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"¡Se Va a Caer, Se Va a Caer!" (It´s Going to Fall, It´s Going to Fall!): The Power of Marxist Feminism for a Political Critique of Patriarchal Capitalism

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Abstract

In this paper, we are interested in recovering some current reflections on the possible articulations between marxism and feminism: on one hand, from the theoretical concern for the particular forms of exploitation of women and the LGTBQ comunity within the frame of a neoliberal global hegemony that acquires a new intensity in Latin America, on the other, from the political commitment to the feminisms and activisms of sex-gender dissidence, social movements that in recent times have achieved a surprising political and social mobilization, articulating diverse demands and heterogeneous resistance practices, constituting a powerful laboratory of political experimentation. While these political and intellectual strategies could be read as particular, scattered, fragmentary or discontinuous criticisms, their power lies in their ability to update and articulate historical content and marginalized political languages, disqualified, discarded by the neoliberal-neoconservative hegemony. The purpose of this paper is to analyze and put into discussion these practices of resistance -its legacies and challenges-, not only from the political creativity that they bring to the scene, but also from their constitutive heterogeneity. Our proposal seeks to recover the diversity and complexity of political languages, politicizing ways of subjectivation, emancipatory imaginaries and resistance practices of feminist activism and sex-gender dissidence that have multiplied in Argentina in recent times.

Keywords: power, Marxist, feminism, political critique, patriarchal, capitalism

Introduction

Against any reductionist exegesis, in this text we support that the large and complex work of Karl Marx laid firm foundations for the political comprehension of the fundamentals and functioning logics of capitalism as a specific way of production of subjects.[1] It cannot be denied that there have been many and diverse the interpretations and political activism that derived from that German philosopher's intellectual enterprise. Between many other things, we are interested in bringing back here some of the current reflections regarding the possible articulations between Marxism and feminism, on one hand, from the theoretical concern about the particular forms of exploitations of women and feminized bodies in the framework of a neoliberal global hegemony that acquire a new intensity in Latin-American; on the other hand, from the political commitment to feminism and activism of sexual and gender dissidence, social movements that in the last moments have achieved an

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[1] In *The Origin of Family, Private Property and State*, Engels (1924) stated that capitalism isn't just a way of production of goods, but also a way of production of subjects. Within this framework, we can ask ourselves about the production of gender, wondering about the rules that reproduce the normative heterosexual family. Feminist that inspired from Marxism and psychoanalysis allied to demonstrate how parenting acted to reproduce individuals that are useful to the capital. That is how, historically, the regulation of gender and sexuality are since always systematically linked to the capitalist way of production, being fundamental for the functioning of said economic, political and cultural system. In an attempt to get past false dichotomies in the heart of the left –issued from a dogmatic reading of Marxism- Judith Butler (2000) questions all those apparent stable distinctions between material and cultural life, warning that its political function is to identify new social movements –such as feminism and sexual dissidences- with the merely cultural, and the cultural with the derivative and secondary.

unexpected massiveness in the political and social mobilization, articulating diverse demands and heterogeneous resistance practices, becoming a potent laboratory of political experimentation.[1]

The feminism-Marxism debate comes back to the forefront

In the last few years, it has been registered a strong reactivation of the debate regarding the role of women in the reproduction of the capitalist system of exploitation and domination from interesting critiques to neoclassical economy that Marxist feminist have been realizing since the seventies.

In a context of worsening of sexist violence all around the world, as well as the public visibilization of the women struggles against all forms of patriarchal oppression, Silvia Federici (2018; 2015; 2013) offers in her profuse work an explanation regarding the necessary role of the oppression of women in capitalism, stating that the latter has had a central function in the process of capitalist accumulation, insomuch as women have been the producers and reproducers of the most essential capitalist good: labor power. In her research about violence against women, sexual division of labor and non-paid work carried out by women, Federici demonstrates that it is possible to transcend the dichotomy between capitalism and patriarchy, giving the latter a specific historical content, within the framework of the problematization of the Marxist concept of labor.

In the same sense, the Italian Marxist Cinzia Arruza (2015) lays out the question regarding how must be comprehended the relation between capitalist oppression and sexual and gender oppression, setting off from the assumption that this way of domination cannot be explained in individual, psychological or relational terms, but it is part of a structural social web, commonly denominated "patriarchy". Inscribed in a Marxist perspective, she resorts to, between other concepts, the notions of power of labor production and reproduction, and that is how she spreads out a rich argumentation in favor of a specific way to comprehend the articulations between capitalism and patriarchy.

From the work of these authors, our main goal is to develop a critical perspective for the analysis of the contemporaneous ways of dominations and the struggles that seek to oppose them. In this text, we take the theoretical and political tools of the feminist movement to clarify some central concepts of the Marxist theory, as well as the "production-reproduction" dualism, form the amplified conception of "labor" that expose the Marxist feminisms. [2]

The problematic nodes of a materialist feminism

In Gayle Rubin's words (1986:5), "a sex/gender system is a set of arrangements by which a society transforms biological sexuality into products of human activity, and in which those transformed human needs are satisfied". In that part of the social life that she calls "sex/gender system", Rubin finds the matrix of women and sexual minorities' oppression.

According to this author, classical Marxism as well as the social life theory aren't interested nor in gender nor in sexuality: "in Marx's social world map, human beings are laborers, peasants or capitalists; the fact that they are also men or women isn't seen as something very meaningful" (Rubin, 1986:5). Nonetheless, because there isn't a theory that explains the oppression of women with the explicative force that the Marxist theory explains class exploitation, there were a lot of

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[1] In Argentina, the feminist movement organized three active strikes against Macri's neoliberal government, and with strong complaints to the union leaders: since 2016, every March 8th the movement showed its massiveness in the streets, within the framework of the "International Working Woman's Day". In 2016, the women movement called for an "active strike" under the "While the CGT drinks tea, we take the streets" slogan (making a wordplay with Spanish word "tomar", which means both "drink" and "take"), and the next year the novelty was that the argentine women movement achieved articulations with women collectives from different parts of the world, the struggle acquiring international nuance: the actions that were framed in the "International Women's Strike" took place in 50 countries, making an important leap in 2018, with the backing of women's collectives from more than 170 countries. The massiveness of current feminist mobilizations is a symptom of this viral effect that we previously referred to. Even more, we can affirm without doubt that in Argentina, "feminism" is an identity category in which are inscribing a multiplicity of political struggles and demands, in an inconceivable way from a decade ago: unionism, "Madres de Plaza de Mayo", national and popular movement lead by Cristina Fernández, territorial base movements and popular economy organizations, and different political parties and non-governmental organizations (Azarian, De Mauro Rucovsky y Martínez, 2018).

[2] We use this generic term to include historical trends of "materialist feminism" in the strict sense –founded by Christine Delphy- and the "feminist workerism" –that emerges from Mariarosa Della Costa and Alisa DelRe's initial considerations-, as well as the current versions of anti-capitalist or anti-neoliberal feminism, that finds in Silvia Federici, Cinzia Arruzza and Nancy Fraser, between others, its main referents.

attempts the oppression of women in the light of Marxist analysis. Between these attempts, there is a study field in the intersection between Marxism and feminism that, in our opinion, is central to comprehend the massiveness and the huge mobilization capacity that feminist struggles currently exhibit, against the deepening of all kinds of inequalities. We refer to the research line initiated by Dalla Cost in 1972 and deepened currently by Federici (2013; 2015; 2018), that basically states capitalism is a system of social production that does not recognize the reproduction labor of women as a social-economical activity and as a source of capital accumulation and, in exchange, it mystifies it as a natural resource or a personal service, at the same time that profits from the non-paid condition of the involved labor.

It is clear that for Marx, the reproduction of power of labor depends on the determination of the quantity of goods –foods, clothes, housing, oil- necessary to maintain the life and the power of a laborer. But there is something that Marx takes for granted, as something natural or naturalized: those goods aren't in an immediately consumable form when they're acquired by salary, "it is necessary to realize an additional work on those things before they can become into persons: the food must be cooked, the clothes washed, the beds made and the wood cut, etc. therefore, domestic labor is a key element in the laborer reproduction process from which the surplus value is extracted. As in general there are women who do the domestic labor, it has been observed that it is through the reproduction of power of labor that women are articulated in the nexus of surplus value that is the sine qua non of capitalism" (Rubin, 1986:8).

In this historical framework, the question that arises is why have been women that took charge of domestic labor and not men? Gayle Rubin comes back to the exam that Marx made in the first tome of The Capital of reproduction of labor and states that: "what is needed to reproduce the laborer is determined, in part, by the biological needs of the human organism, in part, by the physical conditions of the place he lives and, in part, by the cultural tradition" (1986:9). It is precisely that "historical and moral element", by Rubin's words, "that gave capitalism a cultural inheritance in the form of masculinity and femininity", a long tradition in which a wife, a mother, or any woman that does the reproductive labor is one of the needs of the laborer. Thus, the concept of social reproduction indicates the way that's organized, in the heart of a society, the psychological, mental and emotional labor necessary for the reproduction of the population: from the preparation of food to children's education; from the caring of the sick and older people to the home, passing through sexuality. To the theorists that have found a necessary relation between capitalism and patriarchy, capitalism isn't just a combination of purely economic laws and mechanisms, but a complex and articulated social order, with internal relations of exploitation, domination and alienation. In this way, the dynamics of capitalist accumulation keeps producing, reproducing, transforming, renovating and maintaining hierarchical and oppressive sexo-generic relations (Arruzza, 2016).

Final reflection

To conclude, we want to point out what is –from our point of view- the most important contribution that Marxist feminism make to the current debates around neoliberalism: make visible the role of the social reproduction in the production of economic value, warning that reproductive labor that women do is unequally distributed and not valued.

Even if we give a step back, we can state that from the interjection between feminism and Marxism comes off that the main conflict in the capitalist society is not between capital and labor, but between the reproduction of capitalism and the reproduction of life. About this aspect, it is possible to stand out a theoretical-political position that it is starting to gain strength as much in activism as in the local academy: the feminist economy. This must be understood as a bet for another economy, to decenter the markets, for another way to organize the reproduction of daily life: an economy led by people's vital desires and not by the reproduction of capital, because the sustainability of life is what is at stake in neoliberalist capitalism.

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The Need for Evidence-Based Practice in the Foster Care Field among Social Workers in Gulf Countries

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Abstract

The demand for Evidence-Based Practice "EBP" has been growing for a long-term and yet, there isn't a reply to this growth. Social Workers continue to rely on personal perspective, common sense, tradition when working with their clients in the foster care field as well as their personal beliefs in their assessment and intervention plans. Throughout a journey around the GCC countries to compare the adoption systems, and the social worker's work perspective in all the assessment stages, and tracing to intervention plans or treatment methods; it was noted that social workers still consume and revive an environment free of any evidence-based practices. In order to patch this glitch a sample of a practice sheet that consists of theoretical framework can be used as a temporary solution in order to provide an evidence-based practices in the foster care field.

Keywords: evidence-based practice, biopsychosocial-spiritual model, adoption social worker

Introduction

Minimizing the gap between theory and practice has been the primary concern of every major in the world, especially social work; a major that's relatively can be considered a newly found major. The current practices of social work should rely and compose of scientific aspects in all ways merging from interviewing and concluding with evaluation stage. Evidence-Based Practice "EBP" is defined as a "Treatment based on the best available sciences" (Howard, McMilen, & Pollio, 2003). Failure to adopt more scientifically practice methods and evidence-based approaches have a disastrous consequence that will lead to the marginalization of Social Work profession, as well as the service providers, as they will constantly promote their personal experience or sense of wisdom that might not always be empirically correct within each individual case (Howard, McMilen, & Pollio, 2003).

Nevertheless, an adoption Social Worker who works in the foster care system is expected to fulfill a full social study of each family desiring to adopt, and then it is expected that after the adoption process takes a place a social worker is supposed to regularly visit the homes of those who have adopted on monthly/weekly paces, and Therefore, construct a report about the case he/she is assigned to, also an adoption social worker is supposed to be the professional assigned by the foster care system to care for the wellbeing of the adoptees within spiritual, social, psychological, financial, personal aspect (The Kuwaiti Family Nursing law, 2015). In other GCC countries this doesn't differ as (The United Arab Emirates Ministry of Social Affairs Executive Regulations, 2014) have also added the assessment, evaluation, and psychological interventions as crucial parts. Aspects such as the social worker's main jobs which is guaranteeing the wellbeing of the adoptees in all aspects haven't been discussed in the (Kingdom of Bahrain Executive Regulations, 2007), but the main characteristic of the law doesn't stray from the Kuwaiti and Emirati laws.

Now, in terms of any challenges facing the adoption process social workers are assigned to make a case report through a long process of assessment and eventually intervention and evaluation. Social Workers seem to believe that evidence-based practice isn't needed much as they rely on their education, only, their view towards evidence is positive, yet their use is moderate when working with their client (Teater & Chonody, 2014). In (Ruth & Matusitz, 2013) it was found that social workers neglect the use of evidence in their practices, and Therefore, the gap between research and practice is widening and that leads to the failure of social work as a major.

Objective

According to (McNeece & Thyer, 2004) an observer from outside the Social Work profession would assume that Social Workers rely on the latest researches in their work. Yet, that's not the case as Social Workers depend on practice wisdom and common sense in deciding how to assist their clients.

On the other hand, when using Evidence-Based approach the practitioner "relies on the efficiency data when recommending and selecting treatments and uses a systematic hypothesis testing approach to the treatment of each case" (McNeece &Thyer, 2004). In a study conducted on clinical psychologist it was found that the psychologists resistance toward EBP generate into six domains some of them are educational and attitudinal obstacles which means a feeling of discomfort in utilizing advance knowledge in psychotherapy, deep-seated misconceptions about the human nature which means that the psychologist hold mistaken beliefs toward their clients (Lilienfeld, Ritschel, Lynn, Cautin & Latzman, 2013).

In order to find a solution to the neglection of evidence-based practices this research paper introduces a new work model that has the format of a practice sheet that formulate the performance of social workers in foster care system into a more Empirical, Evidence-Based approach. According to (Selwyn, 2017) adoptees in the foster care system have the characteristic of being more than just "damaged kids" they need a full assessment that understands these characteristics and Therefore, provide the children and the parents with a better intervention in case of difficulties; the services of social workers should be concentrated and built on the best research and clinical practice.

This practice sheet can be used as an alternative to the work forms used by social workers when they try to make a report about their checkup visits, or when they are trying to put up an assessment/intervention plan. It has a supported component that is based on the best recent available scientific evidence.

Definitions

Evidence-Based Practice

According to (Sackett, 1996) Evidence-Based Practice originate from the medical field, and dates to the mid-19th century; this practice means the use of the latest expertise when deciding to care for the individual, it also means integrating the recent clinical expertise and the best outer clinical research expertise into practice.

EBP doesn't exclusively intervene with the code of ethics of social workers, as it doesn't take a complete medical approach excluding the client from any decision taking. According to (Pape, 2003) EBP is the combination of the best available scientific research with the clinical expertise and the addition of the clients desires these desires can be known through a good assessment period before intervention while knowing and respecting each client's culture.

This type of practice doesn't exclude you from using your own empathy or reading the client's reality; which is a questionable matter in the field of medicine, it's utilizing of the best knowledge a general practitioner hold's when treating his/her clients (Morse,1994). Yet, it isn't the same way in the field of social work as reading the reality and dealing with client using language is our primary concerns of all time.

According to (Leff & others, 2001) EBP in social work is the use of latest evidence to answer the questions of a client's/organization's needs; it's a process where a social worker uses researched interventions, clinical expertise, client's preferences, and culture to deliver the client the best service a social worker may offer.

Adoption Social Worker

According to (adoptionchoicesofarizona.org) an adoption social worker works in two stages pre and post adoption; for the pre-adoption the main concern of the social worker is the family as he/she prepares the family into knowing the process of parenting, parenthood, and ensures that family has the correct idea about the life span and cultural differences of the adopted child. In post-adoption the social worker's job is to ensure a healthy life between the adopted child and adoptive parents through a systematic process that requires a full knowledge about both the parents and the child.

According to (child-familyservices.org) conducting an assessment about the child's weakness/strengths, service needed, appropriateness for the adoption plan, in other terms the social worker's job is ensuring he/she has the full knowledge about the child referred to adoption; a supervision of the adoption process that consists of frequent home visits as well as planning intervention when needed is also a main requirement for the adoption social worker.

According to (travel.state.gov) an adoption social worker is supposed to conduct a full social study about the child meant to be adopted as well as the home of the parents who are applying to adopt a child, application of clinical skills in terms of counseling, post-placement and other services needed by the adoptive family or the child whose adopted.

It seems within the previous resources that the responsibilities of an adoption social worker divides into two stages pre-adoption and post-adoption, and every process needs to ensure a perfect assessment plan in order to provide the perfect family for the child waiting to be adopted, and at the same time ensuring a frequent checkup visits to prevent any future difficulties as well as applying the best intervention methods in case of difficulties.

Biopsychosocial-spiritual model

The history of Biopsychosocial-spiritual (BPSS) model originates from the complaints of psychiatrics that the neglection of the medical model and adopting more of philosophical schools and schools of thoughts have ruined their practices. Eventually, a researcher has introduced psychiatrics with a solution (Engel,1977) he has proposed a new alternative model to be applied in the psychiatry field backed by the general system theory; the biopsychosocial "BPS" model that can act as a blueprint for the world of psychiatry and a new model to be adopted to conduct research and treat mental illness patient more effectively. This model assesses a patient from the subatomic level all the way to the open system in a multidimensional linear way of thinking that looks at each area separately and addresses each problem individually, and at the same connecting it the system it was made of (e.g. A flight-fight response in the nervous system "heart attack" affects the personal level system "feeling scared/unsure/denial" and Therefore, affects the interpersonal system "frustration with co-workers", and all the way to the family system "family problems that affects the nervous system even more" ending with an open community system "adopting hard-work to neglect the problem that eventually affects the nervous system and cause the person to collapse").

In his later paper (Engel,1981) the researcher has adopted a more empirical way to imply the BPS model in the health care system explaining with a simplified manner how is the BPS isn't a burden on the physician, rather it's an extended knowledge that doesn't violate the health care plan for patient but adds more information about the psychosocial aspect to the physician general knowledge.

According to (Suchman, Carrio & Epstein,2004) the BPS model isn't a new discovery, but rather a widening scope to the physician previous scope; in their paper they propose new adjustment to the BPS model which include various aspects such as the need to teach emotions, self-awareness, communicating clinical evidence to foster a better dialogue. It appears that this model can absorb better attribution as the previous paper has done, which isn't a flaw of the model, the BPS-S model has added a new aspect when it was backed by the general system theory. Thus, better specification can always be modified to its application when used via physicians or social workers/psychologists; an article can be found in (Nevada School of Medicine, website "med.unr.edu") that precisely follows this pattern, they have added new areas to the mode, and apparently specified and detailed the way to use the BPS-S model.

It was worthy to say that the spiritual part of the model isn't well understood as it has been only added recently. According to (Sulmasy,2002) in his paper he is acknowledging the spiritual need and proposing it to the model; he argues that patients in previous papers have wished for their physicians to have cared about their spiritual needs, eventually the researcher argues that the need to understand the spiritual aspect is important and a part of the patient care plan.

Methods

Ethical approval

Approval for this study was obtained from participants. They were informed verbally and via email that my interviews had a scientific purpose and Therefore, they have the consent to withdraw at any point and that the data will be handled with all respect to anonymity and confidentiality. Prior to data collection, before the interview an unpressured decision about taking part of the interview was stated, and all participants were informed that all data meant for publication. During the interview participants were given time to think and answer clearly in their own pace without interruption. After the interview all participants were mailed their answers in order to receive a better feedback.

Study population background

In the Gulf Cooperation Council "GCC" region, foster care is based on a unified system and orphans are to only be considered for adoption, not any orphans as only those who have been neglected/denied by their own parents since birth fall into the orphans who are eligible for adoption.

Not mistakenly, the process of adoption takes the same course in all the countries. A family/single mothers apply for adoption through an adoption form, then the social workers attempt a background study using a form named the social study form. After that, a committee that exists in all the countries named "The Foster Care Committee" decides based on the social workers report whether a family deserves to adopt. After all, any family that adopts must expect regular visits from the social workers, and the social workers must use a work form named the routine checkup visits form. This process lasts until the adopted individual reaches 21 of age, or 18 in other countries.

Study design and sampling procedure

In this research a qualitative approach was conducted between September 2018 until January 2019. Qualitative approach is used when trying to understand the addressed issue from the informant's' standpoint. All the data were collected using interviews with a non-probability method in selecting the sample as it was a purposive sampling for the sake of this study. All participants had to be Social Workers working in the foster care field regardless of their college degree in order to provide answers for the questions that are previously concerned with the research subject.

The sample consisted of 13 foster care social workers in total. 2 of the social workers worked in Dubai foster care section in the authority of social development the adoption department one of them was the head of the department the other was a service provider. 1 of the participants was In Bahrain in the Betleco Home for orphans sponsored by the ministry of Social Development she was the only social worker as a service provider and the head of department. 10 of the remaining participants were based in Kuwait only 3 agreed to participate two of them are service providers and the remaining one is the head of the department.

Data collection

A face to face interview guide was developed to ensure consistency in data collection among interviews. Any sort of documentation methods was not used in order to give the interviewed individuals a more comfortable space to speak their mind. Document analysis was a method used to confirm the statement of each social workers, and to provide a better insight of whether the forms consisted of evidence-based direction. The questions were open end questions and designed to elicit discussion regarding work forms and evidence-based attitude in the social workers practices while working in a clinical setting in the foster care system or/and only service providing works (i.e. an applied theory has been used in the routine checkup forms in order to support further assessment in case any client needed intervention) and to elicit more discussion examples of questions 'could you describe the main theoretical framework you personally follow in your work with your clients?, and 'what are the models that support the work with clients who are in their teens?'. A topic list previously prepared in order to not stray from the research purpose and main focus was supported with the evidence-based perspective regarding the work of social workers in the foster care system.

All interviews were performed in a comfortable and private area chosen by the interviewed individual. The Bahrain interview lasted 4 hours, the UAE interview lasted 7 hours, the Kuwait interview lasted 6 hours; all interviews included one-hour break in total chosen on different periods when the interviewee requested.

Results and Discussion

'regarding the work forms "the social study/the adoption/the routine checkup forms which one is supported with theoretical evidence to ensure a better assessment?'

Kuwait: two of the participants concluded that none of the forms were supported by any evidence-based structure, and one of them emphasized that *"all the work forms were created before I was employed, I haven't known the direction it follows".* After document examination it was noted that no theory, model, perspective is used in all the forms and they are generalized question. Another participant added to this point as well *" when information seems important but aren't found in the forms, we add it to a sticky note and stamp it on the forms, or sometimes we write the note on the back of each*

paper". It seems that none of the interviewee knows how to apply an evidence-based perspective in their work forms. Assessment seems far from being supported via evidence.

Bahrain: *"all our work forms were provided by the ministry as I don't control the construction of it. It's possible that it's not supported by any theoretical frame".* After examining all the work forms it seems to carry out questions related to an overall knowledge about the adoption process hence the checkup visits forms, in other terms, the rest of work forms lack basic evidence as they are fill in the blank forms. During the interview the social worker concluded that her responsibility to seek out the best interest of the adopted individual. The interviewee added *"my main job doesn't include making any intervention plans in a clinical manner, as it's a direct intervention when a problem is presented such as cancelling the adoption contract when an abuse is noted".*

UAE: after reviewing the documents it was found that none of the used work forms are supported with any theoretical framework, that they were built on fill in the blank form regardless of using these forms in further future assessment for any intervention plans. Both the interviewee agreed that their work form include any hence of supported evidence as they are made by the social workers *"we might be named social workers but in fact neither of us majored in social work, as my co-worker is a psychology consultant graduate, and I'm an IT graduate".* The previous statement seems to clarify the doubts regarding the work forms examined.

'Regarding the routine checkup visits forms is it specified to each age group? (e.g. As you work with children there are some essential questions that has to be addressed to both parents and some observations that has to occur, while working with teens should require more exclusive subject important to their age)'

Kuwait: It was noted that during the interviewees none of the participants confirmed an existence of any specificity toward any age group. It was noted that all the adopted individual was treated fairly as the routine checkup form only consisted of a blank paper with a title and they had to only write their thought into it. One of the interviewees added *" our form is open to our own thought, but I believe that it's negative as not every social worker would care to ask all the question she should, most social workers will chit chat their way in the routine visit with the families".* Another participant added *" the age group isn't something we focus on much except for some essential questions addressed for infants to the families. Have the family nursed the infant? Have they told the child once he/she is 7 if they are adopted or not?".* Through the interview the social workers complained that they didn't have a guide as to what to follow in their routine checkup visits and what aspects should they care about in order to prevent future complexities.

Bahrain: There isn't any document specified to different age group. Through the interview the participant added *" My work is mostly focused on orphans existing at the care center rather than adoptee. I believe after a careful study we have only given the best families a chance to adopt. I didn't need to worry more about a routine visit".* During a further discussion it seems that the participant had dual job of caring for two categories and Therefore, the social worker had more attention to the orphans at the adoption center. Yet, she doesn't deny her need to improve the routine checkup forms to address better questions to each age group.

UAE: Throughout examining the work forms the social workers use it seemed that they only include a set of questions directed to all orphans and isn't specified for any age group. A participant added *"we are a newly found department in the authority. Most cases we deal with are younger than 12 years of age. While other adoption department throughout the UAE such as the one in Abu Dhabi is actually dealing with different age groups and is older than our department".* With further discussion the social workers seem to carry or want to carry out a plan to look after the younger generation when they grow up.

' have you faced an issue with the adoptee or the family that needed an intervention plan?'

Kuwait: *"Indeed, it is something essential whenever you work in a foster care setting, yet we don't come up with a plan"* a participant. The main work for social workers in the department seems to carry out a direction of service provident without the need to look up for any issues and further asses them. Another participant added *" whenever I face an issue, I refer it to a more specialized professional. I feel unequipped to deal with issues as my main job is to ensure if the adoptees are in a good care and obtaining their monthly allowance from the ministry".* It was evident that the social workers don't believe they are equipped to deal with any form of problems and can't even assess difficulties or put up an intervention plan as problems such as depression, anxiety, PTSD, or even consultations about any subject can't be done they refer any problem to a psychiatric.

Bahrain: Issues fall behind the field of the expertise to the social workers as she only gives up consultations' services for minor difficulties such as where to work after graduation or how to put up with a stubborn kid, or at what age should they address the child about his/her social situation. The participant added *"In case of issues that need intervention there is always my boss at the ministry who does this work, furthermore, any psychological distress will be sent to a psychiatric"*. A basic level of an intervention plan isn't acknowledged it seems that the social worker provides only services.

UAE: *"We haven't yet faced an issue due to the new existence and the age groups we are dealing with".* After further discussion, it seems that for sure none of the participants were or held a degree that qualify to address issues that need an intervention plan. Also, they don't count on or know of basic theoretical frameworks. The whole atmosphere seems to be service providing and nothing more. Checking up on adoptees is the main target as it seemed. Another participant added *" when you talk about theories I don't seem to relate as it's beyond my level of expertise. I'm only an IT, but I can use some of the knowledge acquired in books to provide consultation for the adoptee".*

' In case a form that is based on theoretical framework, intervention plan with a model that suit the cases of adoptees was given to you as a practice sheet to work with. Will it motivate you to acquire a more evidence-based work with the adoptees?'

Kuwait: After introducing a solution that has the components that the social workers need to asses and then intervene in case of future issues that was made by the researcher to solve the issue of helplessness and the lack of evidence-based practices with the adoptee the response was from the participant very positive as they seemed to admire the solution. A response from one of the participants was *" This will boost up my work as I do need to deal with my clients in a more professional matter".* Another participant added *" I surely, feel that having a practice form that reminds me of how a theory/model should be applied into work will assist my work".* Another participant response was *" I'm very glad to back up my work with a more evidence-based practice, as I seem to have forgotten all the things I was taught during collage".* It seemed like a great add to their collection, specially that an assessment seemed to carry out through the routine checkup visits and that will prevent any issues before they occur.

Bahrain: After introducing a solution that has the components that the social workers need to asses and then intervene in case of future issues that was made by the researcher to solve the issue of helplessness and the lack of evidence-based practices with the adoptee the response was from the participant very positive as she seemed to admire the solution. The response from the participant was *" That's exactly what I need in order to assess not only the adoptee also the orphans at the center".* After further discussion about the practice form the social worker asked for copies in order to improve her judgment towards issues.

UAE: After introducing a solution that has the components that the social workers need to asses and then intervene in case of future issues that was made by the researcher to solve the issue of helplessness and the lack of evidence-based practices with the adoptee the response was from the participant very positive as they seemed to admire the solution. One of the participants *"I have always wondered on how to provide an assessment based on evidence and an intervention plan based on a model. Applying theory into work seemed to be bewildering".* After further discussion about the contents of the practice sheet it seemed that one of the participants had a key question *"what if the adoptee needed another theory/model to address his/her issue?".* The researcher explained that this practice sheet is the gateway to the evidence-based work. Once the social workers get hold of it, they may use other theory/model without any concerns.

Limitation

Only 1 social worker out of all the interviewee was majored in social work.

The proposed solution is a temporary solution, as social workers need to keep updating themselves about the recent available scientific evidence.

Studies about the effectiveness of this method -using practice sheets to regenerate knowledge- as a solution should be conducted.

The theory, model, and perspective used in the practice sheet doesn't cover all cases; each case is individual and need a specialized and unique tool for assessment and interventions.

Changing the belief of helplessness and inability to utilize knowledge in practice seems to be far from reach as even with the proposed practice sheet it might not serve the purpose to create a more enhanced well.

Conclusion and Recommendations:

After fully examining the Social Workers work practices, models, and forms used in the foster care setting in Gulf Countries It was noted that in the field of practice; no single clue of Evidence-Based attitude is noted in the previous countries.

According to (Murray,2016) dissertation he recommended that in the adoption setting in order to provide a more evident choice for parents who are welling to adopt there should be a specific instrument in order to evaluate parents in order to reach a standardize foster care screening.

There was a way to solve the problem of non-existing EBP by proposing a practice sheet that can be used by social workers in their monthly/weekly checkup visits, their assessment and intervention plan when dealing with challenges. This practice sheet is based on the system theory, power perspective, and biopsychosocial-Spiritual Model. As advised this practice sheet seems to carry a fundamental assessment tool that holds a profound record during the whole visits period; In case of challenges the information collected can be transferred onto a form created and named the "The Challenges File" that utilizes the previous three components into practice, guiding the social workers step by step in how to use the theory to explain the problem and how to apply the model into an intervention stage while relying on the power perspective. Further research seems to be needed for after the application period to measure if it has assisted social workers for sure and drove them into a more evidence-based area of practice, and if this practice sheet can replace the feeling of helplessness when working with clients, as the social workers confessed in the interviews that they have forgotten their previous basic knowledge from the university.

Appendix

Disclaimer: All the following documents are shared within the original format; the translation part was not commissioned by the adoption social workers. It's the researcher own effort to clarify the meanings.

