



Periódico do Núcleo de Estudos e Pesquisas sobre Gênero e Direito

Centro de Ciências Jurídicas - Universidade Federal da Paraíba

V. 09 - Nº 02 - Ano 2020

ISSN:2179-7137



EDITORIAL:

A missão da Revista Gênero e Direito (G&D) destina-se a informar a comunidade acadêmica sobre os desafios e perspectivas que revestem a discussão interdisciplinar do gênero. O objetivo da G&D é estimular o debate e produção científica com o propósito de produzir conhecimentos e atuar como transformador social e instrumento de reflexão para uma isonomia entre os indivíduos. O público-alvo de nossa revista é pós-doutores, doutores, mestres e estudantes de pós-graduação. Dessa maneira os autores devem possuir alguma titulação citada ou cursar algum curso de pós-graduação. Além disso, a G&D aceitará a participação em coautoria. A Revista possui um conjunto de Seções para recebimento de trabalhos científicos, como:

- **Seção Livre:** Seção interdisciplinar que recebem trabalhos de língua inglesa ou francesa produzidos através de pesquisas ou reflexões acadêmicas, podendo os temas abordarem ou não a temática do gênero e dos direitos humanos.
- **Ensaio:** Recebe relatórios de pesquisas em andamento ou concluídas.
- **Gênero, Sexualidade e Feminismo:** Trata com a discussão de gênero referente a gênero x sexo, discurso sexual, contrato sexual, identidade de gênero, existencialismo x naturalismo, filosofia social, teorias feministas e feministas do direito, diversidade sexual e efetividade de direitos sexuais.
- **Direitos Homoafetivos, lutas LGBTI e teoria queer:** Versa sobre a efetividade e garantias de direitos homoafetivos, a evolução histórica e social das lutas LGBTI, desenvolvimento social, teoria queer, categorias sociais, desigualdade, alteridade, relações culturais, homofobia, diversidade sexual
- **Direitos Humanos e Políticas Públicas de Gênero:** Aborda temas sobre filosofia do direito, teoria crítica dos direitos humanos, feminismo, interseccionalidade, consubstancialidade, igualdade de gênero e direitos LGBTI.
- **Movimento feminista, história da dominação e gênero:** Feminismo, história dos direitos de gênero, história da dominação, história dos movimentos feministas, lutas por emancipação, América Latina, discurso social e conquistas sociais.

- **Sexualidades, Subjetivações e Práticas Psi:** Sexualidade, identidade social, processo de identificação, grupos sociais, práticas psi, gênero x sexo, violência de gênero e vulnerabilidade.
- **Saúde, Gênero e Direito:** Saúde da mulher, integridade física e sexual, saúde pública, avanços tecnológicos, mudança de sexo, intersexualidade, aborto, gravidez na adolescência, sexualidade e prevenção sexual.
- **América Latina, União européia, gênero, feminismo:** violência de gênero, cultura latina, cultura européia, direitos sociais, políticas públicas, lutas sociais, movimento feminista, movimento LGBTTI, patriarcalismo, sexualidade, AIDS, direitos sexuais e reprodutivos.
- **Multiculturalismo, religião, gênero:** direitos sexuais e reprodutivos, religião e filosofia, estruturas sociais, choque cultural, etnocentrismo, feminismo, direitos homoafetivos, violência de gênero, relativismo cultural e direitos humanos.
- **Aborígine, gênero, inclusão social:** discriminação, cultura aborígine, políticas públicas, feminismo, infanticídio, práticas nômade, patriarcalismo e identidade.
- **Imigração, Emigração, gênero:** problemas sociais, zonas migratórias, tráfico de pessoas, exploração sexual, guerras, ditadura, deportação, expulsão, vulnerabilidade social e feminismo.
- **Gênero, história, Espanha:** movimento feminista, direitos civis e políticos, história da dominação, micro história, discurso social, reformas políticas

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RESENHA DE “UMA HISTÓRIA DO FEMINISMO NO BRASIL” DE CÉLI REGINA JARDIM PINTO

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Abstract: Review of Pinto, Céli Regina Jardim (2003), *A history of feminism in Brazil*. São Paulo: Publisher Perseu Abramo Foundation.

Keywords: Democracy. Social Movements. Feminist Movement. Political Participation.

Céli Pinto possui graduação em Licenciatura em História pela Universidade Federal do Rio Grande do Sul (1972), Mestrado em Ciência Política pela Universidade Federal do Rio Grande do Sul (1979) e Doutorado em Doutorado Em Governo - University of Essex (1986). Atualmente é Professora Emérita da Universidade Federal do Rio Grande do Sul (UFRGS). Tem experiência na área de Teoria Política com ênfase em

teoria da democracia e teoria feminista. Também atua na área de História do Brasil República, principalmente nos seguintes temas: política brasileira, feminismo e participação política².

Em *Uma História do Feminismo no Brasil*, Céli Pinto (2003) classifica a história do Movimento Feminista brasileiro em quatro fases: a primeira, apresenta o surgimento do Movimento Feminista no final do Século XIX e começo do XX; a segunda, aborda o feminismo nascente no contexto da Ditadura Militar; a terceira, narra a mobilização desse Movimento na redemocratização brasileira e, por fim, na quarta e última fase, narra a década de 90 e a expansão das Organizações Não-Governamentais Feministas.

A primeira fase do feminismo

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² As informações foram extraídas de seu currículo lattes que pode ser acessado na versão completa em: <http://lattes.cnpq.br/1527293281181776>. Acesso: 06/11/2019.

teve como foco a luta das mulheres pelos direitos políticos mediante a participação eleitoral que correspondia basicamente ao direito de votar e ser votada, já que até o começo do Século XX era negada às mulheres a igualdade política. Bertha Lutz exerce importante liderança e atividade política pelos direitos das mulheres desde 1920 até a década de 70 quando vem a falecer.

Esse período inicial do Movimento Feminista é caracterizado por três vertentes no seu interior: uma primeira que não define a exclusão da mulher como decorrência da posição de poder do homem (tido como um feminismo bem comportado); uma segunda vertente composta por um feminismo difuso protagonizado por intelectuais (professoras, escritoras, jornalistas), tendo um campo mais vasto de questões como, por exemplo, a educação da mulher, a dominação dos homens e temas delicados para a época, como sexualidade e o divórcio (feminismo menos comportado); e uma terceira vertente que tinha relação com o Movimento Anarquista e com o Partido Comunista priorizando a luta contra a exploração do trabalho

(feminismo ainda menos comportado).

Estávamos no Brasil do final do Século XIX e o país passava por um processo de urbanização e industrialização, culminando no surgimento de uma classe operária. Na Constituição de 1891 as mulheres são esquecidas nos artigos que regulavam as eleições no país. Não é que a Carta Magna as proibia de votar, ela simplesmente ignorava a existência das mulheres, provocando-as a requererem o alistamento eleitoral de muitas mulheres. A luta pelo sufrágio universal do período pretendia ampliar sua base de apoio formando uma opinião pública favorável as suas reivindicações e, por isso, as feministas utilizavam jornais, participavam de eventos públicos e há registros de uma passeata à época.

Em 1910, como resposta a não-aprovação do voto feminino pela Constituinte, um grupo de mulheres fundou o Partido Republicano Feminino (PRF). Além do voto das mulheres, o Estatuto do Partido Republicano Feminino também falava em emancipação, independência e exploração sexual. O PRF desaparece

nos últimos anos da década de 1910 quando surge no mesmo período a Federação Brasileira para o Progresso Feminino (FBPF).

A Federação Brasileira para o Progresso Feminino tem estreita relação com a volta ao Brasil, no ano de 1918, de Bertha Lutz que tinha ido a Paris estudar. É interessante observar a trajetória e o perfil de Lutz: filha de uma elite econômica e intelectual. Sua ida para Paris a fez ter contato com ideias feministas do Norte. Chama atenção o fato de que Bertha Lutz possuía reconhecimento e trânsito entre a elite política da época. No ano de 1922, após retornar de uma viagem aos Estados Unidos, é organizado o 1º Congresso Internacional Feminista no Rio de Janeiro. A partir de então, a FBPF espalha-se pelo país durante a década de 20 com presença nos estados de Minas Gerais, Paraíba, Bahia, São Paulo, Ceará e Rio Grande do Norte, tendo a luta pelo direito ao voto como agenda central. As mulheres que compunham o núcleo duro da FBPF tinham um claro perfil de classe econômica privilegiada.

Buscando apoio na opinião

pública, a FBPF entrega um abaixo-assinado com 2.000 assinaturas de mulheres ao Senado. Construindo uma relação de aliança com Juvenal Lamartine, então Presidente do estado do Rio Grande do Norte, o estado passa a ser o primeiro a aprovar uma lei autorizando o voto feminino. A primeira eleitora mulher da história do Brasil é oriunda da cidade de Mossoró, que fica no interior do Rio Grande do Norte. É importante ressaltar que a luta pelo voto feminino também era promovida por outras mulheres nos seus estados sem relação com a Federação. A própria Bertha Lutz não era uma líder isenta de críticas: Natércia Silveira, uma advogada gaúcha disputou a liderança da Federação e se retirou posteriormente ao apoiar a candidatura de Getúlio Vargas para a Presidência da República, promovendo um conflito aberto com Lutz que via no engajamento político uma ameaça à luta pelo direito ao voto. Até que no ano de 1932 o novo Código Eleitoral passou a incluir as mulheres no processo eleitoral, reconhecendo seus direitos políticos. A FBPF tentou

eleger Bertha Lutz para a Constituinte de 1934 conquistando uma suplência e assumindo a titularidade com a morte de um deputado e no mesmo ano a Federação organiza o 3º Congresso Nacional Feminista. No entanto, com o Golpe de 37 a Federação perde espaço e expressão no cenário brasileiro.

Outra característica dessa primeira fase é o jornalismo feminista. No final do Século XIX e começo do XX fazia parte do Brasil a luta pela liberdade de informação. Nesse contexto, existiam as feministas que sustentavam pequenos jornais, alguns artesanais, em que publicavam artigos e opiniões considerados mais radicais sobre a condição da mulher. Em 1873, Francisca Senhorinha Motta Diniz é a primeira mulher a fundar um jornal brasileiro com o objetivo de divulgar a “causa da mulher” chamado *O Sexo Feminino* que passaria a se chamar *15 de Novembro do Sexo Feminino*.

Além do jornalismo feminista, havia também nesse período o feminismo anarquista. Naquela época o Brasil recebia imigrantes italianos, espanhóis e portugueses que formavam uma massa operária no Rio de Janeiro

e São Paulo trazendo ideias libertárias do anarquismo europeu. É nesse momento que ocorrem as primeiras grandes greves do Brasil e se estabelece uma ativa imprensa anarquista no país. As mulheres que faziam parte dessas mobilizações apontavam a opressão masculina, diferentemente das sufragistas.

A primeira manifestação de mulheres próximas ao anarquismo é datada de 1920 e foi lançado pela União das Costureiras, Chapeleiras e Classes Anexas do Rio de Janeiro. Tal manifesto ilustra a posição das mulheres apontando a impossibilidade de conquistar a igualdade sem o reconhecimento da condição da mulher na fábrica. Elas, portanto, chamavam atenção para a questão da diferença que ganharia força na segunda metade do Século XX. Sua pauta tinha na questão do trabalho sua centralidade. Dentre suas denúncias, constavam o fato de que o tempo da mulher era consumido pela dupla jornada de trabalho. Maria Lacerda de Moura, uma destacada anarquista, se opõe às sufragistas acreditando ser tal luta muito restrita e pouco transformadora das relações de

dominação na sociedade. É interessante notar as diferenças de classe entre as sufragistas da Federação Brasileira para o Progresso Feminino, claramente abastadas, e as anarquistas operárias, trabalhadoras exploradas.

O Golpe de 1937 aniquila a expressão pública de movimentos mais visíveis e expressivos, retomando apenas na Ditadura Militar (1964-1985) contra o regime repressivo. Como balanço das conquistas dessa primeira fase do feminismo brasileiro temos a conquista do voto como principal vitória das mulheres engajadas no país.

O Movimento Feminista ganha nova expressão após o Golpe de 64, mas é importante entender o contexto mais amplo do Golpe Militar no Brasil: internacionalmente havia uma crítica ao capitalismo estadunidense e ao socialismo do Leste Europeu. Aconteciam nesse cenário movimentos *beatnik* e *hippie* nos EUA e os protestos de Maio de 1968 em Paris. Americanas lideradas por Beth Friedman tiram o sutiã em praça pública. Ocorre o lançamento de *O Segundo Sexo* de Simone de Beauvoir.

No Brasil, havia uma polarização política entre a União Democrática Nacional (UDN), composta por empresários, proprietários de terras, a classe média e forças armadas empunhando a bandeira do anticomunismo *versus* partidos nacionalistas (Partido Trabalhista Brasileiro) e clandestinos (Partido Comunista Brasileiro), empresários nacionalistas, operários urbanos, movimentos camponeses, intelectuais, estudantes e parte da Igreja Católica. É nesse cenário de polarização política nacional, aliado à Guerra Fria em plano internacional, que ocorre o Golpe Militar de 1964.

A Ditadura Militar vai aprofundando o seu aparato repressivo e a censura extrapola o campo político estendendo-se à questões morais e de costumes. Enquanto o Norte Global passava por momentos de revolução e mudanças culturais, o Brasil entrava em profunda repressão política e perseguição ideológica/comportamental. Ressurge na década de 70 o Movimento Feminista. Também havia um

movimento de mulheres³ que era composto por organizações de luta contra a carestia, clubes de mães, o movimento pela anistia, entre outras agendas que não exatamente a luta contra a condição inferior da mulher. Há relatos de aproximação desses movimentos de mulheres com o Movimento Feminista à época. O Movimento vivia tensões internas entre a autonomia da luta específica da causa da mulher e a luta contra a ditadura, além de ser apontado pela esquerda como um desvio pequeno-burguês que trocava a “luta de classes” pela “luta de sexos”.

Em 1972 ocorrem dois eventos de natureza distintas: o congresso promovido pelo Conselho Nacional da Mulher liderado pela advogada Rony Medeiros (que era mais conservadora e com trânsito entre a elite política militar) e as primeiras reuniões de grupos de mulheres em São Paulo e Rio de Janeiro (onde também ocorriam reuniões em outros estados), de caráter quase privado, o que seria uma marca do novo feminismo no

Brasil. Essas reuniões eram promovidas por grupos feministas inspirados no feminismo nascente do hemisfério norte e promoviam grupos de reflexão informais que reuniam mulheres que se conheciam previamente e tinham um caráter bastante privado, unidas por laços de amizade, afinidades intelectuais e políticas. A entrada em tais reuniões acontecia por meio de convite. Em alguns casos essas feministas até chegaram a promover atividades públicas, mas o contexto era de pouca oportunidade política em virtude do regime autoritário. As reuniões também tinham um certo caráter terapêutico onde se debatiam assuntos diversos sobre a condição feminina.

Outro fator importante do período da Ditadura Militar é o caso das feministas exiladas. Ativistas exiladas na Europa encontraram um clima diferente do Brasil, propício à contestação a outras formas de hierarquias para além do autoritarismo político e de classes. Ocorre então em 1972 a criação do grupo Latino-

³ A diferença entre um movimento e outro reside no fato de que apenas o feminismo questionava

os papéis atribuídos às mulheres e lutavam por essas mudanças.

Americano de Mulheres fundado por uma ex-militante comunista autoexilada em Paris, Danda Prado, provocando resistência dos homens que acusam o grupo de ser apolítico e de em nada contribuir na luta contra a ditadura. Outro grupo com esse perfil de exílio é o Círculo de Mulheres Brasileiras em Paris (1975-1979), comprometido com o ideário marxista.

1975 é um ano particularmente singular nessa fase do Movimento Feminista. É em 75 que a Organização das Nações Unidas (ONU) define aquele ano como o Ano Internacional da Mulher. É também nesse ano que surge a organização de ativistas acadêmicas na Sociedade Brasileira para o Progresso da Ciência (SBPC) que conforma um outro tipo de feminismo no Brasil, o feminismo acadêmico, e o surgimento da pesquisa científica sobre a condição da mulher no país. Nesse mesmo ano também nasce o Movimento Feminista pela Anistia, fundado por Terezinha Zerbini, que reunia familiares de pessoas exiladas, presas ou desaparecidas.

Também em 1975, a partir de

um evento no Rio de Janeiro, é criado o Centro de Desenvolvimento da Mulher Brasileira (CDMB) que se tornava público, diferentemente das reuniões privadas das feministas, e buscava a institucionalização. Também havia uma tensão interna entre as mulheres que se identificavam com uma problemática própria e exclusiva das mulheres *versus* aquelas que articulavam a luta feminista com a questão da classe. A partir de 77, o CDMB foi dominado por mulheres marxistas do Partido Comunista pró-soviético. Mas ele abrigava três tendências: a marxista (luta de classes), a liberal (direitos individuais) e a radical. E em 1978, o Centro lança um documento intitulado “Carta às Mulheres” que continha reivindicações gerais e específicas para os candidatos. Dentre as reivindicações gerais, encontravam-se a anistia ampla, geral e irrestrita; eleições livres e diretas para todos os cargos; assembleia geral constituinte; fim da carestia e entre as reivindicações específicas tínhamos demandas encontradas nos movimentos de mulheres, como clubes de mães e associações de bairro.

Uma outra fase do feminismo brasileiro proeminente é o feminismo da redemocratização (Pinto, 2003). Em 1979, acontecia a anistia a presos e exilados políticos e a reforma partidária que acabava com o bipartidarismo da Ditadura Militar composto pela Aliança Renovadora Nacional (ARENA) e Movimento Democrático Brasileiro (MDB). Nessa reforma, as feministas que faziam oposição ao regime militar se dividiram entre os novos Partido dos Trabalhadores (PT) e Partido do Movimento Democrático Brasileiro (PMDB). Ainda assim, houve uma tensão entre feministas que lutavam pela institucionalização e aproximação da esfera estatal e as autonomistas que viam nessa aproximação um processo de cooptação. Também surge um feminismo acadêmico, ancorado no Departamento de Pesquisa da Fundação Carlos Chagas em São Paulo e Núcleos de Pesquisa em Estudos da Mulher. A relação do feminismo com o campo político a partir de 1979 se dá em três áreas diferentes: (i) através da conquista de espaços institucionais como os Conselhos da Condição da

Mulher e Delegacias da Mulher, (ii) por meio da presença de mulheres em cargos eletivos e (iii) por intermédio de formas alternativas de participação política.

O perigo da perda de autonomia nunca permitiu a existência de um consenso absoluto sobre a criação de conselhos e ministérios que se ocupassem das questões das mulheres. Além disso, uma parte do Movimento Feminista lutava por transformações nas relações de poder que não poderiam advir de uma estreita colaboração entre o Movimento e o Estado. Um dilema emergia nesse contexto: atrelar-se a um partido e ameaçar a autonomia e a unidade do Movimento ou se manter unido e limitar sua participação política à pressão sobre o Estado.

A institucionalização acabou acontecendo de todo modo. Essa institucionalização passa pela vitória do PMDB em governos estaduais e em São Paulo, no qual a vitória de Franco Montoro resulta na criação do primeiro conselho da mulher em 1983 (Conselho Estadual da Condição Feminina). Contudo, ele possuía

caráter consultivo e propositivo, sem orçamento e era composto por mulheres do PMDB, sofrendo oposição de feministas do PT e de camadas populares que ansiavam por creches. Isso revelava um problema recente da institucionalização: os grupos são suficientemente fortes para romper a impermeabilidade estatal, mas não o bastante para ocupar espaço nas instâncias decisórias.

O Conselho Nacional da Condição da Mulher (CNCM) surge em 1985 a partir do Movimento das Mulheres pelas Diretas Já. Nasce da iniciativa de um grupo de 40 mulheres do PMDB que buscou Tancredo Neves ainda candidato para garantir a criação do órgão. Com a sua morte, José Sarney, seu vice, manteve a promessa e criou o Conselho. O CNCM foi criado junto ao Ministério da Justiça com orçamento próprio, tendo sua presidenta *status* de Ministra. Era composto por 17 conselheiras nomeadas pelo Ministro da Justiça. Com Collor, o CNCM perdeu seu orçamento e para a sua composição eram indicadas mulheres sem tradição no feminismo. Mesmo com Fernando

Henrique Cardoso o Conselho não recupera o espaço conquistado na década de 80. Ele terá um papel importante na Constituinte de 1988.

Mesmo com a presença de apenas 5,6% (26 exatamente) mulheres na Câmara dos Deputados sendo formado por um número significativo de mulheres eleitas por partidos de direita (PFL e PDS), elas se autodenominaram “bancada feminina” e apresentaram 30 emendas sobre os direitos das mulheres. Três motivos contribuíram para isso: a proposta de 3 emendas populares promovidas por movimentos de mulheres; a presença do agora chamado Conselho Nacional dos Direitos da Mulher (CNDM) e a postura unificada das constituintes. O CNDM realizou campanhas de mobilização e elaborou “A Carta das Mulheres” contendo reivindicações gerais e específicas. A questão do aborto não foi explorada no documento como um recuo tático diante do pensamento conservador. A atuação do CNDM em parceria com a bancada feminina resultou em muitos ganhos na versão final da Constituição Federal de 88 que ficou conhecida como a

Constituição Cidadã.

A década de 80 também é marcada pela entrada na esfera pública de novos temas com ênfase na violência e na saúde. Antes, a questão da violência era tida como um tabu restrito à vida privada. Caso de destaque foi o assassinato de Ângela Diniz pelo seu ex-marido Doca Street. Ele fora absolvido sob o argumento da legítima defesa da honra. Tal sentença provocou uma das primeiras grandes campanhas públicas das feministas e repercutiu na condenação do assassino em segunda instância. Importante marco no enfrentamento à violência contra a mulher no país.

No início da década de 80 é criado o SOS Mulher no Rio de Janeiro (1981) que se constituía num espaço de atendimento à mulheres vítimas de violência e de reflexão e mudança das condições de vida delas. As feministas entraram em crise com o fato de que muitas das mulheres atendidas retornavam para seus companheiros agressores e abandonavam os grupos de reflexão. Surge então um feminismo de prestação de serviço em que as mulheres vítimas encontravam

profissionais da saúde e da área jurídica para obter apoio. Esse formato dominaria a década de 90, por meio das Organizações Não-Governamentais. Em 1985 é criada a primeira Delegacia da Mulher que viria a se popularizar no Brasil. Era uma resposta à violência e ao machismo institucional encontrados nas delegacias comuns. A mulher conquista então o reconhecimento público de que é uma potencial vítima, uma vez que tal problema nunca havia sido observado na esfera pública.

