench of the corps that were next to me for three days and three nights while I was travelling on the train which was plodding, like an anaemic snake, from Iasi to Giurgiu on that hot weather of 1941...I did not drink a drop of water and I stood next to the dead and alive people of my blood for three days... have you ever stood for eighty hours in a stinky oven, with no water, so you can talk about life? How did I manage not to lose my minds, Pavel? How? Do you want to know my secret? Are you curios? I’ll tell you... I would repeat to myself, with my eyes tight shut... I’m a *roseau pensant*, I’m a *roseau pensant*, I’m a human... I’m a human... I’m not a monkey which is carried from Madagascar to Marseille! But later... Pavel, and you, good women, ... on the concentration camp where I was a grave digger... life was nothing but a fly buzz, big, green and fat flies which had eaten the corps that I could not bury deeper and the animals would take them out at night... do you still want to know what life means to Levi Bruckner?”¹⁰

While for people like Vincent war is nothing but “an absurd game of grown-ups”, for men like Tilica Rosnovan it is “a sublime adventure in a time when adventures were not easy to find. War had turned him into an artist... an artist of the art of killing, but not allowing to be killed”¹¹. The other soldiers were afraid of Tilica,

⁸ Malamen, Iolanda, *Dialogue with Dinu Zarifopol*, Vatra, no. 1/2000, p. 51.

⁹ Zarifopol, Dinu, *Naufragiul*, Loreley Publishing House, Iasi, 1994, p. 495.

¹⁰ Idem, p. 353.

¹¹ Ibiedm, p. 69.

but they would respect him. He would not take prisoners as his theory was: “a bullet and it’s all over. You save one person’s food. You get rid of a potential enemy”.¹²

Even if reality and fiction are embedded in the novel – for example, Vincent does not take part in war, unlike Dinu Zarifopol – we cannot ignore the value of this novel and its importance from the historical point of view, also considering Hayden White’s theory according to which narratives offer perspectives upon reality and “the best grounds for choosing one perspective on history rather than another are ultimately aesthetic or moral than epistemological”.¹³

“Every man’s memory is his private literature”, said Aldous Huxley. The pages written by Dinu Zarifopol represent not only his private literature, but also “the real literature of a constantly persecuted generation; due to hostile circumstances, this literature had to be buried in a drawer with many other surprises to reveal. It is not *un conte à tiroirs*, but *un tiroir à contes*.”¹⁴

The same as Mircea Anghelescu, Romul Munteanu was one of the few literary critics who appreciated Zarifopol’s novels, comparing them to those of Balzac or Tolstoy and adding that “the novels have an open character. It is obvious that Dinu Zarifopol has realized his masterpiece. Written later than other novels of this kind, like G. Malaparte’s or H. Böll’s war prose, Zarifopol’s book is a bright achievement of our contemporary epic, continuing the literary tradition of Liviu Rebreanu and Cezar Petrescu”¹⁵.

REFERENCES

Author’s bibliography

Zarifopol, Dinu, (1994), *The Shipwreck*, Iasi, Loreley Publishing House.

Zarifopol, Dinu, (1997), *Levi’s Deat*, Timisoara, Amarcord Publishing House.

Zarifopol, Dinu, (1998), *The King is in Ches*, Timisoara, Amarcord Publishing House.

Zarifopol, Dinu, (1999), *The general’s crim*, Timisoara, Amarcord Publishing House.

Literary criticism

Malamen, Iolanda, *Dialogue with Dinu Zarifopo*, Vatra Journal, no.1/2000

Michael Shinagel, *Harvard Review No. 24* (Spring 2003).

White, Hayden, (1973), *Metahistory. The Historical Imagination in the Nineteenth- Century Europe*, The Johns Hopkins University Press.

Zarifopol-Johnston, Ilinca, (2009), *Searching for Cioran*, Indiana University Press.

Other

<http://www.bbc.co.uk/history/ww2peopleswar/>

¹² Ibiedm, p. 70.