Appendix A

Checkup visit forms (Kuwait)

The first appendix is a checkup visit form from Kuwait.

On the top right is the Country's logo, beneath it is a text stating "The Ministry of Social Affairs" then "The Family Nursing Administration" then "The Family Nursing Department".

On the following row is a title "Home Visit Report".

After the title a row that says on the right "The Name" on the far left "The date of birth".

At the following row, on the right "The Home Address", on the left "The Home Visit Date".

There is a full empty space left for the social worker to write her own thoughts about the visits.

At last, on the right "The Social Worker" as a signature, and on the left "The date" meaning the date of the report.

Appendix B

Checkup visit form (United Arab Emirates)

The second appendix is a checkup visit form from the UAE. It's designed in a survey's format.

The first row is explained in English already, following that a title that states "A Child's Follow Up Standards".

In a box are "Primary Data" explaining each statement from right to left; "The Follow Up Date", "The Follow Up Type". In a solo row "The Family's Reference Number", the next row "The Family's Name", "The Phone Number". In the upcoming three rows "The Address", "The Child's Name", "The Date of Birth".

A solo title stating "The Pivots of Living Circumstances Standards for the Adoptive Family"

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Later, there are three schedules each stating on the left "The Pivot", and on the right three answers "Yes", "No", "Isn't Applicable".

The first box of questionnaire has the following title "The legal Situation". Beneath the title are five questions which are: "Is There a Birth Certificate for The Adopted?", "Have a Passport Been Provided", "Have a Case Extract Been Provided?", "Have an ID Been Provided for the Adoptee?", "Is There Any Form of Law Crossing?".

At the bottom of the first box are two statements that exist in all the following boxes which are "Observations", and "The Intervention Plan".

The second box has the title "The Social Situation". Beneath it are seven questions which are: "Does the Child Acknowledges His/Her Social Situation?" meaning does he/she know that they are adopted, "Does the Child Have a National Identity?", "Are There Any Undesired Social Behaviors?", "Does the Child Practices His/her Religious Beliefs?", "Does the Child Have Any Hobbies?", "Is the Child Accepted in the Family?", "Does the Child Accepts His/her Parents/Siblings?".

The third box has the title "The Educational Situation". Beneath it are four questions which are: "Does the Child Continue/Obtain Education?", "Is There a Communication Between the Family and the School?", "Is the Child's School Performance Good?", "Does the Child Involve in Outer Class Activities?".

The fourth box has the title "The Health Situation". Beneath it are five questions following to the next page which are: "Have a Health Care Been Provided?", "Have the Child Received all His/her Injections?", "Does the Child Suffer from Any Disabilities or Diseases?", "Does the Child Suffer from Any Mental Diseases?", "Does the Child Need Any Surgical Intervention or Hospital Admission?".

The fifth box has the title "The Residential Situation". Beneath it are four questions which are: "Is There a Separate Room for the Child?", "Is the Child's Room Furnished?", "Is the Light and Ventilation in the Room Suitable?", "Are There Any Precautions Guaranteeing the Child's Safety?".

The sixth and last box has the title "The Financial Situation". Beneath it are four questions which are: "Is There an Independent Income for the Child?", "Are There any External Resources for The Child?", "Is There a Saving Account for the Child?", "Are There Any Financial Challenges?".

At the bottom there is a row that has on the right "The Name of The Follow Up Social Worker", and on the left "Signature".

There is a solo row that says, "The Social Worker's Recommendations".

The following row has the title "The Social Worker's Approval". Beneath it are two rows with titles saying "Name", then "signature".

The following row which has two check boxes has the title "The Replacement Care Head of Department Approval" the replacement care is the name of the department that deals with adoption in the UAE. The check boxes say "Approved", "Not Approved".

The last three rows have the following titles "The Observations/The Instructions", "The Name", "The Signature".

At last, there is the document's reference number "CDA-PSS-FD-05-F05".

Appendix C, D, E, F

As mentioned in the recommendations the researcher came up with a solution to have the social worker's practices more evidence-based. The following documents are supported by the system theory. They are supposedly designed to serve a key purpose as an assessment tool when using "Appendix G" which will be the "The Challenges File" which uses the system theory as an assessment tool, the BPSS model as a model of intervention and is backed by the power perspective. The Following appendixes are divided into four categories:

The Infants below two years of age (Appendix C).

The children pre-school age three until six years of age (Appendix D).

The Children pre-teen age from seven until twelve years of age (Appendix E).

The teenagers form from thirteen until twenty-one years of age -the reason above eighteen years are considered teenagers because according to the law of Family Nursing in Kuwait, checkup visits must continue until the adopted individual is at 21 years of age- (Appendix F).

All the forms are written in a survey style with pivots to be answered. The pivots of each age group are unique with the respect of the adoptees age needs in addition to the Kuwaiti Nursing Law Requirements.

Appendix C

An Alternative Checkup Visits Form (Infants Category)

On the top is the country's logo, and the name of the ministry "The Ministry of Social Affairs". On the top right is the phrase "The Family Nursing Administration".

Following up the title "The Infants Checkup form". Beneath the title are four primary information that are required from the right "The Child's Name", on the left "The Date of Birth/Age", on the following row from right "The Name of the Adoptive Family", on the left "The Date of Adoption".

Following up is the first pivot "The Financial and Health Aspect" with nine statements that must be answered with a check mark either from the right "Excellent", "Acceptable" and "Weak", and "Notes" this is a free space for the social worker to explain why it is weak or acceptable.

The statements: "The House is Well Cleaned and Tidy", "The Financial Statues of The Family is Excellent, and the Adopted Have His Saving Account", "The Family has Fulfilled the Adopted Needs (e.g. He/she Has Their Own room, Personal Equipment, A Play Room)", "The Child Feeds Naturally and in a Healthy Way", "The Child Has Been Nursed According to the Sharia Law" this is a requirement in the Kuwaiti Law that every adopted child has to be naturally nursed in order to be a part of the family according to the religion of Islam, "The Child is Naturally Growing Regarding Body Features and Movement Aspects", "The Child Has Received All the Required Injections and Isn't Suffering from Any Health Issue", "The Child Sleeps Enough Hours that Fits His/her Age", "The Child Can Naturally Move and Isn't Suffering Any Functional Damage".

The second pivot is the "Cognitive and Psychological Aspect" with seven statement which are: "The Child Spends Most of His/her Time with the Adoptive Parents", "The Child Sleeps with the Adoptive Parents" this statement goes for children under the age of one year, "The Child Linguistic and Cognitive Abilities Fits His/her Age", "The Child Can Recognize the Adoptive Parents when Observed", "The Child Can Talk and Put Up Understandable Sentences", "During the Home Visit the Child Can Point to Things and Recognize them, and Play With His/her Own Toys", "The Parents Aren't Struggling With the Adopted Child".

The third pivot is titled "The Social Aspect" with six main statements which are: "During the Interview the Family Seems to Love and Have Interest in the Child", "The Child Has Been Introduced and Accepted in the Extended Family and Its' Children in a Healthy Way", "The Child Doesn't Spend Time Online and on Video Games", "In Times of Distress (e.g. a Crying Child) The Parents Can Obtain the Situation", "The Parents Attend Workshops Done by the Family Nursing Administration to Gain Better Knowledge About the Adopted Child", "The Parents Aren't Annoyed by the Social Worker's Visit".

After the pivots there is a row titled "The Social Worker's Impression" it's a free space to express thoughts.

After the impression, there is a row with the title "The Roles of Social Worker" this section is divided into four stages "Personal, Psychological, Social, Health/Religious Fulfillments" In case a social worker has done any form of immediate intervention.

At last, the "Name, Date, Signature" concluding the checkup form.

Appendix D

An Alternative Checkup Visits Form (Pre-School Category)

On the top is the country's logo, and the name of the ministry "The Ministry of Social Affairs". On the top right is the phrase "The Family Nursing Administration".

Following up the title "The Children age 3 to 6 Checkup form". Beneath the title are four primary information that are required from the right "The Child's Name", on the left "The Date of Birth/Age", on the following row from right "The Name of the Adoptive Family", on the left "The Date of Adoption".

Following up is the first pivot "The Financial and Health Aspect" with nine statements that must be answered with a check mark either from the right "Excellent", "Acceptable" and "Weak", and "Notes" this is a free space for the social worker to explain why it is weak or acceptable.

The statements: "The House is Well Cleaned and Tidy", "The Financial Statues of The Family is Excellent", "The Family has Fulfilled the Adopted Needs (e.g. He/she Has Their Own room, Personal Equipment, A Play Room, Educational Resources)", "The Child Has Clean and New Clothing", "The Child Has a Bank Account and the Spending Matches His/her Needs", "The Child is Naturally Growing Regarding Body Features and Movement Aspects", "The Child Doesn't Suffer any Health Issues (e.g. ENT problems, Sight Adjustment, Speech Disabilities)", "In Case the Child Suffers from a Problem, How is the Family's Reaction", "The Child Can Naturally Move During the Visit and Can Practice His/her Usual Activities".

The second pivot has the title "The Cognitive and Psychological Aspect" and is followed by six statements which are: "The Child Attends a Kindergarten or Receives Proper Education", "The Child Can Speak and Puts Understandable Sentences", "The Child Spends a Suitable Time online/or on Video Games (i.e. Two Hours Daily)", "The Child Spends the Major of His/her Time with the Adoptive Parents", "During the Visit the Child Can Speak About His/her Schedule and Routine".

The third pivot is titled "The Social Aspect" with five main statements which are: "During the Interview the Family Seems to Love and Have Interest in the Child", "The Child Has Been Introduced and Accepted in the Extended Family and Its' Children in a Healthy Way", "The Family is Prepared to Face Any Future Issues that Will Come up to the Child", "The Parents Are Preparing the Child to Acknowledge His/her Social Situation", "The Parents Aren't Annoyed by the Social Worker's Visit".

After the pivots there is a row titled "The Social Worker's Impression" it's a free space to express thoughts.

After the impression, there is a row with the title "The Roles of Social Worker" this section is divided into four stages "Personal, Psychological, Social, Health/Religious Fulfillments" In case a social worker has done any form of immediate intervention.

At last, the "Name, Date, Signature" concluding the checkup form.

Appendix E

An Alternative Checkup Visits Form (Pre-Teen Category)

On the top is the country's logo, and the name of the ministry "The Ministry of Social Affairs". On the top right is the phrase "The Family Nursing Administration".

Following up the title "The Children age 7 to 12 Checkup form". Beneath the title are four primary information that are required from the right "The Child's Name", on the left "The Date of Birth/Age", on the following row from right "The Name of the Adoptive Family", on the left "The Date of Adoption".

Following up is the first pivot "The Financial and Educational Aspect" with eleven statements that must be answered with a check mark either from the right "Excellent", "Acceptable" and "Weak", and "Notes" this is a free space for the social worker to explain why it is weak or acceptable.

The statements: "The House is Well Cleaned and Tidy", "The Financial Statues of The Family is Excellent", "The Family has Fulfilled the Adopted Needs (e.g. He/she Has Their Own room, Personal Equipment, A Play Room, Educational Resources)", "The Child Has Clean and New Clothing", "The Child Has a Bank Account and the Spending Matches His/her Needs", "The Child Attends a School, and His/her Performance", "The Family Follows up with the Child Academic Level", "In Case the Child Suffers from a Problem, How is the Family's Reaction", "A Comfortable Study Environment is Provided

for the Child to Study", "The Child isn't Suffering Any form of Educational Disability", "In Case a Child Suffers from Any Difficulty at School, Have Private Lessons Been Provided to Meet His/her Needs", "What are the IQ Test Results".

The second pivot has the title "The Health and Psychological Aspect" and is followed by seven statements which are: " The Child Doesn't Suffer any Health Issues (e.g. ENT problems, Sight Adjustment, Speech Disabilities", "The Child Grows Naturally Regarding Body Functions and Movement Functions", "In Case a Child Suffered Any Medical Issues Previously, How Was The Family's Reaction", "The Child Spends a Suitable Time online/or on Video Games (i.e. Two Hours Daily)", "The Child Spends the Major of His/her Time with the Adoptive Parents", "During the Visit the Child Can Speak About His/her Schedule and Routine", "The Child is Under an Extensive Care from The Adoptive Family and He/she Spends Time with Them".

The third pivot is titled "The Social Aspect" with nine main statements which are: "How Far has the Child Relation with His/her Parents Been Affected After Knowing the Social Situation", "The Child Has Been Introduced and Accepted in the Extended Family and Its' Children in a Healthy Way", "The Family is Prepared to Face Any Future Issues that Will Come up to the Child or Has Come", "The Parents Raising Attitude Meets the Modern Aspect of Raising a Child", "The Child is Learning the Kuwaiti Culture and Tradition", "The Child is Being Prepared to Puberty Stage and is Being Taught Self Hygiene", "The Parents Aren't Annoyed by the Social Worker's Visit".

After the pivots there is a row titled "The Social Worker's Impression" it's a free space to express thoughts.

After the impression, there is a row with the title "The Roles of Social Worker" this section is divided into four stages "Personal, Psychological, Social, Health/Religious Fulfillments" In case a social worker has done any form of immediate intervention.

At last, the "Name, Date, Signature" concluding the checkup form.

Appendix F

An Alternative Checkup Visits Form (Teen Category)

On the top is the country's logo, and the name of the ministry "The Ministry of Social Affairs". On the top right is the phrase "The Family Nursing Administration".

Following up the title "The Adoptees age 13 to 21 Checkup form". Beneath the title are four primary information that are required from the right "The Child's Name", on the left "The Date of Birth/Age", on the following row from right "The Name of the Adoptive Family", on the left "The Date of Adoption".

Following up is the first pivot "The Financial and Educational Aspect" with nine statements that must be answered with a check mark either from the right "Excellent", "Acceptable" and "Weak", and "Notes" this is a free space for the social worker to explain why it is weak or acceptable.

The statements: "The House is Well Cleaned and Tidy", "The Financial Statues of The Family is Excellent", "The Adoptees Have Been Issued All His/her Legal Papers", "The Adoptees Have His/her Own Room and Extra Accessories", "The Family has Fulfilled the Adopted Needs (e.g. He/she Has Their Personal Equipment, A Play Room, Educational Resources)", "The Adoptees Have His/her Own Bank Account, and the Ministry's Financial Help for The Adoptees is Being Saved in His/her Account", "The Adoptees Educational Level", "The Adoptee Doesn't Face Educational Obstacles. In case He/she Does Private Lessons are Being Provided", "The Adoptees Behavioral Aspect at School".

The second pivot has the title "The Health and Psychological Aspect" and is followed by eight statements which are: " The Adoptee Doesn't Use Psychological/Medical Medicines Regularly", "The Adoptee Have Hobbies and Practices Them", "The Adoptee Receives a Healthy Psychological Care from His/her Adoptive Family", "The Adoptee Doesn't Suffer Any Psychological Issues (e.g. Depression, Anxiety, ADHD, Obsession)", "The Adoptee Relation with the Adoptive Family is Safe, and they are very Adapted", "The Adoptee Doesn't Suffer Any Personal Issues (e.g. Self-Blame, Lack of Trust/Security, Personality Disorders)", "The Adoptee Understands the Rule and Existence of Social Worker".

The third pivot is titled "The Social/Religious Aspect" with nine main statements which are: "The Adoptee Receives Enough Care and Love from the Adoptive Family", "The Adoptee Doesn't Suffer any Social Issues (e.g. Bullying, Bashfulness, Withdrawal)", "The Adoptee Has Made Good Friendship Groups", "The Adoptee is Very Comfortable with His/her Family,

and Isn't Annoyed by Being Adopted", "The Adoptee Understands The Religious Duties He/she Has to Commit to", "The Adoptee Regularly Worships, and Does All the Religious Practices He/she Has to do", "The Adoptee is Well-Suited with the Adoptive Family, and the Larger Community Regarding His/her Social Situation", "The Adoptee Understands the Kuwaiti Tradition and Culture", "The Parents Aren't Annoyed by the Social Worker's Visit".

After the pivots there is a row titled "The Social Worker's Impression" it's a free space to express thoughts.

After the impression, there is a row with the title "The Roles of Social Worker Regarding the Family and Adoptee" this section is divided into four stages "Personal, Psychological, Social, Cultural/Religious Fulfillments" In case a social worker has done any form of immediate intervention.

At last, the "Name, Date, Signature" concluding the checkup form.

Appendix G

A Practice Guide for Assessment and Intervention Plan (The Challenges File)

On the cover page is the country's logo, and the name of the ministry "The Ministry of Social Affairs". On the middle of the paper is the phrase "The Family Nursing Administration" and "The Adoptee's Challenges File".

The first page has a title "The Case File" this page has two main brackets; the first bracket is the "The Primary Data" from right to left are the following information: "The Name", "The Date of Birth/Age", "The Gender", "The Social Situation", "The Date of Adoption", "The Age When Adopted". The second bracket is a primary observation assessment; during the visits the social worker has noticed a challenge that need an intervention. The title is "The Problem type and identification" with eight categories that helps the social workers to classify the problem that need intervention, which are from right to left: "Social", "Disability/Disfunction", "Economic", "Legal", "Psychological", "Mental", "Behavioral/ Developmental", "Other".

The second title is another form of helping assessment which has the title "The Study Procedures", and has the following information that need to be acknowledged; from top to bottom: "The Problems the Adoptee had Pre-Adoption", "The Adoptive Family Expectations, Pre-Adoption", "The Adoptive Family Expectations, Post-Adoption", "The Efforts Done to Contain the Situation", "The Problem Development (History)".

Later, there are five main areas that need to be known before giving a final assessment phrase. The information can be taken during the up-coming visits that will be dedicated to put up an intervention plan.

The first area has the title "The Health Perspective of the Problem", from top to bottom it has the following statements: "The Health Issues Pre-Adoption", "The Health Issues Post-Adoption", "The Physical History of the Adoptee", "The Chronic Medication", "Test Results (e.g. Intelligence, Hormones, Glands)".

The second are has the title "The Economic/Educational Perspective of the Problem", from right to left it has the following statements: "The Daily Allowance", "The Source of the Allowance", "The Spending Areas", "The Average of Spending Monthly", "The Current School Grade", "The School's Performance", "The Subjects that are Considered an Obstacle", "The Date of Being an Obstacle", "The Efforts to Overcome Those Obstacles", "Other Educational Difficulties", "Other Information Regarding those two Areas".

The third area has the title "The psychological/Social Aspect of the Problem" with the following statements from top to bottom that need to be addressed, which are: "The Psychological Issues Suffered by the Adoptee", "Symptoms and Date", " The Social Issues Suffered by the Adoptee", "The Social Situation of the Adoptive Family", "The Support and Care by the Adoptive Family", "The Other Social Groups that has an Effect in the Problem/The Adoptee Interests". Then in a separate section are statements that serve the psychological/social area, from top to bottom "The Adoptee Feelings Regarding the Problem", "The Adoptee Behaviors Regarding the Problem", "The Adoptee Thoughts Regarding the Problem", "How Does the Adoptee Observes Him/herself", "Other Notes".

The Fourth Area has the title "The Religious/Spiritual Perspective of the Problem" with the following statements from right to left, which are: "Does the Adoptee Keep Up with Praying (With Answers: No, Yes, Sometimes)", "Have The Adoptee Ever Been to Religious Travels (With Two Answers: Yes, No)", "The Adoptee Understanding Regarding the Religion (With Three Answers: Excellent, Good, Acceptable)", "The Remaining Religious Practices (e.g. Fasting, Charity Giving, Zakat)", "How Does The Adoptee Sees Him/herself and His/her Purpose in Life", "How Does the Adoptee Relate the Problem to

Religion (With Two Answers: Believes It's a Part of God's Plan, Frustrated About God's Plan)", "In Case of Religious Frustration, Why So?", "Does the Adoptee Ethics Coordinates with the Culture and Religion", "Other Important Information".

The fifth area has the title "Other Sources for the Assessment" with the following statements from top to bottom: "The Summary of Medical/School Reports", "The Opinion of Other Professionals Regarding the Problem (e.g. The School's Social Worker, The Psychologist, The Assigned Doctor, The Religious Leader)", "The Adoptive Family Perspective Regarding the Problem", "Other Resources for the Assessment".

On a separate space is the final part of the assessment of the process with the title "The Procedure Area". With the following three statements: "The Problem from the Adoptee Perspective (Causes/Solutions)", "The Power Sources of The Adoptee", "The Final Assessment Phrase of the Problem".

The second part has the title "The Intervention Plan", with the following titles: "The Adoptee Needs", "The Adoptee and Social Workers Tasks", "The Application Methods and Period of Each Method".

The third part has the title "The Evaluation Area". The following statements from top to bottom are: the title "The Preface Evaluation". With the statements "From the Adoptee Viewpoint", "From the Social Worker Viewpoint", "From the Adoptive Family Viewpoint", "The Intervention Plan Fixing Areas, If Existed".

 Following up the third part is the second evaluation with the title "The Semi-Evaluation (e.g. After Spending Half the Period of The Intervention Plan)". With the statements "From the Adoptee Viewpoint", "From the Social Worker Viewpoint", "From the Adoptive Family Viewpoint", "The Intervention Plan Fixing Areas, If Existed".

The final evaluation period has the title "The Final Evaluation (e.g. After Completing all the Intervention Goals)". With the statements "From the Adoptee Viewpoint", "From the Social Worker Viewpoint", "From the Adoptive Family Viewpoint", "The Intervention Plan Fixing Areas, If Existed".

Following up the evaluation area are two brackets with the title "The Other Approvals" and has another title beneath it "The Observer Approval". The Observer is the head social worker in the department, beneath the title there is a free space to write his/her notes, then there are two statements "The Name of The Observer", "The Approval Signature". The other bracket has the title "The Family Nursing Administer Approval" with the same procedure a free space to write his/her notes then the name and signature.

At last, there is a separate schedule titled "The Follow-Up Procedures" after the success of intervention plan and a positive evaluation this section is filled with three main columns that has the following titles: "The Method-Result", "The Day-Date", "The Place". After this schedule is filled with positive follow-up results three signature at the bottom which are "The Social Worker", "The Observer", "The Family Nursing Administer".

Resources

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The Gap between Media Portrayals and the Reality of Islam and Islamism in Iran and Turkey

Mahdieh Aghazadeh

Abstract

Since the Islamic revolution in Iran in 1979, the western media has mainly perceived Iran as an extremist, fundamentalist and terrorist country. While there is an anti-Iranian sentiment, Turkey is defined as a country of modern Muslims. However, developments in both countries have led them to a crossroads in the media and in reality. The current study aims to understand the existing gap between media portrayals and the reality of Islam and Islamism in Iran and Turkey – two old rivals in the Middle East. This paper argues that while Iran is portrayed as a more conservative, Islamist and suffocated country, Turkey is regarded as experiencing a more conservative walk on its Islamisation path.

Keywords: Iran and Turkey, Islamisation, Political Islam, Media Portrayal.

Introduction

Wherever there is talk about threat and terrorism, Iran's name is there. However, on the other hand, when one speaks of a 'model of Islam and democracy' Turkey's name is the pioneering one. The media portrayal of Iran and Turkey can be considered as black and white, evil and angel. Iran, portrayed as 'an axis of evil,' has been associated with a number of things in western media: terrorist, extremist, operation, fundamentalist, deceptive and irrational. Turkey does not have the same stance. Although President Recep Tayyip Erdoğan and his government have received a considerable amount of criticism, still most of the time the Justice and Development Party (AKP) and Turkey are referred to as a positive model for Islamist movements.

Islamisation in Turkey even has advocates in the west: Mustafa Akyol writes, "Although Turkey's supposed shift away from secularism toward Islamism has raised eyebrows in the West, it should not. In fact, Turkey's new path may actually increase the benefits of the U.S.-Turkish relationship." He expresses the reasons behind this as follows: "at the heart of this story is a battle between Western enlightenment and obscurantism. But in fact, Turkey's real dichotomy has always been between its westernizers and its modernizers. […] Despite their leftover religious rhetoric, the AKP rejects true Islamists' most basic goal - the creation of an Islamic state" (Akyol, 2010).

Nevertheless, the reality does not always match with what is portrayed in the mass media. The Turkish government is focusing more on Islamisation and inevitably the Iranian government is making the blurred lines more rigid. While the Turkish government increasingly encourages society to adhere to Islam in Turkey, on the other side of the Middle East region there are Iranian youths who are considered as being increasingly antipathetic towards Islam.

The current study aims to understand the existing gap between the media portrayals and the reality of Islam and Islamisation in Iran and Turkey – two old rivals in the Middle East. The paper is designed in four main parts: first, media portrayal of Iran and political Islam in this country is reviewed. Second, the study intends to show how the media misrepresent the real picture of Islamisation in Iran. In comparison, in the third part Turkey's media portrayal is evaluated and the last part glances at the actual creeping of Islamisation in Turkey. The conclusions support interesting facts about Iran and Turkey: while Iran is usually portrayed as a more conservative, Islamist and suffocated country, Turkey is experiencing a more conservative walk on its Islamisation path.

Media portrayal of Iran: Political Islam

There is a rich literature concerned with how the mass media has portrayed Islam and Islamisation in Iran. Since the 1979 Islamic revolution, the U.S. media have portrayed Iran in a different way compared to the preceding 'Shah' period. According to Dorman and Farhang, the U.S. media used terms such as "determined" and "autocratic" to describe the Shah, but used "as more the work of turbaned religious zealots" in representing the Islamic revolution (Jahedi, Feiz Sathi and Mukundan,

2014). U.S. media representation of Iran's Islamic revolution and its level of violence was pitched in such a way that an American audience might conclude the Iranians were in "Bloody Clashes," "violent upheaval" and so on. Headlines like "Moslems Riot; 13 Die in Iran" appeared in metropolitan California newspapers (A. Dorman and Farhang, 1987).

The Hostage crisis on November 4, 1979 and the following 'American obsession with Iranian affairs' resulted in obscurity in the U.S. media and among American people. According to Tadayon, a national survey on Iran in early 1980 showed a strong antagonism of American opinion towards Iran (Tadayon, 1982). Similarly, Mughees argued that the U.S. media portrayed the image of Iran as a threat to security and the interests of the United States by describing Iran as a "terrorist" or "fundamentalist" country. The U.S. media often portray Islam as a religion of non-tolerant people (Mughees-uddin, 1995). Edward Said explained that the Hostage Crisis led to Islam become equivalent to "everything irrational and anti-western" in the mainstream media (Said, 2007). In his famous book *Covering Islam*, which focuses on Western media representation of Islam after the Hostage Crisis in Iran, Edward Said explained the negative media portrayal of Islam as: "Sensationalism, crude xenophobia, and insensitive belligerence are the order of the day, with results on both sides of the imaginary line between 'us' and 'them' that are extremely unedifying" (Said, 1997).

In addition, by analyzing a number of British newspaper headlines, Koosha and Shams also argued that the British press characterized a negative image of Iran. Most newspaper coverage of Iran is negative and increases the idea of us and them. This idea of 'the other' gives Iran an unfavorable feel in most of the British press:

"The picture that emerges from the newspapers coverage of Iran is negative. The newspapers have printed news stories that reinforce the dichotomy of 'us' and 'them,' often with hegemonic undertones. This representation tends to emphasize negative images and casts Iran in an unfavorable light [...] Negative representation of the 'other' and positive representation of 'us' appear to be two common strategies in all the discursive strategies used by the British newspapers" (Koosha and Shams, 2005).

Koosha and Shams support their argument by explaining that some scholars like Hall (1982), Said (1994), Cones (1997) and Karim (2000) have noted that after the Cold War, there was a need to create a new enemy for the west, replacing communism. Hence, Islam was determined as "mankind's enemy" (Koosha and Shams, 2005). Adopting a negative picture of Iran by western media increased after the tragic events of 9/11 and the labeling of Iran as an "Axis of Evil" by then US President George W. Bush. By implementing in-depth interviews with Iranian elites, Heradstveit and Bonham concluded that the metaphor affected the entire country and not only the leaders (Heradstveit and Bonham, 2007).

Thus, mainstream media configured an overall negative image of Iranians. The Pew Research Centre has done two consecutive researches on global views of the Islamic Republic of Iran. Both results for 2013 and 2014 surveys shows that Iran's global image is largely negative. About 59% in most of 39 countries surveyed in 2013 and 29 of 40 countries surveyed in 2014 have an unfavorable opinion of Iran. Unfavorable views towards Iran are firstly widespread in Israel; moreover, in Western Europe about 8 out of 10 and in the U.S. about 7 out of 10 express negative views towards Iran. According to Sahar Roodehchi (2014), "State officials publicly condemn Iranians, including Speaker of the House John Boehner, who said, 'I don't trust the Iranians,' and Wendy Sherman, a state official involved in nuclear talks with Iran, who stated, 'deception is part of the [Iranian] DNA.'"

Misleading the Readers on Iran

While the Iranian government maintains strong repression of its people, young Iranian people are increasingly rejecting Islam. Iran is going through a metamorphosis. Published by Pax Americana Institution, Major Prokopowicz's paper on Iranian youth evaluated the political impact of Iran's youth on the future of Iranian democracy. Prokopowicz explains that while the 1979 Iranian Islamic revolution leader Ayatollah Khomeini's goal was to create a society with high Islamic morality and ethics, the harsh application of his ideas caused anger in the subsequent generation. Prokopowicz (2009) cited the New York Times columnist Nicholas Kristof, who stated that "In much of the world, young Muslims are increasingly religious, but compulsive Islam has soured some Iranians on religion."

Iran's youth embody its major paradox: the conflict between religious virtue and modernity. Again, according to Prokopowicz, "As a societal configuration, Iran ironically resembles the United States more than any other Middle Eastern state. Concerning western life style and freedom, Iranian youth – especially women - defy state dress codes. Women's expression of disgust against forced Islam can be realized by scrutinizing the resonant wave in social media. A Facebook page called "Stealthy Freedoms of Iranian women" managed by a young Iranian journalist, Masih Alinejad, encourages

Iranian women to discard their hijabs in public and enjoy a brief moment of freedom. The page received more than 140,000 followers in its first week and 500,000 in one month, and now it has more than 790,000 members. Not only women, but also men supporting this page reveals society's resentment against imposed Islam.

Perception and practice of Islam is very different among Iranian youth compared with other Muslim majority countries like Turkey, Iraq and Afghanistan. Recently an Afghan woman – Farkhondeh – was stoned to death in Kabul for supposedly burning the Quran in a shrine. I wonder what the reaction of Iranian men would be if the same thing happened in Iran. They may even praise her on their hearth because of her courage, and this would later become a symbolic movement. If the same case happened in Turkey, how would the Turkish people react? The answer to this question is left to the reader.

Iranian Youth, who comprise roughly 60 percent of the Iranian population, are seeking change. Iranian youth are among the most politically active in the 57 nations of the Islamic world. The Director General of the Cultural Observatory of the Islamic Development Organization in Iran has declared, "Our researches have acknowledged that the degree of practicing Islam in society has decreased." *Baztabe Emrooz* analytical news website of Iran has announced an increase in atheism in the country. Accordingly, extravagant usage of religion and religious beliefs to cope with the 2009 protesters have led to the growth of a "Tsunami of Atheism" among Iranian youth (Deutsche Welle, 2013). However, finding true statistics for the number of atheists in Iran would be very hard as Iran is reported as being included in the world seven countries where the state can execute a citizen because of being an atheist (The Washington Post, 2012).