Como dito, outro tema relevante a partir da década de 80 foi o da saúde da mulher. Além de temas tradicionais como os cuidados com a maternidade e com a prevenção do câncer, entra na cena pública temas controversos como o planejamento familiar, a sexualidade e o aborto. Em relação ao planejamento familiar, no Brasil aparecia como um controle de natalidade classista das camadas pobres. As feministas trabalharam na elaboração de projetos de planejamento familiar que atendessem as mulheres pobres sem cair em vieses discriminatórios. Quanto ao aborto, o número anual de abortos ultrapassava a

casa de um milhão de casos, a maioria sendo feita em condições precárias e arriscadas. A luta pela legalização do aborto causa grande reação da Igreja Católica. Sobre a sexualidade, o debate chega tardiamente no Brasil quando comparado ao Norte Global. Apesar de ser discutido nas reuniões informais da década de 70, o tema não aparecia publicamente para não dificultar a luta por direitos civis e sociais. Além disso, era visto como um tema burguês pela esquerda e uma ameaça à família pela direita.

A década de 80 avança no debate da saúde, tanto pela criação de grupos que buscavam formas alternativas de atendimento à mulher, quanto pela implantação do Programa de Atenção Integral à Saúde da Mulher (PAISM). O PAISM foi sem dúvida uma das mais bem-sucedidas intervenções de um movimento social organizado na esfera das políticas públicas e em 1986 aconteceu a Conferência Nacional de Saúde e Direitos da Mulher, em Brasília.

A década de 80 também é formada por um feminismo acadêmico em ebulição nas universidades públicas

brasileiras. Na verdade, o feminismo desde as suas origens sempre reuniu intelectuais, diferentemente de movimentos mais populares, fortemente excluídos do acesso aos grandes centros de produção do conhecimento. As reuniões da segunda fase, na década de 70, reuniam professoras e profissionais liberais das áreas das Ciências Humanas e Sociais.

A tese de livre-docência defendida em 1967 por Heleieth Saffioti, orientada por Florestan Fernandes, chamada *A Mulher na Sociedade de Classes: mito e realidade* é considerado texto fundador e definitivo na produção acadêmica sobre a mulher. Tal produção aumenta no final da década de 70 através de concursos de dotação de recursos da Fundação Carlos Chagas (FCC) com financiamento da Fundação Ford. Também é na FCC que surge em 1981 o jornal *Mulherio*, importante publicação feminista da década. Outro importante espaço de produção sobre a mulher é o das associações nacionais das diversas áreas do conhecimento: ANPOCS, ANPED, ANPOL, entre outras. É desse período o surgimento

de núcleos de estudos sobre a mulher. O primeiro surge na Pontifícia Universidade Católica do Rio em 1982 por iniciativa de uma das pioneiras, Fanny Tabak. Em 1991 acontece o 1º Encontro Nacional de Núcleos em São Paulo. Um exemplo de núcleo que se tornou referência é o Pagu da Unicamp. Em 1992 é criada a Redor - Rede Feminista Norte e Nordeste de Estudos e Pesquisas sobre a Mulher e Relações de Gênero. Destacam-se também núcleos e grupos de pesquisa da UnB, da USP e da UFBA. Também chama atenção pela qualidade científica a Revista Estudos Feministas, criada em 1992 pela Universidade Federal de Santa Catarina.

Chegando à década de 90 temos um outro cenário, marcado pela retração dos movimentos sociais e aumento das ONGs Feministas, apontando para uma profissionalização da militância. Percebe-se também um feminismo difuso que se espalha para diferentes setores da sociedade através da diminuição do espaço legítimo para a profusão de piadas machistas, racistas ou homofóbicas e contra a discriminação de trabalhadores e

trabalhadoras em função do sexo. Também ocorre um crescente debate sobre assédio sexual nas Casas Legislativas do país.

Quanto à participação política, a questão aparece sob duas formas: a frágil participação das mulheres nas esferas estritas da política - campo eleitoral e governamental - e as formas alternativas de participação das mulheres que lhes permite êxitos expressivos na elaboração de políticas públicas. Nesse sentido, as ONGs possuem papel importante nessas formas alternativas de participação política e na difusão de temas diversos como a de mulheres rurais, mulheres portadoras de HIV, mulheres parlamentares, negras, prostitutas, etc., gerando a segmentação das lutas e à ideia de feminismos, no plural, em oposição àquele branco, de classe média, intelectual e heterossexual. No entanto, elas são financiadas por agências internacionais e governamentais que terceirizam responsabilidades/serviços e define a agenda de atuação da sociedade civil. É importante ressaltar que a expansão das ONGs não eliminou a existência de

mulheres em movimentos, sindicatos, partidos políticos, entre outros espaços movimentalistas.

No campo da política, destaca-se o Centro Feminista de Estudos e Assessoria (CFEMEA), criado em 1989 em Brasília, intermediando o campo político e o movimento de mulheres. Elas defendem projetos, propõem emendas, assessoram a bancada de mulheres, divulgando atividades no seu jornal *Fêmea*. Divulga, através de suas publicações impressas e na internet, as tramitações e decisões governamentais, falando para lideranças e uma certa elite do movimento, não para mulheres em geral ou de movimentos populares. A Articulação da Mulher Brasileira (AMB) é um contraponto desse tipo de atuação na esfera da alta política, assessorando e organizando movimentos de base. Foi criada para preparar a ida das mulheres brasileiras à Conferência Mundial de Pequim em 1995.

Em 1991 temos a Criação da Rede Nacional Feminista de Saúde e Direitos Reprodutivos conhecida como RedeSaúde que congrega 110 filiadas

em 20 estados e recebe verbas do Ministério da Saúde para realizar atendimentos. Tem tido ação destacada na defesa de implantação do serviço de aborto legal nos hospitais públicos. Reúne-se com a Coordenação da Área Técnica de Saúde da Mulher do Ministério da Saúde e com a Central Única dos Trabalhadores, a CUT, sinalizando concomitantemente ocupação em Conselhos e diálogos com a sociedade civil.

Em 1998 é elaborado pelo CFEMEA, CEPIA (Cidadania, Estudo, Pesquisa, Informação e Ação), Themis (Themis Assessoria Jurídica) e Cladem (Comitê Latino-Americano e do Caribe para a Defesa dos Direitos da Mulher) em parceria com a Comissão de Direitos Humanos da Câmara dos Deputados, um documento intitulado *Propostas para o Estado Brasileiro – Níveis Federal, Estadual e Municipal – Medidas Concretas para o Enfrentamento da Violência Contra a Mulher no Âmbito Doméstico/Familiar*.

Para o Poder Executivo o documento recomenda políticas públicas, campanhas e programas

educativos, inclusão curricular. Para o Poder Legislativo, recomenda a aprovação de leis que garantam recursos orçamentários e reformulação de códigos. Para o Judiciário, recomenda medidas de sensibilização das autoridades judiciárias como a promoção de cursos para os funcionários. Todas essas iniciativas expressam formas alternativas de participação política da mulher.

Há ainda outras organizações que estão mais focadas no empoderamento das mulheres (Geledés, por exemplo que atua em gênero e raça), outras como o SOS Corpo de Recife atuam na área da saúde da mulher e pretendem construir espaços públicos de discussão e conscientização. O Movimento Feminista na virada do milênio é composto por uma gama de organizações que atuam hoje no Brasil e que variam muito de atuação de uma pra outra.

Como se pode ver no decorrer do texto, o livro *Uma história do feminismo no Brasil* se constitui como leitura obrigatória para aqueles e aquelas que se debruçam sobre os

estudos de gênero e sexualidade. Embora o livro já esteja um pouco desatualizado (o ano de publicação é 2003) e não aborde momentos relevantes mais recentes, como a aprovação da Lei Maria da Penha e seus efeitos na sociedade brasileira ou a retomada de um movimento conservador, capitaneado por fundamentalistas evangélicos nas casas parlamentares, nem explore com mais atenção a diversidade interna das correntes no interior da militância, a obra explora os principais momentos do ativismo feminista no Brasil em articulação com a conjuntura mais ampla do país e da tortuosa construção democrática brasileira.

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A DESJUDICIALIZAÇÃO DA ALTERAÇÃO DO NOME E DO GÊNERO NO REGISTRO CIVIL DA PESSOA TRANSEXUAL

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Abstract: This present work aims to analyse the recent process of non judicialization of changing name and gender in official state papers of transgender people in Brazil, made possible by the advent of the Supreme Court decisions, resulting from the Unconstitutionality Directive (ADI) 4275 and Provision n ° 73 from CNJ. To this end, 15 (fifteen) Natural Person Registry Offices of the city of Recife were elected and delimited as the field of action of this study, seeking to demonstrate in practice the effects of living law. In this sense, the perspective with personality rights, sexual dignity, individual self-determination and the right to real truth will be approached as elements whose influence is intrinsic to the guarantee of fundamental rights that

guide the dignity of the human person. Moreover, within the precepts of a democratic and progressive society, it is clear that the maintenance of legal constraints that deprive the trans individual of living fully his right to identity.

Keywords: Dignity of the transgender person. Non Judicialization of name and gender. Body Self determination.

Introdução

Os movimentos de democratização representativa e a ampliação das esferas de debate sobre os direitos das minorias emergiram a luta de grupos minoritários que há muito sofriram/sofrem diversos tipos de

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agressões aos seus direitos essenciais, através de decisões judiciais no sentido de perpetuação de preconceitos e negativas de direitos. Porquanto, qualquer outra forma de percepção que fuja ao majoritário social, sendo esse estruturado pela heterossexualidade normativa, tende a sofrer os mais diversos tipos de preconceitos e estigmas. Nessa esteira, a causa das pessoas trans, dentro do dinâmico universo dos LGBTQI+, mostra como a efetivação de direitos pode ser cerceada por uma cultura essencialmente heteronormativa, tal qual é a conservadora sociedade brasileira.

Assim, considerando esse panorama, a discussão que esse trabalho pretende trazer refere-se à análise do processo de desjudicialização da alteração do prenome e do gênero nos Registros Cíveis da pessoa transgênero, especialmente, analisando os efeitos desse fenômeno nos Cartórios de Registro de Pessoas Naturais da cidade do Recife/PE, depois da adoção do Provimento CNJ nº 73/2018 e decisão histórica do Supremo Tribunal Federal - STF sobre Ação Direta de Inconstitucionalidade - ADI 4275/2009.

Para tanto, este trabalho utilizou a metodologia de análise dos dados qualiquantitativos, tendo sido coletados através de informações enviadas pelos Cartórios de Recife, autorizados pela Corregedoria Auxiliar dos Serviços Notariais e de Registro da Capital do Poder Judiciário de Pernambuco. Também, foi aplicada a técnica de revisão bibliográfica de pertinência temática, a qual corroborou de maneira holística para avaliação qualitativa dos dados supracitados. Seguindo, no primeiro capítulo foram abordados retrospectos históricos da despatologização das pessoas trans, assim como sexualidade, construção de gênero e dignidade da pessoa.

Já o segundo capítulo, trouxe à tona temas como autonomia privada e autodeterminação corporal dentro do direito brasileiro, perpassando pelas cirurgias de redesignação, além de breve retrospecto de decisões judiciais a respeito do tema.

Por último, o terceiro capítulo tratou do direito à identidade e da extrajudicialização da alteração do nome e gênero, como também, foram apresentados os dados que motivaram a realização do presente trabalho.

Despatologização da pessoa transgênero

As questões que envolvem transgêneros sempre suscitaram muitos questionamentos e polêmicas a cerca dos seus direitos, bem como, por muito tempo, sofreram sob o pesado estigma de terem sua condição identitária coligada a possíveis transtornos psíquicos ou de imagem. De acordo com Castel (2001, p. 80), o histórico da patologização da transexualidade pode ser dividido em 04 (quatro) fases.

A primeira delas remonta às origens da sexologia, tendo por um dos expoentes o sexólogo Magnus Hirschfeld, um dos primeiros pesquisadores que iniciou estudos científicos em prol da despenalização da homossexualidade, nos primórdios do século XX (CASTEL, 2001, p. 80).

Já a segunda fase, caracterizou-se pelo veloz desenvolvimento médico e científico, sendo eles catalisados pelos eventos da Segunda Guerra Mundial, ainda em consonância com Castel (2001, p. 86), os quais permitiram o desenvolvimento de técnicas com

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aplicação de hormônios e cirurgias estéticas.

Quanto a terceira fase, para o mesmo autor, vai do final da Segunda Guerra até meados dos anos 60, engloba um período de inúmeros eventos que contribuíram para a medicalização dos transexuais à força, a exemplo do caso Jorgensen, ex-soldado americano que submeteu-se a cirurgia de mudança de sexo bem sucedida da história, transformado em Christine, em 1952 (CASTEL, 2001). Nesta senda, de acordo com Arán e Murta (2009, p. 24), a cerca desse evento, dispõem que

A cirurgia realizada em Georges Jorgensen, que se tornou Christine em 1952, foi um marco para a definição da experiência da transexualidade tal como a compreendemos hoje. A mediatização da história de Jorgensen, operado por Christian Hamburger na Dinamarca e posteriormente atendido por Harry Benjamin nos Estados Unidos, vai contribuir enormemente para a reflexão sociológica sobre a identidade sexual e a construção da categoria de gênero.

[...] este caso ilumina um conjunto de acontecimentos que revolucionou a forma de compreender a relação entre sexo e gênero no âmbito científico.

O caso de Christine, acima supracitado, relembra a história do livro “A Garota Dinamarquesa”, de David Ebershoff, que deu origem ao filme, no

qual retratou a primeira cirurgia de mudança de sexo, não bem sucedida, da história. Segundo Soalheiro e Cançado (2017, p. 02), a história retrata os percalços da personagem principal em busca da sua identidade corporal durante a década de 20, do século passado. Contudo, a personagem encontra muitos estigmas e violência em decorrência da sua condição de trans, inclusive o diagnóstico de esquizofrenia, até chegar ao procedimento cirúrgico, o qual “contribuiu para o fortalecimento da identificação de Lili”.

Os casos descritos acima despertaram interesse da comunidade científica, tendo no endocrinologista Harry Benjamin um expoente na busca de justificativas científicas que determinassem as diferenças entre os transexuais e os homossexuais. Segundo os primeiros estudos desenvolvidos sobre a temática, existiria nos transexuais uma relação de abjeção com seus respectivos órgãos genitais, fato esse que impulsionou a Benjamin defender como única forma terapêutica, a cirurgia de transgenitalização, o que mais tarde seria comprovado que a referida abjeção não é regra para todas as pessoas trans (BENTO; PELÚCIO,

2012). Enquanto os homossexuais teriam apenas a inclinação sexual para o mesmo sexo pertencente, sem problemas de abjeção de aparência ou gênero. Ainda dentro dessa temática, conforme os mesmos autores:

O critério fundamental para definir o “transexual de verdade” seria a relação de abjeção, de longa duração, com suas genitálias. Para evitar que cometam suicídio, as cirurgias deveriam ser recomendadas a partir de um rol de procedimentos arrolados por Benjamin em sua obra (BENTO; PELÚCIO, 2012, p. 571).

Vale ressaltar que, durante esse percurso científico, houve a contraposição dos profissionais de psicanálise, psiquiatria e psicologia, visto que estes defendiam medidas terapêuticas ao invés do procedimento cirúrgico definitivo. No entanto, Benjamin continuou a insistir no método cirúrgico como única via para solucionar as ditas “enfermidades” dos considerados transexuais. É oportuno frisar que, ainda não existia nessa época a perspectiva dos transgêneros. Ainda, no ano de 1955, surge a primeira menção do conceito de gênero por John Money, após a ideia do “papel” aplicado a diferença dos sexos na sociedade, fato esse que daria gatilho para os eventos que seguiriam (CASTEL, 2001, p. 96).

Por fim, a quarta fase tem início em meados dos anos 60 a 70, sendo esse período fomentado por fortes revoluções sociais, a exemplo das reivindicações de uma sexualidade libertária, em contraponto aos tradicionais códigos de comportamento social, o surgimento da pílula anticoncepcional, e o surgimento de nomes importantes dentro do ativismo em favor dos direitos homoafetivos, a exemplo de Harvey Milk, primeiro político eleito declarado gay na Califórnia, e Marsha P. Johnson, trans que lutou nos Estados Unidos pelos direitos do público LGBTQI+ (Lésbicas, Gays, Bissexuais, Transgênero, Transexuais, Queer, Interssexuais e outros).

Nos anos que se seguiram, tais processos de definição científica levaram a transexualidade ao quadro de doenças mentais como “Transtorno de Identidade”, tendo por marco os anos 1980, com a inclusão no Manual Diagnóstico e Estatístico de Transtornos Mentais (DSM-IV), sob coordenação da Associação de Psiquiatria Norte Americana, conjuntamente com a influência do culturalismo à época, marcado por forte repressão moral e social. Segundo Bento e Pelúcio (2012)

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nesse documento poderiam ser identificadas as bases do chamado disforismo de gênero, conforme transcrição a seguir:

As performances de gênero, a sexualidade e a subjetividade são níveis constitutivos da identidade do sujeito que se apresentam colados uns aos outros. O masculino e o feminino só se encontram por intermédio da complementaridade da heterossexualidade. Quando há qualquer nível de descolamento, deve haver uma intervenção especializada, principalmente de algum especialista nas ciências psi, para restabelecer a ordem e a "coerência" entre corpo, gênero e sexualidade. É esse mapa que fornecerá as bases fundamentais para a construção do diagnóstico de gênero (BENTO; PELÚCIO, 2012, p. 571).

Na esteira desses acontecimentos, em 1992, a Organização Mundial da Saúde (OMS) libera a nova edição da Classificação Internacional de Doenças e Problemas de Saúde (CID), conhecida por CID-10, na qual, conforme lição de Bento e Pelúcio (2012, p. 572) seria uma “convenção médica que estabelece as características das doenças e seus respectivos códigos utilizados e aceitos internacionalmente por médicos/as e outros/as operadores/as da saúde”.

Eis aqui o arcabouço histórico para o estigma da patologização das

peças consideradas trans. Outro ponto importante, durante toda a formação dos preconceitos contra as minorias LGBTQI+, seria, também, a eclosão da epidemia de AIDS, a qual atingiu com maior força a esse grupo em meados dos anos 80. Assim, conforme palavras de Fábio (2017):

Homossexuais ganharam um novo estigma, como vetores de uma doença mortífera, e a pauta da liberação sexual se esvaziou frente à nova crise de saúde pública. Militantes do Estado de São Paulo, especialmente, deixaram os grupos estabelecidos. Muitos passaram a atuar em projetos de combate à Aids.

Diante de toda essa perspectiva histórica, foi ofertado um campo para o desenvolvimento do transgênerismo, quando o ponto crucial não seria mais a oferta do acesso a redefinição sexual pela medicina, mas, sim, a luta por direitos e diminuição das desigualdades sociais que continuam a afetar essa minoria social. Assim, de acordo com Castel (2001, p. 91), o “Transgênerismo tornou-se pouco a pouco um movimento libertário com vastas ramificações”, tendo aqui os primeiros questionamentos a cerca da real necessidade de submissão a uma cirurgia mutiladora para o adequamento em estereótipos de gênero.

Logo, tem espaço para uma visão pós-moderna sobre a construção do gênero.

Quando se observa a realidade brasileira, desde a edição do Código Penal de 1830, nunca existiu nenhuma lei que restringisse a homossexualidade. No entanto, foi considerada um comportamento social “desviante”, bem como, até meados da década de 1980, era considerada doença e contava com o enquadramento tanto no Código de saúde do Instituto Nacional de Assistência Médica e Previdência Social Brasileira, quanto na Organização Mundial de Saúde - OMS. Ainda, conforme Fábio (2017) a despatologização da homossexualidade veio em 1985 com o aval do Conselho Federal de Medicina Brasileiro - CFM, antecedendo em 05 (cinco) anos as mudanças ocorridas na OMS. Em contrapartida, infere-se que os transgêneros permaneceram rotulados pela patologia de “transtorno sexual”.

Durante a Constituinte de 1987, prosseguindo de acordo o autor supramencionado, diversos grupos LGBTQI+, a exemplo do grupo carioca “Triângulo Rosa”, realizaram manifestações em defesa da inclusão do termo “orientação sexual” no rol dos

objetivos da República, elencados no artigo 3º da CF/88, onde estão expressos “origem, raça, sexo, cor e idade”, para que, assim, garantisse a esses grupos proteção constitucional contra exclusão social por sua respectiva condição sexual. No entanto, devido as pressões de setores conservadores a época, tal tutela não foi permitida existir de forma expressa na Constituição Brasileira (FÁBIO, 2017). Insta frisar que, essa proteção constitucional só ocorreu em junho de 2019, quando o STF, através de decisão hermenêutica constitucional, decidiu a cerca o Mandado de Injunção 4733, no qual estendeu a qualificação como sendo crime de racismo a homotransfobia, e até que norma regulamentadora – lei – sobrevenha e legisle especificamente sobre o tema.

Especificamente, com relação aos transgêneros, o grande divisor de águas veio através da decisão da ADI nº 4.275/DF, ajuizada pela Procuradoria Geral da República (PGR), quando da decisão do STF pela possibilidade de alteração do nome e gênero no assento do Registro Civil de Pessoa Natural - RCPN extrajudicialmente. Logo, confirmou-se a desnecessidade de jurisdição voluntária ou comprovação de

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realização de procedimento cirúrgico de redesignação de sexo para efetivação dos direitos civis da população transgênero brasileira.