¹³ White, Hayden, *Metahistory. The Historical Imagination in the Nineteenth- Century Europe*, The Johns Hopkins University Press, 1973, p. XII.

¹⁴ Anghelescu, Mircea, *Instead of an afterword to The Shipwreck*, Loreley Publishing House, Iasi, 1994, p. 504.

¹⁵ Zarifopol, Dinu, *The General’s Crime*, Amarcord Publishing House, Timisoara, 1999, back-cover.

L'ART PHOTOGRAPHIQUE ET L'ŒUVRE DE L'ÉCRIVAIN FRANÇAIS MAXIME DU CAMP –

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Abstract: *When photography appeared it was considered by many artists and writers as a means of reviving their art, creativity, aesthetic and authenticity as well. Such was the case of Maxime Du Camp, a 19th century French writer and pioneer in photography, who became well-known among the Parisian literary circles of his epoch after writing about his journey to the Middle East in his travel accounts, which he illustrated with his own photographs.*

Keywords: *photography, writing, travel accounts, Flaubert, archaeological mission, Orient.*

La photographie a fait son apparition au XIX^e siècle et s'est développée tout le long du siècle; artistes et écrivains ont eu à son égard des réactions contradictoires. Baudelaire la dédaigne royalement¹, tandis que d'autres sont conscients de ce qu'elle peut apporter pour ranimer leur art, à savoir de la créativité, de l'esthétique, de la véridicité. En 1839, en fixant une image sur une plaque, on obtient un daguerréotype (du nom de son inventeur, J. Daguerre). L'apport de la photographie à la diffusion d'images personnelles de la vie des écrivains est indéniable: Zola, Hugo, Pierre Loti, Mallarmé, Verlaine et Rimbaud trouvent du plaisir à se faire immortaliser dans des hypostases agréables. La photographie ne contribue pas seulement pour se faire connaître, mais également pour se documenter; nous pouvons penser à Flaubert, qui se constitue des documents photographiques authentiques sur le site de Carthage pour écrire *Salammbô*, ou à Zola, qui utilise largement la photographie pour la présentation des Trois Villes (Lourdes, Rome, Paris). Donc, l'apparition de la photographie au

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¹ Baudelaire voit dans la photographie le refuge des peintres ratés. Son jugement est manifestement négatif à cet égard: «S'il est permis à la photographie de suppléer l'art dans quelques-unes de ses fonctions, elle l'aura bientôt supplanté et corrompu tout à fait, grâce à l'alliance naturelle qu'elle trouvera dans la sottise de la multitude», cité par G. Décote et alii, *XIX^e siècle, op.cit.*, p. 305.

XIX^e siècle semble être un véritable miracle et un prétexte des débats entre ses défenseurs et ses adversaires.

La possibilité de voyager à travers le temps et les endroits transforme la photographie dans un phénomène scientifique attribué au domaine du merveilleux. D'une part, il va sans dire le fait que les documents scientifiques ont un plus de véridicité grâce aux images (pensons aux planches de *L'Encyclopédie* de Diderot); d'autre part, il y a ceux qui considèrent que l'apparition de la photographie traduit l'incapacité du langage et de l'imagination d'exprimer les faits. La photographie a pour résultat l'immortalisation d'un endroit / d'une personne, tandis que la littérature doit traduire les produits de l'imagination et de l'imaginaire et les rendre réels par d'autres moyens.² Nous avons dans cette opposition la lutte entre le domaine scientifique et celui de la littérature.

Ceux qui défendent la photographie mentionnent une autre qualité en pensant aux longues et ennuyeuses descriptions trouvées dans les livres: par conséquent, le texte devrait occuper une place seconde et laisser l'image avoir la primauté.