Moreover, in a field report released by *Zamaneh Radio* news website, Iran's young population difference with their previous generation has been recognized. By attempting to answer the question "which one is more powerful: sex and love or fear of hell?" Hamid Rezayi tried to discover the hidden layers in society. When one of his interview respondents was asked if he believed his sexual relations out of custom and tradition would be contrary to the percepts of Islam, he answered: "Everyone has (sexual relations out of custom), many people have. If God wants reprisal he needs to punish every one, he can't only punish some of them" (Rezayi, 2015). God for many Iranian Muslims youths is reminiscent of fear and anxiety and that's why they further distance themselves from Islamic beliefs day-by-day.

Increase of insouciance to Islam has been reflected in new generation music as well. Shahin Najafi, who has more than a million fans on Facebook, is an Iranian musician and singer. His songs mostly deal with theocracy, sexism, censorship, poverty and drug addiction. On May 2012, Najafi released a song called "Naghi" which is a reference to the 10th of the 12 Shia Muslim Imams. In "Naghi," Najafi states that: "Hey, Naghi! As the Hidden Imam is sleeping, we are calling you. Hey, Naghi! We are in our shrouds and ready to be buried. Hey, Naghi, Rise!" By releasing this controversial song, Najafi has been accused of insulting Imams. Ayatollah Makarem Shirazi issued a Fatwa calling him an apostate, which is considered punishable by death by Muslims under Sharia law. Even an Iranian religious website has offered $100,000 reward to anyone who kills him. That's why *The Guardian* has called him "The Selman Rushdie of music."

However, Najafi has never stopped his artwork protests. In his interview with BBC Persian, Najafi stated that "I am like a spring, much more pressure will lead to more jumping from me!". At his May 2015 concert in Germany, he mocked Iranian religious Shia singers called "Madah." In April 2015 he released an Album called "Sade" including a song called "Mammad Nobari" in which he is accused of insulting Islamic prophet *Muhammad Rasool Allah* and also bantering *Abbas Ibn Ali* - the stepbrother of *Husayn Ibn Ali* who is the most important holy Shia Imam martyred in the battle of Karbala. In regard to his last album, Najafi explains, "Mammad Nobari is a process of building an idol. There is no concept inherited with this [Muhammad]. We should doubt about many concepts that historically have been passed on to us and try to pass the self-awareness process. Concepts pass through a process to become what we understand and believe. These concepts become like a weapon against us; Mammad Nobari has such a process."

The growing trend of the so-called 'white marriage' in Iran is another indication of youth's indifference to religion. Cohabiting before marriage in Iran is known as 'white marriage' – a phenomenon that is worrying Iranian authorities. Despite strict Sharia law and the Iranian government's rigidity on youth, increasing number of Iranian young couples are choosing to live together before marriage. There are no official statistics, but it has become common enough that many Iranian government officials have made comments about it and even a popular woman's magazine in Iran called "Zanan" has devoted a special edition to the issue. Mohammad Mohammadi Golpayegani, Iran's supreme leader's head office, expressed his concern by stating "It's shameful for a man and a woman to live together without being married. It won't take long for people who've chosen this lifestyle to have wiped out a legitimate generation with an illegitimate one. Hence, Islamic governors should oppose this." Sociologist Mehrdad Darvishpour quoted: "What happens under the skin of a society cannot be controlled [...]

the government might try to use force to stop this [white marriage], just as they tried to impose stricter adherence to the rules on wearing a hijab [headscarf] on young women, but young people will continue to move forward. Modernity can't be stopped."

In their research called "Religious Participation among Muslims: Iranian Exceptionalism," Tezcur, Azadarmaki and Bahar have indicated that mosque attendance rates in Iran– as an important indicator of religious practice - are surprisingly low. The survey evidence indicates a strong correlation between frequency of mosque attendance and positive evaluations of political governance. In addition, surveys show that Iranians residing in Tehran make a distinction between their religious duties and religious faith. Moreover, the States' ability to control popular religion has waned and massive politicization of religion in today's Iran has negatively affected religious participation (Tezcur, et al., 2006).

The best description for today's Iran and its contribution to Islam can be found in the work Eric Roulaue – a profound western expert on Iranian studies – has done: "Islam confronts Islam in Iran." In the same way, Ramin Jahanbegloo (2004) admits the social changes in Iran by naming the country as "Iran where a reinterpretation of religious thought is a critical variable influencing the process of political development." Also, Mahmoud Alinejad (2002) sought to find an answer for the question of how Iranian intellectuals' interpretation of Islamic tradition in Iran since 1997 are contributing to cultural, social and political critique, within a public sphere defined by Islam. He concludes that developments in Iran illustrate "the real possibility of the public expression of dissent within the constraints of Islamic politics." Alinejad explains that political dissent is expressed by struggles against the constraints on citizenship rights and demand for fairer allocation of cultural, economic and social resources.

Many opponents of the Iranian government make major criticisms of the regime by expressing that political Islam itself has resulted in a spread of hatred against Islam. Ali Sina (2002), an active writer in *Faith Freedom* website states that in order for Islam to grow it needs a hate object. Most Arab countries have other non-Muslim groups to hate (Jews, Americans etc.) but Iranians stopped hating after the hated Shah fell from power. Now Iranians hate those who impose Islam upon them. They do not trust the Islamic regime which punishes with executions and stoning - they see Islam as a deception. He wrote that:

"Today the new generations of Iranians hate only their oppressors who happen to be those who impose Islam on them. Islam has become synonymous with deceit, with betrayal, with torture, with imprisonments, with flogging, with stoning, with plucking out the eyes and with executions. Even the parents of these kids who made the revolution now are repentant and regret trusting the Mullahs and are realizing that Islam was nothing but a hoax, an instrument of subjugation and deceit."

Media portrayal of Turkey: Islamisation

Political Islam in Turkey is not the same as Iran in the way it is portrayed through the eyes of the media. Today the majority Muslim population of Turkey is governed by Islamic leaders and under a secular governmental system. Since its establishment in 2002, the Justice and Development Party (AKP) have increasingly tried to pave the way to creating an Islamic concept of democracy. This symbiotic conflict between Islam and Secularism in Turkey has been an attractive theme for the media.

Shahzad Ali (2012) has investigated the portrayal of Turkey in the US during the time period 1991–2001 by two American print media (Newsweek and Time magazines). He found that out of 19 articles written about Turkey in these two magazines during the given time period, 17 were neutral and 2 were unfavorable about Turkey. He writes, "By the scrutiny of the articles of both magazines it is as clear as day that America was the adherer of secular Turkey instead of Islamic Turkey."

The secular state model in modern Turkey was developed under the leadership of Mustafa Kamal Ataturk from 29 October 1923. These developments were influenced by the ideas of secularization and modernization (Refat, 2014). Later on, with the rise of AKP, the debate about the desire to return to the past manifested itself. Visited by almost 38000 viewers on YouTube, Ray Charles compared Ataturk and Recep Tayyip Erdogan, the current President and former Prime Minister of Turkey. In his speech he said, "when Ataturk was asked to be Sultan, Ataturk rejected it and instead let this nation be a secular, civil society. But in contrast today Turkey has a Prime Minister who seems to want to be a modern Sultan." Refat Syed Ahmad explains that AKP has defined its basic ideology as "Conservative Democracy" in which it is conservative in political, social and religious terms but, unlike Iran, it does not spend energy on "enjoining what is commendable and forbidding the reprehensible" in matters of daily conduct of the people.

In the book edited by Aksįt, S̨enyuva and U̇stün (2009), called *Turkey Watch: EU Member States' Perceptions on Turkey's Accession to the EU*, the EU perception of Turkey is analyzed. The book explains that although until 2009 there were very positive developments regarding the negotiation process for Turkey's EU membership, things started to change after 2009. For a variety of reasons among which the most important is the lack of progress in Turkey's reform process, Turkey's full membership of the EU has been undermined. Different scholars provide insights of France, Germany, Belgium, Italy, Spain, Greece, Sweden, Austria, 'Republic of Cyprus', Czech Republic, Poland, Romania, and Bulgaria on Turkey. Some of these states have questions about Turkey's EU membership; France, Germany and Austria are in this group. Some others, like Italy and Spain, are supportive of Turkey, having a generally positive perception of Turkey.

On 20 January 2009, The Belgian Foreign Minister Karel de Gucht stated that The EU has not behaved well or fairly to Turkey and Europe should be building a permanent, close alliance with Turkey, as it is a bridge to Asia and the Middle East. Turkey also shows Islam can be part of a secular, democratic political system. The EU must have Turkey as a close EU ally in the important years ahead (Yvonne, 2009).

For his MA thesis, Mesud Hamza Hasgur (2013) has worked on the perception of Turkey in the Middle East in the last decade by analyzing the combination of media, political elite discourse and people's political themes. He concludes that the perception of Turkey in the Arab world is very positive. Most Middle East Islamists admire "Turkey's Muslim Sensitive foreign policy," its Islamic-oriented government and Erdogan's foreign policy toward Israel. In addition, Turkish TV series have been very effective in shaping positive Arab public opinion on Turkey. Hasgur also found that "Turkey's coherent blending of Islam and democracy was the most important factor creating a positive perception of Turkey in the Middle East […] it seems that the perception and image of Turkey greatly correlates with the status of democracy in Turkey."

Real Islam in Turkey: Creeping Islamisation

Day-by-day, Turkey is becoming more Islamic. Yavuz Hakan (2012) supports this claim by stating "Islamic identity, norms, institutions, and practices are much more extant in the public sphere." He adds that the discourse of Islam in Turkey is more related with identity and the Islamic way of life; and it is more focused on the inner self. Hence, he argues that Turks identify Islam as a personal ethic, which does not necessarily contain the role of state.

The significant point here is that Islam and Turkish identity are intertwined into each other. According to Hakan Yavuz, "Due to Islam's constitutive role in the construction of Turkish identity, the state never succeeded in disengaging Islam from debates over the politics of identity. This symbiotic relationship between Islam and Turkish nationalism made Islam the foundation of Turkish identity… Even Said Nursi focused on the positive nationalism of Islam-Turkism as long as that nationalism could be used in the service of Islam."

The current AKP government is increasingly following Islamisation in Turkey and has challenged the Turkish secularism model during recent years. On May 24, 2013, at that time Turkish President Abdullah Gul approved alcohol restrictions, which consist of, firstly, completely banning retail alcohol sales between 10pm and 6 am. Secondly, a ban on screening images of alcoholic drinks in TV and films was brought into law. Thirdly, a restriction on alcohol sales within 100 meters of mosques and schools; and, lastly, lowering the alcohol limit for drivers from 1 to 0.5 promil.

Turkey's Gezi Park Demonstrations of 2013 are another example showing the AKP's rising authoritarianism and conservatism. The event started with a few environmental protestors' occupation of Gezi Park in Istanbul, in order to prevent the park's destruction to build a shopping mall. The protests developed into riots when the police violently tried to suppress the crowd. Hence, the subject of the protests broadened beyond the Gezi Park issue, and it converted into a protest against the government. The protestors included a wide range of groups, "from Kemalists and nationalists to the Kurds and the broad left, each expressing different grievances with the AKP government" (Onur, 2013). Despite the broad discontent, there has been almost no change in the Turkish 'Moderate Islamist' picture or the 'Model for Islamic World' role of the country. However, the government struggle against the demonstration was reflected as being authoritarian in the western media.

According to *the Independent* (2013), many believe that Erdogan "imposes his religious views in a way that far exceeds his democratic mandate." On May 21, 2013, Mahmut Macit, the senior member of AKP's Ankara provincial board, wrote in one tweet: "My blood boils when spineless psychopaths pretending to be atheists swear at my religion. These people, who have been raped, should be annihilated." He also argued "insulting Islam could not be considered freedom of expression." Previously, President Erdogan himself had commented that his government wants to "raise a religious youth," fuelling

debate over whether he has a hidden agenda to Islamize Turkey, in the way the Iranian government has. However, the famous CNN journalist, Christiane Amanpour stated, "The Turkish government has said over and over again that it is not an Islamic government as you might find in Iran [...] you can see that. We know that it has no plans to make Turkey into an Islamic Republic in the way that you see in places like Iran or elsewhere."

Results and Conclusions

In today's world, there are many people, not only in western countries but even in neighboring countries of Iran, understanding Iran as an extremist and fundamentalist Shia-Muslim country. Perception of Iranians is under the shade of the government, but it is time to draw out the real picture of Iranians, especially Iranian youth, who comprise 60 percent of the Iranian population. On the other hand, as a neighbor of Iran, Turkey is enjoying positive perceptions and labels by the media on its approach toward Islam as a modern Muslim country. However, tough Islamic traditions and superstitions are still ongoing among conservative Turks, whose number is increasing. While Iranian youth are getting further and further away from Islamism and so forcing their government to attend to their demands, the Turkish government is progressively applying an Islamisation agenda and encouraging the country's youth in a more conservative direction. The conclusions support this paper's main argument: while Iran is portrayed as a more conservative, Islamist and suffocated country, Turkey is experiencing a more conservative walk on its Islamisation path. Iranian youth are seeking reform and they are increasingly distancing themselves from religion and tradition. According to Walter Lippmann (1922), "News and Truth are not the same thing, and must be clearly distinguished. The function of news is to signalize an event, the function of truth is to bring to light the hidden facts."

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The Evolution of Fake News and the Abuse of Emerging Technologies

Roberto Adriani

Abstract

Fake news and post-factual society are quite popular terms today. The literature is investigating this phenomenon from different perspectives. We also know the psychological dimension at the basis of fake news (Lynch M. 2016) and the debate around the need for a new media policy (Goodman E. 2017). However, something else is very important: the evolution process of fake news. Far from being a still life, fake news will evolve and this needs to be monitored closely. In a post-factual society fake news could be fuelled by the abuse of new powerful technologies (Murgia M. and Kuchler H. 2017).

Keywords: fake news; post-truth, AI

1. Introduction

Today, fake news makers have powerful new technologies, such *voice and face morphing*, which make it almost impossible to distinguish truth from falsehood. These technologies will shortly allow the creation of fake videos, in which software makers can superimpose real footage onto a fake audio, using the original voice. The result is footage in which a real person says something he never said. Also, AI may have a dark side and being used by fake news makers *(Vincent J. 2017)*.

2. Methodology

The paper, through a narrative approach, investigates these emerging technologies and how they may be misused. The paper analyses scientific articles from international literature, in English, over last ten years. We focus the research on a relatively recent period as fake news is basically a recent phenomenon. Or, to say better, the destabilizing effect of fake news is relatively recent.

The review also covers journalistic articles, which report data, insights or simple news, regarding the two subjects of the key questions. In this case, the paper includes only articles coming from mainstream publications, printed as well as online.

Trying to pursue this objective, articles not clearly reporting the name of the publication, author and date, have been excluded. In addition to that, all the articles have been checked through a web engine search, making sure they have been cited or linked by other mainstream media.

3. Fake news spreading. The lesson we have learnt

Among the many lessons we have learnt about fake news, here are two pillars this paper wants start from.

3.1 Perception and false representation

Fake news is not about simply the perception of reality. Fake news is an objectively false representation of reality and it can be even defamatory. The greatest examples we have seen are from politics, where lies are not merely occasional mishaps, but the core of an electoral strategy.

The other important lesson we have learnt is why people spread fake news. The psychological mechanism behind this, can be reassumed as follows *(Gathman C. 2014)*.

a. People do not actually read the content they are sharing

b. People do not consider the legitimacy of specific news sources

c. People are vulnerable to confirmation bias

d. People infer legitimacy from "related content"

e. People see a piece of content as more legitimate the more they see of it

f. People confuse satire and hoax

How can we stop fake news spreading without jeopardising free speech? Who must be in charge of deciding what is fake and what is real? Some experiments are already on the table. Let's see how really promising they are.

United Kingdom

In Great Britain the Brexit referendum has made institutions much more aware of the threat of fake news. Emma Goodman, from the Media Policy Project Blog of the LSE, explains how British institutions try to fake news. An inquiry has been launched by the House of Commons, to investigate this phenomenon, described as a threat to democracy able to undermine the confidence in the media in general. The inquiry has been conducted by the Culture, Media and Sports Committee. Its chair Damian Collins, said that any possible solution must be focused on social media platforms. According to the chair, Facebook is the main social media platform put in the spotlight, and it should put more attention in assessing and notifying fake news to help users. In the end, says consumers should be empowered to assess fake news *(Goodman E. 2017).*

Germany

It is one of the first laws issued to face fake news, which is why, as Emma Thomasson from Reuters explains, it can be considered an international experiment. The law, which came into full force on Jan. 1, 2018, aims to ensure Germany's tough prohibitions against hate speech, including pro-Nazi ideology, are enforced online by requiring sites to remove banned content within 24 hours or face fines of up to 50 million euros ($62 million). The law, called NetzDG for short, is an international test case and how it plays out is being closely watched by other countries considering similar measures. In addition to that, social media companies are asked to do more to stop fake news. The lawmakers are also pushing for social media firms to set up an independent body to review and respond to reports of offensive content from the public, rather than the individual companies doing that themselves. The law is now to be amended, following the criticism from opponents of the law, including free speech campaigners and the Association of German Journalists, who say the threat of hefty fines is prompting internet firms to err on the side of caution and block more content than is necessary. German authorities have stressed, however, that they believe the law is working well in terms of forcing social media companies to delete offensive posts *(Thomasson E. 2018,* https://www.reuters.com/article/us-germany-hatespeech/germany-looks-to-revise-social-media- law-as-europe-watches-idUSKCN1GK1BN*).*

Italy

Here the effort is mainly focused on education and training of the younger generation. The former presidency of the Lower House, together with the Ministry of Education, launched an extraordinary experiment in cooperation with leading digital companies including Facebook. The effort was focused on training a generation of students steeped in social media how to recognize fake news and conspiracy theories online. The program tried to deputize students as fake-news hunters, showing them how to create their own blogs or social accounts to expose false stories and 'showing how you uncovered it *(Horowitz J. 2017,* https://www.nytimes.com/2017/10/18/world/europe/italy-fake-news.html*).* In addition to that, Facebook rolled out for its Italian users a new fact-checking program aimed at identifying and debunking false information that appears on the site. Like similar efforts Facebook has launched in the past, the program relies on user reporting and third-party fact checkers to flag potential false material *(Serhan Y. 2018* https://www.theatlantic.com/international/archive/2018/02/europe-fake-news/551972/*).* In any case, this programme does not seem having achieved great results.

3.2 Fake news spreads faster than truth

Another important lesson is about how fast fake news spreads, even more than truth. It is the case to briefly report here a recent study on that, published by Science, on March 2018. It analyses fake news spread via Twitter. The author's assumption is that a rumor cascade begins on Twitter when a user makes an assertion about a topic in a tweet, which could include written text, photos, or links to articles online. Others then propagate the rumor by retweeting it. A rumor's diffusion process can be characterized as having one or more cascades, defined by authors as instances of a rumor spreading pattern that exhibit an unbroken retweet chain with a common, singular origin. So, if a rumor "A" is tweeted by

10 people separately, but not retweeted, it would have 10 cascades each of size one. Conversely, if a second rumor "B" is independently tweeted by two people and each of those two tweets is retweeted 100 times, the rumor would consist of two cascades, each of size 100.

When the authors analysed "the diffusion dynamics of true and false rumors, they found that falsehood diffused significantly farther, faster, deeper, and more broadly than the truth in all categories of information. A significantly greater fraction of false cascades than true cascades exceeded a depth of 10, and the top 0.01% of false cascades diffused eight hops deeper into the Twittersphere than the truth, diffusing to depths greater than 19 hops from the origin tweet (Fig. 1, 2A in the original).
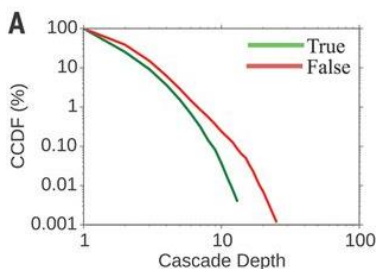
(Fig. 1, 2A in the original)

Falsehood also reached far more people than the truth. Whereas the truth rarely diffused to more than 1000 people, the top 1% of false-news cascades routinely diffused to between 1000 and 100,000 people (Fig 2B in the original).

Falsehood reached more people at every depth of a cascade than the truth, meaning that more people retweeted falsehood than they did the truth. The spread of falsehood was aided by its virality, meaning the falsehood did not simply spread through broadcast dynamics but rather through peer-to-peer diffusion characterized by a viral branching process.

It took the truth about six times as long as falsehood to reach 1500 people and 20 times as long as falsehood to reach a cascade depth of 10".
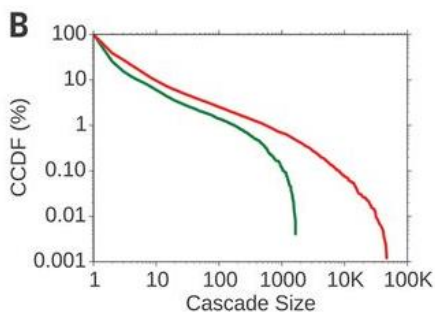
(Fig. 2, 2A in the original)

Another important result highlighted by this study, is that "contrary to conventional wisdom, robots accelerated the spread of true and false news at the same rate, implying that humans, not robots, are more likely responsible for the dramatic spread of false news". The authors also checked possible bias.

"In case there was concern that the authors' conclusions about human judgement were biased by the presence of bots in their analysis, they employed a sophisticated bot-detection algorithm, to identify and remove all bots before running the analysis. When they added bot traffic back into the analysis, they found that none of their conclusions changed. False news still spread farther, faster, deeper and more broadly than the truth in all categories of information.

Although the inclusion of bots accelerated the spread of both true and false news, it affected their spread roughly equally *(Vosoughi S. et al., 2018, p. 2,3,5).*

4. The abuse of emerging technologies

Some new technologies can push us into a new era of fake news, in which manipulation looks ever more believable.

4.1 Do not believe everything you see

Unless I see the nail marks in his hands and put my finger where the nails were, and put my hand into his side, I will not believe it, said Saint Thomas It is a famous sentence, which highlights how important is for us to see (and even to touch) to believe.

Unfortunately, audio and video manipulation is questioning this assumption. As Olivia Solon reports in The Guardian. There is a new breed of video and audio manipulation tools, made possible by advances in artificial intelligence and computer graphics, that will allow for the creation of realistic looking footage of public figures appearing to say, well, anything. Nothing is sure from now on. We have long been told not to believe everything we read, but soon we will have to question everything we see and hear as well. An important experiment has been set up at Stanford University, where a software "is able to manipulate video footage of public figures to allow a second person to put words in their mouth – in real time. Face2Face captures the second person's facial expressions as they talk into a webcam and then morphs those movements directly onto the face of the person in the original video. The research team demonstrated their technology by puppeteering videos of George W Bush, Vladimir Putin and Donald Trump. On its own, Face2Face is a fun plaything for creating memes and entertaining late night talk show hosts. However, with the addition of a synthesized voice, it becomes more convincing – not only does the digital puppet look like the politician, but it can also sound like the politician. Similar research has been conducted at the University of Alabama. With 3-5 minutes of audio of a victim's voice – taken live or from YouTube videos or radio shows – an attacker can create a synthesized voice that can fool both humans and voice biometric security systems used by some banks and smartphones. The attacker can then talk into a microphone and the software will convert it so that the words sound like they are being spoken by the victim – whether that's over the phone or on a radio show. Not only universities are interested in developing these technologies. Canadian startup Lyrebird has developed similar capabilities, which it says can be used to turn text into on-the-spot audiobooks 'read' by famous voices or for characters in video games.

But the most impressive, and cited, experiment, is about Obama. The University of Washington's Synthesizing Obama project (Fig. 3), where they took the audio from one of Obama's speeches and used it to animate his face in an entirely different video with incredible accuracy (thanks to training a recurrent neural network with hours of footage), to get a sense of how insidious these adulterations can be *(Solon O., 2017* https://www.theguardian.com/technology/2017/jul/26/fake-news-obama-video-trump-face2face-doctored-content *).*

The University of Washington's **Synthesizing Obama** project took audio from one of Obama's speeches and used it to animate his face in an entirely different video

(Fig. 3)

available at https://www.theguardian.com/technology/2017/jul/26/fake-news-obama-video-　trump-face2face-doctored-content

But the problem is not just the proliferation of falsehoods, as reported by Franklin Foer in The Atlantic. Fabricated videos will create new and understandable suspicions about everything we watch. Politicians and publicists will exploit those doubts. When captured in a moment of wrongdoing, a culprit will simply declare the visual evidence a malicious concoction.

The article points out another risk. In other words, manipulated video will ultimately destroy faith in our strongest remaining tether to the idea of common reality. A sort of new LSD, as the author says? Fake-but-realistic video clips are not the end point of the flight from reality that technologists would have us take. The apotheosis of this vision is virtual reality. VR's fundamental purpose is to create a comprehensive illusion of being in another place. With its goggles and gloves, it sets out to trick our senses and subvert our perceptions. Video games began the process of transporting players into an alternate world, injecting them into another narrative. But while games can be quite addictive, they aren't yet fully immersive. VR has the potential to more completely transport—we will see what our avatars see and feel what they feel.

Maybe we will find a way to cope with that but, in the meantime, it would be better to be more prudent. Perhaps society will find ways to cope with these changes. Maybe we will learn the scepticism required to navigate them. Governments have been slow to respond to the social challenges that new technologies create, and might rather avoid this one. The question of deciding what constitutes reality isn't just epistemological; it is political and would involve declaring certain deeply held beliefs specious *(Foer F., 2018* https://www.theatlantic.com/magazine/archive/2018/05/realitys-end/556877/).

4.2 The dark side of AI

The response Hillary Clinton got when her book debuted on on Amazon's Web was surprising. Of the 1,600 reviews posted on the book's Amazon page in just a few hours, the company soon deleted 900 it suspected of being bogus: written by people who said they loved or hated the book, but had neither purchased nor likely even read it. Fake product reviews—prompted by payola or more nefarious motives—are nothing new, but they are set to become a bigger problem as tricksters find new ways of automating online misinformation campaigns launched to sway public opinion.

At the University of Chicago some researchers are investigating whether artificial intelligence could be used to automatically crank out bulk reviews that are convincing enough to be effective. Their latest experiment involved developing AI-based methods to generate phony Yelp restaurant evaluations. (Yelp is a popular crowdsourced Web site that has posted more than 135 million reviews covering about 2.8 million businesses since launching in July 2004). The researchers used a machine-learning technique known as deep learning to analyze letter and word patterns used in millions of existing Yelp reviews.

Deep learning requires an enormous amount of computation and entails feeding vast data sets into large networks of simulated artificial "neurons" based loosely on the neural structure of the human brain. The Chicago team's artificial neural network generated its own restaurant critiques—some with sophisticated word usage patterns that made for realistic appraisals and others that would seem easy to spot, thanks to repeated words and phrases.

But when the researchers tested their AI-generated reviews, they found that Yelp's filtering software—which also relies on machine-learning algorithms—had difficulty spotting many of the fakes. Human test subjects asked to evaluate authentic and automated appraisals were unable to distinguish between the two. When asked to rate whether a particular review was 'useful', the human's respondents replied in the affirmative to AI-generated versions nearly as often as real ones *(Greenemeier L., 2017* https://www.scientificamerican.com/article/could-ai-be-the-future-of-fake-news-and-product-reviews/).

In a nutshell, the authors showed how a two phased review generation and customization attack can produce reviews that are indistinguishable by state-of-the-art statistical detectors. They conducted a survey-based user study to show these reviews not only evade human detection, but also score high on 'usefulness' metrics by users.

The authors also say that AI can not only assist fake news detection but also generate fake news. Given the availability of large-scale news datasets, an attacker can potentially generate realistic looking news articles using a deep-learning approach (RNN). And due to its low economic cost, the attacker can pollute social media newsfeeds with a large number of fake articles.

The researchers end hoping their results "will bring more attention to the problem of malicious attacks based on deep learning language models, particularly in the context of fake content on online services, and encourage the exploration and development of new defences *(Zhao B.Y et al., 2018, P. 1,13).*

It is an additional warning about how fake news may become a dirty tool, used by dishonest companies to strike at their competitors' reputation. Lil Miquela is another example about how new technologies, AI in particular, can manipulate the social media sphera.

Lil Miquela has been a source of fascination for many on Instagram since not long after her account launched in April 2016, but for her first two years of existence, no one could definitively say who or what was behind the operation. The Bermuda hack-slash-PR-stunt solved at least part of the mystery, linking Miquela to Brud, a Los Angeles-based startup that specializes in "robotics, artificial intelligence and their applications to media businesses"—but the entire saga remains a master class in postmodern performance art. The author says that Lili Miquela Instagram profile is potentially money-making. Miquela isn't just a flashy stunt: She has serious money-making potential. Already, the virtual influencer has partnered with Giphy and Prada and posed wearing Diesel and Moncler. In February, Miquela said she had never been paid to model a piece of fashion on her feed, but that could change at any moment. (Lil Miquela's PR representatives did not respond to queries about whether she has posted any sponsored content since that statement).

The appearance of influencers has generated new questions about how to distinguish advertising from paid social media influencers. The story of Lil Miquela is even a step forward: what about if the influencer is a non-existing person, but only a virtual profile AI based? But virtual models and influencers like Lil Miquela raise thorny questions. Last year, the Federal Trade Commission updated its endorsement guides to require influencers to disclose their marketing relationships and identify paid posts with a hashtag like #ad or #sponsored—but it's not clear how those rules would apply to influencers who aren't human, and whose backers, like Lil Miquela's, are shrouding themselves in mystery *(Katz M., 2918,* https://www.wired.com/story/lil- miquela-digital-humans/*).*

The final question, in this case, is about why we should trust the opinion of someone who does not exist?

(Fig. 4)

Lil Miquela's profile, from the Instagram app of the author.

5. Key findings

The key findings can be reassumed into two points

5.1 Fake news still a problem

This phenomenon is still dangerous, in spite of all efforts. On the other hand, this does not mean we have to give up. A solution is currently being sought, both from a technological (can block-chain technology be used to stop fake news?) as well as from a contents point of view.

In any case, education, training and digital literacy of children must be part of the solution.

5.2 New threats

The new threats are represented by a dishonest (or even criminal) use of AI, which allow fake news makers to create more pervasive and dangerous hoaxes. Unlike "traditional" fake news, text based, the new ones are based on the power of the image (CGI). It is particularly insidious as it is grounded on the general belief that everything you can see is true.

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Relationship between Psychological Factors and Quality of Life in Patients with Heart Disease and Those with Diabetes

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Abstract

Background: The coronary disease and diabetes are the most common diseases in Tetovo, therefore the aim of this study is the evaluation of quality of life of patients and of the control group under stress, depression and anxiety influence. In this study has been used a purposeful sampling. The research instrument used consists of socio-demographic questions and four tests: Cohen's stress measurement questionnaire, Beck's depression measurement questionnaire, Beck's anxiety measurement questionnaire and the quality of life measurement questionnaire (WHOQOL). The sample of the study consists of N=300, including patients with heart coronary diseases, patients with diabetes and respondents from the control groups. The results of the study proved the hypothesis that: stress, depression, and anxiety have a negative significant impact in quality of life in the study sample (p<.001). The findings of this study reveals the fact that patients with chronic disease have a reduced quality of life under the influence of psychological factors.