Sobre sexualidade e dignidade da pessoa transgênero

A sexualidade é um termo abrangente, que engloba diversificados fatores. Logo, dificilmente caberia alguma definição que sintetizasse o que propriamente significa. Sobre a sexualidade humana, Bergesch e Chemin (2009, p. 10) dispõem que:

Ultrapassa a esfera biológica, a mera função reprodutora da espécie e a manifestação da libido e do impulso sexual para a satisfação carnal. Afirma este autor que o homem, como ser, é bipolar, apresentando dois sexos distintos: um homem e uma mulher. A definitiva distinção, de acordo com os avanços dos estudos da Biologia e da Psicologia tem consentido a ideia de que a masculinidade e a feminilidade não são consideradas valores opostos, mas graus sucessivos de desenvolvimento da sexualidade.

No entanto, importa frisar que sexualidade não se confunde com sexo, assim, têm-se a aceção por sexo uma determinação biológica fenotípica, quando conjunções hormonais e físicas confluirão para o enquadramento em

determinado pelo sexual, seja masculino ou feminino. Indo além, para Araújo (2016, p. 257), a ideia de sexo possui os diversos significados, que são:

[...] os principais sentidos são aqueles ligados (1) à acepção biológica (na distinção entre macho e fêmea), (2) à ideia classificatória (quanto ao “conjunto das pessoas que possuem o mesmo sexo”), (3) como sinônimo de sexualidade e (4) como referência aos órgãos genitais externos.

Eis aqui o que se pode chamar de definições cunhadas pelo “gênero aparente”, qual seja, aquele que se baseia por característica fenotípicas para a formação de um enquadramento sectário.

Já a sexualidade tem caráter intrínseco a completude da condição humana, logo, um ser humano só terá plenitude de gozo de sua dignidade quando o direito a sua sexualidade for resguardado e puder ele exercê-lo livremente. Ainda nas palavras de Araújo (2016, p. 259), “ninguém pode se realizar como ser humano sem ter assegurado o respeito ao exercício da sua sexualidade – conceito que compreende tanto a liberdade sexual como a liberdade à orientação sexual e a sua expressão”.

Nessa senda, a Comissão Especial de Diversidade Sexual da

Ordem dos Advogados do Brasil (OAB) elaborou as seguintes conceituações a respeito das diferenças entre gênero e sexo em uma Nota Técnica publicada no ano de 2014, as quais seguem listadas a seguir:

Gênero é elemento subjetivo constituído por aspectos psicológicos, sociais e culturais relativos aos padrões de comportamentos definidos pela prática cultural na qual as pessoas vivem papéis estereotipadamente masculinos e femininos;

Sexo é elemento biológico e objetivamente aferível, ressalvado o **sexo civil**, conceito jurídico que pode não coincidir com o gênero (OAB/2014) (grifo nosso).

Desta maneira, diante do exposto, percebe-se que a identidade de gênero não é um conceito definido, visto a culturalidade que o reveste, portanto, é passível de constantes transformações, principalmente, sendo elas provenientes da esfera social. Por isso, primeiramente, faz-se necessário compreender que quando se fala sobre o conceito de gênero, faz-se importante destacar que ele parte de uma construção social permeada por padrões comportamentais, ou seja, “gênero e sexualidade são construídos performativamente pela cultura ao longo do tempo e em diferentes contextos sociais que não são

somente normativos” (FREITAS, 2016, p. 228).

Porquanto, qualquer outra forma de percepção que fuja ao majoritário social, sendo esse estruturado pela heterossexualidade normativa, tende a sofrer dos mais diversos tipos de preconceito e estigmas (SOALHEIRO; CANÇADO, 2017, p. 12). Além do mais, importa frisar que gênero não se confunde com orientação sexual, visto que a designação do sexo ao nascer, possui um caráter eminentemente biológico, ou seja, desconsideram-se componentes culturais, sociológicos, psicológicos e de outras ordens que serão essenciais para a construção da personalidade de cada ser humano (PONTES; SARAIVA, 2017, p. 85).

Infere-se assim, conforme os ensinamentos de Araújo (2016, p. 263), que “nem a homossexualidade nem a heterossexualidade são as únicas formas de expressão da sexualidade humanas”. Dessa forma, a identidade do transgênero faz parte de uma construção oriunda do sentimento de pertencimento cultural e social a determinados padrões estéticos ou comportamentais considerados pertencentes ao sexo oposto à pessoa trans. Importa dizer que, quando uma

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pessoa se reconhece transgênero não significa dizer que há um desejo eminente de redesignação sexual. E vai além, nem mesmo é possível determinar que a pessoas trans terão atração sexual por pessoas do mesmo sexo, porquanto, reflete-se a existência de um conflito natural de identidade – em seu sentido amplo de reconhecimento e pertencimento – com o gênero, biologicamente falando.

Além do mais, segundo Butler (2003, p. 25) os seres humanos vão sendo moldados paralelamente às transformações sociais dos elementos sionormativos que os compõem, por conseguinte, “o gênero não deve ser meramente concebido como a inscrição cultural de significado num sexo previamente dado (concepção jurídica)”.

A mudança de paradigma: desobrigatoriedade da cirurgia de redesignação sexual

Nessa senda, a OMS até bem pouco tempo considerava a transexualidade como transtorno mental, no entanto, em recente decisão, no ano de 2018 e, oficializada em 21 de maio de 2019, durante a 72ª Assembleia Mundial

da Saúde, realizada em Genebra, foi retirada da Classificação Internacional de Doenças e Problemas de Saúde (CID). Dessa forma, a nova edição da CID-11, após longos 28 anos, a transexualidade deixou o rol de transtornos mentais e passou a integrar a categoria de Condições Relacionadas à Saúde Sexual, tendo sido classificada como incongruência de gênero.

Nesse interim, cumpre dizer que antes mesmo dessa abertura de paradigma por parte da OMS, o Conselho Federal de Psicologia (CFP) publicou no Brasil, em 29 de janeiro de 2018, a Resolução CFP nº 01/2018, a qual trouxe a orientação aos profissionais de psicologia, direcionando suas respectivas atuações profissionais no sentido de não mais considerar por patologia a transexualidade. Ainda, é importante trazer os 03 (três) pilares nos quais estão alicerçadas as diretrizes da Resolução mencionada, que são: transexualidade e travestibilidade não são patologias; a transfobia precisa ser enfrentada; e as identidades de gênero são autodeclaratórias.

Retrocedendo na linha do tempo, no ano de 1999, foi aprovada e publicada pela Associação Mundial para

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a Saúde Sexual, a Declaração dos Direitos Sexuais, na qual foram estabelecidas diretrizes que englobaram a proteção e promoção dos direitos sexuais como sendo parte intrínseca dos Direitos Humanos Universais. Nesse sentido, tem-se por direitos sexuais como direitos inerentes aos conceitos de liberdade, dignidade e igualdade, por isso, a temática a cerca de saúde sexual possui profundo impacto no campo jurídico e social.

Diante dessa perspectiva, dentre as muitas diretrizes elencadas na Declaração supracitada, está o Direito a Autonomia e Integridade Corporal, o qual traz a concepção de que todos tem direito de controlar e decidir livremente a cerca de pontos relativos à sexualidade e seus corpos. Por conseguinte, inclui a liberdade de tomada de decisões de natureza sexual ou relativas ao próprio corpo, desta maneira, aqui insere-se as cirurgias de transgenitalização, popularmente conhecidas por cirurgias de mudança de sexo.

Analisando os eventos expostos, tem-se a percepção de uma sistemática e vagarosa desconstrução da patologização que por muito tempo rotulou e estigmatizou a pessoa

transgênero. Assim, reforçando tal ideia, pode-se dizer que até bem pouco tempo muitos tribunais condicionavam a modificação do nome e do gênero no Registro Civil apenas para aqueles que se submetessem a tratamentos hormonais e a cirurgia de mudança de sexo. Assim, eis aqui o ponto primordial do direito a autodeterminação e autonomia da esfera privada: cabe ao Estado regular ou judiciar aspectos relativos à vida privada e formação de identidade? Qual dos bens são mais caros à sociedade plural e garantidora da dignidade humana, conforme prevê a Constituição Federal, a manutenção do nome e gênero segundo a linha biológica ou a permissão para que qualquer adulto capaz possa ter a liberdade de se auto definir conforme sua predisposição identitária?

Diante de toda essa conjuntura, fica demonstrado que a preservação da dignidade da pessoa transgênero não se baseia na adequação a sociedade heteronormativa, mas, sim, a garantia a autodeterminação sexual e pleno gozo de sua autonomia privada dentro do campo social e legal. Nesse sentido, conforme as digressões de Costa e Campello (2017, p. 113) “o exercício da democracia está umbilicalmente ligado à

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consideração de todas as formas de existência em um país, livres de preconceitos, ao passo que garantir o bem de todos independentemente de estigmas é objetivo fundamental da República”. Por isso, fez-se necessário ressaltar o retrospecto de despatologização da pessoa transgênero e a construção de um arcabouço, neste trabalho, que demonstre a desnecessidade de imposição da cirurgia de mudança de sexo como única forma de modificação do nome e gênero da pessoa trans.

Autonomia privada e direito civil brasileiro: um olhar sobre a autodeterminação da pessoa trans

Ao longo da história, muitos foram os questionamentos e obstáculos que a comunidade trans teve que superar para conseguiram galgar até as conquistas que hoje vivenciam, dentre elas, o objeto de pesquisa deste presente trabalho, que foi, o direito de alteração extrajudicial do nome e gênero no Registro Civil. Diante das transformações do direito a partir do viés constitucional, tem-se, assim, uma nova compreensão de autodeterminação do

indivíduo, definida como elemento fundamental para assegurar a qualidade de vida e essencial à defesa das garantias das liberdades pessoais e dignidade dentro da perspectiva de uma sociedade plural. Ainda, para Fachin (2014, p. 37), “autodeterminar-se não significa agir irresponsavelmente, mas sim, exercer as liberdades pessoais do modo mais amplo possível, seja produzindo escolhas, seja criando uma identidade própria ou mesmo tomando decisões quanto ao próprio corpo.”

Destarte, etimologicamente falando, a autodeterminação está incluída na esfera dos princípios mais caros aos direitos da dignidade da pessoa humana, abrangendo temas como autonomia, exercício de liberdades pessoais, livre-arbítrio, o que resulta numa confluência que permite a criação de uma identidade própria a respeito do próprio corpo. Assim, dentro desse panorama, felizes foram as palavras da ministra Carmen Lucia, a qual teceu o seguinte comentário a respeito da temática: “O Estado há que registrar o que a pessoa é, e não o que acha que cada um de nós deveria ser, segundo a sua conveniência” (BRASIL, 2018).

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Dentro do conceito de identidade, tem-se o cenário, conforme os ensinamentos de Fachin (2014, p. 37), da identidade pessoal, na qual estão englobados aspectos como o direito de ‘ser’, bem como o ‘direito ao corpo’ e estes estão “encapsulados como direitos de personalidade”. Portanto, quando são analisadas as questões pertinentes a construção identitária no direito brasileiro, percebe-se o quão influem nesse processo as “experiências sociais, culturais, políticas e ideológicas” das quais cada indivíduo traz consigo em sua história de vida (FACHIN, 2014, p. 37).

Direitos da personalidade: a autonomia privada na esfera civil e dignidade da pessoa trans no direito brasileiro

Os direitos da personalidade são provenientes de uma construção histórica marcados por injustiças sociais e muita luta, isso porque, segundo as lições de Schreiber (2013, p. 05) esses direitos são considerados essenciais à condição humana. Na esteira da história, a Declaração Universal dos Direitos Humanos de 1948 foi um importante catalisador para o reconhecimento e

proteção dos direitos da personalidade, ainda, encontrando garantia constitucional, anos depois, na Carta Magna brasileira, na qual tem entre os fundamentos da República a defesa da dignidade da pessoa humana, conforme previsto no artigo 1º, III.

A dignidade da pessoa humana, tal qual como adotada pela Carta Constitucional Brasileira, é o núcleo do qual são derivados todos os demais direitos e garantias fundamentais do ser humano. Para tanto, é possível afirmar que a dignidade é a pedra de toque fundamental dos direitos humanos. Ainda, nas palavras do Sarlet sobre o tema:

Temos por dignidade da pessoa humana a qualidade intrínseca e distintiva de cada ser humano que o faz merecedor do mesmo respeito e consideração por parte do Estado e da comunidade, implicando, neste sentido, um complexo de direitos e deveres fundamentais que assegurem a pessoa tanto contra todo e qualquer ato de cunho degradante e desumano, como venham a lhe garantir as condições existenciais mínimas para uma vida saudável, além de propiciar e promover sua participação ativa corresponsável nos destinos da própria existência e da vida em comunhão dos demais seres humanos (2001, p. 60).

A consagração da dignidade humana no mundo, bem como a sua

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incorporação à Constituição Brasileira de 1988 (CF/88), de acordo com Scriver (2013, p. 10) modificaram as perspectivas do direito civil, influenciando na construção de uma instrumentalização legal voltada ao campo da personalidade. Ainda, de acordo com o mesmo autor, o rol desses direitos não é taxativo, mas, sim, pode ser considerado um campo aberto e em constante evolução. Insta frisar que, o princípio da dignidade da pessoa humana é considerado o núcleo de força das demais garantias constitucionais, ou seja, desse centro derivam todos os outros direitos porque se tem nela a perspectiva axiológica das constituições.

Destarte, primeiramente, faz-se necessária a construção de um arcabouço teórico a respeito do que seria o nome e gênero para o direito civil brasileiro. Quando se analisa o capítulo dedicado aos direitos da personalidade no Código Civil de 2002, constata-se que somente foram abarcados formalmente 05 (cinco) garantias: o direito ao corpo, o direito ao nome, o direito à honra, o direito à imagem e o direito à privacidade. Para tanto, percebe-se que o Direito à identidade pessoal não encontra guarida

expressa no referido Código (SCHREIBER, 2013, p. 15).

No entanto, a garantia de tutela ao direito à identidade pessoal ocorre por ressonância do artigo 1º, inciso III da CF/88, bem como esse instituto tem por núcleo magnético o Direito ao nome, o que sugere que esse arquétipo normativo social é considerado elemento de individualização do indivíduo, formando o sistema basilar do direito à identidade. Ainda, segundo Moraes (2010, p. 155): “É, então, o nome, um ‘misto de direito e de obrigação’, sem que uma dessas instâncias possa superar a outra: o direito da personalidade deve conviver com o interesse social, intrínseco na ideia de obrigação”.

Nesta senda, Amorim (2003, p. 08) citado por Fachin (2014, p. 40) trouxe a seguinte classificação para o Direito ao nome:

A melhor doutrina atribui ao nome a natureza jurídica de direito de personalidade, na medida em que, como sinal verbal ou mesmo marca do indivíduo, o identifica dentro da sociedade e da própria família e é capaz de ser tutelado erga omnes. **A lei assegura o direito ao nome**, assim como seu registro em local adequado, obedecidas as formalidades, **criando a particularização da pessoa, no mundo jurídico**. Ele faz, pois, **parte integrante da personalidade** (grifo nosso).

Continuando, para Pereira (2004), o nome é um elemento designativo e fator de suma importância social, logo, ele integra a personalidade. Nesse sentido, ainda de acordo com os ensinamentos de Fachin (2014, p. 40), por estar inserido neste rol, existem características inerentes a este instituto, entre as quais estão “a obrigatoriedade, a indisponibilidade, a exclusividade, a imprescritibilidade, a inalienabilidade, a não-cessibilidade, a extracomercialidade, a inexpropriabilidade, a intransmissibilidade, a irrenunciabilidade e a imutabilidade”.

No que se refere ao quesito da imutabilidade, o qual tem especial importância para o presente trabalho, cabe salientar que a Lei que rege os Registros Públicos, trata em seu artigo 58 do instituto ‘Nome’ e é anterior a Carta Magna Brasileira. Porquanto, de acordo com Camargo (2013, p. 225) “por questões de ordem pública, o legislador tornou o nome imutável, declarando ser de interesse social a manutenção do nome pelo indivíduo [...] elementar para a segurança jurídica”. No entanto, a melhor doutrina ensina que não há espaço para constituição de direitos ou

institutos absolutos, visto que o viés absoluto traria prejuízos imensos aos direitos fundamentais, como por exemplo, o cerceamento do chamado “Princípio da Convivência das Liberdades”, conforme leciona Moraes (2003, p. 61):

Os direitos e garantias fundamentais consagrados pela Constituição Federal, portanto, não são ilimitados, uma vez que encontram seus limites nos demais direitos igualmente consagrados pela Carta Magna (Princípio da relatividade ou convivência das liberdades públicas). Desta forma, quando houver conflito entre dois ou mais direitos ou garantias fundamentais, o intérprete deve utilizar-se do princípio da concordância prática ou da harmonização de forma a coordenar e combinar os bens jurídicos em conflito, evitando o sacrifício total de uns em relação aos outros, realizando uma redução proporcional do âmbito de alcance de cada qual (contradição dos princípios), sempre em busca do verdadeiro significado da norma e da harmonia do texto constitucional com sua finalidade precípua.

Outrossim, conforme as evoluções sociais e legiferantes no país, a dignidade da pessoa humana tornou-se uma “*diretriz máxima*” da função estatal, assim, reconheceu-se entre o compasso da doutrina e jurisprudência brasileira, a relatividade das garantias fundamentais, dentre as quais pode-se citar a relativização da mudança do nome na

própria legislação, haja vista que tanto o Código Civil, na matéria de direito de família, quanto a Lei de Registros Públicos, que prevê possibilidade de mudança de nome nas hipóteses de prenome ridículo, ou de integração de apelido notório, por exemplo (FACHIN, 2014, p. 41).

Infere-se, dessa forma, que o nome não apenas identifica, mais individualiza e concretiza um direito da personalidade perante sociedade e Estado, qual seja, o primeiro passo para garantia da autodeterminação corporal e social, quando não importe prejuízos a terceiros. Ainda, nas palavras do mesmo autor em foco, o nome é “elemento constitutivo para formação da identidade pessoal” carregando uma importante função social consigo (FACHIN, 2014, p. 41).

Nesse interim, atribui-se outro aspecto ao ‘Nome’ quanto a constituição do indivíduo, o direito à integridade psíquica deste, o qual também está englobado pelo rol aberto dos direitos da personalidade. Logo, preceituam Gagliano e Pamplona Filho (2014, p. 186) acerca do tema: “Conceituam-se os direitos da personalidade aqueles que têm por objeto os atributos físicos,

psíquicos e morais da pessoa em si e em suas projeções sociais”. Assim, tais direitos confluem para a proteção do homem e sua condição humana, bem como, tem-se que a proteção à integridade psicofísica faz parte dos direitos que estão abarcados pelo princípio da dignidade humana:

Na esfera cível, no entanto, a **integridade psicofísica vem servindo para garantir numerosos direitos da personalidade** (vida, nome, imagem, honra, privacidade, corpo, identidade pessoal), instituindo hoje o que se poderia entender como um “amplíssimo direito à saúde”, compreendida como completo **bem-estar psicofísico e social**. (MORAES, 2016, p. 96) (grifo nosso).

Quanto ao gênero dentro do direito brasileiro, faz-se necessário estabelecer uma reflexão acerca do papel da identidade atribuída unilateralmente à pessoa natural ao nascer, quando questões como gênero e sexualidade são desconsiderados, reduzindo-se ao enquadramento binário: feminino ou masculino. Nesse sentido, Butler (2003, p. 46) ensina que:

O deslocamento estratégico dessa relação binária [...] pressupõe que a produção das categorias de feminino e masculino, mulher e homem, ocorra igualmente no interior da estrutura binária. [...] Foucault sugere que a categoria de sexo, anterior a qualquer caracterização da diferença sexual,

é ela própria construída por via de um modo de sexualidade historicamente específico. Ao postular o “sexo” como “causa” da experiência sexuais, do comportamento e do desejo a produção tática da categorização descontínua e binária do sexo oculta os objetivos estratégicos do próprio aparato de produção.

Corroborando para este estamento, Bolesina e Gervasoni (2018, p. 72) trazem a ideia de que os binarismos foram fundados para fins organizacionais, no entanto, sua prática deliberada operou não apenas uma oposição entre os sexos biológicos, mas, sim, verdadeiras dicotomias histórico-sociais. Ainda, de acordo com os mesmos autores, esta fixação arbitrária dos gêneros ao nascimento é, também, reflexo de sociedades patriarcais que tendem sempre a orbitar pelo centro de poder masculino. Por fim, este processo tem por resultado uma força de homogeneização, a qual tende por uma normalização desse processo binário, acarretando, por conseguinte, a naturalização dele.

Eis aqui o ponto crucial, o poder da naturalização das identidades, que subjagam as diferenças e reduzem a complexidade dos atributos que formam a identidade humana, que levam a aceitação social, em determinados

níveis, de práticas discriminatórias e de não enquadramento na sociedade. Destarte, deve-se entender gênero como uma construção social, cultural e comportamental, a qual deve ser observada pelo viés do princípio da liberdade individual numa perspectiva de livre exercício da vida privada, assim, tal qual define Moraes (2016, p. 108): “O princípio da liberdade individual consubstancia-se, numa perspectiva de privacidade, intimidade e livre exercício da vida privada. Liberdade significa, [...] poder realizar [...] as próprias escolhas individuais [...] exercendo-o como melhor convier”.

Ainda, conforme lição de Fachin (2014, p. 45) a perspectiva histórica a cerca do conceito de gênero encontram raízes nos movimentos feministas que visavam contrapor o biologismo dos sexos, levando em conta o resultado de uma construção baseada numa realidade social patriarcal. Dentro desta acepção, Andrade (2015, p. 15) elucida:

Por esta razão, a construção da identidade sexual é consequência da construção da subjetividade da pessoa, no exercício de sua autonomia ético-existencial, do direito ao autodesenvolvimento que se firma em dois pilares básicos - o respeito à dignidade da pessoa humana e o direito de

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liberdade geral de ação, culminando, portanto, no direito à autodeterminação da identidade de gênero.

Assim, a identidade de gênero é um processo de se fazer o corpo feminino ou masculino, sendo os atributos de qualificação moldados pelas características intrínsecas e carregadas de significado cultural. Por conseguinte, tem-se, diante de todos os desenvolvimentos citados, uma construção “funcional e dinâmica do direito à identidade pessoal, voltada a promover e garantir uma fidedigna apresentação da pessoa humana em sua inimitável singularidade” (SCHREIBER, 2013, p. 216). Seguindo o pensamento do mesmo autor, o direito à identidade permite que cada indivíduo desenvolva e se permita encontrar sua individualidade numa sociedade que tendia uma planificação de corpos e pensamentos.