Les partisans de la photographie n'oublient pas à mentionner le fait que l'appareil peut immortaliser des détails tellement faciles pour lui, mais vraiment difficiles pour l'œil humain: c'est la raison pour laquelle l'appareil photo et les photographies doivent avoir leur place dans le domaine des découvertes. Un autre atout de la photographie est sa qualité de capter tous les détails d'un endroit, d'une personne sans faire appel aux descriptions parfois ennuyeuses; l'appareil photo 'a le don de donner un coup de main aux yeux et aux mots impuissant de reproduire en détail le passé et le présent'.³

Pour documenter la mission archéologique qu'il avait sollicitée auprès du Ministère de l'Instruction publique⁴ et dans laquelle devait l'accompagner son ami Gustave Flaubert, Maxime Du Camp a décidé de se munir d'un appareil photographique pour rapporter «des images qui [lui] permettraient une reconstitution exacte»; il part en Egypte muni d'une chambre photographique et de 2-3 rames de papier⁵.

Il contribuait ainsi à réaliser la prédiction de Louis Arago qui, en août 1839, chargé de présenter l'invention de Daguerre aux Académies des sciences et des beaux-arts réunies, avait dépeint l'avenir de la photographie en ces termes:

Pour copier les millions d'hiéroglyphes qui couvrent même à l'extérieur les grands monuments de Thèbes, de Memphis, de Karnak, etc., il faudrait des vingtaines d'années et des légions de dessinateurs. Avec le daguerréotype, un seul homme pourrait mener à bonne fin cet immense travail. Munissez l'Institut d'Égypte de deux ou trois appareils de M. Daguerre, et sur plusieurs des grandes

² Voir Schaeffer, Jean-Marie, *L'image précaire – Du dispositif photographique*, Paris, Seuil, 1987, p. 150.

³ Van Lier, Henri, *Philosophie de la photographie*, Paris – Bruxelles, Les Impressions Nouvelles, 1983.

⁴ Du Camp, Maxime, *Égypte, Nubie, Palestine et Syrie, Dessins photographiques recueillis pendant les années 1849, 1850 et 1851, accompagnés d'un texte explicatif et précédés d'une introduction par Maxime Du Camp, chargé d'une mission archéologique en Orient par le ministère de l'Instruction publique*, Paris, Gide et Baudry, 1852.

⁵ Pierre G. Harmant, *Un écrivain paresseux: Maxime Du Camp*, Paris, Seuil, mai 1959, p. 17-18.

planches de l'ouvrage célèbre, fruit de notre immortelle expédition, de vastes étendues d'hiéroglyphes réels iront remplacer des hiéroglyphes fictifs ou de pure convention⁶.

La tâche que s'était assignée Du Camp semblait être en réalité plus modeste, mais la précision, la réalité incontestable de l'image photographique faisaient partie des motivations fondamentales de ces voyages d'exploration qui mêlent art et science, sur les traces de Chateaubriand et de Champollion réunis.

Comme beaucoup d'autres, Du Camp n'a été photographe que pour cette occasion. Il avait appris la technique à Paris auprès de Gustave Le Gray (qui, entre autres, avait pris en photo Du Camp juste avant de partir dans cette grande aventure: la photo, que nous reproduisons dans les annexes, présente le futur photographe bien posé, les jambes croisés, les bras croisés également sur sa poitrine, les épaules tout droits, souple, agile, légèrement tendu, prêt à bondir de son tabouret), a connu bien des déboires techniques sur place mais a été aidé par Alexis de Lagrange, rencontré en route, qui lui a enseigné également une autre méthode, celle de Blanquart-Évrard. Tout le long du voyage, d'Alexandrie à Beyrouth via Jérusalem, Du Camp a photographié les sites et les monuments les plus remarquables, quelques exemples d'architecture civile, de végétation (cèdres, palmiers doums): en tout, **deux cents quatorze calotypes** (dont cent vingt-cinq furent publiés) réalisés en moins d'un an. Ces «dessins photographiques», copié dans les déserts sont aussi admirés par Chateaubriand comme deux cents «révélation étranges» et précises des régions méconnues jusqu'alors.