Keywords: coronary heart diseases, diabetes, stress, depression, anxiety, quality of life

Introduction

According to the data of Institute for Public Health (2015), from all chronic diseases in the country, the largest share take people with coronary disease (93 833), and those with diabetes (75 805). Diagnosis with a chronic disease can deeply impact the person and his family. Changes arising from the disease can affect the quality of life of the individual, affecting the way he chooses to face the situation. The disease causes changes in personality, its social and family environment and views for the future. Very often, adaptation to the disease is difficult to achieve. Studies show that it takes at least a year to overcome the idea and the presence of the disease, which causes changes in the emotional state and behavior of the person, indicating symptoms of anxiety, depression and influence how this person will face the disease. About 50% of deaths are directly related to human behavior, yet we spend very little time on research and implementation of programs related to it. Psychologists and doctors share the same opinion that stress control is essential on prevention of the disease and health enhacement (Morris, 2008). Study topics, such as diabetes and coronary disease, were found more prevelant in the Tetovo area (Table 1, According to the Public Health Unit in Tetovo, 2014). Each individual, with its personal concerns, fears, hopes and ambitions represents an integral whole, and not only an organ carrier. As such, it becomes subject to psychological clinical researches. Therefore, it is believed that there are different ways in which psychological and physiological processes can mutually affect the outbreak of the disease. Psychological factors can directly affect the physiological function of certain organs, and thus cause some somatic disorders (Wulsin, 2007). At the same time, several physiological processes may contribute on the appearance of some specific psychological conditions, hence anxiety and depression are psychological aspects associated with coronary disease at patients with diabetes mellitus; but also affect the person's concept of life satisfaction.

The complexity and interdependency of various biopsychosocial health factors and diseases, it is very well described on the World Health Organization definition, according to which *health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity*. The definition emphasizes these key health components as equally important factors of health, and therefore is completely included on the biopsycho-sociological health models and diseases. The scope of the definition offers space for multiple nonmedical fields to resolve health problems of individuals and the society in overall. Such an approach, encourages the involvement of psychologists, and also others scientific profiles on resolving contemporary health issues.

The homeostasis theory assumes that the impact of disease on the quality of life on a patient it's not very dominant if the disease itself doesn't last long and it is difficult to cure, but in the case of chronic diseases and diseases with heavy pain, a non proper psychological management it can disequilibrate and reduce opportunities for a quality life (Cummins, 1995 to 2003). Thus, a more accurate observation of emotional reactions at chronic diseases should be conducted, in order to understand what kind of emotions are experienced. Based on studies of Joki-Begi, Tadinac, Lauri Korajlija and Hromatko (2004), in which was reported stress, depression and anxiety, can be assumed that those are the factors that affect the quality of life, even though it's outlined the: purpose of the study, analysis of the relationship between stress, depression, anxiety and quality of life in patients with coronary diseases and those with diabetes; and the question of whether there are differences in the level of stress, depression, anxiety and quality of life of both groups with relevant diseases.

Chronic diseases

In each season, 50% of the population faces problems caused by chronic diseases that require medical tretment. For decades, psichologists theorists and doctors have speculated why some people adapt well on the constant stress caused by a chronic disease, while others show significant emotional and interpersonal failure. Chronic diseases are diseases that last; they are not resolved spontaneously and are rarely fully recovered [Centers for Disease Control and Prevention (CDC) in 2003]. However, in psychological terms, the definition of chronic disease is complex:

Does cancer goes away, after the patient has completed the treatment? The majority of researchers, agree that the disease process should last at least few months more, in order to categorize as a chronic disease, i.e the "chronic" meanining depends from the views of the observers (Rabin, Leventhal, Goodin, 2004). In general, chronic diseases develope slowly, have long duration and first of all require medical treatment.

Most of the diseases carry on the potential of health detoriation of the patients, by restricting their life potential, productivity and life satisfaction, and affect the cost of health services (Devins, 1983). Diseases classified on this group are cancer, heart diseases, diabetes, bowel diseases, allergies, HIV, kidney diseases, renal and central nervous system diseases.

According to Devins, Blinik and Hutchinson (1983), chronic diseases impair life of the patients by disorting their well-being, i.e the quality of life. Psycho-social well-being it's a compromis which derives from two constraints: by reducing their chances of involvement in valuous activities and achieve positive results and self-control, as by reducing the possibility of achieving positive results and avoid the evil. In terms of chronic diseases, health studies align the quality of life as primary or secondary cause. Quality of life related to health, is an important measure which assesses the impact of the disease and the effects of medical intervention; therefore, an improved quality of life is considered essential and determinant result, in terms of the therapeutic process (Staque, 1998).

2. RESEARCH METHODOLOGY

2.1. Study goal

The aim of this study is to recognize the quality of life on patients with coronary disease and patients with diabetes under the influence of stress, depression and anxiety. The logic of this study is based on the fact that during coexistence with a chronic disease, patients very often psychologically can not manage the disease, and thus tend to have stress, depression and anxiety, which reduces their life quality.

The world literature counts a number of studies that have analyzed the psychological aspects and the quality of life on patients with chronic diseases (Dickrns, McGowen, Percival, 2006; Durmaz, Odzemir, Akyunak, 2009; Paile, Wahlbeck, Eriksson, 2007), while similar studies are not found in Tetovo area and nationwide. Due to this incentive, this study will be one of the first studies for the corresponding area.

2.2. Study sample

In this study has been used a purposeful sampling. First, sampling techniques derive logically from the conceptual framework of research queries. Second, the sample should generate sufficient information on the issue that it's being studied. Thirdly, the sample should create the possibility of making generalizations clear or data reliable (Jeanty and Albizu, 2011).

Inclusion and exclusion criteria

An important issue on the selection of the sample for this study was to define the diagnosis by medical specialists in the field of endocrinology and cardiology. The study sample was homogeneous in terms of gender and subspecies of the coronary disease and diabetes.

Inclusion criteria

The patient has to be from Tetovo and its area (Tetovo's villages);

Have a concrete diagnosis from a medical specialist of the field;

On age between 30 to 70 years;

Patients with disease duration up to 5 years;

Patients with diabetes, but without chronic complications;

Patients with a single diagnosis, non comorbid diagnosis of diseases;

Control group participants are healthy people, carefully were selected patients without diabetes and coronary heart diseases.

Exclusion criteria

A criteria for exclusion from this study was the duration of the disease and its type. Excluded from the research were patients with other types of coronary disease, beside those with myocardial infarction and angina pectoris. Only these two diseases were selected, because they are more frequent comparing with other types of heart diseases, and their rough symptomatology compared with diseases such as inflammation of the heart muscle (pericarditis), born anomalies of the heart etc.

Moreover, in such cases we have changes in psychological terms of disease management. Meanwhile, the study included patients with diabetes type 1 and 2, excluding the type of diabetes that occurs in pregnant women, due to the fact that this represents a completely different category.

As regards to the duration of the disease, from the research were excluded patients with disease duration more than 5 years. The duration of disease criteria, was set in conversation with medical specialists which are familliar with the course of disease and prognosis. In order to avoid chronic complications of diabetes, as well as the possibility of having a second myocardial infarction and appearance of secondary disease, was set the cohabitation with the disease of 5 years.

Table 1. Descriptive analysis of demographic variables for the three study groups

	Frequency	Percentage	Valid percentage	Cumulative percentage	Total
Gender *Male/Female*	*150 /150*	*50/ 50*	*50/50*	*50/100*	*300*
Age					
30-40 / 41-50 *51-60 / 61-70*	*100 / 88* *78 / 34*	*33.3/29.3* *26.0/11.3*	*33/ 29* *26/11*	*33/62.7/* *88.7/100*	*300*
Residence					
Country/city	*106 /194*	*35.3 / 64.7*	*35.3/64.7*	*35.3/ 100*	*300*
Civil status					
Single/married/divorced/widowed	*38/250/12/0*	*12.7/83.3/4.0*	*12.7/83.3/4.0*	*12.7/96.0/* *100*	*300*
Education					
Noneducated/primaryschool/ *secondary.school/university/postgraduate*	*2/ 68/ 104/* *111/ 15*	*7/* *22.7/34.7* *37.0/ 5.0*	*7/ 22.7/34.7* *37.0/ 5.0*	*7/23.3/58.0/* *95.0/ 100*	*300*
Employment					
Yes/No	*174/ 125*	*58/ 42*	*58/ 42*	*58/ 100*	*300*

Economic class					
Low/Middle /High	49/ 197/ 54	16.3/65.7/18	16.3/65.7/ 18	16.3/82.0/ 100	300

This research included 300 participants in total, divided into 2 groups:

The first group consists by 200 participants, of whom 100 patients with coronary disease and 100 with diabetes mellitus, as an experimental group.

The second group consists by 100 healthy people (without diabetes and without coronary heart disease) as a control group.

The tables below at first will describe the frequencies and percentages of the total study sample and later separately for the three groups of participants in the study. The study sample was consisted of (n=300), the sample was homogeneous by gender (50% females, 50% males), most represented age group is 30-40 years (33.3%), most consisted on the sample belonged to urban areas (64.7%), 83.3% have marital civil status, 37% are university graduates, 58% are employed and 65.7% belong to the middle economic class.

2.3. Study procedures

The research was conducted at Tetovo's Clinical Hospital, respectively on the relevant ambulances (units) for endocrine and cardiology diseases, within October 2014 until April 2015. Purposeful sample was selected. The entrance at the hospital, and the eased procedures to establish communication with the medical staff, were facilitated by a special permit from the director of the hospital.

Questionnaires were managed by the petitioner, and in a few cases by other interviewers (doctors or nurses) trained in advance by the petitioner. The researchers followed medical visits, a recent work model in hospitals of the Republic of Macedonia, which operates according to the rule "visit date", where patients at first are examined by the primary care provider (PCP) and through the electronic system are directed to a relevant medical specialist. Afterwards, the system application of Ministry of Health, messages the patients about the date and time of appointment. Thereby, we tried to choose a purposful sample.[1]

As regards to the testing of the control group, in principle, these participants must be healthy people (without any disease), but unable to control their health cards, the sample was selected on convenince basis (through friends and people we have met earlier). This sampling technique selects only those sample units that can be easily used in a certain period of time.

2.4. Measuring instruments

Cohen's stress perception questionnary (Cohen, Kamarach, Mermelstein, 1983) it is one of the most popular tools for the measurement of psychological stress. It is a self reporting questionnaire, which is scheduled to measure the degree to which each individual estimates stressful situations in his life (Cohen, Janicki, 2007). PPS questionnaire assesses the degree to which the individual believes that his life was unpredictable, uncontrollable and overloaded during the last month. The questionnaire contains 10 questions in total with one answer from the alternatives offered. Questions are coded from 0 (never) to 4 (very often).

Beck depression questionnaire (BDI) is observes the mood disorders, diminished hope, the feeling of abandonment, guilt feeling, the need for punishment, self-blame, thoughts and suicidal bents, weeping, harassment, breaking relations with others, the negative picture for yourself, inability to work, sleep disruption, decreased appetite, hypochondria and decreased libido (Beck, Guth, Steer and Ball, 1997 & Steer, Cavalieri, Leonard, Beck, 1999). The questionnaire contains 21 questions with four answer responding alternative, scaled from 0 to 3.

Beck questionnaire for the determination of anxiety is designed from the same materia, that Beck used to determine the depression scale. At first, the questionnaire was found to serve as a facilitator for the classification of symptoms of anxiety

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[1] Law on health insurance, official gazette of Republic of Macedonia, nr. 25/2000, 96/2000, 113/2004.

neurosis, but today BAI is used for tracking the changes of anxiety at any stage of the participants (Beck, 1997). It contains 21 data, which cover somatic symptoms (12 questions) and subjective evaluation of anxiety (9 questions).

World Health Organization Quality of Life- WHOQOL questionnaire is a short version of Whoqol's (0-100), a self-guide that contains 26 questions, which evaluate the quality of life in four dimensions/aspects (WHOQOL, 1995): *physical health, mental health, social relations, environment.*

Analysis of credibility

The credibility of a translated questionnaire can be tested by checking the internal consistency and test-retest credibility. Cronbach's alpha or coefficient of credibility, can be used to measure the internal credibility. As a rule, the Cronbach's alpha over 0.70 is considered as an acceptable credibility coefficient. The higher is alpha or the credibility coefficient, the more reliable is the generated degree. In this study, the questionnaires showed an acceptable internal consistency, because the coefficient of Cronbach's alpha has a minimum value of .841 minimum, and a maximum value of 943. The value of Cronbach's alpha of all questionnaires is .811, which can be considered as relatively high.

Table 1. *Analysis of credibility of meausuring instruments*

Questionnaire	Number of questions	Cronbach's alpha
COHEN	10	0.841
BDI	21	0.943
BAI	21	0.926
WHQOL	24	0.936
Total analyze	78	0.811

2.5. Study design

The study was designed as quasi-experimental (almost an experiment), a method of applied research which serves to measure the impact of the independent variable on the dependent variable. The quasi experiment takes place when the researcher does not have full control of the independent variable and the control group is not equivalent to the experimental group (Goodwin, 2010). Quasi experiments are used as one of the most prevalent forms of psychology research, involving an experimental group and a control group that is being tested, but not necessarily in equal sampling conditions (Campbell, 1963).

The experimental study group included 200 patients: 100 patients with coronary disease and 100 others with diabetes, who were tested in cardiology and endocrine units, before being exposed to medical visits. The control group included 100 healthy people, which were tested at home conditions or in their work places.

 The study was implemented using quantitative method of data collection. The quantitative analysis is used to establish the relationship between the variables (Cohen, Manion and Morrison, 2000) and to determine the direction and magnitude of the relationship between these variables. The quantitative analysis is used because the nature of this study requires detection of numerical data, which can report the relationship between stress, depression, anxiety and the quality of life in patients with diabetes and coronary disease, and afterwards to be able to compare the results between diseases, and in the end we can compare the level of stress, depression, anxiety and quality of life between patients with coronary disease, diabetics and the control group. Closed models of questionnaires were used in this study, typical for quantitative studies. The petitioner have only supervised the research. Statistical analysis was used for data processing and hypothesis testing, therefore generalizations are exclusively based on data.

3. Results and Discussion

3.1. Categories of stress, depression, anxiety and quality of life at study groups

At 77% of patients with coronary disease were noticed high levels of stress and only in 2% a slight stress, while regarding to patients with diabetes, 59% notice high levels of stress and only 7% have a low levels of stress. While at the control group, 30% of participants are at the higher category of stress and 37% notice a light form of stress.

Accentuated levels of depression are found in 46% of diabetic patients, 40% at patients with coronary disease and only 1% at the participants of the control group, while high levels are found in 35% of diabetic patients, 41% at patients with coronary disease and 7% on the control group. In normal state (without depression), 69% belong to the control group, 15 diabetic patients and 2% of patients with coronary disease.

High anxiety levels are found in 76% of patients with coronary disease and only 3% noticed light levels. At patients with diabetes are found high levels of anxiety in 33% of participants, while a moderated anxiety is noticed in 67% of patients. High anxiety level were found in 7% of the control group, and a light levels of anxiety at 65% of the participants of the control group.

The categories of quality of life at the three study groups. 58 % of patients with coronary disease self-reported moderated quality of life, 2% lower life quality and 39% ranked on good quality of life. 11% of patients with diabetes, self-reported low quality of life, 38% moderated quality of life, 40% good quality of life and 11% very good quality of life. At the very good quality of life category ranked were 59% of the control group, while 3% of them noticed moderated quality of life.

Table 2. Categories of stress, depression, anxiety and quality of life at study groups

	Coronary disease	Diabetes mellitus	Control group
Stress			
Slight	2 %	7 %	37 %
Moderate	21 %	34 %	33 %
high	77%	59 %	30 %
Total	100%	100%	100%
Depression			
Normal	2 %	1 %	69 %
Light	3 %	7 %	16 %
Moderate	14 %	11 %	7 %
High	41 %	35 %	7 %
Accentuated	40 %	46 %	1 %
Total	100%	100%	100%
Anxiety			
Light	3 %	0 %	65 %
Moderate	21 %	67 %	28 %
High	76 %	33 %	7 %
Total	100%	100%	100%
Quality of life			
Very low	0%	0 %	0 %
Low	2 %	11 %	0%
Moderate	58 %	38 %	3 %
Good	39 %	40 %	38 %
Very good	1 %	11 %	59 %
Total	100%	100%	100%

3.2. Correlative relation of stress, depression, anxiety and quality of life at the study groups

Correlations analyzed between independent variables (stress, depression and anxiety) and the dependent variable: quality of life along with its dimensions. Patients with coronary disease resulted with a significant negative correlation between stress and the quality of life (r =.-277, p<005), stress and mental health (r=-228, p<001), stress and social relations (r=290, p<.001), thus a low connection strength is found between stress and the environment (r = 277, p <.001), while there is significant statistical correlation between stress and physical health. The correlative analysis table shows that stress is in positive correlation with mental health (r = .228, p <.005) thus a moderated strength connection is found between stress and social relations (r = 277, p <.001).

Depression indicates significant negative correlations with quality of life (r = -243, p <001), while the connection strength is small. Depression results to have also low significant negative connection with dimensions of quality of life, which means there is a negative relation between depression and physical health (r=-237, p<.005); mental health (r=-225, p<.005); and social relations (r = -232, p <.005). The greater depression is, the lower will be physical health, mental health and social relations.

Anxiety doesn't indicates significant correlation with quality of life (r=-.176, p<0.05), but it is on negative important significance with the physical health (r = -265, p <.001); and mental health (r = -.224, p <001). In these cases, the connection value is moderated. Anxiety in our respondents with coronary disease was higher than depression. Anxiety in myocardial infarction patients is a reaction to existential trauma, because even though life challenges, survival opportunities are great. Our findings are in line with the research of Januzzi, Steam, Pastermak and other associates (2000), which confirm the presence of anxiety after myocardial infarction.

Also, the high presence of comorbid depression is three times more common in patients with coronary heart disease compared to healthy participants (Fraser-Smith, Lesperance and Talajic, 1995). Our findings are consistent with certain studies, which point out that depression compared to anxiety has a greater impact on lowering the quality of life after suffering from myocardial infarction (Kiessling and Henriksson, 2004). Depressive condition, together with coronary angiography, causes disorder of the general physical condition and malfunction of the organism, leading to a reduction in the will of life (Kiessling and Henriksson, 2007; Thombs, Bass, Ford and Stewart, 2006).

Table 3. Correlative relations between study variables at CD patients

	Stress	Depression	Anxiety
Quality of life	-.277*	-.243*	-.176
Physical health	-.067	-.237*	-.265**
Mental health	.-228*	-.225*	-.224**
Social relations	.290**	-.232*	-.183
Enviroment	.277**	-.147	-.171

Stress as an independent variable at patients with diabetes indicates significant negative correlation with quality of life (r =-596, p<001), with a moderated strength connection. Stress also indicates negative significant correlation with quality of life dimensions and the physical health (r =-535, p<001) with a moderated strength connection; mental health (r =-540, p<001) high connection; social relations (r =- 286, p <001); small connection, and the environment (r =-562, p <001); the connection strength in this case is high, since a significant negative relation is noticed between stress and other variables, which means that by increasing the stress we decrease the quality of life and its dimensions, reduce the physical health, mental health, social relations and environment.

The results indicate that depression results in significant negative with quality of life (r =-629, p<001), in this case strength connection is high, as well as its dimensions, physical health (r=- 656 p<001); mental health (r =-607, p<001); social relations (r =-409, p<001); and environment (r=-405, p <001); strength connection between depression and dimensions of quality of life is high. The higher levels of depression decrease the quality of life levels and the dimensions levels of quality of life. The greater depression is, the lower will be quality of life.

Anxiety as an independent variable in patients with diabetes indicates significant negative correlation with quality of life (r =-611, p<001), the strength connection is high. A significant negative correlation it also shown with the quality of life, its dimensions, and the physical health (r =- 655 p<001); mental health (r =-595, p<001); social relations (r =-411, p<001); and environment (r =-419, p<001), the strength connection in all cases is high.

Researching the quality of life in patients with diabetes mellitus, we have confirmed that the disease in conjunction with stress, anxiety and depression promotes a reduced quality of life in all spheres, which coincides with the results of some other studies (Catalano, Martines and Spadaro, 2000). It is thought that psychological stress affects the neuro-endocrine system and acts at the level of blood glucose (Konen, Summerson and Dignan, 1993).

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Table 4. Correlative relations between study variables at diabet mellitus patients

	Stress	Depression	Anxiety
Quality of life	-.553*	-.624**	-.611**
Physical health	-.506*	-.656**	-.655**
Mental health	-.517**	-.607**	-.595**
Social relations	-.274*	-.409**	-.411**
Enviroment	-.541**	-.405**	-.419**

As regards to the third study group, i.e the control group it is noticed that stress indicates significant negative correlation with quality of life (r =-.268, p<001), physical health (r =-.269, p<001), mental health (r =-.288, p<001), moderated strength connection, while stress indicates non significant negative correlation with social relations (r =-.030, p>001) and the environment (r=-.186, p>001). It resulted a significant negative correlation between depression and the quality of life (r=-.592, p<001) and its dimensions, physical health (r=-.513, p<001), mental health (r=-.490 , p<001), social relations (r=-.408, p<001) and the environment (r=-464, p<0010), relatively high strength connection.

Anxiety as an independent variable at the control group has significant negative impact on quality of life (r=-.406, p<001), and the dimensions of quality of life, physical health (r=-.392, p<001), mental health (r=-.438, p<001), the environment (r=-.328, p<001), with moderated strength connection, whereas anxiety has negative nonsiginificant impact on social relations (r=-.056, p>001).

A correlation between stress, depression, and quality of life is also noted in the control group (Hadi, Asadollahi and Talei, 2009)

Table 5. Correlative relations between study variables at the control group

	Stress	Depression	Anxiety
Quality of life	-.268**	-.592**	-.406**
Physical health	-.269**	-.513**	-.392**
Mental health	-.288**	-.490**	-.438**
Social relations	-.030	-.408**	-.056
Enviroment	-.186	-.464**	-.328**

4. CONCLUSIONS

According to the recent psychological theories it is considered that mental phenomena that occur during chronic diseases appear also because of damaged self-regulation of the individual. It is correct that everything that happens to us, our private life, emotions, our imagination, they influence and manage our behavior. The inner life of a human is very wealthy and a significant source of his actions, reactions, behaviors. This concept corresponds with the latest insights, to which now precedes a better development and treatment, based on evidence, which would give a specific response to the present enigma of the mutual influence of psychological, biological, somatic and cerebral action during the functioning, reacting and the behavior of the person. Until then, patients' reactions and pathology have the right to expect help from doctors, which are left to act on their personal belief and knowledge, personal experience, inter-reaction and abilities, when facing a person with somatic or psychological symptoms.

However, according to researches done so far, it is known that stress is a more serious threat to human health and contributes in the appearing of chronic disease, such as coronary disease and diabetes mellitus. It is quite clear that these

diseases, besides physical difficulties, carry with them also psychological difficulties, which make the everyday function even more difficult for the person. Many researchers have explored this case, entering to this problem from different aspects. That is why this research is projected in such ways that it can perceive this problem, taking into consideration different psychological aspects.

The results and conclusions represent confirmation of earlier studies, and can interconnect with the main theoretical concepts displayed in this paper. By summarizing the results and the gained knowledge for the connection between stress, anxiety, depression and the quality of life on patients that suffer from coronary disease and diabetes mellitus, it can be concluded that this has enabled the verification of the submitted hypotheses, some verifications to be repeated, but also to gain new knowledge which have theoretical-scientific and practical significance for the phenomenon. Based on this prospective study, the overall track of psychological parameters of the patients who suffer from coronary disease and diabetes, in order to separate their common comorbidity, we have concluded the following:

Coronary disease is a chronic disease, with a fast appearance, and that is the reason why in our study, a large percent of patients have shown a high level of stress and anxiety. Meanwhile, almost half of them have resulted with accentuated depression and approximate quality of life.

Diabetes is a chronic disease, which develops slowly, that is why half of the diabetic participants have shown accentuated level of stress and depression; whereas the quality of life is approximate. In a small percent it is noticed a lower level of anxiety.

A considerable percent of the control group does not demonstrate signs of depression, but on the other hand result with a light anxiety and have self-reported a good quality of life.

In patients with diabetes it is noticed that stress, depression and anxiety have a negative significant influence on the quality of life and its dimensions, physical health, mental health, social relations and the relations with the environment.

In patients with chronic diseases can be noticed the negative significant influence of depression and stress on the quality of life, although there is a low relation power. It is concluded that stress is in a positive correlation with social relations, whereas it is not in a significant correlation with physical health. Compared to the quality of life, anxiety does not show that has statistical significance, while at life dimensions it has influence only on physical and mental health.

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The Right of Pledge on Movable Items (Pignus) in Republic of Kosovo

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Abstract

The pledge is an item right based on which its official holder – the pledgee may seek the payment of his/her claims from the item if those aren't paid within certain time limit. The right of pledge in the Republic of Kosovo constitutes a complex occurrence which has various relations on which at one side is the pledgee creditor, and in the other side are debtor pledgor and other third persons. The role of pledge and its affirmation is related to most qualitative changes of claims. The right of pledge as item right in foreign item (iura in re aliena) makes a history only to a certain degree of economic and social development. In this degree of development there was a need and necessity to secure the other's claims even de facto, by the hand item, by "pledging" of an item. The creditor requires that his claims to the debtor be secured by obtaining of a pledge of debtor item. The debtor's conjunction of creditor by obtaining debtor's item is safer for the creditor to realize its claims, rather than when the debtor secured these claims by his/her personality, bail, personal insurance. In the Kosovo legal system there is possessory pledge, non-possessory pledge and the pledge over the rights.

Keywords: The right of pledge, pignus, mortgage, pledge object, pledge principles, titles for obtaining the right of pledge by the hand item.

1. Introduction

Financial turnover in Kosovo, as is the case in the countries of the region, is the basis of the modern economy, whereas ensuring the fulfilment of debtor's obligation is of particular importance in terms of financial turnover. It is widely recognized that there are various forms of ensuring the fulfilment of obligations that are personal as well as non-personal. In terms of securing the creditor's property claims, the most appropriate form is securing judicial real rights through the right of pledge. In modern business practice, the use of loans that are secured by the right of pledge, mortgage and pignus is ever increasing.

The execution of the claim is a problem that continuously concerns the creditor, not only at the time of concluding the legal relationship but even later at the time of maturity of the claim. The property status of the debtor is vital for the creditor and his ability to execute his claim in the future. The creditor has no guarantee that the property status of the debtor will always be stable and solvent. The creditor cannot directly control the work undertaken by the debtor who may face a situation whereby the execution of his claim becomes questionable.

In order to prevent a potential problem regarding the execution of the creditor's claim, the provisions of the substantive law provide for different means, which foresee a safer execution of the creditor's claim.

Our legal system, as is the case with every other legal system, has various means for securing creditor's claims. Substantive provisions foresee the contractual penalty, bail, advance payment, earnest money, surety, penalty, right of retention, and right of pledge.

Of all means provided for securing creditor's claims, right of pledge (pignus and mortgage) represents the oldest and safest means for securing creditor's claims.

Right of pledge means creation of any interest on movable property or on any right through agreement or pursuant to the law, whereby the pledgee is granted the right to take possession of that property or use that right in order to satisfy any existing and identifiable obligation secured with the pledge.

2. Types of Pledge

Traditionally, the right of pledge is divided into pignus, namely on the right of pledge in movable property, and mortgage, namely the right of pledge on immovable property. When dividing the right of pledge into pignus and mortgage, the type of the property, namely the subject pledged ought to be considered. Thus, if the object of pledge is a movable property it is always a pignus. Meanwhile, in cases where the pledge object is an immovable property, that means that we are dealing with mortgage as a type of the right of pledge . A pledge may be a pignus and a mortgage. The pignus is a right of pledge on movable property, while the mortgage is a right of pledge on immovable property. The difference between the two types of pledge is not only shown by the object of pledge. Another factor that distinguishes the two is that the pignus, according to rules, is handed over to the creditor (pledgee), whereas in the case of mortgage the pledge is recorded in the respective registers . The first person to divide the right of pledge into these two main types, depending on the movable or immovable property, was Hugo Groitus. Back then, he formulated the concept according to which pignus consists of only movable property whereas the mortgage consists of only immovable property .

The mortgage is a real right of the creditor on immovable property of others. The creditor, as foreseen by the law, is entitled to request the compensation of his claim from the value of that immovable property against creditors that do not have a mortgage on it as well as against creditors who have got the mortgage on the property after him, regardless of the change of ownership of the claimed immovable property . The mortgage presents the so-called "real means" of securing claims, although the subject of insurance is the property, respectively the immovable property. Insurance of claims consists of what the debtor pledges, respectively of the immovable property he owns, for the purposes of securing creditor claims. If, within the deadline foreseen in the agreement made between the creditor and debtor, the latter fails to fulfil his debt towards the creditor, consequently the creditor, through legal means, is entitled to satisfy the claim through the forced sale of the immovable property of the debtor .

This concept of pledge has undergone changes in the contemporary law. Nowadays, there is also the mobile mortgage which implies the right of pledge that consists of movable property. However, the pledgee's right over the movable property, similar to immovable property, is recorded in the public books. In such cases, the division of pledge into pignus and mortgage, according to the authors, is based on the delivery of the property. In this case, it is vital to know whether the property is delivered to the pledgee or whether the debtor keeps it. Therefore, the possession of the property is far more important than the type of property that is subject to possession . Law on Property and other Real Rights of the Republic of Kosovo (hereinafter referred to as LPORR) provides for the possessory pledge, non-possessory pledge as well as the pledge over a right in Article 134, paragraphs 1, 2, 3, and 4.

3. Pignus

The pledge over movable properties is called the pignus. It is presented as part of the right of pledge against the right of pledge on immovable property and the right of pledge over rights. Pignus is established through a contract whereby the debtor (or a third party) enters into obligation towards the creditor (pledgee) for delivering any movable property with ownership rights in order to secure the claim. On the other hand, the creditor is obliged to keep the movable property and, after the expiration of the claim, return the same to the pledger without any damage.