Em outras palavras, este instituto vislumbra como uma centelha de permissão para a autenticidade do ser humano em sua plenitude permitindo uma consonância com as evoluções sociais, tal qual a máxima aristotélica e que se encontra premiada, hermeneuticamente, no rol das garantias fundamentais tutelados pela Carta

Magna brasileira. Dessa forma, “dignidade e responsabilidade se conjugam com a liberdade” do indivíduo trans em encontrar-se dentro de suas singularidades humanas e que resultem num processo de respeito, garantia de felicidade e qualidade de vida.

O direito à autodeterminação corporal no Brasil: uma garantia de cidadania à pessoa transgênero

Quando se pensa em corpos e regulações jurídicas, é inegável as profundas influências históricas e religiosas sofridas pelo tema no decorrer da história humana. Logo, encontram-se na locução “direito ao corpo” uma confluência complexa de sentidos jurídicos e psíquico sociais, os quais revelam que, hoje, o corpo humano está para “atender a realização da própria pessoa e não aos interesses de qualquer entidade abstrata, como Igreja, família ou Estado” (SCHREIBER, 2013, p. 32).

Analisando o Código Civil brasileiro, em seu artigo 13, foram assentados critérios sobre a disposição do próprio corpo, tendo três características básicas endereçadas ao referido dispositivo, as quais podem ser

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listadas abaixo conforme lição de Schreiber (2013, p. 34):

(i) primeiro, ao autorizar qualquer disposição do próprio corpo por “exigência médica”, o art. 13 parece elevar a recomendação clínica a um patamar superior a qualquer avaliação ética ou jurídica;

(ii) segundo, ao vedar a disposição do próprio corpo que importe “diminuição permanente da integridade física”, o art. 13 sugere, a contrario sensu, que estariam autorizadas reduções não permanentes, o que se mostra extremamente perigoso;

(iii) terceiro, o art. 13 alude à noção de “bons costumes”, ideia vaga e imprecisa, que pode causar serias dificuldades em um terreno que sofre decisiva influência de inovações tecnológicas e científicas.

Diante do explanado, oportuno voltar a atenção para a correlação entre o artigo 13 do Código Civil, a cirurgia de redesignação sexual e a superavaliação da verdade médica. Isso porque, segundo Schreiber (2013, p. 44) as intervenções médicas quanto a mudança sexual, de acordo com a Resolução do CFM 1.955/2010 em conjunto com o dispositivo do Código Civil permitem a cirurgia no Brasil, no entanto, impõe-se o dever de atender ao requisito da exigência médica para tal. Ainda, de acordo com o mesmo autor, “o resultado pode parecer progressista, já que se permite [...] a cirurgia. [...]. A

abordagem, contudo, é a mais retrograda possível”, visto o viés patológico que carrega consigo tais elementos para a autonomia da autodeterminação corporal.

Adiante, muitos foram os embates jurídicos entre as pessoas trans, que buscavam obter o direito sobre o próprio corpo, e as decisões provenientes do judiciário brasileiro quanto ao tema. Isso porque, a questão da redesignação sexual, em primeiro momento, ficou estrita a esfera judicial contenciosa, quando em décadas passadas imperava o conservadorismo dos julgados, tal qual percebe-se através de decisão proferida pelo Tribunal de Justiça do Rio de Janeiro, no ano de 1993:

APELAÇÃO - 0001564-59.1993.8.19.0000 – REGISTRO CIVIL DE NASCIMENTO. NOME. RETIFICAÇÃO. MUDANÇA DO SEXO. IMPOSSIBILIDADE.
Retificação no Registro Civil. Mudança de nome e de sexo. Impossibilidade. Sentença mantida. O homem que almeja transmutar-se em mulher, submetendo-se a cirurgia plástica reparadora, extirpando os órgãos genitais, adquire uma "**genitália**" com similitude externa ao órgão feminino, não faz jus à retificação de nome e de sexo porque não é a medicina que decide o sexo e sim a natureza. Se o requerente ostenta aparência feminina, incompatível com a sua condição de homem, haverá de assumir as consequências, porque a opção foi dele. O Judiciário,

ainda que em procedimento de jurisdição voluntária, não pode acolher tal pretensão, eis que a extração do pênis e a abertura de uma cavidade similar a uma neovagina não tem o condão de fazer do homem, mulher. **Quem nasce homem ou mulher, morre como nasceu.** Genitália similar não é autêntica. **Autêntico é o homem ser do sexo masculino e a mulher do feminino, a toda evidência.** (MSL). TJRJ, APELAÇÃO CÍVEL, 1993.001.06617, Des (a). GERALDO BATISTA - Julgamento: 18/03/1997 - OITAVA CÂMARA CÍVEL. (grifo nosso)

Como infere-se pelo julgado acima, muitas foram as decisões judiciais de cunho moralizador e permeadas por concepções tradicionalistas homogeneizantes. Assim, a mudança deste panorama no Brasil, iniciou-se com as modificações operadas pelo CFM e do Sistema Único de Saúde - SUS, ambos impulsionados por fortes modificações internacionais, citadas em capítulo anterior. Ademais, dentro da acepção de direito ao próprio corpo, segundo os ensinamentos de Fachin (2014, p. 54) a qualidade de vida da pessoa trans está intrinsecamente ligada a “instituição de uma identidade própria”.

Nesse sentido, decisões judiciais foram evoluindo no compasso das mudanças sociais e das novas normas introduzidas pelo CFM e pelo SUS,

fornecendo estruturas mais condizentes com o caráter constitucional brasileiro, em defesa da dignidade da pessoa humana. De acordo com Schreiber (2013, p. 46) “o direito ao próprio corpo não deve ser protegido como uma exigência social de ordem e segurança, mas como um instrumento de realização da pessoa”. Nesta senda, uma decisão que propiciou significativas mudanças dos posicionamentos, dentro do judiciário brasileiro, ocorreu no ano de 2002, através de julgamento do Superior Tribunal de Justiça (STJ) sobre cirurgias de redesignação sexual, sob relatoria da ministra Nancy Andrighi, por consequência, diante da importância dessa jurisprudência, faz-se pertinente transcrever-la a seguir:

DIREITO CIVIL. RECURSO ESPECIAL. TRANSEXUAL SUBMETIDO À CIRURGIA DE REDESIGNAÇÃO SEXUAL. ALTERAÇÃO DO PRENOME E DESIGNATIVO DE SEXO. PRINCÍPIO DA DIGNIDADE DA PESSOA HUMANA.
- Sob a perspectiva dos princípios da Bioética, de beneficência, autonomia e justiça, a dignidade da pessoa humana deve ser resguardada, em um âmbito de tolerância, para que a mitigação do sofrimento humano possa ser o sustentáculo de decisões judiciais, no sentido de salvaguardar o bem supremo e foco principal do Direito: o ser humano em sua integridade física, psicológica, socioambiental e ético-espiritual.

- A afirmação da **identidade sexual, compreendida pela identidade humana, encerra a realização da dignidade**, no que tange à possibilidade de expressar todos os atributos e características do gênero imanente a cada pessoa. Para o transexual, ter uma vida digna importa em ver reconhecida a sua identidade sexual, sob a ótica psicossocial, **a refletir a verdade real** por ele vivenciada e que se reflete na sociedade.

[...]

- **Assegurar ao transexual o exercício pleno de sua verdadeira identidade sexual consolida, sobretudo, o princípio constitucional da dignidade da pessoa humana**, cuja tutela consiste em promover o desenvolvimento do ser humano sob todos os aspectos, garantindo que ele não seja desrespeitado tampouco violentado em sua integridade psicofísica. Poderá, dessa forma, o redesignado exercer, em amplitude, seus direitos civis, sem restrições de cunho discriminatório ou de intolerância, alcançando sua autonomia privada em patamar de igualdade para com os demais integrantes da vida civil. A liberdade se refletirá na seara doméstica, profissional e social do recorrente, que terá, após longos anos de sofrimentos, constrangimentos, frustrações e dissabores, enfim, uma vida plena e digna. (...) Recurso especial provido. (REsp 1.008.398/SP, Rel. Ministra Nancy Andrighi, Terceira Turma, julgado em 15.10.2009, DJe 18.11.2009) (grifo nosso)

Todavia, o reconhecimento e asseguramento da cirurgia de redesignação à pessoa trans, em muitos casos, deixou de ser um direito e passou a ser uma “obrigatoriedade” no sentido

de se obter as retificações devidas nos documentos públicos, conforme decisão do Tribunal de Justiça de Sergipe, transcrita a seguir:

**APELAÇÃO CÍVEL –
RETIFICACAO DE REGISTRO
– TRANSEXUAL NÃO
SUBMETIDO À CIRURGIA
DE MUDANÇA DE SEXO –
SENTENÇA QUE
DETERMINOU A
ALTERAÇÃO DO NOME DO
AUTOR EM SEU REGISTRO,
MAS INDEFERIU A
MUDANÇA DE SEXO –
RECURSO QUE PRETENDE A
ALTERAÇÃO DO GÊNERO
BIOLOGICO CONSTANTE NO
REGISTRO DE MASCULINO
PARA FEMININO –
IMPOSSIBILIDADE –
DESCOMPASSO ENTRE A
VERDADE REAL E A
SENTENÇA MANTIDA –
RECURSO CONHECIDO E
IMPROVIDO – À
UNANIMIDADE. (Apelação
Cível nº 2013.00223538 nº único
0004131-39.2013.8.25.0083 – 1ª
CMARA CIVEL, Tribunal de
Justiça de Sergipe – Relator (a):
Ruy Pinheiro da Silva – Julgado
em 13/01/2014) (grifo nosso).**

Outrossim, diante deste último julgado, percebe-se que a imposição da cirurgia de mudança de sexo como condição para retificação do Registro Civil configuraria ato de “infração ao direito ao próprio corpo” (FACHIN, p. 55). Isso porque, como qualquer ato cirúrgico, existem os riscos que devem ser considerados, bem como, por se tratar

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de um procedimento extremamente invasivo e irreversível. Aqui, faz-se pertinente lembrar os ensinamentos de Pontes e Saraiva (2017, p. 85) quando afirmam que o gênero não se confunde com orientação sexual, visto que a designação do sexo ao nascer, possui um caráter eminentemente biológico, ou seja, desconsideram-se componentes culturais, sociológicos, psicológicos e de outras ordens que serão essenciais para a construção da personalidade de cada ser humano.

Dessa forma, a identidade da pessoa trans faz parte de uma construção oriunda do sentimento de pertencimento cultural e social a determinados padrões estéticos ou comportamentais considerados próprio ao sexo oposto da pessoa trans. Em verdade, quando os seres humanos vão sendo moldados paralelamente às transformações sociais dos elementos socionormativos que os compõem, por conseguinte, “o gênero não poderia ser simplesmente concebido como a inscrição cultural que significa um sexo previamente dado”. Nesse sentido, quando uma pessoa se reconhece transgênero não significa dizer que há um desejo eminente de redesignação sexual, pois:

Gênero seria um processo contextual e contingencial, ponto de convergência de fenômenos históricos e culturais localizados e reais, não atrelado a um ser substantivo fundacional, ou seja, no lugar de gênero vinculado ao sujeito, Judith Butler preconiza ser o gênero o efeito de certas relações sociais, políticas, históricas e culturais (FREITAS, 2016, p. 233).

E vai além, nem mesmo é possível determinar que a pessoas trans tem ou terão atração sexual por pessoas do mesmo sexo, porquanto, reflete-se a existência de um conflito natural de identidade – em seu sentido amplo de reconhecimento e pertencimento – com o gênero, biologicamente falando. Porquanto, de acordo com Fachin (2014, p. 56):

Fica evidente, portanto, que a **exigência da cirurgia de redesignação sexual vai de encontro à eleição da pessoa transexual**, de modo que cabe exclusivamente a ela, compreendendo todas as suas implicações, realizá-la ou não. **Impor um pré-requisito a um direito fundamental mutila**, em nosso ver, **a própria definição de direitos fundamentais e direitos de personalidade**, que se baseiam na ideia de inerência ao ser humano.

Destarte, do ponto de vista da Carta Magna, a qual tem por epicentro axiológico a dignidade da pessoa humana, não era razoável ter por condição a realização da cirurgia de

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redesignação como condição para retificação do nome e gênero no RCPN. Assim, no bojo destas mudanças jurídicas, veio a Ação direta de Inconstitucionalidade (ADI) de nº 4.275/DF, impetrada pelo Ministério Público Federal (MPF), quando pretendeu-se viabilizar aos transgêneros a alteração do prenome e sexo no documento público independente de realização de cirurgia de transgenitalização. Essa decisão configurou-se em um divisor de águas visto a desnecessidade de comprovação de readequação sexual para alteração do RCPN, bem como, deixou-se a senda do contencioso, passando a integrar a esfera administrativa com a permissão para a retificação direta pelos Cartórios de Registro Civil de Pessoa Natural, bastando o cumprimento de determinados requisitos, os quais serão abordados no próximo capítulo.

Direito à identidade e a extrajuicialização do nome e gênero da pessoa trans: análise dos dados dos cartórios de registro de pessoa natural da cidade de Recife/PE

A Ação Direta de Inconstitucionalidade (ADI) 4275, foi um importante instrumento de garantia de dignidade e adequação do judiciário brasileiro diante das demandas da população trans. Cronologicamente falando, no ano de 2009, o Ministério Público Federal (MPF) por meio da Procuradoria Geral da República, impetrou tal ação buscando, dentro da hermenêutica constitucional, dar interpretação conforme a Constituição ao artigo 58 da Lei de n.º 6.015/73 - Lei de Registros Públicos, na redação conferida pela Lei n.º 9.708/98. A peça foi elaborada pela Procuradora da República e Doutora Deborah Macedo Duprat de Britto Pereira, na qual visou reconhecimento aos transexuais, independente de comprovação de cirurgia de transgenitalização, ao direito a alteração do nome e sexo/gênero no RCPN.

Nesta senda, a decisão final para esta ADI apenas ocorreu no ano de 2018, passados 09 (nove) longos anos desde sua propositura, quando decidiu o STF pela procedência do pedido requisitada pelo MPF, como, assim, percebe-se pela transcrição da ementa abaixo:

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AÇÃO DIRETA DE INCONSTITUCIONALIDADE. DIREITO CONSTITUCIONAL E REGISTRAL. PESSOA TRANSGÊNERO. ALTERAÇÃO DO PRENOME E DO SEXO NO REGISTRO CIVIL. POSSIBILIDADE. DIREITO AO NOME, AO RECONHECIMENTO DA PERSONALIDADE JURÍDICA, À LIBERDADE PESSOAL, À HONRA E À DIGNIDADE. INEXIGIBILIDADE DE CIRURGIA DE TRANSGENITALIZAÇÃO OU DA REALIZAÇÃO DE TRATAMENTOS HORMONAIS OU PATOLOGIZANTES.
1. **O direito à igualdade sem discriminações abrange a identidade ou expressão de gênero.**
2. **A identidade de gênero é manifestação da própria personalidade da pessoa humana e, como tal, cabe ao Estado apenas o papel de reconhecê-la**, nunca de constituí-la.
3. A pessoa transgênero que comprove sua identidade de gênero dissonante daquela que lhe foi designada ao nascer por auto identificação firmada em declaração escrita desta sua vontade dispõe do direito fundamental subjetivo à alteração do prenome e da classificação de gênero no registro civil pela via administrativa ou judicial, independentemente de procedimento cirúrgico e laudos de terceiros, por se tratar de tema relativo ao direito fundamental ao livre desenvolvimento da personalidade.
4. Ação direta julgada procedente. ADI 4275, Relator(a): Min. MARCO AURÉLIO, Relator(a) p/ Acórdão: Min. EDSON FACHIN, Tribunal Pleno, julgado em 01/03/2018, PROCESSO ELETRÔNICO DJe-045 DIVULG 06-03-2019 PUBLIC 07-03-2019) (grifo nosso).

Quanto a interpretação do artigo 58 da Lei de Registros Públicos, faz-se pertinente abordá-lo aqui para melhor entendimento. Dessa forma, dispõe ele que: “Art. 58. O prenome será definitivo, admitindo-se, todavia, a substituição por apelidos públicos e notórios (redação dada pela Lei nº 9.708 de 1998)”, logo, tem-se a questão da situação vivenciada pelos transexuais que eram obrigados a sofrer constrangimentos e discriminações diante do descompasso entre o nome social e sua identidade.

Consubstanciando esse tema, tem-se o seguinte acórdão, anterior a ADI 4275/09, no qual apresenta o fundamento de que não seria a cirurgia a força concessiva da condição transexual, ou melhor, seria apenas mais um passo para construção da identidade pessoal. Destarte, como já visto, o direito à identidade de gênero encontra guarida nos direitos da personalidade e de dignidade da pessoa humana, assim, justifica-se, independente de cirurgia, a modificação no RCPN, desde que obedecidos determinados critérios que estão postos em redação elaborada pelo Conselho Nacional de Justiça (CNJ).

Além disso, haja posta a adequação com a realidade constitucional brasileira, outro fator que contribuiu positivamente foram as legislações internacionais pertinentes aos Direitos Humanos, em especial o Pacto de San Jose da Costa Rica, no qual subscreve direitos ao sistema legal pátrio tais como o direito ao nome (artigo 18), reconhecimento à liberdade pessoal (artigo 7º, 1) e à dignidade (artigo 11, 2).

Adiante, em junho de 2018, o CNJ publicou o Provimento nº 73, no qual trouxe regulamentação da decisão proferida anteriormente pelo STF, relacionada a alteração e averbação do prenome e do gênero nos assentos de nascimento e casamento da pessoa transgênero, sendo esse feito realizado diretamente pelos Cartórios Brasileiros. Ainda, a respeito da norma supramencionada, vale a pena descrever alguns importantes pontos, por exemplo, em seu artigo 2º, é garantido que toda pessoa maior de 18 anos completos e capaz de praticar atos da vida civil, poderá requerer diretamente ao ofício de RCPN a alteração e averbação do prenome e gênero em sua certidão de nascimento ou casamento, a depender do estado civil da pessoa em questão.

Seguindo, no mesmo artigo, essa alteração poderá abranger ou excluir agnomes indicativos de gênero ou descendência (§ 1º). Ainda, tal procedimento poderá ser realizado tanto no local original de assentamento do registro ou até mesmo em cartório distinto, no entanto, o requerente irá arcar com as expensas referentes à averbação pela Central de Informações do Registro (parágrafo único). Outro ponto, de acordo com o artigo 4º, a pessoa trans que requerer essa modificação deverá declarar e assinar ato de vontade perante o registrador do RCPN à livre escolha à adequação da identidade mediante averbação do prenome, do gênero ou de ambos. Já no § 1º do mesmo artigo, o provimento destaca que não é mais necessária autorização judicial para tal ato.

Além disso, no § 6º do supracitado artigo, são listados os documentos necessários para a realização do trâmite administrativo, já o § 7º traz como opção da pessoa trans juntar laudos médicos ou pareceres psicológicos sobre sua condição trans. Importa salientar que, a todo esse processo é garantido o sigilo, assim como não constarão na folha de Certidão

a averbação de tal modificação, logo, tal registro será gravado apenas nos livros arquivados nos Cartórios.

No que se refere ao § 6º do artigo 4º do Provimento nº 73/2018, a pessoa trans deve apresentar, obrigatoriamente, no mínimo, 17 (dezessete) documentos, dos quais 07 (sete) são certidões dos distribuidores cível e criminal, execução criminal, dos tabelionatos de protestos do local de residência, bem como, certidões das Justiças Eleitoral, do Trabalho e Militar. Para a emissão de cada uma dessas certidões há um custo. Ocorre que, nas demais hipóteses de mudanças de nome, não motivadas pela modificação do gênero, as exigências documentais não são extensas e/ou dispendiosas, para tanto, cita-se a possibilidade de incluir os sobrenomes dos cônjuges em razão do casamento, ou a exclusão em decorrência do divórcio (ambas feitas em cartórios). Vale a pena mencionar outro exemplo que dispensa extensa documentação, que diz respeito ao Provimento nº 63/2017, o qual permite o reconhecimento extrajudicial da paternidade/maternidade socioafetiva com a consequente adição do sobrenome do pai ou mãe socioafetivo. Não há dúvidas que o atual

sistema jurídico de mudança de nome/sobrenome apresenta fragilidades, e desrespeita a necessária equidade que o tema merece, diante do tratamento diferenciado ora ilustrado, que impõem exigências extensas e injustificadas para determinados casos de mudança de nome, enquanto para outros os procedimentos são mais simples e menos onerosos.

Quanto às proibições, existem dois pontos que merecem abordagem, sendo o primeiro: não é permitida a modificação de nomes de família e não pode ensejar identidade de prenome com outro membro da família (§ 2º, art. 2); e o segundo ponto, trata dos processos judiciais anteriores em aberto que tenham por objeto a alteração pretendida, logo, a pessoa trans deverá declarar a inexistência de processos judiciais sobre o tema ou comprovar o arquivamento do feito judicial em caso positivo (§§ 4º e 5º, art. 4º).

Desde a vigência do presente sistema regulamentar proferido pelo CNJ – Provimento nº 73/2018, os 15 (quinze) Cartórios de Registro de Pessoas Naturais da cidade do Recife/PE passaram a receber pessoas trans para a voluntária retificação e averbação do

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nome e sexo correspondentes a sua identidade de gênero nas respectivas certidões. Insta frisar que, os dados que serão aqui apresentados, objeto dessa pesquisa, foram obtidos de forma regulamentar através da autorização da Corregedoria Auxiliar dos Serviços Notariais e de Registro da Capital do Poder Judiciário de Pernambuco, bem como foram tratados de maneira científica e sigilosa.

Dessa maneira, diante dos dados levantados, cerca de 2/3 (dois terços) dos Cartórios Extrajudiciais enviaram os dados solicitados, fato esse que corresponde a 75% (setenta e cinco por cento) do número total. Porquanto, foi possível constatar que cerca de 108 (cento e oito) pessoas trans procuraram os serviços cartorários recifenses durante os primeiros 08 (oito) meses contados da vigência do supracitado Provimento do CNJ. Ainda, foi possível constatar que a maioria dos interessados possuem o estado civil de solteiro, dado que correspondente acerca de 96,3% (noventa e três vírgula três por cento) do total. Todas as pessoas trans solicitaram, além da mudança de gênero, também, a alteração do prenome.