Il n'est pas proprement dit un «pèlerin du soleil» dans le sens de photographe paysagiste, mais plutôt un photographe de monuments qui est chargé pour mener à bon terme un projet subventionné par l'Etat. Dans une note postérieure, il déclarait: «Les dates sont fort importantes pour une histoire de la photographie: la première épreuve (Alexandrie) est de novembre 1849; la dernière (Baalbek) est du 15 septembre 1850.»

Mais Flaubert donne, dans une lettre d'octobre 1850 à sa mère, des précisions que le ministère n'a pas vraisemblablement connues:

Maxime a lâché la photographie à Beyrouth. Il l'a cédée à un amateur frénétique: en échange des appareils, nous avons acquis de quoi nous faire à chacun un divan comme les rois n'en ont pas: dix pieds de laine et soie brodée d'or. Je crois que ce sera chic!⁷

A la lumière de cette «correction» de Flaubert, nous ne saurons pas trancher net et affirmer que Maxime Du Camp est devenu reporter photographe par penchant ou par pur plaisir ou, au contraire, par crainte de ne pouvoir tout mémoriser, tout noter, tout emmagasiner de ses impressions de voyage.

On hésiterait à affirmer que la vision de Du Camp est classique, puisque, précisément, il est le premier à constituer un ensemble d'images sur papier aussi important. Sans analyser les photographies de Du Camp en professionnelle, nous disons qu'elle est en général frontale, sèche et résolument documentaire; le seul

⁶ Pour plus d'informations sur l'activité de Maxime Du Camp en pionnier de la photographie, voir <http://expositions.bnf.fr/veo/photographes/ssindex01.htm>.

⁷ Voir <http://expositions.bnf.fr/veo/photographes/ssindex01.htm>.

élément «vivant» est l'omniprésent petit personnage vêtu d'un pagne blanc, qui est là pour indiquer l'échelle. Les tirages effectués dans les ateliers de l'imprimeur lillois Blanquart-Évrard sont d'une qualité extraordinaire: après cent cinquante ans, leurs tonalités noir et blanc sont toujours aussi soutenues.

Maxime Du Camp a donc le grand mérite d'avoir été le premier à photographier le Sphinx; lorsque Du Camp et Flaubert sont au sommet du Sphinx, ils sont séduits par le magnifique panorama qui se déploie sous leurs yeux. Tout est au rendez-vous: le temps (la conquête se fait à l'aube), les étendues de sables (les dunes du désert d'un violet sombre leur semblent figées dans l'atemporalité), la vallée du Nil embrouillée leur donne l'impression d'être une mer blanche. L'effet photographique de cette prise de vue est indéniable.

Dans son article de 1959, Pierre G. Harmant, «Un écrivain paresseux: Maxime Du Camp» propose au lecteur et photographe contemporain de suivre fidèlement Maxime Du Camp dans son périple, comme une caméra, qui ait le même goût sur que le pionnier photographe, goût formé aussi grâce à ses études d'art, qui le rend apte à reconnaître et à capter sur-le-champ le point de vue:

Qui n'aimerait suivre notre "amateur" photographe à la sortie de la première cataracte du Nil... Tranquille en apparence, et courant sans faire vaciller les reflets de ses rêves, le fleuve se présente de face, découpé en méandres gracieux, par des collines d'inégales grandeurs qui viennent expirer dans l'eau qu'elles entourent comme un cadre. Au loin, le Nil se raréfie, s'enfonce et disparaît parmi les coteaux que dominent des ondulations de montagnes.

Ces bords du Nil, vieux témoins d'une société disparue, inspirent une sorte d'effroi: le fleuve qui passe pour donner la fécondité aux plaines a fini par entraîner avec lui les terres auxquelles il avait prêté autrefois son limon. Ça et là surgissent quelques lits, comme des vases de fleurs le long de ces steppes mortes, tel celui qui porte le nom d'Éléphantine, en face d'Assouan: quelques mottes de terre retenues par des roseaux et qu'épuise de ses racines un bocage de palmiers.