The pledge has been named after the Latin word "pignus" which means palm and symbolizes the manner of controlling the property . The pledge represents real means of securing the execution of a contract. It's an accessory contract. This contract is a pledge on the movable property. Indeed, the pledge contract is a contract where the debtor or any third person called the pledger has obligations towards the creditor, or the pledgee, to deliver any movable property in which the right of ownership exists and which is valuable enough to satisfy his/her claim to other creditors, if the claim is not to be paid after the expiration of the claim; the creditor, on the other hand, is obliged to keep the property and after the expiration of the claim, return it to the pledger without any damage . Pignus is the most ancient right of pledge. It is older than fiduciary, far older than mortgage and other rights of pledge. Pignus is a real right on the property of others. The subject of pignus is the movable property, which secures the claim of the pledgee/creditor to the pledger/debtor and is delivered to the pledgee/creditor in retention (in possession), and from its value of the latter satisfies his/her claims. The movable property which comprises the pignus is individually defined. A right can also be the subject of the pignus. Upon submission of the movable property in retention, a pledgee/creditor acquires the real right to that property so after the expiration date of the claim, he/she can legally satisfy his/her claims from the value of the property. The pledge property is only the one that is in use and capable of ensuring the pledgee/creditor with the value that is sufficient to satisfy his/her claims.

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4. Titles for Obtaining the Right to Pignus

By way of establishment the right to pignus can be:

- Contractual,

- Judicial, and

- Legal.

4.1. Judicial Work as a Legal Title for Obtaining the Right to Pignus

It is widely known and acceptable that the contract is "titulus turis" built on which the right of pledge is obtained. In addition, obtaining the right of pledge based on the contract rather than the most common legal basis based on which the pledge is incurred and obtained, is a rule . In theory, the contract for pledging the property is a pledge contract and in Latin it is called the contraktus pigneraticius which obliges the debtor or any third party (the pledger) to deliver to the creditor, by way of the right of pledge, the designated movable property, while the other contracting party is obliged to take care of the pledge and, upon the termination of the claim expiration date ensured by the pledge, return it to the pledger .

The right of pledge has not been substantially established by the contract yet. The contract only presents the legal basis (titulus iuris) for obtaining the right of pledge. It even states that it only paves the way for obtaining the right of pledge. Precisely, such a contract is only treated as a precontract. In order to acquire a real right, and in this context, a right of pledge, it is also necessary to undertake another action - the delivery (traditio) of the movable property; meanwhile, in terms of immovable property it is required the registration of the property in the public books. This act, which is qualitatively important for acquiring the right of pledge, is called the method for acquiring a right, or modus acquirendi. Only the acquisiton or the existence of the titulus iuris and the modus acquirendi simultaneously will result in acquiring the right of pledge . Law on Property and other Real Rights of the Republic of Kosovo, Article 136 paragraph 1 and 2 foresees: "The validity of a pledge agreement requires a written document containing the following particulars:

1. the name and address of the pledger and if the pledger is a person other than the debtor;

2. a description of the obligation to be secured; a description of the pledged item;

A statement that the purpose of the agreement is to create a pledge in favour of the pledge holder; the signatures of the parties to the agreement; and the date on which the pledger signs the pledge agreement".

4.2. Judicial Decision as a Legal Title for Obtaining the Right to Pignus

The right to a judicial pledge on movable properties is acquired by seizure in an enforcement procedure when the debtor has not fulfilled the obligation required and the creditor has proposed compulsory enforcement based on the final decision. This can be an administrative enforcement procedure, and according to some theoreticians, it would be best to call it enforcement pledge right . The right of pledge also arises by a court decision. Judicial or compulsory pledge on movable property shall be established based on a court decision taken in the enforcement procedure. Upon registration by the judge, the property is individualized. This may be the reason why a delivery act to acquire the right of pledge is not required in case of a compulsory pledge .

Movable properties that are subject to judicial pledge remain under the possession of the pledger/debtor. However, in such cases, there is a possibility for these properties to be transferred under the custody of the court or of the third person. The decision of the court to establish a movable property is similar to cases of the procedure for securing the claim as a precautionary measure and in the procedure for the execution of movable property for the fulfilment of a monetary obligation . Enforcement for movable items is conducted through registration, sequestration, and evaluation, selling of such items and settling the credit from the amount obtained from sale of such items. Creditor gains the right of pledge for inventoried movable items. If the inventory is done in benefit of more creditors, the order of priority of the right on pledge obtained through inventory or writing in the register of inventory for the purpose of sequestration, shall be assigned according to the order of receiving enforcement proposals by the enforcement body.

4.3. Law as a Legal Title for Obtaining the Right to Movable Property

Statutory pledge exists based on the law in favour of legal creditors assigned for certain legal claims, without the consent of the debtor . Within the right of pledge, in some rare cases, the law is presented as a legal title (legal basis) for the establishment of the right to movable property. This includes cases where after the fulfilment of certain conditions, the law considers that in that case, the right of movable property exists. The conditions for this type of pledge are foreseen by law, and in these cases, the consent of the contracting parties is not required for the constitution of the right of pledge . This means that the right of pledge can exist without publicity. This reflects the weak side of the statutory pledge since third parties cannot know about its existence. So when it comes to movable property, there is no need for the debtor to transfer the property in possession of the pledgee/creditor due to the establishment of the right of pledge, such as the case with the right to voluntary pledge. Furthermore, the statutory pledge may also be granted to persons (carriers, commission agents, freight forwarding agents, warehousers) who at one point were under the possession of the property, but not any longer . The fact that the statutory pledge depends on the fulfilment of the facts set forth by the law means that the debtor's consent is not necessary for the establishment of such a pledge. This pledge will be created even if the debtor opposes its establishment.

The owner of the apartment (house) in use, the lessor, or put differently, in cases when the lessor leases the apartment to the lessee, there is a greater need for securing the lessor's claim on the lease if the lessee fails to fulfil his obligation. The lessor's statutory pledge consists of movable property of the lessee placed (transferred) in the apartment. The statutory pledge consists of the so-called invecta et illata, movable properties which the lessee has in the apartment or on the arable land . Kosovo's LPORR regulates the legal pledge with Article 135 paragraph 1, 2 and 3. Due to the importance of this institute, some cases of legal pledge are mentioned below. One case is the "right of retention" foreseen by Article 267 of the Law on Obligational Relationship of the Republic of Kosovo (hereinafter: the LOR), where the creditor of a claim that has fallen due shall have the right to retain anything of the debtor that is in the creditor's hands until the claim is paid thereto.

According to Article 643 of the LOR in order to secure payment for the work, recompense for the material used and other claims deriving from a contract or work, the contractor shall have a lien on the things made or repaired and on other objects delivered thereto by the ordering party in connection with the work, as long as they are in the contractor's possession and the contractor does not relinquish them voluntarily.

According to Article 693 thereof, in order to secure payment for the transport and the refund of the necessary costs incurred by the transport the carrier shall have a lien on the things handed over thereto for transport and in connection with the transport as long as they are in the carrier's possession or as long as the carrier holds documentation that allows the disposal thereof.

Article 800 of the LOR states - the commission agent shall hold a lien on the things that are the subject of the commission agency contract, as long as such things are therewith or with a person that holds them in possession thereof or as long as a document that allows them to be disposed of by the commission agent is held thereby.

5. Principles of the Right of Pledge

Every right has its own character and characteristics, which distinguish it from others in terms of content, juridical nature, notion. The right of pledge cannot be an exception to it. Based on this, it is easier to distinguish the principles on which the right of pledge is based and which express the essence of the existence and the right of pledge as a real right iura in re aliena.

Had it not been a right on itself, the right of pledge could not have had its own principles and vice versa. The particular principles also distinguish it as a legal institution, as a real right from the other rights, whether it is a real right or obligation . In legal literature different authors differ have different views on the principles of the right of pledge. However, some of these principles are found in the work of most of them . The most important principles of the right of pledge are:

1. The principle of accessory;

2. The principle of officiality;

3. The principle of speciality;

4.　The principle of indivisibility, and

5.　The principle of priority.

5.1. The Principle of Accessory

The right of pledge, as a real right on other's property and securing a creditor's claim in relation to the debtor implies the fact that this right results upon the existence of a binding legal-civil relationship. A right of pledge cannot exist if it is not preceded by the existence of a binding relationship between the debtor and the creditor. A right of pledge cannot be created and exist without the creditor, while the latter exists without the right of pledge. The right of pledge exists with the existence of the claim provided. The right of pledge is created to secure such a claim. It is clear that the right of pledge exists only if there is a certain claim, the realization of which is guaranteed by the right of pledge. The right of pledge presupposes the existence of a certain claim, while the latter conditions the first from which it is secured. All this shows that the right of pledge is not a right established on itself; is not a main independent right. It is dependent on the existence of the claim right, which is an independent right. The accessory of the right of pledge is particularly taken in consideration in the case when the claim or the transfer of the right of claim is transferred to the heir, whereby this transfer from one entity to the other implies the continuity of the right of pledge for securing the claim, no matter who the creditor is in this given case.

Exclusion from the principle of accessory exists in the case of the statutory limitation of the claim that is secured by pledge - the pledgee is entitled to satisfy his/her claim from the value of the property pledged if it is under his/her possession or if the right is registered in public books. This exclusion from the principle of accessory is also included in some foreign laws, such as (e.g. German law and Swiss law for securing mortgage claims, namely Austrian law and Polish law in the case of pignus. The right of pledge may be constituted for future claims, which is the case of a bail pledge which is granted for a claim that may, but not necessarily arises, and the credit pledge that is granted for a claim that may arise from contracted credit. This right arises immediately with the constitution of the pledge, although the claim is for the future; if the claim does not arise, the right of pledge is terminated. Securing non-existent claims at the moment of the creation of the right of pledge consists of both movable and immovable properties. This at the same time is an exemption from the principle of accessory, according to which, at the moment of the creation of the right of pledge, there must be a claim which is secured by the pledged property and the value which satisfies the claim.

5.2. Principle of Officiality

The right of pledge as property security secures a certain claim of the creditor who is entitled to complete (satisfy) his/her claim from the value of the property, if, upon the execution (maturity) of the claim, the debtor (pledger) fails to meet it; fails to fulfil his/her obligations in due time.

Legal arrangements explicitly provide that the creditor or pledgee has the right, before other creditors, to collect his/her claims by the value of the pledge if his/her claim obligations are not met. However, it should be noted that the creditor cannot satisfy the claim by selling the pledged property himself/herself, but only through court proceedings. The creditor can only address the court, requesting the judge to render a decision by which the pledged property is to be sold at public auction or according to a certain price, when the property already has a stock price or market price. This is a characteristic feature of the principle of officiality, which is preceded by the LPORR of Kosovo. Article 168 of the specified law stipulates that, upon default, a pledge holder may sell, lease or otherwise dispose the pledged item. A sale of a pledged item can be affected by public auction or in any other suitable manner. In accordance with the principle of officiality, the so-called lex commissoria is forbidden. The pledge creditor is forbidden to collect debt from a pledged property based on the unilateral declaration of will, and similarly any contractual provision is also forbidden, which, at the moment of entering into a pledge contract, foresee that the pledged property be transferred to the ownership of the creditor if his claim is not fulfilled or in such case the creditor may hold the pledged property for himself/herself or sell it at a pre-determined price.

This is foreseen in the LPORR of Kosovo in Article 130 paragraph 1 where it is expressly stipulated that" An agreement, entered into before the secured claim has matured, is void if it provides that upon non-payment after maturity of the secured claim the encumbered assets are to become or to be transferred into the ownership of the secured creditor or the encumbered assets are to be sold at a fixed price

In principle, the creditor's ownership of the pledged property is prohibited. However, the exemptions from this principle are contained by most of the contemporary legal systems including the LPORR of Republic of Kosovo. According to Article 169

of the law in question "the pledge holder may purchase the pledged item only at a public sale or a private sale if the pledge item is sold in a recognized market, or in cases where commonly known standard prices exist for the pledged item.

5.3. Principle of Speciality

By legal nature, the right of pledge is a real right. Real rights are established only on the individually determined property. As a real right, the pledge right cannot be anything else but a property. It is made up of an individually defined property. Thus, the pledge property must be individually defined, whether it is movable or immovable. The pledge is an accessory right and as such depends on the essence of the claim, which is provided by the individually determined pledge property. Thus, this principle implies that with right of pledge only secures the specific claim of a creditor (and not an indefinite number or indefinite amount), and the right of pledge may only exist on certain properties or on many individualized items. There are some exceptions to the principle of specialty. The first exception is that the right of pledge can secure both future and conditional claims. The right of pledge, can also secure eventual claims, respectively the claim that will emerge or (if emerged) will still exist. This can be the case when a person gives something of his own as insurance for the obligation that may emerge but not necessarily emerges. For example, a person rents the ship on the ocean and leaves his/her watch as a pledge in case he/she damages the ship (bail pledge). Such an exception can be found in the LPORR of Kosovo which in Article 131 stipulates that "A proprietary security right can be granted for securing present, future and conditional claims.

5.4. Principle of Indivisibility

By its very nature, the right of pledge is inherent, while the entirety of the pledged property with all its constituent parts secures the claim of the creditor. The principle of indivisibility implies that the entire pledge property secures the claim until it is fully fulfilled. The right of pledge is indivisible, primarily in terms of the claim secured through the pledge, and secondly in terms of the pledge property. The meaning of indivisibility consists in that the creditor holds the right of pledge even after the partial fulfilment of the claim, until the debtor pays all the debt. The right of pledge is indivisible even if the obligation is divisible. The claim is complete and as such is secured; the pledge property is complete and only as such provides security. This means that only as a whole the claim is secured by the pledge and that only the pledge property as a whole can secure the claim. The entirety of the claim consists in securing the pledge with all its parts. Meanwhile, the entirety of the pledge property consists in its "ability" to secure the claim with all its components and parts, its accessories and pertinence, as well as harvested and non-harvested (separated) natural and non-natural fruits. In this regard, the LPORR of Kosovo foresees that "the mortgage extends over all parts of the immovable property unit, including the buildings thereupon that are firmly attached to the ground. The mortgage covers all component parts and natural fruit of the immovable property as long as the latter are not separated from the principal thing. The mortgage secures the secured claim until it is completely paid off. A partial payment does not affect the mortgage.

The principle of indivisibility is also dealt with by the most popular civil codes such as the French Civil Code in Article 2114, Austrian Civil Code in Article 457, and the Swiss Civil Code in Article 889.

5.5. Principle of Priority

The right of pledge exists on the designated property. A certain property may be subject to more rights of pledge. The property is pledged for claims of various entities, which in this case are pledgee creditors. This represents a cumulation of the rights of pledge. Cumulation of the rights of pledge may emerge at the same time or at different times. In these cases it is necessary to foresee the possibility of the fulfilment of the secured pledged claims.

The creditor acquires the right of pledge based on which he has the right to collect his claims before other creditors and before those who have acquired the pledge over that item after him. The pledge secures the creditor, not only in relation to the debtor, but also in terms of eventual reflections by others in this matter. Since more rights of pledge compete over the same pledge property, there is a need to regulate the relationship between them. Similarly, a contrario when more creditors have the right of pledge over the same pledge property, from the value of which they are secured, there is a need to establish a relationship between them. The maxim prior tempore, potior iure (First in time, greater in right) has been set long time ago. A particular feature of the mortgage is its range on the registration in public books. It is regulated by the principle of priority, according to which the protection of immovable property rights is determined according to the time of registration in public books. In this way, the order of priority in payments of claims deriving from mortgaged immovable properties is established. This concretely implies that the first mortgaged immovable property will first fulfil the claims of the

creditor who first constituted the mortgage, and after that, the claims of the other creditors who constituted the mortgage in that immovable property after him if anything is left, and according to the order. The LPORR of Kosovo has foreseen the principle of the ranking of real rights with Article 118 which stipulates "The ranking of several rights encumbering the same immovable property shall be determined according to their date of entry into the register. Rights that were registered on the same day and at the same time have equal ranking". Article 119 of the same law provides for the possibility of changing the order of ranks, but in this case an agreement is required between the holders of the rights that are affected by the ranking change. Meanwhile, Article 120 of the law in question provides for the possibility of reservation of priority ranking stating that "the owner of an immovable property when registering an encumbrance on such property may make a reservation that grants authority to have a different, clearly defined right registered with priority ranking over the encumbrance. The right of priority is also foreseen by most of the world's legal systems and is regulated by special laws or civil codes/Article 1209 of the GCC, Article 893 of the SCC, Article 1056 FCC.

6. Entities of the Pignus

The pledge itself does not emerge or come out of thin air; it is established by the people. It is clearly not established by each and every person socialising with others in a rally, in society, or in gatherings, but only by those who enter together in a specific legal relationship, standing opposite one another, for the purpose of realizing any property interest. A relationship, be it social or legal, cannot be conceived without people, without entities. Therefore, it is clear that the people, the entities are needed for the establishment and existence of the legal relationship of the pledge, as for any other civil-legal relationship. One entity is known as the creditor/pledgee and the other is known as the debtor/pledger.

The creditor/pledgee is the entity for whom the right of pledge is constituted and who has the right to satisfy his claim from the value of the pledged property. He is the holder of the right of pledge. His right acts on all other persons, is an erga omnes entitlement, which means that it is enforceable towards all, the debtor from the relationship of obligation, the pledger, as well as towards third parties. In this legal relationship the debtor is the person who obliged to fulfil the obligation of the creditor from his/her property, namely the pledger/debtor who has pledged his/her property to secure the claim of the pledgee/creditor. However, the pledger/debtor is not necessarily the same person with the debtor from the obligational relationship because in certain cases there is also a third person who pledges his/her property for securing the creditor's claim for the debtor from the obligational relationship. From the content of Article 133 and 134 of the LPORR of Kosovo it is noticed that the lawmaker names the entities of the right of pledge as the pledger and the pledgee.

7. THE SUBJECT OF PIGNUS

In order to constitute the pignus, it ought to have its own subject. The subject of the right of pledge may be any movable property that is in legal circulation, including the share of joint ownership.

The property must be individually defined and non-consumable. If the subject of the pledge would be the non-consumable property, then the right of ownership would be transferred to the pledgee who would return the same amount upon termination. In literature, this is called an irregular pledge (irregular pignus). The subject of the right to pignus may also be the right that has a property value. Such rights are: copyright and disclosure, other rights to industrial property, the right incorporated into securities, the right to inheritance, etc.

Subject of the pledge can be properties which were given as the pledge. However, in this case, the pledger shall notify the pledgee and require from him/her to deliver the pledge to the other pledgee upon collection. The LPORR of Kosovo in Article 138 paragraph 1 stipulates that "any movable item or right that is legally transferable can be pledged. Property that is jointly or commonly owned may be pledged only if all joint or common owners consent the pledge. Subsoil minerals and hydro-carbons and rights to subsoil minerals and hydro-carbons can be pledged in accordance with the provisions for the transfer and encumbrance of subsoil minerals and hydro-carbons or such rights in the applicable law . According to the LPORR of Kosovo, subjects of the pledge may also be generic things of the same kind and quality as well as pledge of future items and inventory

8. Conclusions

The right to insurance in the Republic of Kosovo, as every branch of law has undergone considerable changes, adapting to social transformations and the demands of the modern economy. If the right to legal property insurance of Kosovo is comparable to the rights of the countries of the region, it can be inferred that many of the institutions for securing the claims

are almost identical. LPORR of the Republic of Kosovo has foreseen the possessory pledge, non-possessory pledge and a right of pledge as a fixture for securing claims.

By all means provided for securing the creditor's claim, the right of pledge (pignus and mortgage) is the oldest and one of most secure means of securing creditor claims. The right of pledge is a real right. It is a real right over other's properties. It is an iura in re aliena right. The pledge is a real right by which its pledgee or creditor may request payment of his claims from the property if they are not to be paid within the prescribed time limit. Put differently, the right of pledge is a real right to other's property, and from this right the pledgee has the power to satisfy his/her claim from the pledged property if the debtor fails to fulfil the obligation assigned at the appointed time.

Traditionally, the right of pledge is divided into pignus, namely on the right of pledge in movable property, and mortgage, namely the right of pledge on immovable property. When dividing the right of pledge into pignus and mortgage, the type of the property, namely the subject pledged ought to be considered. Thus, if the object of pledge is a movable property it is always a pignus. Meanwhile, in cases where the pledge object is an immovable property, that means that we are dealing with mortgage as a type of the right of pledge.

In the future, Kosovo's lawmakers should be committed to establish a right to insurance on a variety of movable properties that are important to business activity in order to facilitate access to credit through a legal regime that is in accordance with international standards such as those set by the United Nations Commission on International Trade Law (UNCITRAL) and the World Bank.

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Modern Greek Drama and Theatre in the Crisis Period: Mnemonic Flashback of the past as a Defense Mechanism in the Present

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Abstract:

At the beginning of the 21st Century, Modern Greek Dramaturgy had already entered the Postmodernism phase, closely adhering to the trends of international theatre. The economic and cultural crisis that set in after the first decade brought an end to almost every innovative attempt. Obsolete types and forms, subjects and stories/plots, are recycled and updated. The Past reappears in exactly the same way it used to be depicted in 20th or even 19th century literary texts and successful comedies of the Greek cinema of the 50's-60's are almost completely prevailing. It is not, however, the first time this phenomenon is observed in the Modern Greek Theatre. A similar one appears in the Interwar period (1922-1940), when, for political, social and economic reasons reality becomes very negative for Greek playwrights. The recent and distant Past appears to have a redemptive effect, thus offering an alibi and a way-out deprived by the Present. This is the subject of our announcement, based on the notions and the function of theatrical memory and the multiple roles by which History is joining Theatre.

Keywords: modern Greek theatre, modern Greek dramaturgy, theatrical memory, history in theatre, mnemonic flashback

Introduction

At the beginning of the 21st century, Greece has been caught in the vortex of a great economic, social, cultural and political turbulence, which has upturned its smooth European course and has brought about radical changes in the attitude, ideology and economic situation of the Greek citizens. After the international financial crisis between the years 2007-09 and since 2010, Greece has been involved in an unprecedented vortex of economic asphyxiation, great Depression and fiscal austerity, which was and is still being experienced by the Greeks as a multi-level and polynomial crisis (Helliwell, Layard& Sachs 2013).

A new reality took shape for the Greek society, with the main reference axis being the enforcement of "memorandums" and the conditions set by the creditors for the achievement of certain fiscal goals (Matsaganis2018).

Under these new circumstances, a new reality is emerging in the theatre as well, which is greatly differentiated from any previous one and creates a new physiognomy, still at birth. Therefore, any conclusions made can be but simply initial observations, in need of further documentation. Theatre, as a sensitive receiver and indicator of this reality, vividly represents all previous and recent social changes (Patsalidis 2014a). Just prior to the period of the intense economic crisis and its consequences, Greek dramaturgy included works with subject matters, aesthetics and morphology totally integrated within the framework of the current European and international post-modern theatre (Freris2014:108-112). Its ethographic background has in many cases remained unsurpassed, since the axis of the native constitutes the one timeless constant for the modern Greek theatre since its very beginning in the 19th century (Pefanis 2000-2001:150-159).

Still, though those ethographic elements can easily be traced, their combination with modern themes and aesthetics has given the ethographic content a renovated and modernised form. Such plays are: *"California Dreaming", "The Milk"* (Vassilis Katsikonouris), "*Shaved chins*" (Giannis Tsiros)*, "Rime"* (Brothers Koufali)*, "Anna", said I"* (Panagiotis Mentis)*, "Melted Butter"* (Sakis Serefas)*, "Seven logical answers"* (Leonidas Prousalidis) (Rosi 2014:22-28).

The quest for an identity in the roots of the theatre with the modern theatre looking for its origins in the ancient Greek drama, tragedy or comedy, is an equally strong element of the continuity and cohesion of a so called "Greekness", the emergence of which is attempted by playwrights (Tziovas 1989). However, this time post-modernist tendencies are present and plays currently being written seem to have got free from this influence (Tsatsoulis2004:509-524). Archetypes and patterns are only distantly echoed. Intertextuality, adaptation, work in progress are some of the techniques and forms modern Greek playwrights choose in order to converse with the ancient Greek *mythos*. This category includes excellent examples, such as: "*Laios' murderer and the crows*", "*Cassandra speaks with the dead*" (Marios Pontikas), "*And Juliette*", "*Tonight we're dining at lokasti's*", *Andromache or a woman's landscape at the height of night* (Akis Dimou), *Which "Helen?"* (Michalis Repas – Thanasis Papathanasiou), "*Cassandra's Annunciation*", "*The animals' vertigo before the slaughter*" (Dimitris Dimitriadis), "*The couple's bedroom*", "*Announcement*" (George Veltsos), "*Juliette of the Macintosh*" (Stelios Lytras), "*Clytemnestra?*" (Andreas Staikos) (Rosi 2014:28-30).

A third generic axis classifying the previous form of modern Greek dramaturgy is the one related to the general trends in world theatre such as feminist and minority theatre, as well as theatre about racism and marginalised groups (Blessios 2011: 647-660). The influx of immigrants and the augmentation of refugee populations, the increasing number of incidences of racial and sexist violence, the appearance of social groups initiate this new reality in Greece, especially in the capital and the major urban centres (Blessios2011:647-660). Indicatively we can mention: "*Thessaloniki in the first person*" (Sakis Serefas), "*Scarlet sky*" (Loula Anagnostaki), "*Got life into her hands*" (Vassilis Katsikonouris), *Destiny* (Akis Dimou), *When go-go dancers go-a-dancing* (Helena Pega), "*Invisible Olga*" (Giannis Tsiros), "*Homelands*", "*The Evros River across*" (Michalis Repas – Thanasis Papathanasiou), "*Austras or Wilderness*" (Lia Kitsopoulou).

Places of reception, theatre halls, other spaces used for performances also relate to dramaturgy. The theatre scene, especially in Athens, has moved away from the city center and high capacity theatre buildings, suitable for popular spectacles, and has been taken to the periphery. In run-down peripheral neighbourhoods, small spaces, usually industrial or abandoned warehouses, workshops, factories, get refurbished and converted into theatrical multi-function areas and stages. Small pioneering groups of actors and other theatre people get established there and create their own "locals", gradually attracting relevant audiences, which form fan clubs of supporters. Plays presented there are works of current thinking and aesthetics, with a new attitude towards their relationship with the audience, a different perception of the function of theatre and art, introducing the trends of world anent guard and experimentation to Greece. ("*Galaxy*", "*Late Night*", "*Guns! Guns! Guns!*" by Blitz theatrical group, "*City-State*" by Kanigouda group, and so on) (Arfara 2014:147—161 ,Sidiropoulou 2014b:113-118).

And the great crisis occurs. Total economic collapse sweeps away the Greeks and the Greek society, bringing about a completely unprecedented reality, at least for the younger generation, with high rates of unemployment and economic disruption, total insecurity and a phobic attitude towards the future, breaking away from whatever had been considered a stable point of reference thus far (Tziovas 2017).The unquestionable impact of the adverse economic and social circumstances on the cultural creation, is a very serious subject that is up for discussion and concern. The comment that has been phrased in relation with Literature may be extended to theatre, as it consists by its nature a communication system, a social event, a polysemous cultural phenomenon that simultaneously comprises both the content as well as the substance of culture (Grammatas 2015).

How does theatre function? What is its presence in this age of crises and disruption like? Naturally, theatre does not die away. It survives and keeps on developing, finding ways to react, getting its potential together and inflicting radical cuts to its costs. Theatre has probably become the most popular type of entertainment and simultaneously a night out with numerous choices(Sidiropoulou 2014a:121-133). A play by Chekhov in a historical stage in the City Center or in a multi-purpose facility in Eleonas, a Greek comedy in an urban theatre or a bar, even the free experimentations in basements, galleries, old tanneries. However, a new reality is emerging at the same time, gradually gaining ground and multiplying at a fast pace, with the consent or tolerance and possibly (this needs to be proved) the complicity of the ruling class and the

establishment, or whatever has been left of it (Patsalidis 2014b:105-107). This, of course, does not mean that plays focusing-in various ways-on the problems the average Greek faces in the post 2010 period, are not written. On the contrary, there many and notable among which, we can mention Antonis Tsipianitis' monologue *"Redundant"* (2011), in which the heroine, a former social journalist in a lifestyle magazine, is suddenly made redundant and flat-broke, with the only belongings of her previous life being the Famous designers' expensive clothes and shoes lavished by fashion brands. Also, the working conditions and the soul-sucking competition is the topic of Jenny Dagla's play "The fishbowl" (2017). In other monologues also, with a male protagonist this time, is Christina Sabanikou's play *"Shut up"* or Manolis Karelis' *"The lost slipper"* (2015), there is the impression of a man that has quit life, has lost his job and his companion and experiences a continuous feeling of failure, boredom and lack of interest, whereas Minas Vidiadis' *"The downtown Parthenon"* (2011), presents the miserable living conditions of people that have experienced absolute poverty and have become homeless, through the conflict between two heroes: a stockbroker and a homeless person. In the plays *"Hard work"* by Giannis Mavritsakis (2015) and *"Exercise for strong knees"* by Andreas Flourakis (2013), the playwrights present the inhuman face of today's labor market that sometimes forces those who wish to find or preserve their posts to suffer major setbacks and sacrifice their personalities and dignity. Another social aspect of the crisis is today's migratory flow of young scientists and professionals (brain drain) away from Greece, abroad, as this is depicted in Vassilis Katsikonouris' play *"The Kangaroo"* (2014). Finally, we should mention Akis Dimou's *"The gap in person. A comedy about defeat"* (2015), which is full of references about modern reality, such as the loans that have fallen due, the ruinous debts, the politicians that are unable to improve the economic situation of the country, the banks and their policies.

A systematic turn toward the past can be observed as well as an intensive effort to promote outdated aesthetic forms, ideological structures and subject matters which used to function in the past (Hobsbawm1972:3-19,Le Goff 1977,Olick 2007),responding to conditions and circumstances of those times(Grammatas2014a:37-45).

History, the past, the obsolete come in aid of the present with a view to offering a way out, a solution, an exodus from the crisis (Grammatas 2018:188-193). Re-emerging of the values and models of those times offers an alibi for the present situation, so that the deadlock facing the Greek society can be overcome. Return to yester years is proposed as an alternative for the years to come. The future is described in terms of the past (Grammatas2014b:94-99).

This is not the first such occurrence in the Greek theatre and this setback is not unknown to dramaturgy. It had reappeared in the past causing a similar phaenomenon in the period just after the Asia Minor disaster of 1922, at that time marking mid-war dramaturgy (especially in Nikos Kazantakis', Spyros Melas' and George Theotokas' plays) (Grammatas 2006: 191-214).

The enormous disaster faced by Hellenism and the huge wave of refugee populations from Asia Minor, poverty and social hardships, political instability and intense ideological conflicts, led to the prevalence of fascism and the establishment of a dictatorship under Metaxas in 1936. As a result, dramaturgy was led to a wrapping-up and retreating. Playwrights once more turned to genres and forms of the past and attempted escapism via tragedy and historic drama. The same I was attempted with ethography, which proved to be the dominant genre of mid-war dramaturgy, proposing the return to nature and the original morals and customs of Greek province as the only way out, an alibi to the tragic and unpleasant historical past. History made its appearance as refuge, as a way out of the dead ends of the present and could function as a relief and salvation for both authors and spectators of mid-war plays. *"Honeybee"* (Nikos Kazantzakis)*, 'Rigas Velestinlis'* (Spyros Melas)*, "Engagement parties", "Dragoness"* (Dimitris Bogris)*, "The seedling" (*Pandelis Chorn) (Grammatas 2004: 143-150).