Prosseguindo, no que diz respeito ao gênero selecionado, cerca de 45,37% (quarenta e cinco vírgula trinta e sete por cento) optaram pelo gênero masculino, enquanto 54,63% (cinquenta e quatro vírgula sessenta e três por cento) mudaram o gênero para feminino. Importa ressaltar que, conforme já mencionado, a solicitação de mudança do nome e gênero somente pode ser requerida a partir dos 18 (dezoito) anos, para tanto, foram estabelecidas 05 (cinco) faixas etárias, quais sejam: faixa 01 - dos 18 a 27 anos; faixa 02 - 28 a 37 anos; faixa 03 - 38 a 47 anos; faixa 04 - 48 a 57 anos; e, por último, faixa 05 – pessoas com idade igual ou superior a 58 anos.

Em continuidade, considerando as referidas faixas etárias, observa-se que o maior número de solicitações de mudança de gênero se encontra nas primeiras duas faixas, ou seja, a faixa 01 com 54,63% (cinquenta e quatro vírgula sessenta e três por cento) e a faixa 02 com 25,93% (vinte e cinco vírgula noventa e três por cento). Fato esse que implica dizer que, cada vez mais as pessoas jovens e trans tem optado por pela modificação extrajudicial, corroborando para o pensamento trazido

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por Araújo (2016, p. 257-258) de que, com a evolução do pensamento científico e cultural, a base conceitual tradicional do sexo não mais comporta as categorias predeterminadas pelo fenótipo.

Dessa forma, tem-se na perspectiva de implementação de direitos à intimidade e da autoafirmação dentro das relações da esfera privada, a realização da autonomia do indivíduo, o qual não precisa mais subjugar-se a longos processos contenciosos para um direito de complexidade fácil de ser solucionada. Afora isso, é preciso frisar que a identidade do indivíduo trans abrange sua personalidade, por conseguinte, segundo Bolesina e Gervasoni (2018, p. 67) “os caminhos a serem percorridos para a obtenção de uma definição jurídica mais atenta demandaria uma revisão de título: os ‘direitos da personalidade’ deveriam ser vistos como ‘direitos da identidade’”, a qual englobaria um projeto de definição existencial particular, viabilizando, assim, uma emancipação pessoal que objetive a identidade condigna.

Outrossim, Souza Santos (2003, p. 56) defendeu interessante tese de que o direito de ser igual sempre inferioriza,

por consequência, deve-se, sempre, contemplar o direito de ser diferente sempre que a igualdade descaracterizar a identidade de cada indivíduo. Dessa forma, o direito à identidade pessoal nasce da urgência de ser tutelado pela “verdade pessoal”, assim, o número de pessoas trans que tem optado pela modificação do prenome e gênero pela via cartorária tem demonstrado a materialização da verdade pessoal da pessoa trans a ter o seu direito garantido via Registros Públicos.

Ademais, é inaceitável numa sociedade que se guia pela plenitude das liberdades, conformar-se a existência de “cidadãos pela metade” (ARAÚJO, 2016, p. 259), os quais lutam pela normalidade de gênero, de serem incluídos e usufruírem dos direitos e deveres como qualquer cidadão brasileiro. Isso porque, não cabe ao Direito interferir nas escolhas de construção da personalidade, mas sim ser um viés condutor de efetivação de direitos. Portanto, oportuna as lições de Lira e Lando (2019, p. 50-51) quanto ao direito de ser trans e ter a completude de sua identidade garantida pelo Estado, numa sociedade democrática de direito, pois “deve-se defender a primazia da

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pluralidade e das liberdades” para que, assim, seja possível a todos e todas uma convivência harmoniosa e pacífica entre as diferenças da condição humana.

Considerações finais

Permite-se concluir que a identidade da pessoa trans faz parte de uma lenta construção cultural e social, os quais somados, resultam no reconhecimento da condição trans. No entanto, esse fato não determina, necessariamente, que pessoa transgêneros terão o desejo para a realização da cirurgia de redesignação sexual. Logo, constata-se nas decisões judiciais que implicavam a comprovação de tal ato médico, uma extrapolação do poder estatal para com a autonomia da vida privada destes indivíduos, bem como, um desrespeito à dignidade humana e sexual da pessoa trans.

Dessa forma, não cabe ao Direito interferir nas escolhas pessoais de construção da personalidade de cada um, visto também que são pertencentes à esfera privada e ao direito de se autodeterminar. Portanto, cabe ao estado, tanto em sua atuação política quanto jurídica, atuar como um viés

condutor de garantias fundamentais, proporcionando, assim, meios para efetivação de direitos. Isso porque, numa sociedade democrática, na qual defende-se a primazia da pluralidade e das liberdades, deve-se perseguir incansavelmente a defesa da convivência harmoniosa e pacífica das diferenças. Visto isso, tem-se que a dignidade das pessoas transexuais é transversal a institutos como autodeterminação e construção de identidade própria, os quais estão balizados pela tutela do princípio maior que é a dignidade da pessoa humana.

Ademais, na esteira das mudanças apresentadas, tem-se a certeza de que a identidade humana é única e está em constante desenvolvimento. Ante a tudo aqui exposto, a luta pelo reconhecimento de direitos essenciais de grupos sociais como os LGBTQI+, no Brasil, demonstra o quão são demoradas as mudanças sociopolíticas, bem como, fazem-se necessário, ainda, percorrer um longo caminho em se tratando de implementação de Direitos Fundamentais ligados à dignidade e cidadania plena. Além do mais, importa dizer que ainda são escassos os dados quanto a comunidade transgênero

brasileira, carecendo de números oficiais para melhor precisão das informações, a exemplo da inclusão das pessoas trans em levantamentos censitários.

Por fim, é preciso dizer de forma contundente que ainda existe um fosso alarmante entre as últimas conquistas obtidas pela comunidade trans e a real efetivação destes direitos. Isso porque, persiste um quadro que se enerva a falta de informação com o obscurantismo de posicionamentos reacionários, hoje, impulsionados pela atual retórica política brasileira. Nesse sentido, para que seja possível superar o estigma de cidadãos pela metade, são necessários programas governamentais educacionais e políticas públicas voltados tanto ao grupo trans quanto a toda sociedade civil como forma de integração destas diferenças sociais, para que, assim, se possa realmente efetivar direitos como premissas básicas de dignidade humana e cidadanias plenas.

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01-16

ENTRE BOATOS E VERDADES: A ORIENTAÇÃO SEXUAL DE CRIANÇAS ADOTADAS POR CASAIS HOMOSSEXUAIS

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Abstract: The research, which aims to understand how the sexual development of children adopted / or who live as homoparental families, was carried out through questionnaires with 20 Pedagogy academics, 5 teachers and 3 psychologists from a municipality in the interior of Brazil. State of Mato Grosso do Sul. The results show that there are no differences in the development of the child living in a homoparental context, when compared to other children living in other family contexts, and the coexistence with new family arrangements causes children to grow understanding and respecting the differences and diversities that exist in society.

Keywords: Development of Sexuality. Children. Homoparental Families.

Introdução

A união conjugal entre pessoas do mesmo sexo tem se intensificado na atualidade e é alvo de polêmicas, preconceitos e estereótipos. Contudo, mesmo diante desse panorama, grande parte desses casais sente o desejo de constituir uma família, sentimento este, que também gerou muitas discussões entre as famílias brasileiras, que em sua grande parte são de núcleos heterossexuais.

As preocupações estão em torno da capacidade, de casais *gays* ou *lésbicas*, em criar os filhos, lhes oferecer afeto e ainda poder dar uma referência de gênero (masculino ou feminino), ou seja, numa família constituída por *gays/lésbicas*, quem desempenharia o papel de pai/mãe, tendo em vista que o senso comum crê que o menino/menina precisam de uma referência

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masculina/feminina para poder construir sua identidade de gênero.

Foi nesse sentido, que a grande pergunta da nossa pesquisa urgiu da seguinte forma: Será que o modelo de família homoparental pode interferir na construção da identidade de gênero de uma criança? Visando encontrar possíveis respostas para tal indagação é que se justifica a realização do presente estudo que tem por objetivo compreender como se dá o desenvolvimento sexual de crianças adotadas/ou que convivem como famílias homoparentais.

A pesquisa foi realizada com alunas do 8º semestre do curso de Pedagogia da Universidade Federal de Mato Grosso do Sul Campus de Naviraí MS, com 11 professores do respectivo curso e campus, e ainda com 06 psicólogas, sendo 05 de Naviraí e uma de Jaú, São Paulo. Os resultados são apresentados logo após a abordagem teórica, apresentada na sequência.

Breve histórico da Homossexualidade

As relações sexuais entre duas pessoas do mesmo sexo existem há muito tempo. Essa prática é mais antiga

que a evolução do pensamento humano, independente do nome que esse ato receba, sua prática já vem de longas datas. De acordo com Pereira (2017) no século VII A.C, as práticas sexuais entre duas pessoas do mesmo sexo tinham função social e pedagógica, isso na Grécia Antiga. Esse relacionamento era visto de maneiras diferentes por duas cidades gregas, Esparta e Atenas.

De acordo com o autor, em Esparta as relações sexuais entre homens, era tida como parte do treinamento e disciplina militar, dessa forma, os mesmos eram incentivados a manterem sua vida sexual, tal ação era tida como um cuidado com o grupo. Contudo, em Atenas, a prática sexual recebia outro tipo de tipificação e estava ligada ao campo do conhecimento. Essa relação era bem aceita pela sociedade ateniense, tendo em vista que a prática se dava por um homem mais velho, o *erastes*, e um jovem mais novo, o *eromenos*.

Nessa égide, Pereira (2017) salienta que a relação sexual entre dois homens em Atenas ficava conhecida como *paiderastia* (o amor a meninos), essa relação tinha função de transmissão de conhecimento, portanto, essa relação

era comum no processo de *paidea* (educação) dos meninos. Contudo, a autor desta que é

[...] necessário registrar a diferença da instituição pederastia da prática homossexual, uma tinha a função pedagógica e social que diverge totalmente do modelo da homossexualidade moderna, que é um tipo de relação afetiva. Na pederastia, os amantes deveriam seguir regras minuciosas de etiqueta para legitimar o papel social da relação e deixar longe qualquer dubiedade vinculada essa a prática (PEREIRA, 2017, p. 03).

Segundo ele, qualquer relação sexual entre dois homens que fugisse das regras, era considerada, ilícita e proibida. Se houvesse um caso contrário, era considerado como uma “[...] relação de uma maneira inferior, indigna, desprezível e desavergonhada [...]” (p. 04).

Nesse sentido, o que podemos compreender nesses trechos, refere-se ao surgimento do preconceito com relação aos atos da homossexualidade que eram praticados fora dos padrões estabelecidos, tal fato carrega marcas até a pós-modernidade. Além disso, nota-se também uma certa sobreposição de valores e submissão de poder, ou seja, é nítido nesse cenário que desde aquela época havia relações de poder que sobrepunham as pessoas.

Apresentados alguns aspectos históricos da homossexualidade na antiguidade até atualmente iremos abordar no próximo item a complexidade e a diversidade em relação ao desenvolvimento da sexualidade humana.

Compreendendo a sexualidade humana

Diante da necessidade de contribuir com a quebra de preconceitos atuais, torna-se importante, além de apresentar fatos históricos, refletir sobre como se dá a construção do sujeito, enquanto indivíduo sexual, ou seja, como se dá o desenvolvimento da sua sexualidade. Nessa perspectiva, a Coordenação de Políticas para a Diversidade Sexual do Estado de São Paulo (CoPoDiSe) considera que “A sexualidade humana é formada por uma múltipla combinação de fatores biológicos, psicológicos e sociais e é basicamente composta por três elementos: sexo biológico, orientação sexual e identidade de gênero” (SÃO PAULO, 2014, p. 10).

Compreendemos, desse modo, que a sexualidade é o resultado de muitas funções e elementos presentes no ser

humano e não unicamente de uma variável. Esses fatores colaboram para que a sexualidade se desenvolva/mature nos indivíduos. Partindo desse pressuposto entendemos como sexo biológico o:

Conjunto de informações cromossômicas, órgãos genitais, capacidades reprodutivas e características fisiológicas secundárias que distinguem “machos” e “fêmeas”. Há também pessoas que nascem com uma combinação diferente destes fatores, e que podem apresentar características de ambos os sexos. Essas pessoas são chamadas de Intersexos (SÃO PAULO, 2014, p. 10).

Nesse aspecto, entendemos por Orientação Sexual a “[...] atração afetiva e/ou sexual que uma pessoa manifesta em relação à outra, para quem se direciona, involuntariamente o desejo [...]”, afirma a CoPoDiSe de São Paulo (2014, p. 10). Aqui gostaríamos de ressaltar que existem três tipos de orientação sexual, são elas:

[...] **Heterossexual:** Pessoa que se sente atraída afetiva e/ou sexualmente por pessoas do sexo/gênero oposto [...].
Homossexual (Gays e Lésbicas): Pessoa que se sente atraída afetiva e/ou sexualmente por pessoas do mesmo sexo/gênero [...].
Bissexual: Pessoa que se sente atraída afetiva e/ou sexualmente por pessoas de ambos os sexos/gêneros (SÃO PAULO, 2014, p. 10-11) (Grifo nosso).

Nota-se que nas palavras do autor a Orientação Sexual é um desejo involuntário, conseqüentemente, isso vem a ser como algo que foge ao controle da vontade, é automático, é inconsciente e espontâneo. Tal reflexão nos leva a questionar o termo “Opção Sexual”, o considerando como inadequado e errôneo, pois não se trata de uma escolha, mas sim de algo natural.

Nessa lógica, é válido refletir sobre o conceito de identidade de gênero, que é entendido como a “[...] percepção íntima que uma pessoa tem de si como sendo do gênero masculino, feminino ou de alguma combinação dos dois, independente do sexo biológico. A identidade traduz o entendimento que a pessoa tem sobre ela mesma, como ela se descreve e deseja ser reconhecida”, como afirma a CoPoDiSe de São Paulo (2014, p.13).

De acordo com a CoPoDiSe de São Paulo (2014) é possível notar uma nova terminologia associada a identidade, o “gênero”. Tal nomenclatura foi criada em 1970, com o objetivo de distinguir a dimensão biológica da dimensão social. Deste modo, mesmo sabendo que a biologia divide a espécie humana em macho e

fêmea, a maneira de ser homem e ser mulher é expressa pela cultura. Conclui-se que homem e mulher são produtos da realidade social e não diretamente de sua anatomia. Assim, observamos que ser homem e mulher, são apenas papéis de gênero, ou seja, é o comportamento social, determinado culturalmente e circunscrito historicamente, esperado por homens e mulheres.

Contudo, mesmo diante dessa perspectiva Papalia e Feldman (2013) afirmam que devemos levar em consideração as diversas perspectivas que abordam o desenvolvimento do gênero, são eles: a abordagem biológica, a abordagem evolucionista, a abordagem psicanalítica, a abordagem cognitiva (com subcategorias, chamadas de teoria cognitivo-desenvolvimental e teoria do esquema de gênero) e a abordagem da aprendizagem social.

Para os mesmos autores a primeira abordagem diz que as diferenças de gênero podem ser de base biológica. A segunda considera os papéis de gênero das crianças como uma preparação para o comportamento de acasalamento adulto. A terceira infere que a criança se identifica com o genitor do mesmo sexo, depois de ter desistido

do desejo de possuir o genitor do sexo oposto.

A quarta abordagem sustenta que a identidade de gênero se desenvolve sobre a consciência que se tem do próprio gênero. Assim, a constância do gênero leva à aquisição de seus papéis. Dentro dessa mesma teoria acredita-se que as crianças categorizam as informações relacionadas a gênero, observando o que homens e mulheres fazem em sua cultura. A quinta abordagem indica que a criança aprende os papéis de gênero por meio da socialização. Os pais, os colegas, a mídia e a cultura influenciam a tipificação do gênero, afirmam Papalia e Feldman (2013, p. 292-294).

Ao compreendermos essas tipologias apresentadas pelos autores podemos observar que há diversos elementos que influenciam na construção da identidade de gênero e orientação sexual das crianças. Notamos ainda que os autores não as apresentam de forma que, alguma delas sejam sobrepostas entre si, o que nos faz pensar que elas podem ou não, em um dado momento exercer maior ação no desenvolvimento sexual da criança.

Partindo desses pressupostos, buscaremos na sequência apresentar conceitos referentes as novas configurações familiares e discorrer a respeito da adoção de crianças por casais do mesmo sexo, ou seja, por casais de orientação homossexual e sobre as dificuldades que são enfrentadas por essas novas configurações familiares.

Novas configurações familiares e a infância

Segundo Passos (2005), as diferentes modalidades de famílias surgidas nos últimos tempos expressam transformações muito significativas na relação família-indivíduo-sociedade. A família de hoje impõe, no lugar da hegemonia dos papéis e dos lugares fixos, uma maior flexibilidade na constituição de posições e funções dos membros do grupo.

Nesse seguimento, cabe-nos refletir a realidade de casais brasileiros do mesmo sexo que tem enfrentado impasses no que diz respeito ao reconhecimento por lei de sua união estável como entidade familiar. Em 2013 e 2015 projetos de lei foram encaminhados para câmara dos

deputados, a fim de incluir os casais homossexuais no Estatuto da Família, reconhecendo-os como família, porém este fato não se consolidou.

Posteriormente, o Conselho Nacional de Justiça (CNJ), na resolução nº 175 de 14 de maio de 2013, diz em seu Artigo 1ª que “[...] é vedada às autoridades competentes a recusa de habilitação, celebração de casamento civil ou de conversão de união estável em casamento entre pessoas de mesmo sexo” (Brasil, 2013).

Por esse ângulo, podemos observar o quanto a família homoparental tem tido resistência, no que diz respeito ao seu reconhecimento como instituição familiar. Todavia, o CNJ demonstrou um novo entendimento em relação aos casais homossexuais, atualmente o decreto completará sete anos.

De acordo com o Estatuto da Criança e do Adolescente (ECA), em seu Art. 25, compreende-se por “[...] família natural a comunidade formada pelos pais ou qualquer deles e seus descendentes” (BRASIL, 1990, p. 04). Nesse sentido, com relação a adoção de crianças, não há restrições específicas para casais homossexuais no ECA e

como o vemos na atualidade, o fenômeno da adoção por casais do mesmo sexo tem aumentado.

Dentre os critérios para adoção o Estatuto da Criança e do Adolescente, em seu Art. 42, parágrafo 1º e 2º, estabelece: “[...] § 1º Podem adotar os maiores de vinte e um anos, independentemente do estado civil [...]. § 2º Para adoção conjunta, é indispensável que os adotantes sejam casados civilmente ou mantenham união estável, comprovada a estabilidade da família” (BRASIL, 1990, p. 06). E ainda em seu Art. 41 define que a “[...] adoção atribui a condição de filho ao adotado, com os mesmos direitos e deveres, inclusive sucessórios, desligando-o de qualquer vínculo com pais e parentes, salvo os impedimentos matrimoniais” (BRASIL, 1990, p. 06)

Ora observemos o que está disposto na lei. Se a união de pessoas do mesmo sexo tem reconhecimento civil, conforme a recomendação do CNJ, ela atende o disposto Art. 42 em seu § 2º do ECA em relação a adoção conjunta e ao disposto no Art. 41, poderíamos afirmar que esta é uma família natural, pois se enquadra no entendimento do Art. 25.

Na concepção de Dias (2004) a Constituição Federal inciso II do Art. 5º estabelece que sem limitação legal, não se pode negar o direito de crianças e adolescentes à adoção que lhes irá assegurar um lar, uma família, o afeto, independente da orientação sexual da família que quer adotar e de quem quer ser adotado, adoção nem sempre vai estar condicionado à preferência sexual ou à realidade familiar do adotante.

Nesse sentido, Dias (2004) afirma que o amor não vai se diferenciar somente pelo fato dos pais ou mães serem do mesmo sexo. Crê-se que aos poucos essa nova configuração familiar vai sendo aceita, em consequência disso, também vai ocorrendo uma aceitação da orientação sexual dos sujeitos que compõem ou não essa nova configuração. Porém a maior resistência em aceitar essas diferenças é o padrão de heteronormatividade.

Como dissemos anteriormente, essa dificuldade da aceitação de crianças serem adotadas por famílias homoparentais está embasada na afirmação de que a criança necessita de papéis de gênero, ou seja, caso a criança seja menino é necessário o papel masculino do pai para que ele seja

homem, e caso for menina necessite do papel feminino da mãe para ser mulher. Além disso, há a crença de que se a criança for educada por casais homossexuais ela tem a possibilidade de desenvolver a mesma orientação sexual dos seus adotados, visto que, irá conviver nesse ambiente todos os dias.

Porém, de acordo com Dias (2004), as crianças que vivem em um lar homossexual poderão ser socialmente rejeitadas ou haverá prejuízo a sua inserção social, terão o seu desenvolvimento psicológico afetado, simplesmente pelo fato de advirem de uma outra configuração de família. Uma das possibilidades disso é que serão vítimas de discriminação devido a homofobia que impera na sociedade.

Nessas acepções, buscaremos no próximo tópico desenvolver aspectos sobre o desenvolvimento da personalidade/sexualidade da criança adotada por casais gays e abrangeremos tópicos relacionados a teorias do desenvolvimento.

Entre boatos e verdades

Alguns boatos em relação ao desenvolvimento de crianças adotadas

por casais homossexuais tem mantido a discriminação e o preconceito para com esse novo arranjo familiar, muitas vezes essas atitudes estão permeadas de opiniões baseadas em senso comum, em argumentos falaciosos, em mitos que não são comprovados.

Nessa ótica, segundo Costa (et al. 2013, p. 791) existem atitudes negativas em relação as pessoas homossexuais. O autor indica que há três categorias de atitudes, são elas:

[...] (a) o medo ou repulsa por pessoas homossexuais; (b) a avaliação dos atos homossexuais como desviantes ou patológicos; e (c) as atitudes em relação aos direitos das pessoas homossexuais, categoria assente numa perspectiva tradicional dos papéis de gênero. (COSTA *et al.*, 2013, p. 791).