Au Caire, par contraste on sent une sorte de gaîté devant le tombeau des Califes, puis c'est la mosquée de Naser-Huçan, avec ses pleins cintres et ses ogives, ses 2 dômes revêtus d'une dentelle de guipure, la mosquée du Sultan Berk'ok toute de marbres blancs et noirs presque vénitienne pour nous, à croire que les anciens trafiquants de la Perle de l'Adriatique avaient assimilé le goût arabe à leurs splendides fantaisies.

Le mélange d'arbres élancés, de minarets aigus, d'édifices carrés, de santons à aux dômes arrondis et couverts d'arabesques, donne lieu, souvent, à des paysages ravissants. L'un des plus fantastiques cependant est celui qui représente Sahonadji et le tombeau de Mourad Bey. La mosquée de Hou, triste et close comme un vaisseau démâté est plus étrange encore, mais moins lugubre qu'un certain couvent copte qui s'étale au bord de l'eau sur une falaise rocailleuse que le courant a ciselée. On aurait peine à imaginer qu'une civilisation était parvenue à s'épanouir sur ces rivages si l'on n'y rencontrait des monuments à profusion. Ces débris, loin d'animer ces contrées, ont été si bien assortis par le temps à la couleur du sol, la pierre taillée a tellement repris le grain des rochers, que ces pylônes, ces sphinx, ces colonnes trapues, avec leurs chapiteaux de lotus,

apparaissent aux yeux étonnés comme des productions bizarres d'un pays tout parsemé de roches⁸.

Pour Maxime Du Camp le texte et la photographie savent cohabiter à l'intérieur du livre: nous répétons qu'il commence cette mission de pionnier de la photographie par la parution d'un album de photographies en deux volumes. L'écrivain trouve la photographie la modalité parfaite pour qu'il puisse exprimer ses pensées au plan littéraire; il voit même une interdisciplinarité entre la littérature et la science, interdisciplinarité qui puisse contenter le public, quel(le) que soit sa formation/ son bagage de connaissances. La photographie représente aussi le moyen par lequel il renonce au passé pour être prêt à s'imprégner de la nouveauté des temps nouveaux. Peu à peu, pour Maxime Du Camp, l'écrivain devient la personne juste qui sert de médiateur entre la science (ses découvertes) et le monde avide de tout connaître.

Quel qu'ait pu être le plaisir pris par Maxime Du Camp à ce voyage en Orient, le jeune photographe ambitieux, tout en se sentant un pionnier dans ce domaine, a exploité systématiquement cette mission photographique, n'ayant de cesse qu'il n'eût trouvé un éditeur et produit autour de son album le battage nécessaire pour obtenir un beau succès mondain et de curiosité, au grand agacement de son compagnon de route, Gustave Flaubert.

REFERENCES

Decote, Georges et Dubosclard, Joël, (1988), *XIX^e siècle*, Paris, Hatier, collection «Itinéraires littéraires».

Du Camp, Maxime, (1852), *Égypte, Nubie, Palestine et Syrie, Dessins photographiques recueillis pendant les années 1849, 1850 et 1851, accompagnés d'un texte explicatif et précédés d'une introduction par Maxime Du Camp, chargé d'une mission archéologique en Orient par le ministère de l'Instruction publique*, Paris, Gide et Baudry.

Harman, Pierre, (1959), *Un écrivain paresseux: Maxime Du Camp*, Paris, Seuil, mai.

Schaeffer, Jean-Marie, (1987), *L'image précaire – Du dispositif photographique*, Paris, Seuil.

Van Lier, Henri, (1983), *Philosophie de la photographie*, Paris – Bruxelles, Les Impressions Nouvelles.

<http://expositions.bnf.fr/veo/photographes/ssindex01.htm>.

⁸ Pierre G. Harmant, *cited art.*