 Nowadays, something similar seems to be appearing, timidly and covertly starting within comedy and the relieving impact of laughter(Smith 2018), being more apparent in types of plays like those addressed at young audiences and finally openly swamping the central and state Athenian stages through dramas and all sorts of other spectacles.

Examples of the first kind, the comedy are: "*Helias of the 16th*", "*The grocer's tomcat*", "*A crazy 40-year old*", "*The card player*". These are representative comedies written by distinguished comedy writers of the 1950-1960s, which precisely respond the the conditions of post-civil war Greece. The heroes in these plays are Greek petit bourgeois, struggling for survival in all sorts of ways, trying to make ends meet, facing their problems, such as oppression, bureaucracy, economic hardships, luck of education in philosophical, optimistic and often crafty ways.

They are extremely successful plays, which, later, at the prime time of Greek cinema, were made into films featuring a cast of renowned Greek comedians of the time: "T*he aunt from Chicago*", "*Thief shouting*", "*Mademoiselle's simpleton*" becoming box office successes and entertaining all generations and later still television viewers. Today there is once more such a retreat, with known films coming back on to the theatre stage, featuring current TV comedy stars, who stereotypically imitate their cinematic models, thus becoming artistically objectionable, in an effort to entertain their audience with the airs and graces and the situations experienced by the heroes they impersonate, belonging to a reality so far, but at the same time so close to that of the present.

One more, not less representative category is that of works from the classical repertory and musical theatre, known from their cinematic, theatrical or musical versions in the past, which are also making a powerful comeback, nostalgically taking audiences back to the old times and conditions etc.

Such a case is that of "*The Red Lanterns*" (George Galanos)*,* great box office success of the '50s, which showcases the social aspect of the theatre, in direct relation to the Greek reality of the post-civil war period. There is also "*Our Great Circus*", an equally great theatrical success by Iakovos Kampanellis, which, in the 1970s brought to the stage the first political messages against the then almighty state of the generals established after the cul-de-sac of 1967. Vitsentzos Kornaros's "*Erotokritos*" is another example. This great epic-lyrical poem presented in its dramatized form, offers audiences a spectacular performance and the same can be said about Bob Wilson's "*Odyssey*" and Stathis Livathinos' "*Iliad*" (both adapted by Homeric epic poems).

We should also to mention great musical hyper productions such as "*Aman Amen*" put together by composer Stavros Xarhakos, "*I'll take you away with me*" by Aggelos Pyriohos, "*Looking for Attik*" by Lambros Liavas and so on.

The case of dramatized fiction is yet another representative trend in contemporary Greek theatre. It first appeared in the 1980s with works such as "*Scenes from the life of D. Vizyinos*", a compilation of short stories and other pieces of prose by the namesake author, "*Makrigiannis' memoirs*", based on the autobiographical account of the 1821 Revolution with General Makrigiannis as the main hero as well as poems by D. Solomos such as "*Kritikos*" and "*Free Besieged*".

This tradition has been reinforced both by the dead ends facing dramaturgy and the contemporary versions of postmodernity in the theatre. Moreover, the familiarity established in the conscience of the audience through readership gains prominence today, acting as a safe refuge offered by the illustration of past relationships and situations very close to the heart of the majority of contemporary audiences.

Among the works of the same category, some distinguished ones are "*The Killer Woman*" and "*The American*" by Al. Papadiamantis, "*The Pope Joanna*" and "*The Tale of a husband from Syros*" by Em. Roidis, "*My mother's sin*" and "*My life's only journey*" by G. Vizyinos, "*The Woman from Zante*" by D. Solomos, "*Captain Mihalis*" by N. Kazantzakis, "*Hagiography of Andreas Kordopatis*" by Gr. Valtinos, "*The double book*" by D. Chatzis and so on. The same category may include staged versions of great epic and epic-lyrical compositions such as Homer's Iliad, the Byzantine epic of "*Digenis Akritas*" (10th c.) and "*Erotokritos*" by V. Kornaros (16th c.).

Another category comprises dramatized biographies which either already existed or were especially written in prose based on the life stories of renowned music figures such as "*Eftychia Papagiannopoulou*" and "*Sotiria Bellou. The wandering life of a rebetissa*", "*Who is after my life?*" based on the life of composer M. Theodorakis, a stage act framed by the great musical hits of past decades. Another distinctive example is that of "*Aggela Papazoglou*", a stage act presenting the life of

an emblematic personality connected to modern History (The Asia Minor Disaster), which has been a box office success for twelve years.

To round up the documentation of all previously mentioned views concerning the relieving effect of the past and the turn of modern Greek theatre to historic subjects and obsolete situations, which can serve as a refuge and an alibi for the current unpleasant reality, we also have to refer to to the theatrical space as the place of reception and promotion of theatrical spectacles.

All the previously mentioned performances take place in the Athenian scene and grand theatrical multifunctional facilities, addressed at a mass audience of middle and upper classes, of relatively homogeneous mature age groups sharing the same memories of the past. Theatre stages have increased, but they have also differentiated as far as the repertory, the dimensions and the spatial planning is concerned, as well as the audience they are addressed at (Sidiropoulou2014b: 113-118). Simultaneously, a lot of groups have appeared and established in the Athenian theater escape, whose work is based on collective creation, improvisation, interview material, the exploitation of modern technologies and so on, thus attracting a considerable part of the audience. However, the arithmetically impressive picture (about 300 similar stages), is not responding to reality, since the limited number of performances given on them, the limited space for the reception of the spectators, together with the limited duration of the winter theatre season, are impossible to be compared with the fewer but bigger and on a daily basis function of the central stages, which are visited by a large number of spectators, who see plays of the popular theatre we mentioned above (Dimaki-Zora 2015).

Nostalgia, reminiscence, escapism and beautification of the times past, covering and hiding reality, the innocent or not so innocent complicity of the audience to the objectionable intentions and choices of the contributors constitute a new reality for the Greek theatre, a response to the challenges and deadlocks of the Present experienced by the Greek society.

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The Need of Professional Social Work in Overcoming Social Problems and Social Exclusion of Children in the Process of Education

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Abstract

School going children face numerous social problems such as peer violence, a social behavior, educational neglect, dropout from regular education, committed crimes, and social exclusion. Inevitably, these problems can have devastating effects on adequate social functioning and personal development of children and can hinder their future potentials and wellbeing. Findings presented in this article are generated from two separate researches related to social exclusion and social problems encountered by children in primary and secondary schools in the Republic of North Macedonia. In general, prevalent problems of children are related to bulling, addictions, and conflicts with caregivers and social surrounding, whereas, social exclusion is more prevalent among Roma children. Problems of such nature require appropriate professional assistance and support. The school teams for professional support of children are mainly composed of psychologist and pedagogues. Nonetheless, the above mentioned problems require involvement of other team members such as social workers and special educators. Equipping professional school teams with adequate staff is enabled by the Law on primary education, whereas the Law on secondary education requires additional amendments in order to ensure possibilities for employment of social worker in the secondary schools. Their main role is to provide professional assistance and support to children and their parents on how to utilize the available community services for mitigating prevailing socioeconomic difficulties and for improvement of learning capacities and results of children coping with different problems.

Keywords: social problems, social exclusion, school going children, social work

Introduction

Child and the right to education

Education is an issue that is at the center of public interest and is the result of the transitional processes which society passes through. The period of transformation of the socio-political and economic system imposed a need for changes in the field of education, as a result of which a number of reform activities were undertaken. After three decades of transitional processes in all spheres of human life, accompanied by changes in the values system, education remains a key area that faces a number of problems. The right of the child to primary education in the Republic of Northern Macedonia is regulated by the Law on Primary Education ("Official Gazette of the Republic of Macedonia" No. 103/2008, 33/2010, 116/2010, 156/2010, 18/2011, 42/2011, 51/2011, 6/2012, 100/2012, 24/2013, 41/2014, 116/2014, 135/2014, 10/2015, 98/2015 and 145/2015). In contemporary life, education is a fundamental human right. It is a prerequisite for the individual development of human capital, creates opportunities for getting out of the closed circle of poverty and at the same time provides creative potential for the development of society.

Primary education is free, compulsory and lasts for nine years (6-14 old years). It is organized in three educational periods, from first to third, from fourth to sixth, and from seventh to ninth grade. Education is offered in four languages in primary schools (Macedonian, Albanian, Turkish and Serbian) and three languages of instruction in secondary education (Macedonian, Albanian, and Turkish). Around 29% of primary schools and 34% of secondary schools are two/three lingual

schools. There are total of 347 primary schools with approximately 1.100 satellite schools. Literacy levels are high, 98.8% for male and 96.8% for female (2015) (State Statistical Office, 2019). The gross enrolment rates is 63% , and net enrolment rate is 91% . However, a number of children (mainly Roma children without personal identification number), are not reflected in this statistics as they are not registered in any official system. Thus, the actual enrolment rate is lower (Ministry of Education, 2018). In 2016/17 there were 194 classes within 45 special primary schools, with total of 809 pupils as well as 725 pupils with special educational needs included in regular classes in primary education (ibid.).There were total of 483 pupils, that repeated the class in school year 2017/18, of whom 218 female (State Statistical office, 2018).

Primary education is realized in a primary school that can be municipal or state. Funds are provided from the Budget of the Republic of Northern Macedonia through block grants and earmarked grants, as well as from own sources of income. The concept of primary education and education is determined by the Ministry of Education and Science. Educational work in the primary school is accomplished by: teachers, professional associates (pedagogue, psychologist, sociologist, social worker, special educator, and librarian) and educators. The school year, as a rule, starts on September 1 and ends on August 31 of the following year and lasts 180 school days. Teaching can be carried out in a shortened duration, but not less than 100 instruction days, upon received consent from the Ministry. Primary school is obliged to encompass pupils from the district of residence.

By leaving the primary school, the child acquires the status of a pupil. When registering the child at school, the parent is obliged to submit a receipt for the mandatory vaccine for the child. The parent is obliged to enable his child to fulfill the obligation for compulsory primary education. For each absence of the pupil from the instruction, he/she is obliged to inform the class master about the reasons for the absence. The pupil may be absent from the teaching if his absence was announced by the parent in advance in the school, but not more than five days in the school year. The school principal upon a written request of the parents for justified reasons may allow the pupil longer absence from the instruction, but not more than 30 days. Primary school is obliged to inform the authorized municipal inspector of the municipality about the children who are not enrolled, that is, the pupils who do not visit the elementary school unjustly for more than 30 days. As a rule, the pupil from the first until the fifth grade cannot repeat the grade. The pupil who has failed to master the teaching contents by the end of the school year, as a consequence of a longer absence from teaching due to illness, resettlement and other justified reasons, may, in accordance with the parent, remain in the same grade for which the decision is made by the school's school council. The departmental teacher, or the class master, is obliged to inform the parent about the success of the pupil at least twice in every semester.

Physical and psychological harassment of the pupil is prohibited. The following pedagogical measures are applied to the pupil who does not fulfill the obligations and violates the rules of the educational work: reprimand, oral warning, written warning, transfer of the pupil to another class and transfer the pupil to another primary school.

The Law on Primary Education also has provisions concerning the counseling of parents. Namely, the parent or guardian is referred to counseling if the pupil: during the school year, has a negative grade for three or more subjects; has done more than ten unjustified or 100 justified absences; is undisciplined; insulted the teacher; participates in fights or other forms of violence; shows an associative or antisocial behavior; behaves immorally or unethically; and in a short period of time, the pupil has a significant decline in its educational achievements. If parents were called to school about the pupil's antisocial behavior, that is, the immoral or unethical behavior of the pupil, the expert opinion from the pedagogical service is required before the invitation is sent. The consultation is done in groups according to the weekly and monthly plan. The number of parents in the groups cannot be greater than 20. The counseling is conducted in two terms for 60 minutes. At the counseling of the parent or the guardian, the pedagogue or the psychologist is obliged to act in accordance with the Parents' Advisory Program, which is adopted by the Minister on the proposal of the Pedagogical Service. If the parent or guardian does not appear at the counseling and after the third invitation, the Center for Social Work is notified.

Also, secondary education is compulsory and free, lasts for three or four years, and is divided into four streams: general secondary education (gymnasium), secondary vocational education, art schools, and education for pupils with special educational needs. Students with attained 3-year vocational education can take a final exam, without a right for university entrance. Graduates of the 4-year secondary education are allowed to choose between the final exams and state or school matriculation depending on whether they wish to continue education, while the gymnasium graduates have to take state or school matriculation exams. There are 124 secondary schools, 108 are public and 16 are private. Out of the secondary public schools, 23 are general education schools, 43 are vocational schools, 33 offer both general and vocational education,

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4 schools are for pupils with special educational needs and 5 are art schools. In the school year of 2017/2018 there were total of 71458 pupils of whom 34059 female and 37399 male (State Statistical Office, 2019).

Prevailing problems that pupils face in the educational process

In circumstances of high rates of unemployment and poverty, faced by the families in the Republic of Northern Macedonia, and which produce numerous other related social problems whose consequences are reflected on children (peer and domestic violence, addiction diseases, etc), the role of social workers in schools to deal with these social problems and mitigate the consequences of them is irreplaceable. Of particular importance is the contribution that social workers can give in the domain of social prevention, ie the timely prevention of the emergence of social problems, which not only reflect on the success of pupils, but also endanger their opportunities for development and adequate social inclusion. For pupils with special educational needs, the role of the social worker in securing social inclusion through professional work with pupils, teachers, the family and the social network of these pupils is crucial.

In this context, the importance and role of social workers as part of the professional services in primary and secondary schools are indisputable. For the engagement of social workers in educational institutions, there is a legal basis in the Law on Primary Education (Official Gazette 103/08), which in Article 77 foresees the educational work in the elementary school to be performed by the professional associates: pedagogue, psychologist, sociologist, social worker, special educator and librarian. The Law on Secondary Education of 2002 (Official Gazette 52/02) stipulates in Article 70 that the educational work in the secondary education should be carried out by the professional associates: pedagogue, psychologist, special educator, sociologist, social worker, laboratory technician, librarian, etc.). However, with the amendments and supplements from 2004 (Official Gazette 67/04), the expert associate - social worker was unjustifiably deleted from the legal provisions for the composition of the professional service in the secondary schools.

Research conducted by Dimitrijoska, Bornarova and Ilievski in 2017 had a sample of 1037 pupils was included in the research. It is a stratified representative sample by nationality. The survey was conducted in 4 primary and 4 secondary schools on the territory of the City of Skopje, where in the primary schools the survey was conducted only with the pupils from the higher grades (eighth and ninth) due to the content of the questions.

The results show that there is a difference according to the gender of the respondents regarding the most dominant problems that pupils face. The most visible is the difference regarding regular attendance, with 14% of male choosing it as a problem, compared to just under 9% of female. Although male pupils in large percentage have a problem with disagreement with teachers (24%) female pupils have similar percentage (22%). A similar difference occurs in the problem of learning and achievement, that is, 29% of male and almost 28% female pupils pointed out this problem. What is noted is that disagreement with classmates is a more "female" problem. Namely, 22% of the pupils answered this question, as opposed to almost 15% male pupils.

The survey shows that primary and secondary school pupils face significant problems of varying nature for which they need help and support. Among the problems of day-to-day functioning in the school, the most pronounced are those related to achievement and learning, emphasized by 363 pupils or 35% of the total number of pupils, followed by disagreements with teachers pointed out by 296 pupils (28.5%) and disagreements with classmates by 227 pupils (21.8%). Of the stated problems, the smallest numbers of pupils perceive the problem as unacceptability in the school environment (71 or 6.8% of the total number of pupils included in the research). These findings point to the need for expert assistance and support for resolving conflicts in teacher-pupil relations, as well as in pupil-to-pupil relationships, for which crisis interventions that are applied in social work are particularly appropriate.

One should not underestimate the material difficulties that pupils face, reflecting the general situation in the state associated with a low standard of living. The pupils point out the lack of tangible assets to meet more of their needs. The most significant shortage of tangible assets is recorded for covering the costs of extra-curricular activities, indicated by 30% of the surveyed pupils. They are followed by the lack of funds for excursions represented by 26%, as well as the lack of funds for school equipment and gear with 18%. In fact, pupils justly, as the greatest material difficulties, point out those who need significant financial means, which pupils provide paying for privately.

Of particular interest in the research was gaining the knowledge about presenting more serious social problems in the life of pupils, for whose overcoming social work is necessary. The results obtained on this issue are alarming. As many as 233 pupils or 22.5% of pupils in the research had physical conflicts with their classmate during schooling. This point out peer violence as the most common problem in schools, followed by conflicts with the parents stated by 141 pupils (13.6%), which

points to the necessity of interventions for improving the pupil-pupils relationship. What certainly attracts attention and signals the need for urgent action is the prevalence of alcohol abuse problems (96 pupils or 9.2%), gambling (in 85 pupils or 8.2%), theft (75 pupils or 7.2%), as well as drug consumption (in 62 or 6% of surveyed pupils.

No less worrying is the presence of social problems in the families of pupils who indisputably reflect on their social development and maturity, but also on educational achievements. Pupils as the most common problem in the families in which they live pointed out the problem of unemployment of a family member (192 pupils or 18.5% of the surveyed pupils), which corresponds to the representation of this social problem at the national level. Poverty expressed through a lack of livelihood is a second major social problem present in families, pointed out by 141 pupils or 13.6% of the total number of pupils. Conflicts between parents were pointed out in 126 cases (12.1%), pointing to the need for expert assistance to improve relations in dysfunctional families. One should not underestimate the following social problems that, although are highlighted in less than 10% of pupils, are still among the more serious and more complex to overcome: poor housing conditions, addictions in other family members, presence of crime in an adult member in the family or a gambling problem.

Pupils were also asked to answer the question whether they needed expert support in solving the social problems they face. Despite the fact that high percent of pupils' had low trust in professional services, as well as insufficient information about the nature, place and role of social work in educational institutions, a large number of pupils gave a positive answer to this question. Namely, 21% of the surveyed pupils stressed that they need professional help and support in cases when they face some social problem.

Regarding the use of the social network as support, pupils often talk to family members or peers when they face a problem. Namely, 52.4% of the respondents stated that they always refer to support from the family, and 30.5% of the respondents said that they always call for support and conversation with their peers. It should be noted that 36.7% of the pupils answered that they never required support to teachers, and a high 66.7% of the pupils answered that they never required support or talk with the professional service expert. Such knowledge is disappointing because they indicate the mistrust that the pupils have in the teachers and the professional team when they need to share problems with them. The obtained results indicate that teachers and the professional team members are not a resource of social network of pupils to whom they are refer and from whom they expect help and support.

In support of the basic research of the social difficulties and problems of the pupils, a survey was conducted with 144 teachers and expert associates for their knowledge related to the social situation of the pupils. On the question of which problems in day-to-day functioning are most commonly faced by pupils, their answers differ from those of pupils. Most of the teaching and professional staff as the dominant problem point out the problem related to learning and achievement (105 persons or 75% of the total number of respondents). The following most frequent problems are problems with school attendance (91 persons or 63.2%) and problems with the discipline (87 persons or 60.4%). What is obvious when comparing the results of the research between the two groups of respondents (pupils and teaching and professional staff) is that the teaching and professional staff is more focused on pedagogical problems than on social ones, as was the case with pupils in whom in addition to learning problems and success, problems related to disagreements with classmates and teachers were dominant.

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The most frequent social problems among pupils, in the opinion of teachers and professional staff, are physical calculations with classmates (noted in 25% of respondents), followed by the problem of gambling (19%), which as a problem is significantly more pronounced by teachers and professional associates, than that was the case with pupils, indicating the degree of its presence and visibility. It is worth keeping in mind that teachers and professional services, unlike pupils, consider that the expressed social problems among pupils are also health problems and conflicts with the environment, with 14% of the respondents highlighted. For other social problems that are more serious, with teachers and professional

associates there is awareness of their presence, which is not insignificant. These are the problems associated with deviant behavior among pupils, ie thefts (8%), alcohol consumption (6%), and drug use (5%).

In terms of family social problems, according to the teaching and professional staff, the expected dominant problems are unemployment (indicated by 107 persons or 74.3%) and poverty (98 persons or 68% of the respondents). They are followed by poor housing conditions (80 persons or 55.5%) and conflicts between parents (66 persons or 45.8% of respondents). Basically, there is a similarity in the answers to this question between the pupils and the teaching and professional staff, with the difference that the teachers pointed out in a significantly larger number as a family problem alcoholism in a family member (in 36 cases or 25%) and health problems - chronic diseases (in 33 cases or 23%).

Unlike pupils with insufficient information and/or developed awareness of the importance and benefits of a social worker as part of the professional team, the teaching and professional staff unambiguously recognizes, acknowledged and demanded satisfaction of the need to strengthen the professional team of the schools with the profile social worker. The majority of teachers and professional associates consider that such a need exists (87% of the total number of surveyed teachers and professional associates).

Case study: Prevailing problems Roma children in the educational process

The second research conducted by Donevska, Bogoevska, and Trbojevik (2010) is related to the issue of droping out of regular education which was and still is a serious problem in the Republic of Northern Macedonia. This problem is in the focus of attention of all relevant actors involved in the processes of planning, development, implementation and support of educational policies. Although this phenomenon is present in all ethnic groups in our society, the rate of drop outs from regular education is the highest within the Roma ethnic community. Linking this problem with a particular ethnic group indicates the existence of social exclusion based on social, religious, cultural, linguistic and gender background. The situation with the educational exclusion of Roma children can be defined as very serious. A number of children are not included in the education system of the Republic of North Macedonia at all, or many of the children who start formal education do not finish, although, according to the legislation, primary education is obligatory. The following are stated as the most frequent reasons for this state: insufficient knowledge of the Macedonian language, low degree of education of parents and poor socio-economic status.

According to the data from the Census in 2002, 23% of Roma did not attend primary education, 28.6% were with incomplete primary education, 37.4% had primary education, 9.7% secondary education, 0.2% higher education, and 0.2% masters and doctors of science (SSO, 2002, Population Census data, Book XIII). In 2002, more than half (51.8%) of Roma adults did not have an education or did not complete primary education in contrast to the percentage of 18% of the total population. Roma children have a lower literacy rate and still low inclusion rates, attendance and completion of primary (61%) and secondary education (17%) (Commission of the European Communities, 2009). However, it is evident that the number of Roma in all levels of education has increased in recent years. Namely, the representation of Roma in the total number of pupils who completed primary education in 1997/1998 was 1.3%, in 2002/2003 it was 2.1%, while in 2007/2008 it increased to 2.5%. The representation of Roma who completed secondary education points also to a tendency of growth, from 0.4% in the academic year 1997/1998, 0.6% in 2002/2003 and 1.2% in 2007/2008. Also, the number of Roma attending higher education is increasing (National Strategy for Reduction of Poverty and Social Exclusion in the Republic of Macedonia, 2010).

This instigates the need to study the causes that led to this situation and determine the measures to overcome the problem. Data from the State Statistical Office on the coverage of pupils in primary education show that not all children are included in the regular educational process, ie in 2008/2009 only 91% of the total number of school-age children enrolled in school, whereas in the school year 2018/2019 the enrolment rate increased to 93.72%, an increase of 2.72%. This data indicates that there is insufficient representation of children from vulnerable categories (children with disabilities, children from socially endangered families, Roma children, children from remote rural settlements, etc.) in educational processes. The high level of dropout of pupils after the completion of lower primary education is very often attributed to the very low inclusion of children in pre-school institutions. The coverage of children aged three to six in kindergartens is only around 12.5% (Source: State Statistical Office. Statistical overview 2.4.9.02/614, Public institutions for child care and kindergartens, 2008). In 2016, there were 33,238 children up to 6 years old enrolled in 64 public and 19 private pre-school institutions, 4 kindergartens within private schools in the capacity of legal entities, 1 early child development centre in the capacity of a public entity, 6 early child development centers in the capacity of private legal entities, 1 public kindergarten within a legal entity established for the needs of its employees, 1 private kindergarten within a legal entity established for the needs of its

employees (Statistical bulletin no. 2.4.17.03/871 for 2016 by the State Statistical Office). Out of the total number of children, 16,796 are female children. Out of them, there were 840 Roma children and only 174 were children with disabilities (or with special educational needs)(Statistical bulletin no. 2.4.16.01/842 for 2015 by the State Statistical Office).

In that context, in the period 1998/1999 in the Republic of North Macedonia there were only 48 Roma pupils, while in the year 2000/2001 108 pupils were enrolled at higher education institutions. In the last two decades, a number of strategic activities, programs and projects have been realized, aimed at developing the capacities of the Roma community, utilizing human capital and reducing social exclusion. The focus is generally on the processes of strengthening the Roma community through the implementation of programs to support Roma in the educational process. Beginning in 1994, the role of the non-governmental sector in addressing Roma-related issues proved to be particularly significant. The high degree of exclusion of the Roma population from the main social flows caused intense interventions by the civil society, with the emphasis on building internal capacities. In that direction, nongovernmental sector, especially Open Society Institute - Macedonia played a key role in developing and strengthening the potentials of the Roma population, primarily through the development of its own branches. Their work with the Roma was based on a strategic approach focused on developing programs, creating a structure, equipping for independent work and ensuring sustainability. In spite of the significant progress, there is an evident need for evaluation of the effects of the implemented programs. Identification of the strengths and weaknesses of the implemented programs will contribute to their further improvement and adaptation to the needs of the Roma community. Hence, the realization of this research emerges as a result of the need to identify the reasons related to leaving the regular education of Roma children, and developing additional measures and activities for improving enrollment, attendance and stay in the educational process. For this purpose it was necessary to determine the knowledge of the relevant stakeholders involved in the planning, development, implementation and support of the Roma educational processes. Co-operation between local authorities, social services, school boards, professional school services, educational centers and partners was also examined. The survey was conducted in Skopje, Prilep and Kumanovo, cities where "121 Roma educational project" is being implemented.

The survey included representatives from local self-governments, Roma educational centers, teachers, professional services in schools, school councils, local leaders, as well as parents and children who use the services of Roma education centers. The survey employed exploratory research method with the following instruments: an expert interview for local government officials involved in creating local education policies and representatives of school boards; semi-structured interview for teachers, professionals from the professional services in the schools and representatives of the Roma educational centers; and focus groups for parents, local leaders and pupils.

The sample of the research consists of 240 research units selected according to several criteria. I. The first criterion for selection is: professionals and volunteers involved in educational processes at the local level. According to this criterion, the sample consist of: 1. Relevant local self-government representatives engaged in jobs related to educational processes (8 representatives/2 from each municipality) 2. Educational Roma centers (25 representatives/5 from each educational center) 3. School boards, teachers and professional services; 12 professionals from professional services in schools (2 professionals from each school); 12 members of the school boards (two members from each school); 36 teachers (6 teachers from each school). II. The second criterion for selection is: parents, local leaders and pupils included in the educational centers. 5 local leaders (1 from each educational center); 30 parents (6 from each educational center); 120 pupils (24 from each educational center / 8 in each focus group).

The results showed that local self-government experts from all three municipalities point out that there are problems in educational processes that are characteristic of the Roma population. The key problems are the following: the coverage of Roma children in educational processes, average achievement and regular attendance at schools. The reasons for this are mostly located in the family, the poor socio-economic situation, the tradition and the system of values. It can be noted that experts identify the causes of the problem mainly within the framework of Roma culture and community. From their attitudes, it can be noted that they do not take into account structural factors such as: long-term discrimination against Roma, their economic, social, political and cultural exclusion in society, as well as the long-standing state's passivity in terms of taking measures to overcome this situation. Local authorities are involved in a range of activities to improve the situation of Roma in general and to reduce the obstacles for involving children in regular educational processes. As a result of such activities, there is a certain degree of progress in the coverage of Roma children in educational processes.

Some experts note that there is a need to undertake future activities at the local level in order to improve the educational inclusion of Roma children. In the first place, the need for holding educations, tribunes, workshops for raising awareness

about the importance of education, changing the ways in which the Roma mobilize resources and use the opportunities, as well as using the advantages offered by the pre-qualification and retraining are emphasized.

The poor financial situation of the households stands out as a reason for engaging children in seasonal work, which is why they are missing from the regular educational process. Experts, point out: poverty, tradition, childhood, begging, early marriage and family formation, lack of interest of parents and transferring patterns of behavior from generation to generation. As can be noted, the members of the school boards as the most common problems point out: the rash of Roma students, the irregular visit to the school and the difficulties in mastering the teaching material. The root causes of these problems are several reasons related to the family: poverty, child poverty, tradition, parents' ignorance and lack of interest in their children's education. Successful inclusion in the educational processes of Roma children is limited by the insufficient knowledge of the Macedonian language as a language of instruction.

The data obtained through the realization of a semi-structured interview with the teachers, professionals from the professional services in the schools and representatives from the Roma educational centers are presented in a cumulative manner. They emphasize that the issue is related to the existential needs, the need for help and support the family, need to improve housing conditions and hygiene needs. It is particularly important for successful inclusion in the educational process is the insufficient knowledge of the teaching language and the lack of didactic material. Due to the large number of juvenile marriages, teachers emphasize the need to introduce sexuality education. It is important to note that representatives of Roma education centers especially stress the need for help and support from teachers.

Attempts to determine the reasons for the problems of Roma children in educational processes have imposed a need to identify the main factors that have influence the adequate growth and development and the realization of their potentials. Professionals working directly with Roma children locate the main causes of problems in children, the family, the school, the state, and the system. Most respondents consider that the family is the main generator of problems related to the Roma children's education. They also point out that some of the reasons are derived from the children themselves, and in particular they emphasize: the lack of motivation, the absence of positive goals and negative comradeships. School as a problem generator is also an important factor for the rash of students. School-related problems are generally associated with the Ministry of Education's policy, inflexibility, and the inadequacy of the educational process. The last large group of answers addresses the lack of systemic measures, the financial sustainability of programs to support Roma education, and the lack of positive examples of employment for educated Roma.

Respondents point out different aspects of the living of Roma families that influence the level of attendance and the success of children in the school. The most significant reasons that limit the children for successful inclusion in the educational processes are the socioeconomic status of families, the tradition, the way of living and communication, as well as the lack of understanding of the importance of education in the Roma family. When combing some of the stated reasons, the results show that Roma families have greatly disturbed family relationships and educational disadvantage of children.

Some of the respondents find the reasons for the educational problems of Roma children in the school. Respondents from all profiles think that children are facing school problems as a result of certain didactic reasons, high passage of mobility from lower to higher classes without adequate adopted knowledge, inadequate and inflexible educational process, and failure to attend preschool education.

Didactic problems are identified as the most significant cause of children's educational problems. In the statements of most of the respondents from all profiles, issues related to the scope, weight and content of the teaching material are highlighted. It is also stated that many of the children do not speak the Macedonian language as a learning language, which is why there are problems in following lectures. It is not about absolute ignorance of the language, but about a limited fund of words and the inability to understand and use abstract and complex language constructs that are immanent to master the teaching content in the higher grades. An additional problem is the lack of didactic material. It is important to note the problem related to the great passage of students in the first five years of primary education. This problem is highlighted by all professionals because this practice allows children who have not mastered the elementary knowledge reading and writing, as well as basic mathematical operations, to get to higher school year. That is why children repeat the higher classes several times and lose interest in further education.