Quando nos propomos a refletir essa realidade, nos deparamos com esses comportamentos negativos que se estabelecem como juízo sobre as pessoas homossexuais, é o que discorremos no início desse trabalho na parte histórica. Percebemos que na própria Grécia, qualquer atividade desligada da pederastia é tida como algo abominável.

Contudo, da mesma forma que há atitudes preconceituosas com as pessoas homossexuais, há com as famílias homoparentais. Assim, Costa

(et al. 2013, p. 791) afirma que na maioria das vezes as pessoas com

[...] atitudes homonegativas são com frequência pessoas que mantêm atitudes mais sexistas, com uma visão tradicional de família nuclear, acreditam que a homossexualidade **é uma escolha do indivíduo**, mantêm uma maior religiosidade e uma identificação política mais conservadora. (Grifo nosso).

Em Victória Clarke (2001 *apud* COSTA et al. 2013, p. 791), encontramos seis categorias de argumentos usados na comunicação social e no seio de alguns grupos de estudantes universitários que são contra a homoparentalidade e todos eles:

[...] (a) com base em crenças religiosas; (b) com base na impossibilidade biológica de reprodução; (c) com base no egoísmo dos pais/mães; (d) com base na falta de referências de gênero; (e) com base no desenvolvimento da orientação sexual; e (f) com base na vitimização e discriminação das crianças [...].

Segundo a autora, essas seis categorias são divididas em dois tipos de argumentos “[...] argumentos que reforçam a imoralidade de pais *gays* e mães lésbicas, e argumentos que sublinham os efeitos negativos de crescer numa família homoparental [...]” (Victória Clarke, 2001 *apud* COSTA et al. 2013, p.791).

Todos esses apontamentos nos levam as seguintes indagações: será que de fato a orientação homossexual dos responsáveis podem interferir no desenvolvimento da sexualidade dos filhos adotados? Mas se a vivência nesse espaço acarreta uma influência na orientação sexual dos filhos, por que há homossexuais advindos de famílias heterossexuais?

Constatamos em estudos realizados por Papalia e Feldman (2013) que cerca de 9 milhões de crianças nos Estados Unidos tenham pais homossexuais. Os estudos investigaram desenvolvimento dessas crianças no que diz respeito a saúde física e emocional, inteligência, adaptação, senso de identidade, julgamento moral e funcionamento social e sexual, porém não revelaram nenhuma preocupação especial.

Segundo as pesquisas de Papalia e Feldman (2013), não há nenhuma diferença concreta entre pais heterossexuais e homossexuais em termos de saúde emocional ou de aptidões e atitudes para a parentalidade, e onde há diferenças elas tendem a ser favoráveis aos pais homossexuais. Os autores afirmam ainda que não há

nenhuma probabilidade de filhos advindos de famílias homoparentais, terem problemas em ficar confusos sobre seu próprio gênero ou até mesmo em se tornarem homossexuais.

Segundo os boatos, a falta de referência de gênero por parte de famílias homoparentais, faria com que as crianças não conseguissem desenvolver-se normalmente, pois não teriam uma referência do que é homem e mulher. Contudo, Gato e Fontaine (2011, p. 84) tecem uma reflexão de que “[...] considerar a família heterossexual, com uma divisão tradicional de papéis, como o modelo desejável de parentalidade corresponde mais a um projeto ideológico do que a um fato cientificamente provado”.

Segundo Gato e Fontaine (2011), a maior parte das investigações que buscaram conclusões a respeito das diferenças de gênero em termos de parentalidade não foram feitas para responder essa questão. O que nos faz entender não há comprovações suficientes que sustentem esses argumentos de que a criança precisa de uma figura materna e paterna, pois na maioria das vezes esses argumentos

foram criados a partir de uma abordagem indutiva e indireta.

De modo profícuo a pesquisa dos autores trazem aspectos a respeito do desenvolvimento psicológico de crianças educadas em contexto homoparental. Seus estudos abordam três preocupações: o desenvolvimento psicossocial, as relações sociais e o desenvolvimento psicossocial. Com relação ao desenvolvimento psicossocial os autores afirmam que

[...] as avaliações do comportamento da criança feitas pelos pais não revelaram diferenças substanciais entre as famílias heteroparentais e as famílias homoparentais. As avaliações feitas pelos professores também se revelaram consensuais na observação de semelhanças entre os dois grupos [...]. Os resultados indicaram que estas crianças apresentavam valores médios ou médio-elevados em termos da sua competência acadêmica, social e autoestima. Situavam-se também fora das pontuações indicativas da presença de problemas clínicos em termos da sua adaptação emocional e comportamental. (GATO; FONTAINE, 2011, p. 89).

No que diz respeito aos estudos voltados para as relações sociais de crianças que convivem com famílias homoparentais, os dados da pesquisa dos autores vão apontar que as relações sociais das crianças com seus pares e

[...] sua eventual discriminação, os resultados não são unânimes. Alguns estudos indicaram que as crianças provenientes de famílias homoparentais se percebiam tão aceites e populares como os seus colegas provenientes de famílias heteroparentais. [...] verificaram que os jovens adultos que haviam crescido com mães lésbicas não se lembravam de ter sido mais alvo de discriminação pelos pares durante a infância e a adolescência; tampouco se lembravam de episódios de discriminação mais prolongados [...]. Apenas se verificou uma tendência (embora não significativa) para as crianças serem alvo de piadas sobre a sua própria sexualidade. (GATO; FONTAINE, 2011, p. 90).

Quanto ao desenvolvimento psicossocial das crianças adotadas por casais homoparentais, segundo Gato e Fontaine (2011), três elementos merecem destaque especiais, que são: a orientação sexual, a identidade de gênero e os comportamentos ou papéis de gênero. Vejamos que

[...] à possibilidade de transmissão da **orientação sexual**, de acordo com [...] **85% dos estudos publicados antes de 2003** verificaram uma proporção de filhos com orientação sexual homossexual semelhante à encontrada na população geral, isto é, entre **0 a 10%** [...]. A larga maioria das investigações também não encontrou provas do desenvolvimento de uma **identidade de gênero** contrária ao sexo biológico [...]. Quanto aos **comportamentos/papéis de gênero**, estes mostraram ser mais flexíveis, provavelmente devido ao seu carácter sociocultural.

Assim, embora tenham sido sobretudo identificadas semelhanças, alguns estudos evidenciaram que as filhas de mães lésbicas aderiam menos ao papel de gênero feminino tradicional do que as suas congêneres educadas em núcleos heteroparentais [...]. Tal como as raparigas, os rapazes educados por mães lésbicas comportavam-se de forma menos tradicional em algumas variáveis, apresentando, por exemplo, preferência por brincadeiras menos estereotipadas em termos de gênero [...] e registando níveis menos elevados de agressividade. (GATO; FONTAINE, 2011, p. 90). (Grifo nosso).

Portanto, perscrutando alguns estudos acerca do desenvolvimento de crianças adotadas por pessoas do mesmo sexo, notamos que a maioria dos problemas apontados são baseados em hipóteses não confirmadas cientificamente, mas embasadas em senso comum, uma vez que, os autores descortinam todas essas suposições. A seguir, iremos apresentar os aspectos metodológicos de nossa pesquisa e os dados mais relevantes de nossa pesquisa de campo.

Aspectos metodológicos da pesquisa

O presente estudo é uma pesquisa mista (quanti-qualitativa) de carácter descritivo e analítico, pois os dados levantados abrangem aspectos

qualitativos e quantitativos. Nesse sentido, vale lembrar que, segundo Gil (2008, p. 28), ela “[...] têm como objetivo primordial a descrição das características de determinada população, fenômeno e/ou estabelecimento de relações entre variáveis”. Dessa forma, caracteriza-se por pesquisa quantitativa aquela que:

[...] pelo emprego de quantificação tanto nas modalidades de coleta de informações quanto no tratamento delas por meio de técnicas estatísticas, desde as mais simples como percentual, média, desvio-padrão, às mais complexas como coeficiente de correlação, análise de regressão e etc (LAKATOS; MARCONI, 2011, p. 269).

Contudo, o método qualitativo, na contramão do método quantitativo, não se utiliza de instrumentos estatísticos, mas se preocupa em analisar e interpretar a realidade de maneira mais detalhada, buscando apresentar a complexidade do comportamento humano, possibilitando uma análise mais profunda dos conceitos, hábitos, comportamentos, atitudes e etc. (Lakatos; Marconi, 2011).

Escolhemos o método quantitativo para estabelecer informações estatísticas em relação a juízo dos entrevistados, no que diz respeito a saber quantos são de opinião a

favor e opinião ao contrário a adoção de crianças por casais do mesmo sexo. Nesse mesmo ponto de vista iremos nos utilizar do método qualitativo para compreender e analisar as opiniões dos participantes acerca no que diz respeito às suas respostas.

O desenvolvimento teórico da pesquisa, buscamos investigar artigos e livros que tratassem do desenvolvimento da sexualidade das crianças adotadas por famílias homoparentais. Contudo, percebemos que há uma vasta gama de pesquisas internacionais relacionadas a esse tema, principalmente em países da Europa, como é o caso de Portugal, porém, no Brasil são raras as pesquisas sobre esse tema.

Em nossa pesquisa, nos valem dos dados e estudos realizados por Portugal, tais estudos tratam da adoção por casais do mesmo sexo e o desenvolvimento das crianças nesse meio. Esse país tem suas bases na cultura judaico-cristã, tida por muitos sociólogos e historiados, como uma cultura reprodutora padrões de comportamento e valores conservadores. No entanto, notamos que se tem aumentado o número de constituições de famílias homoparentais.

Nesse sentido, a pesquisa de campo se delimitou em três categorias de profissões para investigar: a primeira, em uma sala de acadêmicas do 8º semestre do curso de Pedagogia, totalizando a quantidade de 27 alunas. A segunda, com um grupo de professores e professoras do respectivo curso (todos com nível de doutor e outros concluindo doutorado), totalizando a quantidade de 11 profissionais, sendo três (03) do gênero masculino e oito (08) do gênero feminino. A terceira com um grupo de seis (06) psicólogas, duas (02) especializadas na perspectiva humanista, três (03) na perspectiva comportamental e uma (01) na perspectiva psicanalítica.

A escolha de determinados sujeitos está embasada nos seguintes critérios: primeiro no envolvimento com o contexto educacional, nesse caso, a escola, local onde encontramos vários alunos advindos de diversas realidades e configurações familiares; segundo pelo comprometimento dos professores universitários em causar reflexões e problematizações acerca desse assunto, pois são eles que colaboram na construção de outro profissional que irá atuar nos diversos campos educacionais; e por último, as psicólogas que em sua

formação estudam o desenvolvimento, o comportamento e as relações dos seres humanos em suas diversas faixas etárias.

Nesse seguimento, usamos como instrumento de coleta de dados alguns questionários, todos eles continham duas questões fechadas e uma aberta. A primeira questão estava relacionada com a posição a favor ou contra a adoção por casais do mesmo sexo. A segunda questão estava relacionada com a opinião dos participantes, no que diz respeito ao desenvolvimento da sexualidade da criança inserida num contexto de família homoparental e se a criança recebia alguma influência em sua identidade de gênero e orientação sexual. E a última questão era para que o sujeito pudesse se justificar/expor sua opinião de maneira dissertativa.

Quando em contato com os investigados percebeu-se que nem todos se dispuseram de interesse em participar. Quanto aos acadêmicos, apenas 20 responderam os questionários, sendo que um deles deixou a questão dissertativa em branco, e os outros sete não responderam. Com relação aos professores, apenas 05 responderam, os outros seis não responderam.

Relativamente as psicólogas, 03 responderam, uma se recusou a participar, outras duas não retornaram os questionários.

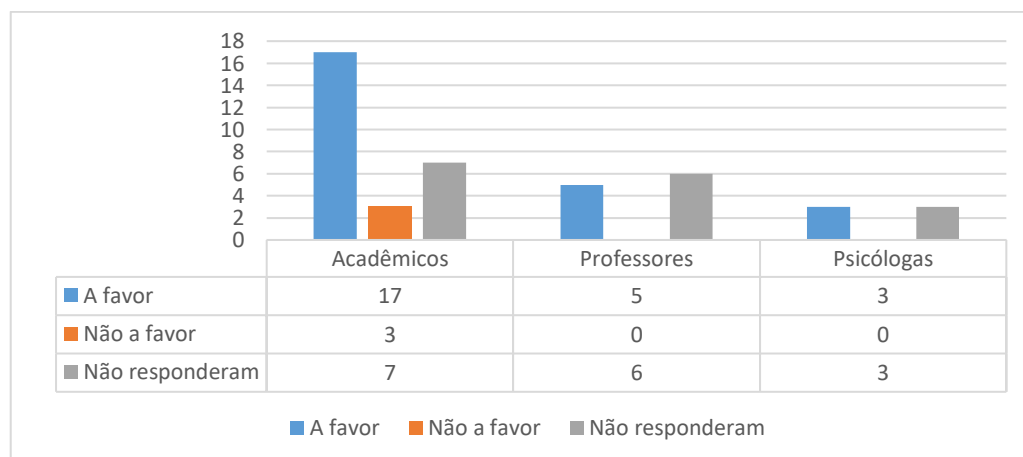
Os dados foram transcritos e organizados em um quadro, facilitando assim a compreensão, a relação e a escolha dos momentos mais interessantes tanto das entrevistas quanto dos questionários. Os dados foram selecionados e organizados de maneira que mais atendessem aos objetivos dessa pesquisa. Posto isto, podemos dizer que os entrevistados ficaram conhecidos da seguinte forma: as acadêmicas de A1, A2, A3... e A20; os (as) professores (as) de P1, P2, P3, P4 e P5; as psicólogas de

Psi1, Psi2, Psi3 e Psi4. Na sequência apresentamos os gráficos e pontos que consideramos mais relevantes em relação aos dados.

Apresentação e discussão de dados quantitativos

A seguir apresentamos os dados mais significativos obtidos por meio dos questionários dos participantes da pesquisa. O gráfico 1 abaixo demonstra a quantidade de acadêmicos, professores e psicólogos que são a favor e contra a adoção por casais homoafetivos, bem como aqueles que não responderam os questionários.

Gráfico 1: Opinião dos participantes sobre adoção por casais homossexuais



Fonte: Autores (2019).

Nota-se nesse gráfico que na turma no 8º semestre do curso de Pedagogia na Universidade Federal do Mato Grosso do Sul, campus de Naviraí, cerca de 62,9% (17) são a favor da adoção de crianças por casais do mesmo sexo, enquanto apenas 11,1% (3) não são a favor e 25,9% (7) não responderam as questões e não retornaram o questionário. Acreditamos que essas últimas não tiveram interesse de participar da pesquisa, pois teriam receio de expor suas opiniões, supostamente, acreditamos que não poderiam dispor de seu tempo para tratar de um assunto não seja relevante na sua visão.

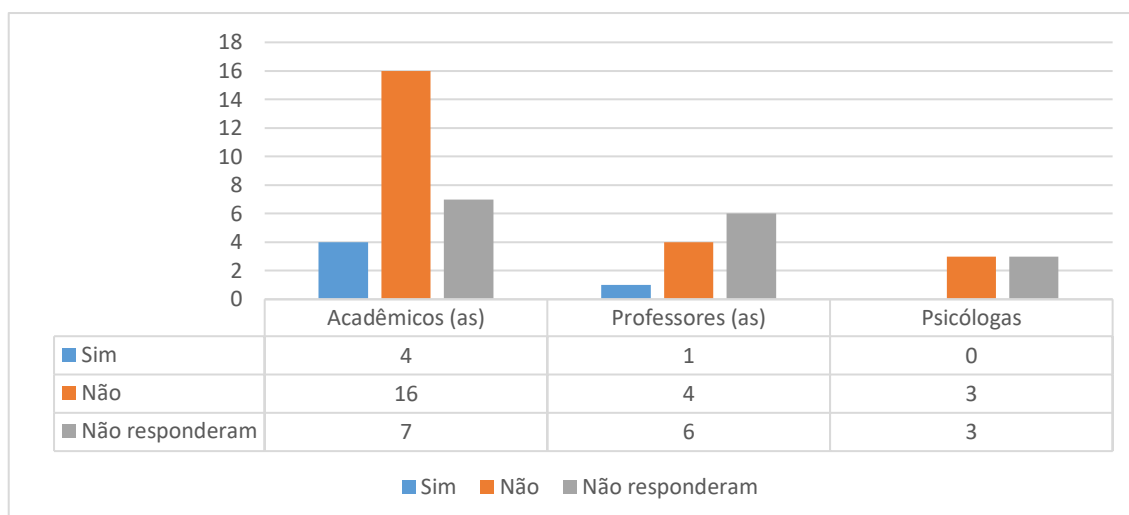
Em relação aos professores dos respectivo curso e campus, 45,4% (5) são a favor da adoção por pares do mesmo sexo, enquanto 54,5% (6) preferiram não demonstrar

sua opinião, as justificativas recebidas foram por falta de tempo, por estar em eventos acadêmicos, férias e outros ainda, não apresentaram justificativa.

Sobre a opinião das psicólogas notamos de 50% (3) delas são a favor da adoção por casais do mesmo sexo, enquanto 50% (3) não se dispuseram a responder, suas justificativas serão dadas a partir do gráfico posterior.

No tocante ao Gráfico 2 é possível notar a quantidade de acadêmicos, professores e psicólogos que acreditam ser ou não prejudicial que a criança seja adotada por um casal do mesmo sexo, além disso, o referido gráfico também aponta a quantidade dos respectivos investigados que não responderam a essa questão.

Gráfico 2: Opinião dos participantes sobre o desenvolvimento da sexualidade da criança



Fonte: Autores (2019).

Nesse gráfico, percebemos que 59,2% (16) das acadêmicas acreditam que a criança estar inserida numa família homoparental não prejudica em nada seu desenvolvimento na personalidade ou de identidade sexual. Em contrapartida, 14,8% (4) acreditam que sim, isso prejudica.

Na segunda categoria, cerca de 36,3% (4) dos professores acreditam que nada interfere nesse sentido, enquanto 9% (1) acredita que sim, há uma interferência no desenvolvimento da criança, mas essa interferência não importa, o que importa é que essa criança seja um ser humano aberto as novas realidades.

No que diz respeito a essa questão, notamos que 50% (3) das psicólogas acreditam que a configuração familiar não interfere em nada para o desenvolvimento da criança, contudo, vale ressaltar que uma das participantes que não estão inclusas no gráfico declinaram sobre o convite, pois ela afirma que, apesar de ser um assunto em pauta nacional, não tem disposto de tempo para estudar sobre o assunto, nesse sentido, podemos afirmar que 16% (1) das psicólogas não pesquisam sobre o assunto, mesmo sendo relevante como fora afirmado.

Apresentação e discussão dos dados qualitativos

Quando questionados a respeito do convívio familiar homoparental influenciar o desenvolvimento da personalidade e da sexualidade da criança adotada, percebemos que as estudantes de pedagogia compreendem que a personalidade e sexualidade da criança se desenvolvem de muitas maneiras. Assim, dividimos as respostas em categorias: a primeira é que a criança já nasce assim e o meio social em nada interfere; a segunda é que a personalidade e sexualidade são inatas, mas o meio social contribui para seu desenvolvimento; a terceira é que a personalidade/sexualidade são inerentes, mas depois o sujeito pode escolher o que ser; a quarta é que a criança é influenciada somente pelo meio social; a quinta de que a orientação sexual é uma opção de escolha; a sexta de que a criança precisa dos papéis de gênero para escolher o que vai ser. Essas categorias podem ser confirmadas pelas seguintes falas: “[...] acredito que isso já é inato da criança.” (A1), “[...] já nascemos e vamos com o tempo edificando o que já temos [...]” (A6), “[...] cada pessoa nasce com um caráter, ou seja, no decorrer de sua infância pode optar por ser

hétero, bi ou homo, e isso não depende de seus pais [...]” (A3), “Acredito que a criança é influenciada pelo meio social.” (A9), “A opção sexual não altera a personalidade da criança.” (A12) e “[...] a crianças constrói sua identidade e por experiência, convívio e sendo do mesmo sexo quais as escolhas ela pode ter [...]” (A13).

Notamos que essas compreensões acerca do desenvolvimento da personalidade são coerentes em alguns aspectos e vão de encontro com aquilo que Papalia e Feldman (2013) afirmavam a respeito da existência de diversas abordagens que explicam o desenvolvimento do ser humano e a definição de seu gênero. Contudo, nem todas essas categorias se enquadram dentro das abordagens citadas pelos autores, como por exemplo, algumas acadêmicas ainda entendem a orientação sexual como uma opção, como uma escolha. Desse modo, lembramos que a orientação sexual é algo involuntário, automático, não é uma decisão dos sujeitos (SÃO PAULO, 2014).

Destacamos ainda nesse tópico a opinião religiosa quanto a adoção e influência que o casa homossexual exerceria na orientação sexual da criança. Observamos que as opiniões religiosas estão embasadas em princípios e modelos cristãos, e muitas delas afirmam não desrespeitar as escolhas de ninguém. Tal questão pode ser confirmada pela seguinte escrita “Ainda tenho princípios cristãos e acredito na instituição familiar no modelo cristão. Claro que não desrespeito a escolha sexual de ninguém, respeito o ser humano igualmente.” (A5).

Tal apontamento anterior também confirma o que as palavras de Victória Clarke (2001) dizem a respeito dos argumentos de base religiosa, usados na maioria das vezes para mascarar algumas questões que geram preconceito e não aceitação das famílias homoparentais.

Com relação aos professores universitários foram possíveis constatar opiniões desprovidas de estereótipos, muitas delas vão de encontros com as ideias citadas acima, sobre as diversas abordagens do desenvolvimento da personalidade e de gênero. É possível destacar em suas falas os seguintes: um paradoxo em relação família homoparental e heterossexual; a pressão da sociedade preconceituosa pode influenciar o desenvolvimento da personalidade e a criação; as relações com essa nova família não vão interferir, mas contribuir para que a criança compreenda os novos arranjos familiares.