Teachers have divided opinions regarding workload with Roma children. Most of them consider that additional efforts for education, motivation and animation are necessary. Some of them emphasize that it is necessary to repeat the teaching material many times, as well as greater engagement due to poor discipline, poor literacy and lack of feedback.

Most of the teachers think that Roma children can achieve the same results as other children, but most of them (52%) point out that school success is conditional and above all depends on improving living conditions, family support and the change of stereotypical understanding of education. A small number of teachers (2%) think that Roma children cannot achieve equal results like other children.

The analysis of the statements of the respondents from all profiles shows that the level of cooperation of the parents with the school is assessed as relatively low. In 43% of the statements it is estimated that there is no cooperation at all, in 44% it is assessed as weak, and only in 13% it is estimated that the parents cooperate with the school. It is commonly estimated that a small number of parents have co-operation with teachers, usually parents of children with salutary success, and the rest comes only when there is a problem involving their children. It is basically estimated that parents are not interested in the success of their children, which in some cases is the result of their preoccupation in securing their existence. One part of the respondents indicated that the low level of cooperation with the parents is due to their exclusion and lack of knowledge of Macedonian language. Unlike the cooperation between parents and the school that is generally assessed as weak, cooperation between parents and Roma education centers is assessed as generally good. Namely, in 75% of the statements, the respondents consider that there is good cooperation, in 15% it is assessed as satisfactory, and only in 10% of the statements it is assessed as poor. A general remark is that parents send their children to Roma educational centers, but they themselves rarely engage in their activities.

The role of social workers in professional services in primary schools

The role of the social worker as a professional worker in primary education is perceived through his professional work with students, families and teachers. The main activities undertaken by the social worker are in the domain of psychosocial support of students in the area of social prevention, in discovering social problems among students and their families, identifying the social needs of students and their families, advising with students in social risk and their families, advisory work in the non-violent resolution of conflicts between students and the wider community.

The work of the social worker takes place through direct monitoring of the educational process, through advisory, consultative and educational work with the teaching staff and the other expert team in the school, which reveals the reasons for the problems of the students and offers suggestions for their overcoming.

After detecting a certain social risk among students and developing an individual work plan with the student, the main activity of the social worker is to provide direct social support to the families of the students and to connect them with the social protection system, utilizing the resources in the community until finally overcoming the risk and their re-social inclusion.

Having in mind the fact which is unambiguously confirmed by the results of the survey that the pupils and families in which they live face numerous social difficulties and problems and in order to overcom them expertise from social workers is necessery. There for in order to meet these conditions in the system of education, it is necessary to:

Increase the number of employed social workers in all primary schools in the Republic of North Macedonia in accordance with the Law on Primary Education.

Amendments to the Law on Secondary Education and adding the profile "social worker" as part of the professional team, as well as the subsequent employment of social workers in all secondary schools in the Republic of Northern Macedonia.

Conducting education for social workers already employed in primary schools, as well as for those who will be employed in the future for the area of social work in education.

Due to early prevention and timely detection of social difficulties and problems in children and their families, it is necessary to employ social workers in pre-school institutions - kindergartens and early childhood development centers.

Creation of conditions for conducting professional social work in schools, by applying methods and techniques for:

Professional social work with pupils on the primary prevention of social problems, focusing on social problems, typical of children (peer violence, drug addiction, alcohol addiction, gambling, asocial behavior, juvenile delinquency, etc.).

Professional social work with parents for primary prevention of social problems among pupils, as well as promotion of parent-child relationships, successful parenting, family life, etc.

Professional social work with pupils and parents who experience social difficulties and initial signs of social problems at the level of secondary prevention, in order to prevent deepening of difficulties and problems and their complete overcoming.

Professional social work with pupils and parents who already face social problems at the level of tertiary prevention, and for mitigating the consequences of the problems that have arisen.

Develop the cooperation among all local stakeholders that can contribute to the promotion and development of the area of social work in education (NGOs, municipalities, centers for social work, etc.).

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The Hypothesis of a Non Threatning Finance for a Sustainable Smes Development in EU

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Abstract

This paper aims to address the hypothesis of the expansion of Islamic Finance rhetoric to support the development of SMEs. The analysis focused on the definition of PMES and the problems that limit its function in European societies, especially conventional financial instruments that present a permanent challenge. Taking into account the cultural specificities and legal provisions that characterize the countries of the European Union, the paper tries to present the model of participative finance highlighting the key elements that will allow the exploitation of the potential of halal capital.

Keywords: finance, investment, instruments, debt, entrepreneurship, participative, Halal, ethics.

Introduction

SMEs play a vital and strategic role in economic growth and social inclusion in creating jobs and providing a fiscal revenues (taxes for the State) and other payments made on each transaction, production or consumption. It is the most lively sector that always helpes to lift countries out of their crises especially when it is well organized and rightly operated. European investment fund, shown that In2017, investment in European SMEs increased by 29% compared to 2016 with 71.7 billion Euros, Venture capital investments for innovative companies jumped 34% (billion euros). [European small business finance Outlook, june 2018]. Even though, most officials and professionals interested in this category of businesses recognize that still SMEs face persistent difficulties to access to private and public financing. Among the reasons that make financing an eternal dilemma for SMEs excluding the majoraty of them to benefit from bank financing is firstly the weak self-financial capacity, high risk, inadequate collateral, and strong asymmetry of information.

Generalny European SMEs evolve differently according to their activities and to the regulation in the countries where they are established however, a consensus building groups the major problems of SMEs according to the following catalog:

Tough competition (loyal and disloyal): a problem known by more than 50% of SMEs in the 15 countries which comprise 71% of SMEs in the EU.

Weak purchasing power of citizens: globale new management system where deregulation (Job market and wages), imposed a systematic decline of purchaising power for all europeen classes (the middle class has almost disappeared).

Complexity of legislation and regulation: the legal Framework related to SMEs in the EU is a traditional challenge that never ceases, still in France, Italy, Latvia, Poland, Slovakia and Romania, SMEs claim more transparency and unified legislation .

Lack of qualified personel: the asymmetry between education and the labor market remains a threat to the liver and the initiative of both entrepreneur and investor.

Taxes on production, consumption and on work costs: this dead end is shared by 55% of European SMEs with countries that feel more concerned by this problem, such as Austria, Belgium, France, Italy, Malta, Slovakia or Spain.

Access to financing: it is the more concrete problem faced by SMEs business, and is shared by 70% of SMEs in EU, (Greece (61%), Cyprus (62%), Italy (50%) or Spain (50%) [*EU- SMEs 2013/2014*].

Summarizing the previous findings, banks requirements are not met by most SMEs businesses, consequently the necessary investment could be satisfied somerimes by informal financing means. Entrepreneurs often fund their start-ups using their own savings or family savings. However, the contribution of this traditional and limited financing often is not enough to create an effective company that can withstand tough competition conditions in a broad market. SMEs are thus caught in the trap of informal practices and remain small craft workshops [*El-Chaarani H., 2014*].

The impact of global regulatory and finance on the SMEs concept and dimenssion

Certainly globalization has established a neo-order (political, legal and economic) reshaping the boundaries between the perception of what is special, local and what is common. The new dimension of these conceptions has a direct impact on the concept of sovereignty of States and the tasks entrusted to their sovereign institutions. The role of the State and institutions concerned with the public interest has been limited to create a favorable climate and regulation to serve special groups that controlling politics and economy by virtue of their control on the financial industries [*Jayasuriya, Kanishka ,1999*].

Legal dimension of SMEs in Europe

With regard to the dimenssion of the SMEs, the definition offered by the first article in the Annex of EU Commission Recommandation defining micro, small and medium-sized enterprises (notified under document number C(2003) 1422) establishes that:

1. The category of micro, small and medium-sized enterprises (SMEs) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.

3. Within the SME category, a microenterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

Compared to the previous law, the trend of the new definition of 2003 entered into force in 2005 tends to enlarge the concept of SMEs introducing three categories of SMEs using three creteria of distinction (Turnover, balance sheet, Staff head account).

In the third article of the same law we dispose on an additional categorization of enterprises considering staff numbers and financial amounts.

Autonomous enterprises

it neither participates in other enterprises nor other enterprises participate in it.

it can holde less than 25% of the capital or voting rights in other enterprises and, other enterprises can hold less 25% of the capital or voting rights in it.

it is not a partner or linked to another enterprise.

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it is not a partner or linked to another enterprise.

In exceptions of what is forwarded the enterprises can be considered autonomous and cancels the effect of the threshold of 25% owning not more than 50% also when the partnership is realized with (if not linked):

- Public investment corporations, venture capital companies and business angels,

- Universities and non-profit research centres.

- Institutional investors, including regional development funds.

- Autonomous local authorities with an annual budget of less than 10 million euro and fewer than 5,000 inhabitants [SME definition -2004].

- Partner enterprises

Up to the second pragraph of the third article, Annex to European Commission recomendation (2003/361/EC), this is the cas of all enterprises which are not linked, when the upstream enterprise holds, solely or jointly with one or more linked enterprises, not less than 25 % of the capital or voting rights of the downstream enterprise. So when establishing the SME status, it is imperative to consider also the share of the partner or partners related to the staff headcount and financial contribution. Neverthelesss, this rule is not applied to public bodies controlling, jointly or individually, the capital of the partnership. This precaution is to avoid the abuses which can result from privilleges recognized to the public bodies either for their financing or their administration and also to remove cases of illegal competition that can result from public financial aid. Nontheless the provision of this rule do not includes public bodies above mentioned (universities or autonomous local authorities) when investing in a SME between 25% , but no more than 50% this enterprise without it losing its SME status [*Ibid*].

Linked enterprises

Linked enterprise means that the company firstly must fulfill all the legal required elements for SMEs cataloged in the second article in the European Commission recomendation (2003/361/EC) EU. Secondly it must take one from the aspects enumerated in the third paragraph of the third article from the above mentioned recommendation:

To control the majority of the sharer voting rights in another enterprise;

To be entitled to dispose on appointing, removing majority of the administrators, managers and, supervisors of a given company;

A contract or provision of the constituting act that allows one enterprise to dominate another;

Also when an enterprises, shareholder or member of another, controls alone, accordintg to an agreement with other partners or members of that enterprise, the majority of voting rights in that enterprise.

From a legal point of view, this definition fixed SMEs according to criteria usefull for large business and and less functional for SMEs. In fact, the challenges raised by the global SMEs management model exceed their possibilities when providing SMEs with favorable terms for global companies and market. These constraints lead to the loss of the specificities of SMEs and negatively affect the its social and economic functions [Torres O., 2001]. Simultaneously such measures consequently expanded the tax base exploitable for the Politicians, created a broad market for the financial industry and, caused a contraction in citizen's purchasing power .

SMEs financing means

Traditionally, to finance their activities, the companies use their own resources, or they resort to the credit banks getting into the labyrinth of the indebtedness, in other cases they resort to an actionary participation (non-financial source funding) against a remuneration which lighten the revenues with unsustainable dividends for the shareholders. In these cases, financial intermediaries submit the obtaining of credit to risks and guarantees, which make the interest rates of credits and intermediation very high and, sometimes the credit itself becomes inaccessible [Boutillier M., 2002].

In other case the SMEs benefit from public suport, in fact the European Commission proposed around 200 programs to finance SMEs and start-ups via the Structural and Investment Funds.

Only that the public funds are not sustainable and answer decisions of selection not always reasonable, on the other hand, public aid is still subject to controls that limit the margin of maneuvering of SMEs.

New management challenges for SMEs financing

a- Conflict between managers and shareholders (*agency problems*)

Conflicts between managers and shareholders, classicaly known as "*agency costs*", emerged from several specificities of the modernized enterprises signed by the separation of the functions of the two groups. In the situation when the unique

valid means of evaluation is only the final return (effectiveness), each of the two belligerents fights for his interests, even if it is at the expense of the other. This conflict comes from different source such as the control on equity and the debt, returns for Shareholders and, risks assessment. Generalny this ambiguous circumstance is about the control exerced by the propretor on his property (company), and about the large technical competences recognized to the managers in the global management model. The accumulation of these factors consequently weaken the functioning of the enterprise and menace its life [Dehry A., 1998].

Managers, where appropriate, act according to their interest instead of this of the shareholders maximizing their priviledges and benefits. They frequently tend to increase the investments to optimize their status in the establishment and strengthen their well-being and notoriety.

In some cases, prudence is more likely to be observed on the part of shareholders and the manager is more enthusiastic to risk more. In other situation,managers prefer profitable investments in the short term opposing the appreciation of shareholders [Michael C., 1976].

b - The inability of conventional finance to respond to market needs (conditions of credit / liquidity, …)

After the decline resulting from the 2008 crisis and, according to official instances, in 2017, large companies continued to benefit from a better financial situation and lower bank loan refusal rates than SMEs, 1% vs. 6%, [E C - 2017]. A clair disadvantageous situation compared to large companies in terms of debt financing. According to OECD in its 2018 report, the asymmetric information, agency problems, including high transaction costs, and the opacity of SMEs limit their access to credit. Access to debt financing is more problematic for companies with a higher risk return profile, such as innovative and growth-oriented companies, which business models can rely on intangible assets. and which earnings prospects are often difficult to predict [OECD - 2018"].

Traditionally debt finance generates moderate returns for lenders and is therefore appropriate for low and moderate risk profiles. It typically sustains the ordinary activity and short term needs of SMEs, generally characterized by stable cash flow, modest growth, tested business models, and access to collateral or guarantees.

c - Indebtedness crisis

It is unwise to tie the problem of indebtedness in Europe, only to 2008 crisis, officially it is recognized that it is the consequence generated by the introduction of a single currency. The adoption of a single currency means that disproportionate changes in the labor costs of one country over another can no longer be corrected by the exchange rate. On the other hand the pathologies linked to banks regulation, derevative public finances, erroneous statistics, corruption, speculative development deviated the EU's efforts from its objectives li miting its effectiveness [Jeanneret A., 2015].

d - Market liquidity

The global financial industry is constantly imposing its paradigms that even so-called "*developped coutries*" are facing high risks when introducing these new radical changes.

The European Council and Parliament struggling to attract new issuers, presented in May 2018 a proposal, where companies rated in the SMEs Stock Market could benefit from easier access to finance. Statistics show an average of 478 per year in 2006-2007, and only 218 between 2009 and 2017, on the EU's multilateral trading systems for SMEs [EU - 2017]. Either the decision of SMEs to be listed on the stock market or the investors reaction to their financial instruments are determined by two factors: the first is the high cost of compliance to be listed on the stock markets the second is the lack of liquidity in these markets [SW- 2018].

Alternative   finance

Alternative financing instruments offer opportunities to meet the financing needs for SMEs.

According to the report of Cambridge Centre for Alternative Finance, European online alternative finance market in 2016 a Turnover of 7.7 billion with a growth average of 41 %

[Cambridge Centre for Alternative Finance- 2017]. However, the potential of such instruments is still underdeveloped in most countries due to supply and demand constraints. Capital market instruments for SMEs are often linked to tight financial markets characterized by a lack of liquidity, a small number of participants and, limited exit options for investors. The main

constataion is that a such alternative has no decisive impact, the micro-credits, business angels, venture capitalists and crowdfunding Cannot change the fate of SMEs with a lower credit ability [les PME - Mexico City 2018].

Examinig the Alternative of a Win win financial paradigm

In business, particularly in management and economics, we use the adjectival phrase: "*win-win*" to describe some situation, transaction or a business relationship that is favorable to each of the parties. It is a system which strategy and rules are agreed and designed in such a way that guarantees and increases rationally everyone's benefits. It consists in uniting the respective efforts to achieve the desired objectives according to the rule of sharing proportionally risks and benefits. In finance specialists also use the formula "*win-win*", in different areas and configuration especially when matching supply and demand for funds, promoting a new loan or other financial service. [Kouvelis P., 2012]; [Keeny R. L., 2005].

Despite the ideal presented by this theory, it is severly critized because, the outcome of the concept of "*win-win*" is illusory, it conveys a mistaken idea about the behavior of the investor and the intermediary that tend to maximize their gains at the expense of customers. Practice shows that, the losers is always the consumer as for the case of interbank agreements that make customers the first victim to pay the consequences of the concessions made by the partners.

Alternative to the Alternative, *responsible finance: neither usurious nor speculative*

First question that arises when hearing a such rhetoric is related to the existence of a such finance: *can this finance model really exist?*

It is a reaction that reflects the hopelessness of entrepreneurs in Europe that who groan under the bankers abuses and intermediaries pressure. Once they are informed about this alternative, their hope disolves and again one more time return to be closed in hopelessness without bothering to find out more. Standards dominating prevent them from thinking when talking about Islamic finance as alternative. Yet at the level of large companies and sovereign funds the problem seems to be over, in fact the last decades testify that Islamic Finance Industry, initiated its golden age in Europe. Its contemporary aspect presents it as attracting opportinuty for those who make the effort to get acquainted about the large horizon it offers. It is a system that has a regulatory and organizational framework encompassing all aspects of human life in its complex relationships with the environment, resources, production, distribution and the enjoyment of wealth [Cafouri A.H., 2000].

Deciding this title for this paper required firstly careful and deep reflection due to the characteristics of Islamic finance theory secondly required an accurate analysis to the behavior deriving from the practices in the global market:

Specificity of the regulatory and concepts of Islamic finance goes beyond the principles of the functioning and goals settled by the conventional financial system,

the negation of the "*scarcity resources theory*" and the different impostation of the common interest in Islamic economics which counteract the things established in conventional finance,

investment and financing must be representations of a real economy,

transactions involving usury, excessive uncertainty, gambling, harmful activities to society are strictly prohibited,

financial returns are generated on the base of risk sharing,

suspected alliance between the conventional financial industry and the capital originally from the Islamic petrodollars countries that annihilate the effects the principles of Islamic Finance.

The thought that deals with the Islamic finance starts, in most cases from constants cultural standards established without ever equitably considering the goals of such a system,

Global financial industry shows Islamic finance as a new gate toward successful investment and also as a liquidity reserve that could ensure the stability of speculative banks. The asset of Islamic finance may outweigh $3.5 trillion by 2021 considering the global scale, more than 35 countries are approaching Islamic finance regulation in 2015 [Thompson Reuters - 2016].

Evedently it is noted an expansion of the Islamic banking, more and more countries are trying to approach this system or more exactly try to take advantage of the liquidity resources guaranteed by the countries of the petrodollars. Except that

this rapprochement is at the expense of the key features of Islamic finance predefined. The orientation of international financial instances is to subject Islamic finance to the standards of conventional finance to control its evolution, consequently, it is emptied of its soul which welds the human to the economic. [Edaich S., 2017].

Islamic banks are required to improve their practices with regard to the insurability of investment accounts, deposit guarantees regulation, management of liquidity risks and the adequacy of instruments. We are witnessing a process of acculturation that tends to impose international governance and prudential standards to Islamic banks under the pretext of integration process [IMF - 2017].

In principle, products and services offered by Islamic banks, everywhere, should not abrogate the rules and principles that are the basis of its regulation to avoid the risk of damaging its identity. However practices shown considerable variation which makes this system a duplication of the conventional one, which means that profitability and return are the unique key drivers guiding this evolutive finance [Abu Umar F., 2014].

The advance of Islamic finance is becoming more and more concrete offering services in more than 60 countries, even more interesting is that the clients are not exclusively Muslims, therefore it conquered the recognition of the International Monetary Fund as important instrument to strengthen financial inclusion. On May, 2018 the Boards of IMF Directors approved a proposal for the use of the Fundamental Principles for the Regulation of Islamic Finance issued by the Islamic Financial Stability Board and developed with the participation of the Secretariat of the Basel Committee on Banking Control [Alexakis C., 2018].

It is the first time when officially we heard about integrating the texts of Islamic financial law to the internatiomal laws. Obviously this transformation raises doubts however it's a step on the path of integration sustaining stability on a global market.

In Europe the situation is complacated and not clear, excepting the souveraine funds and the speculative securities in the stock exchange, it is very difficult to obtain accurate informations on the relationship between individuals, households and business on the one hand and the Islamic finance on the other. To forge a clear vision on the situation we have to consider separately different legislation and practices in each country [Al-Nouri M., 2009]. Generalny the status of Islamic finance in the old continent is addicted to historico-political legacy despite the breakthrough of petrodollar rent coming from the Middle East (first beneficiary remains UK because of its colonial past).

The hypotheses of profit-loss sharing model

The evidence is that SMEs face enormous problems to satisfy its financial needs, to meet the conditions laid down by banks, SMEs are subject to a complex evaluation removing risks from banks side to SMEs side. This process includes techniques such as: *relationship lending*, *scoring*, *information asymmetry*, that are more precautionary measures rather than methods of evaluation. This attitude from banks expresses a lack of trust towards the entrepreneurship caused by insufficient guarantees. It is a behavior denying responsibility towards the community which is exploited by the same banks to make profites.

In the case of *Venture Capital* the SMEs face another row of technical barriers such as: *adverse selection* and *moral hazard* which require the introduction of additional control and collateral instruments such as *convertible securities* [Bascha A., 2001]. Or such as the *syndication of investment* and the staging of capital infusion [Gompers P. A., 1995].

In the case of Equity financing, SMEs are forced to share the profits with equity holders and could lose control, or worse yet, they could lose the ownership of the businesses. Taking into account the impact of all these barriers, blocking the access of SMEs to finance, the supporters of Islamic finance sustain that the Islamic participative model could represent a real alternative to conventional finance to save SMEs from these drastic measures.

Theoric postulation of participative model

The postulation of Islamic financial system imposes that investment and financing must work according to human being principles commonly recognized such as fairness, risk sharing, fair redistribution of wealth. Simultaneously this system recognizes the real economy as unique instrument to create growth excluding speculation and hazard factors that expose societies to prejudices and destabilization. The essence of this model is that both parties share the risks and benefits

associated to entrepreneurial activities and that remains fundamental instruments for instruments like *Mudaraba*, *Murabaha*, *Musharaka*, *Salam* and *Ijara* [Kayed R., 2012].

Unlike the more traditional forms of debt-based financing, SMEs loans based on participative financing seems to be adapted to the current needs of SMEs. It is an approach offering decisive competitive advantages increasing growth reducing monitoring costs, providing opportunities based on the holding of collateral, settling effective management, and limiting the impact of information asymmetries [Shaban, M., 2016].

According to Islamic financing rhetoric, the producer offering his product to the consumer or to the dealer then after receives payment is financing the consumer and the dealer; the worker who offers his or her services and hours of work to recover wage at the end of each month is continuously financing his employer; the bank according a loan to a SME for the purchase of new machinery or for another goal is undertaking a financial act [Edach s., 2016].

Instruments of the participative alternative

Uninamously Islamic Finance is defined as a system providing goods (in cash or in kind) to individuals and business that can be reinvest in compliance with shari'a technical standards and regulation to achieve economic and social development [Zayd al. M., 2011].

The main instruments of this system are grouped into two categories:

Participatory Instruments: are intended as a partnership between the provider of funds (Bank, organization, individuals) and the client (SME, individual, …), to finance a licit real economic activity, based on the principle of sharing loss and profit. It is a process where growth is strictly related to social inclusion and development considerations. Consequently Islamic banks in financial intermediation must observe this determinations to distinguish themselves from the standards applied by conventional banks in similar financing. Applying such purposefulness financing activity results in one hypothese reflected in the situation of a person or business devoid of capital to invest tries to find external financing (venture capital) in the form of partnership based on sharing profits and losses. The main instruments of a such category are "*mudaraba*" and "*musharaka*" institutions:

Al.-Mudaraba (capital risk): an agreement between the capital provider and entrepreneur on the base of profits and losses sharing in accordance up to the terms of the mudaraba agrement, except when the losses result from the entrepreneur's misconduct as in case of negligence or breach of contracted terms. It is an investment partnership in which Islamic bank acts first as agent "*mudarib*", which role is to realize profits for the investor. Or the bank acts as capital provider "*rabb al-mal*", and when the project generates losses, the bank assumes these losses.

Al.-Mudaraba takes one of the two forms: *al-mudaraba al-muqayyada,* that is restricted by any condition imposed by the provider of capital [Abdel-Majid al. A., 2010].

al-mudaraba al-mutlaqa: that is unrestricted and the entrepreneur can undertake whatever business he intends.

Al-Musharaka (*participation in a joint venture or co-property*)**:** is an agrement settling a participation in a joint venture or co-property between the financier (bank) and the client which terms of profit and loss-sharing are agreed and predefined by mutual consent according to the proportion of the respective contribution of each coshareholder in the supply of capital. Al.musharaka cases are grouped in three categories.

Al-musharaka al-mufawada: the case when all stakeholders have the same initial contribution, the same privileges, and assume the same share of profits and losses.

Musharakat al-'inan: the case when the initial contribution of partners is different consequntly their rights and share in the benefit and loss are proportional to their participation.

Al-musharaka al-mutanaqisa: it is the case when one partners' stake is gradually acquired by the other partners. Conditions of such acquisition correspond economically to the repayment of principal capital and interest to the lender.

Non participatory instruments based on indebtedness

The instruments based on indebtedness matches complex categories including interest-free loan, beneficial loan or benevolent loan which reward is provided in the hereafter. These instruments are based on faith rather than on profit consideration, for this reason they are excluded from the interest of the banks. Then we have a secondo set of instruments encompassing the debt (loan), and the sales debt in which payment precedes the delivery of the object as in the cases of *Salam* (commodity) and *Istisna*' contracts.

Al-Salam (*bay' al-salam*): is a sale with deferred delivery in which the price is paid immediately for a thing, which is not available. It is was a practice (not recommended) to meet the needs of farmers waiting the harvest to pay the credit [Muhammad M.Z.., 2007].

Ijara or ijara wa iqtina' (financial lease): is a transaction by lease with the option to purchase the asset later. Generalny it takes one of the two forms: *usufruct* of property, or capital assets, (*manfa'at al-'ayn*) [Schacht J., 1982]; usufruct of labor and service, (manfa'at al-'amal [Idris H., 2012].

Al.-Istisna': an agrement providing liquidity for factories and artisans, more matching with industrial activity. *Al.-istisna'* in specific situation requires three partie: the buyer, the bank and the manufacturer, this contrach in this situation requires two contracts (*istisna' al-muwazi*), the first one joins the requiring the manufactured product, the bank financing the project; the second contract binding the bank and the manufacturer [Bel-Khair A., 2008].

Al-Murabaha (cost-plus financing): is a sale setting the cost and profit for the item, known and agreed upon between the buyer and the seller. It is the situation when the financier and seller expressly add to the cost incurred on purchase of the asset some determined profit on the buyer assuming deterioration in the item until its delivery [Tail M., 1999].

Innovative strategies to target the SME market Creatingfriendly environment

Studies do not approach Islamic finance without mentioning the risks generally known to conventional finance and those that only affect Islamic finance. Only the risks of the Islamic finance, once the legal framework and the economic provisions are respected, remain minimal in the confrontation of the risks known to the conventional system. The root of the problem lies in the egocentricity of culture and tradition of conventional finance, which feels threatened by a model of finance closer to the human being and do not recognize the geographical barriers.

To create a friendly environment, Islamic finance industry must review its marketing policy and not only communicate through chanales shared with conventional finance. The vast majority of SMEs in Europe are completely unaware of this financial system, the unique connotation they dispose on is the confusion of this model with a rigorous religion and practices against freedom and human rights.

To target the SME market in Europe, the participative alternative must first find the political solution (legal status, taxes,…) to establish itself independently in the market and then protect itself from the contamination that could result from the neighborhood with usurious and speculative practices. In fact, the conventional banks that open windows for Islamic finance or the so-called "*Hallal*" products banks operating in Europe apply the same demands of guarantees and the same requirements of profitability of the services they offer as for conventional banks.

Conclusion:

Present analysis is an attemp to highlight the real barriers that limit the exploitation of a huge capital that could be offered by "*Halal*" finance to SMEs in Europe. It is not necessary to distort this system subjecting it to the regulation dictated by the financial concerns. It is enough to give it a space where this system can express itself and come into contact with the clients and customers. Considering the exact meaning of alternative and innovation, participatory finance can add value to the real economy and save SMEs from the agony to which it is condemned in the labyrinth of conventional finance towards sustainable development.

Doubts about the origin of "*halal*" capital (Terrorism capital), made that these resources are always analyzed from a security point of view. However, a remark so important in this context, which deserves the same interest, it is also a matter of security and ethics that these funds do not come from the abuses of the people in power who rob their people to make themselves even richer abroad.

It is officially recognized that debt financing limits the horizon of entrepreneurial perspective because it is more a mean of wealth transfer than an instrument creating richeness.

Deduction made, it must be known and propagated is that one is not obliged to embrace Islam to exploit and use halal capital.

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Legal Protection of the Famous Trademarks In Accordance with the Laws in Force in Palestine

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Abstract

A trademark is considered to be one of the most important elements of intellectual property for its ability to distinguish goods and services from others, it is the fruit of the effort of the merchant who did the best he could to bring the product to its fame and gained the admiration of the public worldwide. The merchant aims to attract customers, control the market, compete legitimately and takes the trademark as a way to achieve it, the greater the fame of the brand, the greater its popularity and financial value. This leads others to try to take advantage of the reputation and popularity of this brand by simulating, copying or falsifying it, which harms the owners of trademarks and consumers and negatively affects the development of the national economy. The regulation of well-known trademarks is a national necessity and an international requirement, and therefore Arab laws and international conventions "The Paris Convention for the Protection of Industrial Property and the Agreement on the Aspects of Intellectual Property Rights from International Trade" (TRIPS) all implemented special regulations of well-known trademarks. In Palestine, the Jordanian Trademark Law No (33) of 1952 is applicable in the West Bank and the Regulator of Trademarks in general; It did not establish special rules for the protection of well-known trademarks, which imposes on the Palestinian judiciary and specialists the burden of searching for ways to protect these marks in accordance with the provisions of the Trademark Law and the general rules, judicial principles and practical familiarity with reality.

Keywords: Legal Protection of the Famous Trademarks In Accordance with the Laws in Force in Palestine

Introduction

Research Problem

The problem of this research concerns the protection of famous trademarks within the Palestinian legislation and reality, and the effectiveness of the legislation in force in Palestine, especially the Trademark Law No. 33 of 1952, which did not regulate the famous brands. Has this protection been achieved in the draft Palestinian Industrial Property Law, and what is the role of judicial and jurisprudential applications in implementing such protection?

Keywords

Trademarks, Trademarks Law No. 33 of 1952, Palestinian Industrial Property Law, International Agreements, Analysis of Legal Texts, Judicial Applications, Practical Practice.

Introduction

A trademark aims at distinguishing the goods and services produced by the merchant from goods and services produced by others. The trademark has a role in marketing goods and services by bringing customers, maintaining the confidence in the products and their quality and good manufacturing, not to add that the longer the presence of the product in markets, the more the public knows about it, the higher the quality of the product the higher the sales and the ability to compete in the market and eventually the value of the trademark will increase, this presence can only be maintained through a trademark that ensures that the product is distinguished from the others.

Observing how the modern means of communication have played a prominent role in the proliferation of many brand names and their financial value has increased, prompting countries to enter into special agreements that provide an integrated legal system for well-known trademarks such as the Paris Convention for the Protection of Industrial Property and the Convention on Intellectual Property Rights TRIPS). (Paris Convention for the Protection of Industrial Property ,1883; TRIPS agreement, 1994.) Afterwards most countries of the world started to develop domestic legislation to ensure the protection and regulation of trademarks in the framework of legal obligations arising from accession to international conventions, especially the TRIPS Agreement, and extended the scope of trademark protection to include the protection of services and famous brands. Not to add that Palestinian markets have been crowded with famous brands and their value has increased, necessitating their organization and protection, According to the Ministry of National Economy, it has 597 commercial agents for international products. Mr. Ali Thoukan, the trademark registrar of the Ministry's intellectual property department, confirms the presence of more than 26,000 domestic and international trademarks registered to protect against counterfeiting and counterfeiting. Especially after its international recognition as a state. (The forging of global trademarks, 2015)

Due to the absence of Special provisions for the regulation and protection of well-known trademarks in conformity with the relevant international conventions in the Jordanian Trademarks Law No. 33 of 1952 and the Trademark System, the provisions of the Goods Law of references to trademarks and the provision of penal protection in the case of assaults, However, these laws did not deal explicitly with famous trademarks. (Jordanian Trademark Law, 33/1952; Trademark System, 1/1952; The Goods Marks Law,. 19 /1953). And by applying universally accepted standards, most brands in Palestine are considered to be well-known brands, The judicial applications in Palestine are a few, but there is a ruling that was a precedent in the Palestinian judiciary which is the famous chocolate brand" NUTELLA" of the famous Italian chocolate maker Ferrero. The court decided to temporarily close a restaurant in the city of Ramallah in the field of selling sweets and chocolate for the use of the global brand" NUTELLA ", where the restaurant infringed the world famous brand" NUTELLA "by promoting its merchandise under the name of NUTELLA Shop - Ramallah. The court explained its decision that this use leads to cheating the consumer and encouraging illegal commercial competition and demonstrating an incorrect source of goods. (Palestinian Court of Appeal,692/2014)

By applying universally accepted standards, most trademarks in Palestine are considered to be well-known trademarks. In this research, we will analyze the relevant Palestinian legislation to discuss legal provisions that protect the famous trademarks in two sections:

The First Chapter: registration, use and trademark reputation.

The Second Chapter: Means of protection of the famous trademarks in Palestine.

 1. Registration, use and trademark reputation

Trademarks play an important role in human life as it relates to all human requirements; these brands range a common unknown to many, to brands that are popular among people until they become known as famous trademarks.

The importance of trademarks stems from their distinction between different products, goods and services and their source, which makes them a symbol of consumer confidence, a guarantee of their quality, a mean of advertising, and a protection for consumers. (S. Zine El-Din, 2005, p114).

It applies to famous brands the same rules as regular brands, but the fame that has spread and publicized in Palestine as a result of the quality of the goods and services they represent, and spread out of bounds, and has become handled by a wide audience of consumers, giving it a high financial value. (S. Qalioubi, 2005, p552).

1.1. Definition of the famous trademark

The Trademark Law in force in Palestine did not frankly define trademarks, but generally defined it as "any mark used or intended to be used on any goods, (O. Abdel Salam, 1996, p197) or in relation thereto to indicate that such goods belong to the owner of the mark by virtue of its manufacture, election, certificate, trade or offer for sale". (Article 2, Jordanian Trademark Law , 33/1952).

As for The Palestinian Industrial Property Draft Law defines the famous trademark as "the internationally recognized mark that has exceeded the boundaries of the country of origin in which it has been registered and gained fame in the relevant

sector of the public in Palestine and which has at least one of the internationally recognized criteria for marking". (Article 2, The Draft Palestinian Industrial Property Protection Law, 2012).

In this draft, the brand's reputation is determined only if at least one of the criteria for trademark recognition is available, which demonstrates the desire of the project to increase the number of famous trademarks and facilitates their terms.

A part of the doctrine defined trademark as "a special form and composition that takes a way to distinguish the products or services of a project",(M. Brieri, 2000, p236). another group thinks of it as "a badge that permits the identification of particular products or services of a particular project and by attracting customers towards such a project or its products".(S. Sharqawi, 1986, p574). A third group went on to say that "the emblem that took a particular shape was characterized by a character that distinguishes it from the other badges taken by the manufacturer, trader or service provider to distinguish its products or goods or services as a means of promoting them, and has enjoyed a good reputation through which it is known to a large segment of the public". (F. Al-Haniti, 2015, p34).

Thus, it is clear to us that jurists agree that a trademark is famous if its fame exceeds the limits of the original country in which it was registered. The draft of Palestinian Industrial Property Protection Law, 2012 identified some of these criteria (article 52, draft Palestinian, 2012; A. Bayoumi, 2008, p270).

With respect to the Paris Convention, the convention did not provide for a specific definition or a standard for the trademark, it gave the right to the State to determine the trademark's fame, and to establish protection to the trademark even if it was not registered, the Convention states in its most recent amendment that countries should undertake the responsibility to prevent the use of trademarks which constitute an infringement on a another trademark which they consider to be famous trademarks. The Convention also prohibits the setting of a time-limit for the use of such marks if the use is in bad faith. (Article 6 Paris Convention,1883).

The TRIPS Agreement has developed a clearer concept of the trademark by stating that the famous brand may indicate to the services, which is absent from the Paris Convention, and it has shown that the brand's reputation is measured by its knowledge of the relevant public sector, including its knowledge of the member country concerned, Even if the infringing mark has used it on different products, provided that there is a connection between these products and the owner of the well-known brand, and that the interests of the owner of the famous trademark resulting from such use. (Article 16,TRIPS 1994).

Based on the above, we find that one of the rules of trademark's fame is the local fame of the public sector concerned in Palestine, to make the argument for its fame and non-aggression.

1.2 Trademark's fame as an alternative to its registration

Both the Paris Convention and the TRIPS Agreement went into the possibility of protecting the trademark without registering it on the condition that it was famous and recognized by the public. The trademark's reputation must be examined and defined with standards as well as the concept of the public sector concerned and the priority of use and registration should be also investigated in three branches as follows:

1.2.1 Trademark's Fame Criteria

National legislation and international conventions did not combine a specific standard of trademark reputation, but adopted several criteria. (I. Hussein, 1978, p46).

In Palestine, the brand is famous if it is known or distinct in the relevant sector of the Palestinian public, or the period of use and the geographical scope of use gave it this status, the promotion period of the mark was for long periods of time or the trademark was registered many times in more than one country, (Supreme Court of Justice, 343/2008). The Palestinian judiciary has applied this standard even without regulating the law of the famous brand. In a decision of Supreme Court of Justice No. 343/2008 "... Since the trademark that the appellant requests to register in the name of Bambi is a famous trademark owned by the first defendant and registered in his name More than one country, including Lebanon, Jordan, Saudi Arabia, Syria, the UAE and others with dates before submitting the request for registration of his mark Bamby .... ". Where the decision mentions the famous brand without specifying its criteria or reason to call it famous, the decision is published on, Or is protected by the application of the provisions of national law, or are classified by market value by competent authorities. (H. Alsagheer, 2004, p22).

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The Palestinian industrial property Draft law stressed the protection of a famous but not registered trademark, and set several criteria for determining the brand's reputation, and granted the judge discretion in considering the brand famous. (Article 52 of Draft Palestinian, 2012).

The criteria of trademark fame are the meaning and objectives of registration. Registration is intended to inform all about the existence of a mark and fame that leads to this goal. (M. Al-Shammari and H. Abu Helou, 2008, p691). The registration increases the value of the ordinary trademark and the famous marks of its fame have achieved this value. The registration aims to inform others of the existence of a trademark and open the way for any opposition against trademark registration, as for the fame that transcended the borders of the country in which it originated; has reached the knowledge of everyone so that everyone can object to it, so we see that the brand's fame has achieved the purpose of registration.

1.2.2 The Concept of the Concerned Public Sector

Determining the meaning of the audience concerned - as a determinant of brand knowledge and fame - was left to the jurisprudence and judiciary, but when it comes to the TRIPS Agreement, it went on to state that the trademark's reputation is measured by the extent to which the public sector is aware of the trademark and did not specify which the audience concerned. (Article 16.2, TRIPS 1994).

At the same time the jurists considered that if products or services are directed to a large audience, fame is measured by a large audience, but if directed to specific audience measured fame with this specific audience, The court decided that "we find that the mark to be registered is (FILTER MAN) and that the other mark is (MAN). Looking closely at these two signs, we notice that the word (MAN) in the English letters and prominently in each of the two signs will lead to cheating the public, it is not easy for the average consumer to distinguish between the two brands, even if the company's brand is followed by the word "FILTER". The lesson is that the average consumer is the overwhelming majority, whom the law is keen to protect and prevent exploitation and their ignorance. (A. Ghuwairi, 2008, p214; *High Court Jordanian 87/91*).

As for the Palestinian Industrial Property draft Law it stated that the intended sector of the public is the actual or potential consumers of the same type of goods or services, persons engaged in the distribution of the type of goods or services, and the business community dealing with the same type of goods or services. (Article 52/C, The Draft Palestinian, 2012)

It is clear from all the above that the purpose of registering the trademark is to identify rights holders, prevent disputes and avoid cheating the public and to establish an argument to all that the registration of the trademark is the owner of the rights to them. and by achieve these goals the trademarks attract more fame, (T. Al-Hmour, 2010). in contrast to some cases of registration of ordinary trademarks for which there is little known by the public, the law establishes a legal presumption on the assumption that it is recognized as soon as it is registered. This confirms that fame that reaches the public's makes registration sounds unnecessary, which makes the registration requirement considered valid in the trademark as soon as its fame is established.

1.2.3 Precedence of Use and Precedence of Registration

Some countries tend to link the protection of the trademark to its registration in accordance with the provisions of the law. In some of its provisions, the Trademark Law referred to the necessity to register a trademark and that the trademarks will not have any impact until after registration, the article 6 of the aforementioned law stated "Any person wishing to take up the use of a trademark ... shall apply for the registration of such a mark." The law also specifies the powers that a trademark registrar has in article 26 when it states that "subject to any restrictions and conditions restricted in the Register, registering a trademark entitles that person to the right to be use independently ... ", Article 34 also stressed the importance of registration when the provision prohibited compensating for infringement of a trademark unless it was registered, the legislator also linked criminal liability to registration when, in article 38, it stressed the requirement that the trademark should be registered for use without legal authorization to be considered an infringement, The word registration was mentioned over a 100 times in 47 articles of the Trademark Law.

With regards to the importance of registration, the legislator did not wish to consider the registration as an irrefutable presumption of the ownership of the trademark to its owner. Rather, it regarded it as revealing the existence of the trademark and that the registration was a simple presumption of the ownership of the mark to its owner, it also can be proven to be reversed by an earlier use of the trademark, the registration creates a deferred right that is threatened with extinction by objection or request for cancellation, The High Court of Justice ruled that the intended use in the Trademark Law is to use

the trademark to distinguish the goods of the owner of the mark itself, and that the mere fact that a person imported goods with a group of other persons imported from abroad is not intended to be used by the Trademark Law. (S. Zinedine, *2005,* p314; The High Court Jordanian, *55/52*).

When the legislators organized the Trademark law they obviously wanted to encourage the registration of trademarks already in use, (S. Zinedine, *2005*, p198). law even defined trademark as "the mark used ...", it also affirmed that a person wishing to use a trademark of his or her goods that they manufacture or sell may apply for the registration of the trademark, since a famous trademark is a trademark that is already used and known by its usage, its owner can apply for registration, but this will not distinguish the trademark with a global reputation from the trademark that was used for a simple period, or we will have to require the trademark owner to register it in all countries of the world in order to have adequate protection.

In addition, the law recognizes trademark before it is actually used on the goods, although the law has allowed the registration and protection of the trademark that the owner intends to use, The Supreme Court of Justice ruled on the use of the famous mark that if the right of a person who registered the trademark in his name conflicts with the right of another person who is a former user of the mark, the person who uses the mark shall have a priority right over the person registered for the mark · (M. Taha, 1988, p 488; The High Court Jordanian, *65/72*). it was a priority for the law not to prevent protecting a famous trademark which I believe that the lawmaker forgot to mention when legislating Trademark Law, which the Jordanian amended law has rectified, expressly providing for the protection of the well-known trademark. (Article 5, The Amended Jordanian Trademarks Law 34/1999).

It is noted from the foregoing that the Trademark Law merged use and registration, requiring registration to recognize the trademark and civil and criminal liability, but at the same time did not make the registration a conclusive presumption but rather simple evidence that can be proved contrary. (M. Al-Keswani, 2011, p 274).

Furthermore the High Court of Justice ruled in its ruling that the trademark, even if it is famous, is dealt with under the Trademark Law and not under the Trade Names Act, despite the similarities between them. (Court of Cassation jordanian,716/1992).

2. Means of protection of famous Trademarks in Palestine

Although trademark law did not regulate special provisions for well-known trademarks, it created many legal rules that are directly applied to the well-known trademark, through which it could be protected.

2.1. Means of protection provided for by law

There are many forms and images of the protection that can applied to well-known trademarks, which courts must use to provide as much protection as possible for current well-known marks.

2.1.1. Prevent the registration of an infringing mark on a famous brand

 The Trademark Law prohibits the registration of any mark that leads to fraud of the public or that promotes unfair competition. It also prohibits the registration of a mark that matches the mark of another person previously registered for the same goods for which the mark is registered or for a class or mark similar to that of the mark May lead to cheating others, Article 8 of the Trademark Law referred that "marks that violate public order or morals or that lead to fraud of the public or signs that encourage unfair commercial competition or that are not indicative of their true origin" also in paragraph 10 of the same article: "The mark that corresponds to a mark belonging to another person already registered for the same goods for which the mark is registered or for a class thereof or a mark that is similar to that mark to the extent that it may result in the deceit of others.". (Article 8 /6 Law 33/1952),

It is clear from the foregoing that the trademarks law has stipulated in the registration of trademarks that they should not be infringing a previous mark, whose registration leads to fraud and dishonest competition, The High Court of Justice ruling stated that "if the trademark to be registered is not similar to any mark used and known in Jordan, in addition, the basic idea and main appearance of the mark to be registered on a completely different goods from the goods of the objector in terms of their uses, this would eliminate the confusion between the two goods and deny the existence of unfair competition that leads to fraud of the public and the right of the trademark registrar to register the mark to be registered , (The High Court Jordanian, *84/1996*). and although the legislator in its enactment of this law did not mean the famous brand; The point behind the point behind the text is not to deceive the public, which is clear in the famous brands, so if a person uses

the KFC label on certain products it will undoubtedly mislead the public since they believe that the product is related to the KFC company that the consumer believes in its quality and leads to unfair competition and taking advantage of other's effort.

The law also prohibits the registration of a trademark that matches "complete conformity" or even similarity of a registered trademark. The law does not specify whether the mark is registered inside or outside Palestine, Since the text is absolute, the Registrar shall refrain from registering a trademark identical to that of a well-known trademark; as long as he knew or was supposed to know that it was registered "even outside Palestine" because of its fame and Since the text is absolute, the Registrar shall refrain from registering a trademark identical to that of a well-known trademark; as long as he knew or was supposed to know that it was registered "even outside Palestine" because of its fame, the Jordanian High Court of Justice ruled that "the text of article 8/10 "That a mark that corresponds to a mark belonging to another person previously registered for the same goods for which the mark is registered or a class or a mark similar to such marks may not be registered to the extent that it may lead to fraud of the public, Accordingly, since the appellant has the same trademark that the company wishes to register in its name and since that mark is registered in the name of the appellant in Britain and that it used the mark previously used to request the registration of the mark on behalf of the appellant, the products of this trademark have been exported to the Jordanian markets with their distinctive brand for a while, so that they are known to the consumer public except that the two symbols are similar in terms of names and characters. The similarity leads to cheating the public. Therefore, the decision of the trademark registrar to refuse to register the trademark on behalf of the company. (Article 11,law 33/1952; the Jordanian High Court, *215/95*).

Furthermore, protection in the registration stage, although it is a good start to prevent the registration of trademark infringement on the famous brand, but it is not enough, as they prevent the registration of these marks on the same goods only, and allow registration on different goods, If the famous trademark was infringed with the use of infringing goods, the law would not be used to prevent the registration of the infringing mark and to protect the trademark.

2.1.2. Honest competition and Famous Trademarks

In general law permits one or more persons to apply to register for the same trademark on the same products only if the mark is used for fair competition, but also at the same time none of them knows of the existence of the other mark, and has not intended to compete with or harm the other mark and its owner. (Article 18,law 33/1952).

But then the application of this provision to famous trademarks is unacceptable because honest competition is inconceivable with the famous trademarks, and the use of someone for a trademark that later appears to be famous may be an unrealistic coincidence, and this registration will inevitably confuse normal trademarks with famous ones as well as to misleading to the public. (A. Bayoumi,2008,p 206).

2.1.3 Object to the registration of an infringing mark on a famous mark

Basically the law authorizes any person to object to the Registrar the registration of any trademark within three months from the date of publication of the application for registration or during any other period designated for this purpose... " (Article 14,Law 33/1952).

Besides that the law does not stipulate the personal interest of objecting to the registration of a trademark, since the objection represents a public interest that any person may direct, even if a person uses objection as a profession, the interest is realized and clear if the objector is the owner of the famous trademark. *(Jordanian Supreme Court, 241/97)*.

At the same time the law specifies the duration of the objection as three months from the date of publication of the publication, However, the registrar has the right to appoint any other period, especially if the registrar feels that the application for registration of a trademark may be similar to a famous trademark registered outside Palestine, then the Registrar shall give additional time either on his own or at the request of the objector. His decision shall be subject to appeal before the Supreme Court of Justice within 20 days from the date of the issuance of this decision, the high court stated that "... the Court finds that the Registrar took into consideration the circumstances prevailing in that period in terms of irregularity in the institutions of the Authority, including the Trademark Office, which prevented the submission of the objection within the specified period In accordance with these exceptional circumstances, decided to accept the objection ... and that the registrar has exercised the powers conferred upon him by law. (Palestinian *High Court, 36/2004*). The law also grants the right of priority to any person to register his trademark, provided that the request for protection is submitted within six months

from the date of filing the application for protection in the foreign country. (Article 41, Law 33/1952). And to me I see that linking the right of priority to a period of 6 months from the date of registration in the foreign country, makes the right of priority lose its meaning because of the short period, The Jordanian Court of Justice also ruled that the owner of the identical or similar trademark may object to the registration of another mark similar to his even if the infringing mark is not registered in Jordan and registered abroad if such registration leads to unfair competition of the *decision of the Jordanian High Court of Justice*. (The Jordanian *High Court,171/88*). The law also prohibits the right holder to submit a request for civil compensation for any infringement on the trademark before its registration in

Palestine, and will not receive criminal protection prior to its registration in Palestine.

2.1.4 Protecting the famous Trademark by eliminating the counterfeit mark

The law gave all interested parties the right to request the cancellation of the registration of any trademark because they were not used on the goods for which they were registered for or because they were not used or were not used during the two years prior to the submission, and for those who registered their trademark can justify the reason for the non-use and convince the Registrar or the court with this justification. (Article 22, Law 33/1952).

It is certain that the owner of a famous trademark that has a confirmed interest in the cancellation of a trademark registration which resembles or imitates his trademark, when the infringer holds the mark for himself and does not exploit it in a real and effective manner on the goods for which he is registered.

moreover, it is the responsibility of the owner of interest in the famous trademark to prove that it has not been actually used, or prove that it has not been used in past two years preceding the application, which is the minimum requirement for the acceptance of the application, and the more the period of non-use the strongest the justification for the cancellation of the registered trademark increased.

But the question arises whether the right to cancel a trademark is subject to the five-year period in the text of article 25, or is it available as long as the trademark exists?

Referring to the text of article 22 of the Trademark Law which established the right to cancel the registration of a trademark indicated that "... as there was no sincere intention to use that mark for the goods for which it was registered for and in fact it was not used for such goods or on the basis that such a mark was not already used during the two years that submitted the request, "the law requires when submitting an application that the trademark was not used two years prior, and no specific period of time has been specified for that application.

The law also states that "... without prejudice to the general character of the provisions of article 25 of this Act ...", (Article 10 Law 34 of 1999). which means that there is a link between the articles since article 22 refers to the provisions of article 25 and that the general rule of article 25 covers article 22, at the same time the purpose of canceling the registration of a trademark registered in article 22 is because the trademark was not used, and the purpose of determining the term of termination of the right of cancellation under article 25 is for the stability of transactions, And not to keep the owner of the mark under the danger of the cancellation of his mark, and as long as the cancellation because of the non-use of the mark will not affect the stability of transactions, "it is a trademark not already used", it also would not threaten the practical interests of the owner of the mark, which meant that the five-year period in article 25 did not apply to article 22, making it possible to request the revocation of the mark for non-use five years after its registration, What also supports our opinion is the fact that article 22 of the Amended Jordanian Trademarks Law, supra note 29, replaced the expression "without prejudice to the general character of the provisions of Article 25" to "taking into account the provisions of Article 25" which does not speak of the five-year period.. (Article22,law34/1999; M. Al-Tarawneh, , 2009.)

○In addition, the Paris Convention in Article 6 II prohibits the granting of any time-limit for the delisting, as long as the registration and use of the mark was carried out in bad faith, which means that the aggressor's registration of a famous trademark and its non-use is a manifestation of bad faith, in which the infringer should not be protected during the legal period, The Trademark Law, 33/1952, did not differentiate between good faith and bad faith. "See Article 25\5" of the law. The Palestinian Industrial Property draft Law also did not distinguish between good or bad faith in determining the duration of the deletion.. (S. Zinedin,*200 5*, p 381).

2.1.5 Deletion of the trademark

The Trademark Law permitted a request to delete a trademark because there was no legal justification for its registration, or because its registration was unfair competition, and it was determined to do so within five years from the date of actual registration of the mark and not from the date of submission of the application, The five-year period is in line with the text of Article 6 II, paragraph 2, of the Paris Convention. (Article 25/5, Law33/1952; the decision of the jordanian *Supreme Court*,64/1977).

Based on the above, the reasons for the deletion of the trademark infringing on the famous trademark due to violation of articles 6, 7, 8 of the law are as follows:

First: Article 6 requires those who wish to use a trademark independently to register their trademark. Therefore, the infringer of a trademark will not be able to use this trademark because it is already in use and that would be an infringement on the mark which is not of their production and work, this all violates article six, and their registered mark became subject to deletion. (Article 6, Law 33/1952).

Second: the deletion of the trademark infringing the famous mark if there is distinguishing characteristic, which ensures the distinction of goods than others, the counterfeit mark will not lead to distinguishing marks on the contrary will lead to misleading and confusing counterfeit goods and famous goods, therefore, many brands that may cause a confusion in the products and may interfere with others are liable to be deleted.

Third: Remove the trademark infringing on the famous brand because it will contribute to cheating the public and lead to unfair competition. (Article 8/6, Law 33/1952; M. Al Tarawneh, 2009)

2.1.6 Trademark invalidity

The law clarified that if someone's trademark that is registered outside of Palestine, was infringe, this person may submit an application to invalidate the registration of the mark registered or intended to be registered by those who do not own it, The *High Court of Justice decision No. 90/2011*stated that "by reference to the provisions of Article 34 of the Trademark Law, which gave a person who has a registered trademark abroad the right to request the revocation of a trademark even if it is registered to a person who does not own it if it is based on his request for reasons In paragraphs 6.7.10 of Article VIII of the Trademark Law, , the Court finds that it has first to object to the application for registration for the same reasons and is in the early stages of registration. (Palestinian *High Court of Justice, 90/2011*) and the law sets forth the reasons that can be invoked to rule the invalidity. (Article 34, Law 33/1952).

As for the request of invalidity may be made because: the mark is contrary to public order, leads to cheating the public, encourages unfair competition, that the mark is descriptive, because the mark matches a mark belonging to another person previously registered on the same goods or mark that is similar to that mark, cheating the public.

For this case, the trademark must be registered, but it is not required to be registered in Palestine. Most of the famous trademarks are registered abroad. Therefore, famous trademark owners can apply for invalidating trademarks that might lead to misleading the public.

Furthermore, the law did not specify a period of time for exercising this right. Article 34 was not linked to article 25, which stipulated that the right to delete should be exercised within five years from the date of registration. This means that the right of revocation of marks registered abroad is at any time. (Article12,law 34/1999).

2.1.7 The extent to which famous brands are taxed in Palestine.

The Income Tax Law in Palestine No. 25 of 1964 subjected the "ordinary or famous" trademarks to the income tax. Article 5 paragraph 1/4 stipulates that the accepted compensation shall be subject to any trademark, design or patent. (The Jordanian Income Tax Law 1966- 2004)

The same paragraph grants the authority of the income tax assessor to distribute the income derived from this source over a period of time exceeding one year as he deems appropriate to achieve tax justice for the taxpayers, since distributing of income over a longer period of time leads to a reduction of the tax burden on the taxpayer, In addition to delaying the tax benefit on the amounts distributed over tax years, which enables the taxpayer to invest this money and make profits from them.

The Palestinian Income Tax Law No. 17 of 2004 also subjected trademarks, including the famous ones, to a tax according to the general text in article 2, (Article 2,Tax Law 17/ 2004). concerning the tax base, where it states that "unless the exemption is provided for in this law, all income earned by any person from any source shall be subject to income tax." This law does not provide for the exemption of these marks in Article 6, which deals with income exempt from income tax, as well as article 7 on tax-exempt income with conditions.

It is taken on this law that the tax base contained in Article 2 above was vague and provoking for tax disputes between taxpayers and tax departments because it did not specify the criterion adopted by the law to subject income to tax; Is it the criterion of the territory of the activity, the nationality of the taxpayer or his place of residence, which tax legislation did not deal with, opening the way for tax evasion and loss of tax revenues. This requires addressing the ambiguity and lack of legislation in the near future to achieve tax justice.

2.2 Potential Protective Measures

The legal means of protecting the famous brand in Palestine have been already clarified, and how methods have expanded to include the famous brand, but the most effective means of protection is the civil responsibility of compensation and criminal liability.

2.2.1 Civil Protection of the Famous Trademark

By extrapolating the provisions of the Trademark Law, it is clear that the establishment of rules and grounds for the protection of a trademark on the basis of registration and the prevention of compensation for infringement of an unregistered trademark confers on the trademark owner the right to stop the infringement by objecting to the registration of the mark by deletion, cancellation or invalidation.

Mentioning the fact that the legislator did not leave us the power of judgment or enforcement because article 43 of the law expressly states that it is not permissible to claim compensation for unregistered trademarks, (Article 34, Law33/1952). this position is contrary to the general rules that give the right to compensation to whoever faces damage from the actions of others, (M. Al Tarawneh, 2008).

It is also seen that the position of the legislator may be justified because the owner of the ordinary mark does not want to register his mark, making him vulnerable to infringement. The legislator considers that there is an important public interest to push trademark owners to register them, also so that it is not permissible for someone who was neglectful to register his trademark to benefit from his shortfall, and no one is excused for their ignorance of the law, so that the registration would have a practical legal value that is characteristic of those who registered with those who did not.

In our view, this justification is unacceptable for famous brands, most of which are foreign marks registered in a foreign country and have become famous for their quality and value to the countries of the world, including Palestine, How is it prohibited to claim compensation because the mark was not registered in Palestine, even though the infringement took place in Palestine, it is not considered be neglect and does not establish the rule of non-apology ignorance of the law, , So it was a priority to the Palestinian law to distinguish in the request for compensation between ordinary trademarks and famous brands. (A. Al-Khashroom, 2007, p254).

Moreover, the general rules of compensation cannot be invoked in accordance with the provisions of the Civil Code. As long as the text is unequivocal, it is not permissible to circumvent it by resorting to general rules, , since trademarks law is the law for trademarks and civil law is the general law of all the provisions of compensation.

This is what was taken by the Palestinian Industrial Marks Draft Law when it excluded from the compensation of infringement of unregistered marks; famous trademarks. (Article 53, draft Palestinian 2012).

But it seems that the Jordanian legislator may have been alerted to the legal problem in the text of article 34 and dealt with it in the Law on Unfair Competition and Trade Secrets No. 15 of 2000, giving the right to claim compensation for the harm caused by any illegal competition, it also considered Unlawful competition as Any practice related to a trademark used in the Kingdom, whether registered or unregistered, leads to misleading the public. (M. Al Tarawneh, 2008).

2.2.2 Criminal protection of the famous Trademark.

The Trademark Law states that any person who infringes a registered trademark shall be punished. The law stipulates that the criminal liability is the intention of fraud but at the same time if the infringer is of good faith, if the infringer is of good faith, there would be no criminal responsibility, but when it comes to good faith or misappropriation it should all be decided by the judge. (Article 38,Law 22/1953; M. Abdel Tawab, 2001, p 455).

The Trademark Law also made clear that the infringed mark must be registered under the Trademark Law, and thus the legislator has determined that there lays no responsibility for infringing a well-known trademark even if it is registered abroad. (A. Al-Khashroom, 2007 ,p250).

The Goods Act states that "the false trade description of the goods applies to the use of any numbers of goods, words, signs, marks or any combination thereof, whether or not involving a trademark" and what is meant by false name is the name used on the goods as a trademark otherwise. (Article 2/3, Goods Marks Law ,19 /1953).

This means that the Goods Law deals with trademarks infringements by placing them on goods. The law stressed that anyone who falsified a trademark or used it on goods is close to similarity with the goods of the trademark and would lead to deceiving the public, shall be punished by imprisonment for a period not exceeding one year or by a fine not exceeding one hundred dinars or both penalties unless it is proved that he did so without fraudulent intent. (Article 3,Goods Marks Law,19/1953; S. Zinedine ,2005 , p182.

In essence a person is deemed to have infringed a trademark; if such trademark or similar mark is made in such a way that it leads to deception without the consent of the owner, or that he has falsified any real trademark, whether by change, addition, distortion or otherwise. (M. Mubarak, 2006, p.74)

It is clear through the penalties stipulated in the Goods Law that registration is not required in trademarks contrary to the Trademark Law, and that the various forms of infringements contained therein can be used to punish the infringers of famous trademarks. (Article 5, Goods Marks Law 19 /1953).

Conclusion

The trademark law applied in Palestine did not regulate the well-known trademarks, but the draft law on industrial property, however, provided that the trademark law in force provided criminal protection for famous trademarks although it did not frankly names it well-known.

Furthermore, the law establishes the protection of registration according to simple and irrefutable evidence. However, we believe that the brand's popularity and its spread to a broad base of the concerned public plays the role of registration, which entails the necessity of judging judges to apply all provisions of the trademark law to famous trademarks. Trademarks can also be protected by the trademark registrar by abstaining from registering trademarks that are similar to famous trademarks, because the law prohibits the registration of trademarks that lead to cheating and deceiving the public.

on the other hand, the Trademark Law was clear that there was no doubt that there would be no compensation for the use or abuse of a famous trademark which is not registered in Palestine and that there would be no criminal liability in case of assault. However, the Goods Law did not stipulate that criminal liability opens the way for this responsibility when the conditions are met.

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