Confirmamos esses dados com as seguintes escritas: “[...] A hipótese de que casais homoafetivos levam à homossexualidade dos filhos é falsa, haja vista existirem pessoas homossexuais advindas de pais ditos heterossexuais [...]” (P02), “[...] que a pressão da sociedade pode influenciar sim, já que vivemos numa sociedade preconceituosa [...]” (P03) e “[...] as relações sociais vivenciadas por essa criança vão possibilitar ela perceber que existem outros tipos de família para além da família constituída por um pai e uma mãe”.

Essas observações nos levam a concluir que os novos arranjos familiares contribuem para a formação de um ser humano mais compreensível e aberto para a diversidade de existente em nossa sociedade. Quando vamos observar as opiniões das psicólogas percebemos as seguintes respostas:

A criança em desenvolvimento é fruto de diversas influências: as ambientais (sociais, culturais), as de aleatoriedade dos acontecimentos e das potencialidades inatas herdadas. Deste modo, não é coerente classificar a questão da identidade sexual por apenas um prisma.

Na medida em que a criança amadurece neurologicamente vai desenvolvendo a capacidade do pensamento, da linguagem e da percepção de si mesma. A criança emocionalmente saudável – e isso não depende do fato de crescer em um lar homo ou heterossexual – conseguirá construir sentimentos de autoestima, auto respeito que proporcionarão crenças positivas, como: “Eu posso ser amada, eu tenho valor”. (PSi1)

A personalidade de uma criança é moldada a partir de suas vivências e experiências uma vez que seja adotada por pessoas saudáveis que cuidem de forma responsável da mesma, explicando e orientando acerca da situação vivenciada (nova configuração de família e pais) não acredito que irá ocorrer algum prejuízo na formação de sua personalidade devido a adoção por casal homossexual. (PSi3)

Geralmente essas crianças vão ser motivos de chacota e brincadeiras maldosas de alguns colegas, mas certamente vai estar fortalecido e saberá tirar de letra tudo isso. E até ensinar os colegas que devem respeitar as pessoas, independentemente do que sejam, façam ou pensem em sua intimidade ou fora dela. Mas se tal situação chegar ao extremo, os pais devem tomar providencias para proteger o filho e exigir respeito. Nem que seja preciso aplicar a lei. Crianças criadas por pais e mães homossexuais, não significa que terão uma orientação sexual também. Se não, os pais de pessoas homossexuais, não seriam heterossexuais, não é mesmo? (PSi4).

Nesse sentido, é evidente que na opinião das psicólogas há vários fatores que participam da construção da identidade de uma criança e que a família seria um ambiente social pouco relevante para interferir na orientação sexual da criança, visto que, a

orientação é tida como algo inerente, afirma Papalia e Feldman (2013) e a Coordenação de Políticas para a Diversidade Sexual (São Paulo, 2014).

Considerações finais

Consideramos que com base nos percursos históricos acerca da homossexualidade podemos compreender que ela não é uma invenção da pós-modernidade, mas uma realidade que vindo sendo vivida e perpetuada desde a antiguidade. Nesse sentido, entendemos que a prática homossexual a princípio tinha normas e preceitos pedagógicos e que se tal fosse realizada fora dos padrões era tida como imoral, ilícita e desavergonhada, o que nos leva a crer que esse seria um dos motivos pelo qual o preconceito contra as pessoas de orientação homossexual tem se mantido até a atualidade.

Quando tratamos da questão da sexualidade humana, compreendemos que muitos autores afirmam que a mesma é formada por uma combinação de muitos fatores biológicos, psicológicos e sociais, e que ainda é composta por outros três elementos, o sexo biológico, que compreende o aparelho genital que o indivíduo nasce, a orientação sexual, que se refere a atração afetiva/sexual por outra pessoa (podendo ser heterossexual, homossexual e bissexual) e a identidade de gênero, que envolve a percepção que o indivíduo tem de si mesmo em relação ao seu gênero (masculino ou feminino).

Em relação às novas configurações familiares, cremos que o mais relevante a ser destacar seja que no Estado brasileiro as leis com relação ao reconhecimento da união estável em casamento civil tenha sido o grande passo, entretanto, o impasse a ser enfrentado é o reconhecimento legal da existência de famílias homoparentais como novos arranjos familiares, ou seja, reconhecer como instituição família aquelas formadas por pessoas do mesmo sexo e que adotam crianças.

No tocante a problemática desse trabalho que era relacionado ao seguinte questionamento: Será que o modelo de família homoparental pode interferir no desenvolvimento da sexualidade de uma criança adotada? Mediante o desenvolvimento da pesquisa bibliográfica e das entrevistas realizadas com as alunas do 8º semestre do curso de Pedagogia, com os professores do respectivo curso e com as psicólogas,

percebemos que a família, seja ela de qualquer configuração, é um meio que pouco vai interferir no desenvolvimento da sexualidade das crianças que são adotadas, principalmente, daquelas adotadas por casais homossexuais. Portanto, os argumentos levantados contra as famílias homoparentais em relação a adoção de crianças tornam-se esclarecidos e desmistificados.

Com referência ao objetivo desse trabalho que era o de compreender como se dá o desenvolvimento sexual de crianças adotadas/ou que convivem como famílias homoparentais, verificou-se que o mesmo ocorre normalmente e não há nenhuma preocupação especial com relação as saúde física, psicológica, de adaptação, com confusão de gênero ou funcionamento sexual, muito pelo contrário, a convivência com novos arranjos familiares faz com que as crianças crescem compreendendo e respeitando as diferenças e diversidades existentes.

Por fim, notamos que grande parte das categorias investigadas demonstra estar abertas as mudanças que vem ocorrendo na sociedade, bem como compreender que as novas configurações familiares não influenciam o desenvolvimento da criança, rebatendo a ideia do senso comum. Nesse aspecto, é de suma importância que na nossa sociedade brasileira desenvolva mais estudos sobre essas questões e que chegue ao conhecimento dos cidadãos brasileiros, pois acreditamos que quando compreendemos uma realidade podemos rever conceitos e padrões internalizados e desconstruí-los, buscando eximir preconceitos, como é o caso da família homoparental interferir na identidade sexual de uma criança.

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O CORPO FEMININO INVADIDO: RECORTES DA CONSTRUÇÃO SOCIAL DE UM CORPO PÚBLICO/OBJETIFICADO

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Abstract: This is an interdisciplinary study, based on a bibliographical research, based on books, scientific articles and empirical research, to establish the interrelationship between the perspectives of Health and Law, when discussing the female body in a socio-historical context. The aim of this research is to analyze how some historical representations and images about the female body last over time and update themselves in contemporary Brazilian society, reproducing old violent conceptions and practices against women. And from this, understand the somatized reflexes in the identity and sexuality of this body that has become the target of invasions, which cause wounds that left deep marks, such as sexual dysfunctions. Among the privileged authors in the theoretical contribution of this work are Colling (2015), Corso (2016), Labronici (2010) and (Faundes, 2007).

Keywords: Feminine body; corporeity; sexual violence; objectification.

Considerações iniciais

O corpo feminino, ao longo dos anos, tornou-se um objeto de desejo, sexualidade e exposição, porém, sem voz. Michelle Perrot, historiadora e professora francesa, escreveu, certa vez, que o corpo exposto continua opaco. Objeto do olhar

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e do desejo, fala-se desse corpo, mas ele é calado - as mulheres não devem falar dele. O pudor que encobre seus membros ou lhes cerra os lábios é a própria marca da feminilidade (Perrot, 2003).

Diante disso, é importante compreender aspectos históricos e culturais que remontam uma espécie de “trajetória da construção do papel social do corpo feminino” nas sociedades ocidentais. Analisando algumas representações e imagens históricas acerca do corpo feminino, é possível nos depararmos com a reprodução de velhas concepções e práticas violentas contra as mulheres na sociedade brasileira contemporânea, as quais causam importantes reflexos na identidade e na sexualidade deste corpo que se tornou alvo de invasões, as quais causam feridas que deixam marcas profundas, como as disfunções sexuais.

Trata-se de um estudo bibliográfico, de caráter interdisciplinar, fundamentado em livros, artigos científicos e relatórios de pesquisas, visando estabelecer uma interrelação entre as perspectivas da Saúde e do Direito, ao discutir o corpo feminino em um contexto sociohistórico. Entre os autores privilegiados no aporte teórico deste trabalho estão Colling (2015), Corso (2016), Labronici (2010) e Faundes (2007).

1. O corpo feminino na história: do invisível ao público

O corpo feminino foi, ao longo da história, ora anulado e silenciado, ora explorado e objetificado, despertando diversos olhares e perspectivas diferenciadas. Não há como falar sobre o corpo feminino sem trazer, ainda, um pincelar sobre a construção social do corpo masculino, já que por muito tempo perdurou a ideia de que existia um único sexo, e a mulher seria um homem que deu errado, ou, ainda, um homem com o órgão sexual internalizado, ou seja, um corpo incompleto e inferior (Colling, 2015).

Simone de Beauvoir (1970) traz, no prólogo de sua obra “O Segundo Sexo”, dizeres de Pitágoras, que evidenciam o olhar inferiorizador em relação à mulher: “Há um princípio bom, que criou a ordem, a luz e o homem, e um princípio mau, que criou o caos, as trevas e a mulher”. O corpo feminino deveria ver no

corpo masculino a sua alteridade, isto porque o homem se percebe no mundo como o tipo humano absoluto. Assim, “a mulher determina-se e diferencia-se em relação ao homem e não este em relação a ela; a fêmea é o inessencial perante o essencial. O homem é o Sujeito, o Absoluto; ela é o Outro” (Beauvoir, 1970).

Para Colling (2015), há uma “desqualificação histórica através das práticas discursivas e das práticas não discursivas” em relação ao corpo feminino, diretamente interligada a uma construção social, já que o corpo masculino é privilegiado “nas relações de poder e saber e nas práticas, inclusive jurídicas”.

O corpo é produto de uma construção cultural, social e histórica sobre o qual são conferidas diferentes marcas em diferentes tempos, espaços, conjunturas econômicas, grupos sociais, étnicos etc. Ou seja, não é algo dado a priori, nem mesmo é universal: é provisório, mutável e mutante, suscetível a inúmeras intervenções consoante o desenvolvimento científico e tecnológico de cada cultura, bem como suas leis, seus códigos morais e sua linguagem, visto que ele é construído também a partir daquilo que dele se diz. (...) Educa-se o corpo na escola e fora dela: na religião, na mídia, na medicina, nas normas jurídicas, enfim, em todos os espaços de socialização nos quais circulamos cotidianamente. (GOELLNER, 2005)

Os discursos e as práticas vão produzindo o corpo na cultura. Conforme Colling (2015), o discurso utilizado para realizar a designação dos papéis sexuais e sociais, vinculados ao corpo masculino e feminino, tem matriz filosófica grega. Tal discurso caminha com o religioso, trazendo a história bíblica da criação, na qual da extração de um osso de Adão se origina Eva, simbolizando a humanidade como primariamente masculina, ainda que todas as demais gerações teriam sido gestadas pelas mulheres. Com a expulsão de Adão e Eva do paraíso, em razão do pecado originado pela mulher (morder a maçã), o Velho Testamento vai sendo utilizado para fundamentar o que os gregos criariam para a designação dos papéis femininos, com uma “Eva pecadora” e a uma “Virgem Maria assexuada” (COLLING, 2015), símbolos que causariam efeitos ao longo da história, resistentes até a contemporaneidade.

Nesse passo, Platão (427-347 AC) procurou, em seu livro “Timeu”, reformular a teoria médica, alinhada à filosofia, a fim de definir as diferenças sexuais e a “natureza feminina” (Colling, 2015):

Eis porque nos machos os órgãos genitais são naturalmente insubmissos e autoritários, como animais surdos à voz da razão e, dominados por apetites furiosos, querem comandar tudo.

Nas mulheres também e pelas mesmas razões, o que se chama a matriz ou útero é um animal que vive nelas com o desejo de procriar. Quando ele fica muito tempo estéril depois do período da puberdade, ele tem dificuldade em suportar isso, indigna-se, erra por todo o corpo, bloqueia os canais do sopro, impede a respiração, causa um grande incômodo e origina doenças de toda a espécie, até que, o desejo e o amor unindo os dois sexos, eles possam colher um fruto, como numa árvore, e semear na matriz, como num sulco(...) Tal é a origem das mulheres e de todo o sexo feminino.⁵

Mais adiante, Hipócrates (460/377 A.C.) acrescentaria que “a semente macha é mais forte que a semente fêmea”⁶, fomentando a ideia de que “o homem é a semente, o produtor, a mulher é a reprodutora”(Colling, 2015), e Aristóteles⁷ diria que o cérebro do homem seria maior do que o da mulher, o que justificaria o homem ser mais inteligente do que a mulher.

Por outro lado, Galeno (130 d.C), médico grego, compreende a fisiologia da mulher como o inverso do homem, pois seus genitais não teriam descido em razão de uma falta de calor, acabando por ficarem internalizados. Assim, a “teoria do ventre errante” assemelha a sexualidade feminina a um “animal faminto que somente descansa quando a mulher está grávida” (Colling, 2015).

Os discursos trazidos a respeito da alteridade do corpo feminino e masculino pelos teóricos referidos passam a embasar, na Idade Média, conceitos religiosos que seriam amplamente difundidos pela Igreja, especialmente apregoando normas de comportamento baseadas numa total inferiorização da mulher e, sobretudo, uma moral sexual pautada na castidade feminina.

Além de inferiorizada em relação ao homem, colocada como “o Outro”, ou seja, um homem que não deu certo, e anulada enquanto ser humano até em sua intelectualidade, a sexualidade feminina e o corpo da mulher passam a ser silenciados. O uso da simbologia da Virgem Maria propõe a mulher como um ser

⁵ PLATÃO. Diálogos: Timeu, Critias, o Segundo Alcebiades, Hípias Menor. Belém: UPPA.GEU, 1986, p. 154 *apud* COLLING, Ana Maria. A construção do Corpo Feminino. Uberlândia, MG: Caderno Espaço Feminino, nº 2, jul/dez., 2015.

⁶ Hipócrates *apud* JOAQUIM, Teresa. Menina e Moça. A construção social da feminilidade. Lisboa: Fim de Século, 1997. p. 81 *apud* COLLING, Ana Maria. A construção do Corpo Feminino. Uberlândia, MG: Caderno Espaço Feminino, nº 2, jul/dez., 2015.

⁷ ARISTÓTELES. Les parties des animaux. Paris: Les Belles Lettres, 1957, p. 41. Tradução livre. *apud* COLLING, Ana Maria. A construção do Corpo Feminino. Uberlândia, MG: Caderno Espaço Feminino, nº 2, jul/dez., 2015.

doméstico/do lar, no intento de reforçar o controle da sua castidade e da moralidade.

A origem do conceito de histeria – doença mental feminina que ocasiona ataques histéricos ocorridos em mulheres provocados por “um vapor venenoso produzido pela matriz e que, ao passar pelas artérias e pelos poros do corpo, lesa todo o organismo, até ao cérebro” (Colling, 2015) – retoma a teoria do ventre errante a partir do século XVIII, sendo estudada por Sigmund Freud (1856-1939), pai da psicanálise.

Entretanto, apesar de reconhecer a importância da sexualidade feminina para a constituição da sua personalidade, no início de suas teorizações Freud não se afastou das delimitações patriarcais em relação ao papel social do corpo feminino:

Segundo ele, a sexualidade feminina é desenhada a partir do confronto com a “perfeição” masculina e marcada por uma insatisfação da mulher, de sua consciência da falta do pênis e na inveja dele. O feminino é definido como falta, privação, impotência – a mulher é um homem “incompleto” (Colling 2015).

Para Freud (2016), a falta do pênis nas mulheres só seria resolvida se estas dessem a luz a um filho, como maneira substituir o falo e resolver seu sentimento de inveja. Mais uma vez, reforça-se o sentimento da superioridade masculina com uma justificativa bio-psicológica, pautada pela inferioridade natural do corpo feminino, imputando-lhe menos valor e dignidade.

Assim, percebe-se que este discurso machista e patriarcal firmado na diferença biológica entre os sexos se arraiga no imaginário através do tempo, atravessando as relações sociais por diversos setores como a Religião, Filosofia, Medicina, Psicanálise e, inclusive, o Direito, que o legitima.

No Brasil, a ideologia patriarcal é inserida desde a chegada da colônia portuguesa, sob regência do Código Filipino, que normatiza a autoridade dos homens sobre as mulheres, como se essas fossem suas posses, autorizando as agressões contra elas. Outrossim, “as mulheres não podiam trabalhar, votar ou sequer ter vontades e expressar suas opiniões. Sua única tarefa era ‘procriar’ e cuidar da casa, dos filhos e do marido, submetendo-se a eles”. E, assim, “os filhos cresciam com o exemplo de um pai autoritário e uma mãe submissa, fazendo disso sua concepção de sociedade”. (Silva, 2010: 217)

A dicotomia entre os corpos construída séculos antes comprovaria sua perpetuação também em 1955 nos jornais brasileiros, que orientavam as mulheres em relação aos papéis sociais que deveriam ocupar: “A mulher tem uma missão a cumprir no mundo: a de completar o homem. [...] a arte de ser mulher exige muita perspicácia, muita bondade. Um permanente sentido de prontidão e alerta para satisfazer às necessidades dos entes queridos”⁸.

Desta forma, alinham-se os conceitos da moral e da castidade feminina com uma objetificação do seu corpo, já que a mulher deveria estar à disposição do seu cônjuge e da sua família a qualquer tempo, ou seja, ser “prendada, recatada, mas, ao mesmo tempo, esmerada em sua aparência” (Sacramento e Del Priore, 2006), para que seu marido não se sinta atraído por outras mulheres na rua, ou, em outras palavras, a mulher deve ser “bela, recatada e do lar”.

A partir das colocações até aqui expostas, pode-se perceber que vozes se levantam para dizer onde é o lugar da mulher no Brasil, qual espaço deve ocupar este corpo e, ainda, para ditar o valor do corpo feminino. Assim, passam a regular socialmente o que este corpo deve ou não fazer; quais roupas deve usar; qual quantidade de pelos deve ter; quando é adequado engravidar ou manter uma gestação (ainda que indesejada pela mulher); de que forma parir; e como tratar sua sexualidade. Dessa forma, o corpo da mulher se torna uma temática de ordem pública, deixa de ser dela e passa a ser da sociedade.

Portanto, assim como um objeto, o corpo feminino, visto e regido pelos conceitos de posse e propriedade do homem, deve ser usado e pode ser descartado quando não for mais útil. Numa relação de poder e dominação, o homem se sente autorizado a utilizar este “seu objeto” – o corpo feminino – com uma forma violenta, que cristaliza um sentimento misógeno.

Em uma pesquisa realizada pelo Instituto de Pesquisa Econômica Aplicada (IPEA, 2014), acerca da Tolerância Social à Violência contra as Mulheres, constatou-se o quanto a estrutura patriarcal-machista da sociedade brasileira tem reforçado no imaginário social a ideia de um corpo feminino público/objetificado.

⁸ Trecho extraído do Jornal das Moças in SACRAMENTO, Sandra. DEL PRIORE, Mary. História do amor no Brasil. Revista Estudos Feministas, Florianópolis, v. 14, n. 1, p. 319, jan. 2006. ISSN 1806-9584. Disponível em: <<https://periodicos.ufsc.br/index.php/ref/article/view/S0104-026X2006000100022/7620>>. Acesso em: 25 mar. 2019.

De acordo com a pesquisa, que foi realizada em 3.809 domicílios brasileiros, em 212 municípios de todas as unidades da federação, 64% dos entrevistados concordam, total ou parcialmente, que “os homens devem ser a cabeça do lar”; 79% concordaram que “toda mulher sonha em casar”; 55% dos respondentes concordaram que “tem mulher que é pra casar, tem mulher que é pra cama”; e 65% concordaram que “mulher que é agredida e continua com o parceiro gosta de apanhar”.

Os dados acima demonstram como os pensamentos e conceitos sobre o corpo feminino, construídos historicamente, e reforçados por uma legislação autorizadora da violência contra o gênero feminino, tomam uma dimensão onde violentar ou assassinar esposas - e mulheres de forma geral - é algo aceitável. Consolidou-se a ideia de que a dignidade, a vontade e o corpo da mulher tem pouco ou nenhum valor.

De acordo com a Pesquisa Nacional por Amostra de Domicílios (Pnad), realizada pelo Instituto Brasileiro de Geografia e Estatística (IBGE), mais de 1 milhão de mulheres sofrem agressão física a cada ano no Brasil (IBGE, 2009). Outrossim, segundo a pesquisa “Estupro no Brasil”, realizada pelo IPEA, tem-se que, entre os anos 2011 e 2014, teriam sido registradas 47.646 ocorrências policiais de estupro no país (IPEA, 2017).

Nesse passo, temos a interligação direta entre a dita “cultura do estupro” e a objetificação do corpo feminino. O que mais impressiona, nos relatos da pesquisa “Estupro no Brasil” (2017), é que os casos de violação sexual do corpo feminino acontece nos mais “variados ambientes, desde o temido beco escuro onde todas as mães instruem suas filhas a não transitarem”, e até mesmo “dentro da ‘pretensa casa segura’ da vítima” (Sousa, 2017). Ou seja, a invasão ao corpo feminino é uma constante ameaça, que não escolhe lugar ou idade. Trata-se de um corpo que foi desumanizado e objetificado a ponto de se tornar de “uso público”, e que, ora violado, restará com marcas profundas.

2. O corpo feminino invadido: a violência sexual como resultado da objetificação

O conceito de corpo e corporeidade descrita pelo filósofo existencialista Merleau-Ponty, compreende o corpo como o concreto da existência, como consciência encarnada, veículo do ser no mundo, conjunto de significações vividas, espaço e tempo, que manifesta sua essência mediante o corpo que vê e é visto, toca e é tocado, sente e é sentido, porque é sensível (Merleau-Ponty, 1999).

Mulheres, ao vivenciarem situações de violência sexual, passam a ter interferências na expressão do corpo, isto é, na corporeidade, porque o corpo é o primeiro e único lugar da experiência humana. Ele é produtor e portador de significados (Lambronice, 2002). As mulheres armazenam em seu corpo a violência sexual sofrida que deixa marcas visíveis e invisíveis, e expressam na corporeidade seus sentimentos por meio de condutas e reações no seu dia a dia. Essas marcas podem ser captadas não apenas pelo olhar clínico, mas pelo olhar sensível, atento, revestido do humano (Lambronice, 2002).

Os problemas de saúde acarretados pela violência sexual são diversos, e podem se manifestar logo após a agressão, ou a médio e longo prazo. Queixas físicas como cefaleia crônica, alterações gastrointestinais, dor pélvica entre outras; sintomas psicológicos e comportamentais como disfunção sexual, depressão, ansiedade, transtornos alimentares e uso abusivo de drogas são encontrados nas vítimas desse tipo de violência (Villela e Lago, 2007).

No Brasil, o Ministério da Saúde (2011) delinea os impactos que a violência sexual acarreta para as vítimas. Entre as principais consequências estão lesões físicas, gravidez indesejada, doenças sexualmente transmissíveis, bem como os impactos psicológico, morais e físicos. Mattar et al. (2007), acrescentam outros aspectos, como sentimentos de medo da morte, sensação de solidão, vergonha e culpa. Van Berlo e Ensink (2000) relataram em sua meta-análise realizada de 1979-1999, que a violência sexual produzia impacto na frequência e satisfação sexual. Na mesma direção, Drezett et al (2001) relata que podem ocorrer transtornos da sexualidade, que serão descritos a seguir. Oliveira et al (2007), por sua vez, identificam em suas pesquisas efeitos que a violência pode causar na mulher, como alterações na saúde física, saúde reprodutiva e sexual e saúde mental.

Nas alterações morais após a violência sexual, destacam-se os efeitos, isolamento social, dificuldade nos relacionamentos familiares, abandono da casa, dos estudos, do emprego, sentimento de insegurança e medo constante, separação conjugal, compromete a capacidade de relacionar-se com pessoas do sexo oposto ou inibir a satisfação sexual da mulher em razão da inibição da libido. "Invisibilidade social" por meio de ganho de peso, do desleixo pessoal e da remoção de elementos que possam torná-las sexualmente atraentes. Essas tentativas de desvalorização da imagem pessoal e de anulação da feminilidade intensificam a diminuição da autoestima da mulher e dificultam a sua reorganização emocional (Mattar et al., 2007; Martins e Jorge, 2011).

Já nas alterações psicológicas, observa-se reações mais imediatas, como tristeza, pesadelos e insônia, sentimentos de humilhação e de solidão, são comuns nos períodos iniciais. Muitas mulheres sentem-se sujas e procuram tomar banho na tentativa de se livrarem da sensação de sujeira e dos "vestígios" do agressor que simbolicamente permanecem em seus corpos (Facuri et al, 2013; Martins e Martin, 2011; Sousa, 2017).

As alterações físicas, ainda que atravessadas também pelas alterações morais e psicológicas, por sua vez, podem se dar a partir de disfunções ou transtornos sexuais, como ocorrer dificuldades na masturbação na adolescência, total fobia ao sexo e problemas de relacionamento sexual no futuro, transtornos da sexualidade, incluindo vaginismo, dispareunia, diminuição da lubrificação vaginal e perda do orgasmo, que podem evoluir para a completa aversão ao sexo (Drezett et al., 2001) depressão, nervosismo e ansiedade crônica. Por fim, importante destacar os casos em que o reflexo da violação sexual se expressa da forma mais extrema, que é o suicídio da vítima.

Os traumas físicos decorrentes da violência sexual também assumem um caráter multivariado quanto as localizações, sendo classificados, por muitos autores, em lesões não genitais e lesões genitais (Hampton, 1995).

As lesões genitais foram notadas em 5% a 68% das mulheres sexualmente vitimadas (Cartwright, 1997; Slaughter e Brown, 1992). A localização mais comum de lesões em um estudo de (Slaughter et al., 1997) foram: fúrcula vaginal 70%,

pequenos lábios 53%, hímen 29% e fossa navicular 25%. Mulheres que sofreram intercurso anal tiveram lesões em 56% das vezes. A maioria das lesões genitais, mais de 90%, foi leve, do tipo escoriação ou fissura; cerca de 1% dos traumas foram graves, do tipo lacerações com sangramento profuso, requerendo internação e reparos cirúrgicos (Hampton, 1995). Cerca de 0,1% dos traumas genitais e não genitais decorrentes da violência sexual foram fatais (ACOG, 1998).

A noção de sexualidade abrange extenso leque de significados parciais, englobando o exercício do sexo –comportamentos e práticas– a vivência de desejos e sentimentos eróticos e a experimentação das relações concretas que lhes dão suporte (Villela e Lago, 2007). Desta forma, após uma experiência traumática como a violência sexual é de se esperar, pelo menos, por algum tempo, sequelas na esfera da sexualidade (Pereira, 2007).

Segundo Levine e Frederick (1999), a violência sexual pode trazer diversas consequências por meio de transtornos, mas também nas relações cotidianas. Para Mattar et al. (2007), é comum ocorrerem problemas familiares e sociais, abandono dos estudos, perda do emprego, separação conjugal, abandono da casa e prostituição, como parte dos problemas psicossociais relacionados a essa dinâmica. Quando os sintomas se tornam frequentes e permanentes, passam a se expressar de forma patológica, como Transtorno do Estresse Pós-Traumático (TEPT), transtornos alimentares, depressão, tentativa de suicídio, dificuldade nas relações afetivas e sexuais (Levine e Frederick, 1999).

A TEPT é dividida em duas fases. A fase aguda corresponde ao período de desorganização psíquica acompanhada de sintomas como o medo, ansiedade, culpa, vergonha, humilhação, depressão, insônia que dura alguns dias, geralmente de uma a duas semanas. A fase de reorganização é longa, tem um período de tempo indeterminado, onde se impõe psicoterapia de apoio, podendo a paciente apresentar transtornos da sexualidade, disfunções sexuais como vaginismo, perda do controle de esfíncteres, bulimia, anorexia e depressão. Essas consequências em sua maioria aparecem logo após o abuso e podem desaparecer ou piorar com o tempo, depende de cada situação, de cada tipo abuso e a forma de como o sujeito reagiu com esse acontecimento trágico e marcante em sua vida (Pereira, 2007).

Faravelli et al. (2004) avaliaram as consequências de episódio único de estupro em 40 mulheres, ocorrido havia pelo menos quatro meses, e compararam com agressões a 32 mulheres submetidas a outros tipos de evento estressor, como acidente de carro, ataque físico ou assalto. O grupo formado por mulheres que sofreram estupro apresentou índices mais significativos de TEPT e transtornos alimentares, sexuais e de humor comparado com os outros traumas (Faravelli et al., 2004).

Os dois principais sintomas associados ao transtorno do estresse pós-traumático (TEPT) são evitação e repetição, que podem levar a mulher a evitar contato sexual ou colocar-se em situações nas quais pode ser revitimizada (Early, 1993). O mesmo autor descreve que há um certo tom de fatalidade em relação ao futuro de uma pessoa que sofre violência sexual, especialmente se foi crônica ou se ocorreu na infância. É como se a sobrevivente do trauma estivesse inclinada a ocupar a posição de vítima de novas traumatizações, impossibilitada de obter conscientemente o controle da própria vida.

Em estudo recente, Cook et al. (2011) analisaram as consequências da agressão física e sexual a mulheres com 55 anos ou mais e as compararam com mulheres da mesma idade sem antecedentes de violência. Aquelas que sofreram violência apresentaram maior frequência de abuso de substâncias psicoativas, de depressão e de TEPT. Foram observados piores indicadores de saúde e maior uso de comprimidos. Além disso, os autores encontraram índices significativos de TEPT para mulheres cuja violência ocorreu havia muitos anos (Cook et al., 2011).

2.1 disfunções sexuais no corpo feminino como reflexo da invasão

Milhares de mulheres são vítimas de violência todos os anos no Brasil. Conforme define a Convenção de Belém do Pará (1996), em seu artigo 1º, a violência contra a mulher se define como “qualquer ato ou conduta, baseado no gênero feminino, que cause morte, dano ou sofrimento físico, sexual ou psicológico à mulher, tanto na esfera pública como na esfera privada”. Nesse sentido, a prática da violência que invade sexualmente o corpo feminino pode ser identificado com

uma das mais cruéis, pois deixa marcas profundas, provocando abalos físicos, psicológicos e morais.

Como reflexo da invasão do corpo feminino, a disfunção sexual gera problemas durante algumas fases do ciclo de resposta sexual da mulher, que a impedem de chegar ao prazer durante a relação sexual. Dentre algumas das disfunções sexuais levantou-se no presente estudo o Desejo Sexual Hipoativo (DSH), a Anorgasmia, a Dispareunia, o Transtorno da Excitação e o Vaginismo.

As disfunções sexuais femininas eram denominadas pelo termo englobante “frigidez”, até à década de 1970. O cunho pejorativo associado a esta “categoria diagnóstica” e, conseqüentemente, à vivência da sua sexualidade, alimentaram uma visão distorcida da mulher nos séculos passados.

A revolução ocorrida com os trabalhos pioneiros de Masters e Johnson vieram possibilitar o reenquadramento da “patologia” sexual feminina. A investigação conseqüente e os modelos teóricos posteriores permitiram criar uma base sólida para a compreensão do funcionamento sexual adequado e patológico a partir do estabelecimento das fases do ciclo de resposta sexual humana: Desejo, Excitação, Orgasmo e Resolução. A disfunção sexual ocorreria perante a perturbação num destes estádios ou ainda por dor associada à relação sexual (Pablo e Soares, 2004), ou seja, disfunção sexual feminina são problemas durante algumas fases do ciclo de resposta sexual da mulher, que a impedem de chegar ao prazer durante a relação sexual (Faubion e Rullo, 2015).

A disfunção sexual, portanto, implica alguma alteração, em uma ou mais das fases do ciclo de resposta sexual, ou dor associada ao ato, o que se manifesta de forma persistente ou recorrente. Pode ser de causa primária (ao longo da vida) e secundária (adquirida), bem como entre disfunção generalizada (presente com qualquer parceria) e situacional (presente em determinadas circunstâncias e/ou parcerias) (Abdo, 2006). Vários estudos têm mostrado, que mulheres com história de violência sexual têm maior incidência de alterações menstruais, dor pélvica crônica, dispareunia e disfunções sexuais que aquelas que nunca sofreram esse tipo de violência (Faúndes et al., 2006; OMS, 2003). A Associação Psiquiátrica Americana (2002) assim classifica as disfunções sexuais:

a) Transtornos sexuais do desejo sexual ou desejo sexual hipotativo (TDSH)

–De acordo com o Manual Diagnóstico e Estatístico de Transtornos Mentais, Quarta Edição, Texto Revisado (DSM-IV-TR, 2002), o TDSH é uma disfunção sexual caracterizada pela deficiência ou a ausência persistente ou recorrente de desejo ou fantasia sexual para a atividade sexual conduzindo a acentuado sofrimento, dificuldades interpessoais, baixa autoestima e depressão. Sabe-se que há várias etiologias para esse problema, entre as quais se destacam fatores do desenvolvimento como, por exemplo, um trauma ou coerção sexual na infância ou na adolescência marcadas pela privação emocional, física, verbal ou afetiva (Leiblum, 2010), uso de contraceptivos orais, estados pós-parto e de lactação, menopausa e problemas psiquiátricos como depressão, principalmente, se tratados com antidepressivos inibidores de recaptção de serotonina (Frohlich e Meston, 2005). A experiência de uma relação sexual forçada pode, por mecanismo ainda não esclarecido, inibir o desejo sexual (Warnock, 2002). Mais de quatro vezes maior entre aquelas com história de estupro, em comparação com as mulheres sem história de violência sexual (Faúndes et al., 2006).

b) Anorgasmia, que se dá pelo atraso ou ausência persistente ou recorrente de orgasmo, após uma fase normal de excitação sexual. Em um estudo feito por Pereira (2007), dois terços das mulheres entrevistadas apresentavam orgasmo sempre ou quase sempre antes da agressão, e essa percentagem desceu para 28% após a violência sexual (Pereira, 2007).

c) Dispareunia, que é a dor persistente na zona genital ou pélvica durante as relações sexuais. Embora a dor seja experimentada com maior frequência durante o coito, também pode ocorrer antes ou após a relação sexual; dor genital associada com intercurso sexual (Abdo, 2004) foi duas vezes maior em mulheres com histórico de violência sexual, comparado com mulheres que não passaram por violência (Faundes, 2007).

d) Transtorno da excitação, consistente na dificuldade em adquirir ou manter um estado de excitação sexual adequada até a consumação da atividade sexual, frequentemente expressa pela ausência ou diminuição da lubrificação vaginal;

e) Vaginismo é uma Disfunção sexual definida como “espasmo involuntário da musculatura do terço externo da vagina, recorrente ou persistente, que interfere no ato sexual” (DSM, 2010). Essa contração involuntária ocorre nos músculos perineais e elevadores do anus ao tentar qualquer tipo de penetração vaginal, seja com o pênis, dedo ou objetos de introdução vaginal (Abdo, 2004). Acomete 1 a 6% das mulheres em vida sexual ativa (Moreira, 2013). Considera-se o vaginismo como decorrente de traumas sexuais, principalmente infantis (Aveiro et al., 2009; Binik et al., 2007; Kaplan e Sadock, 1976). Existe relação significativa de histórico de abusos sexuais na infância e estupro em qualquer fase da vida prévia ao vaginismo (Masters e Johnson, 1976). É comum também passado de “lua de mel” traumática: primeira relação sexual insatisfatória, dolorosa e/ou forçada. Incluem-se também na etiologia lesões prévias sobre a vulva e a vagina, história de infecções repetidas causadoras de dores e irritações crônicas, ou seja, a dispareunia que evolui para o vaginismo (Binik et al., 2007; Masters e Johnson, 1976; Kaplan e Sadock, 1990). O vaginismo, assim como os demais transtornos, podem ser uma resposta condicionada a uma experiência ruim, tal como abuso sexual no passado (Grosse e Sengler, 2002).

f) Transtorno de aversão sexual: aversão e esquiva ativa do contato sexual genital com um parceiro sexual.

Além das disfunções sexuais, alterações na menstruação, ISTs (Infecções Sexualmente Transmissíveis) e gravidez indesejada também ocorrem como possível consequência da violência sexual. Em torno de um terço das mulheres relatam irregularidades menstruais, moléstia que foi cerca de 10 pontos percentuais mais prevalente entre aquelas com história de estupro que entre as sem história de violência sexual (Faúndes et al., 2006).

A disfunção sexual pode ser multifatorial, incluindo fatores biológicos, psicológicos, relacionais e socioculturais. Patologias como a diabetes *mellitus* ou algumas doenças neurológicas e neoplásicas, podem, de forma direta ou indireta, afetar a função sexual. O próprio envelhecimento, fármacos e a menopausa (Santos e Oliveira, 2015).

Fatores psicológicos como a depressão, a ansiedade, imagem corporal negativa, abuso sexual e a negligência emocional. Os fatores socioculturais como problemas de relacionamento, a disfunção sexual do parceiro, eventos de vida geradores de *stress* (reforma, saída dos filhos de casa) e contextos culturais ou religiosos inibidores da sexualidade (Santos e Oliveira, 2015).

É consensual na literatura a existência de determinados fatores etiológicos comuns às disfunções sexuais femininas: a presença de estados emocionais negativos como a raiva, depressão, ansiedade ou medo; fatores individuais como a baixa autoestima, má imagem corporal e ansiedade de desempenho; experiências prévias traumáticas, com dor ou de violência sexual (Pablo e Soares, 2004).

Experiência sexual prévia negativa e traumas por violência sexual, como abuso sexual na infância e estupro, têm alto impacto negativo na função sexual. No Brasil, embora os dados estatísticos sejam subnotificados, calcula-se que sejam altas as cifras de abuso sexual contra criança, o que significa que este precedente deve ser sempre considerado frente a uma paciente com queixa sexual (Beutel et al., 2008).

Em geral, as disfunções sexuais não ligadas a conflitos profundos (mágoa, vingança, estado depressivo, abuso sexual, estupro, outros) melhoram com a orientação sexual apropriada. Se as queixas permanecem, o ginecologista deverá encaminhar a paciente a um serviço especializado (Lara, 2008).

Diante disso, é importante frisar que sexo é saúde, e saúde também é sexo. Tanto é que esse conceito já foi reconhecido pela Organização Mundial da Saúde (OMS), ou seja, a sexualidade está oficialmente entre os critérios para se avaliar a qualidade de vida de um indivíduo.

Considerações finais

Verificou-se, através deste trabalho, que o corpo feminino foi, ao longo da história, ora anulado e silenciado, ora explorado e desumanizado, despertando diversos olhares e perspectivas diferenciadas, tornando-se um objeto de desejo, sexualidade e exposição.

Por muito tempo perdurou a ideia de que existia um único sexo, e a mulher seria um homem que deu errado, ou, ainda, um homem com o órgão sexual internalizado, ou seja, um corpo incompleto e “malformado”. Os discursos de filósofos e estudiosos sobre o tema foram produzindo o corpo feminino na história, designando ao gênero feminino papéis sexuais e sociais inferiorizadores.

Símbolos ou simbologias como a “eva pecadora” e a “virgem maria assexuada”, a “teoria do ventre errante” de Galeno e o conceito de “histeria” por Freud causariam efeitos duradouros na sociedade, auxiliando na consolidação da alteridade entre o corpo feminino e masculino.

Assim, o discurso sobre o corpo da mulher, embasado em pensamentos machistas e patriarcais, firmados na diferença biológica entre os sexos, atravessa o tempo e se incorpora na sociedade contemporânea, que irá traduzir, em números, os reflexos violentos dessa construção social.

As disfunções sexuais, como resultado da invasão dos corpos femininos, geram inúmeros problemas à vida da mulher, incluindo fatores biológicos, psicológicos, relacionais e socioculturais. Dentre algumas das disfunções sexuais estão o DSH (Desejo Sexual Hipoativo), a Anorgasmia, a Dispareunia, o Transtorno da Excitação e o Vaginismo, que dificultam ou impedem a mulher de chegar ao prazer durante a relação sexual e, portanto, acarretam sérios prejuízos à sua identidade e sexualidade.

Conclui-se, portanto, que analisar aspectos históricos e culturais da trajetória da construção do papel social do corpo feminino é de suma importância para compreender o motivo de nos depararmos com a reprodução de velhas concepções e práticas violentas contra as mulheres na sociedade brasileira contemporânea.

A consequência sociocultural desta construção histórica se traduz na objetificação e na invasão do corpo feminino, acarretando em números alarmantes de ocorrências policiais no país nesse sentido. Trata-se de um corpo que foi desumanizado e objetificado a ponto de se tornar de “uso público”, e que, ora violado, restará com marcas profundas.

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O PAPEL DA DOGMÁTICA PENAL E DA SOCIOLOGIA JURÍDICA NA VIOLÊNCIA CONTRA A MULHER

Iara de Souza

Abstract: From the social juridical perspective and from theoretical categories such as power disproportion, domination, Criminal Dogmatics and public policy, this article questions the effective internalization of gender equality by those accused of violence against women. In order to do so, it presents data from an empirical research carried out in the Federal District about the perception of the Condemned about respect for women.

Keywords: Criminal Dogmatics; Law and Society; power disproportion; public policy; violence against women.

Introdução

¹ Nos dados apresentados no Mapa da Violência 2015, tem-se que de 3,7 milhões de pessoas, com 18 anos ou mais, sofreram agressão de alguém conhecido. Já no relatório do Visível ao Invisível, tem-se, no que se refere às principais violências sofridas e quais os tipos de agressões são mais graves e frequentes nos últimos 12 meses anteriores à pesquisa, que a violência psicológica é preponderante entre as vítimas femininas e também masculinas, seguida pela violência física em ambos os casos. Nos dados do relatório, tem-se que para 73% da população brasileira a violência contra a mulher aumentou nos últimos 10 anos. Entre as mulheres, essa percepção eleva-se para 76% e, entre aquelas que foram vítimas

A violência de gênero, especialmente a violência contra a mulher, tem sido objeto de inúmeras pesquisas quantitativas e qualitativas no âmbito das ciências sociais, da criminologia, das políticas públicas, dos direitos humanos.¹ Estes estudos e a constante publicização de casos na mídia, articulada com a agenda do movimento feminista brasileiro, demonstram o quanto o tema ainda demanda atenção.

Neste sentido, a proposta do presente artigo é discutir a função da dogmática penal, da lei, a partir de um olhar sociojurídico: em que medida a dogmática penal tem se isolado da sociologia jurídica² na análise deste tipo

de algum tipo de violência nos últimos 12 meses, para 79%. Considerando a faixa etária, observa-se que a percepção de aumento prevalece para 76% ou mais das mulheres adultas e mais velhas (acima de 25 anos), enquanto entre as mais jovens (16 a 24 anos) encontra-se percepção um pouco maior de que a violência permaneceu a mesma (24%). Não se observam grandes diferenças de percepção do aumento da violência segundo a renda e a escolaridade, sendo um pouco superior entre a população de baixa renda (até dois salários mínimos) e com menor escolaridade (75% em ambos os grupos).

² Andrade (2013) discute o papel da criminologia crítica no campo do ensino jurídico e salienta que

de violência? Como romper com esse isolamento?

A partir de dados de uma pesquisa realizada no Distrito Federal em 2017, apresentaremos uma perspectiva de análise sociojurídica da questão: construir critérios metodológicos que possam ser empregados para descrever os papéis desempenhados pelo campo jurídico (Coutinho2013) na política pública de combate à violência contra a mulher.³ A proposta é problematizar a forma como o Direito tem lidado com a efetivação da norma penal na perspectiva de “dessubstancializar”⁴ a categoria teórica

“violência doméstica” para assim avaliar a função da lei penal.

Neste sentido, começaremos com a apresentação do campo teórico sociojurídico de investigação: a violência contra a mulher como violência interpessoal, marcada pela dissimetria de poder, em uma perspectiva cultural e costumeira, da rotina das pessoas.

Em seguida será apresentada a definição de Dogmática Penal e suas dificuldades diante da realidade social complexa, para então adentrarmos nos resultados da pesquisa e a sua conexão de sentido com a proposta de leitura sociojurídica.

a criminologia da violência estrutural “nos ensina a compreendê-los [crime, criminalidade e criminosos] não apenas a partir da mecânica do controle, mas funcionalmente relacionada às estruturas sociais (o capitalismo, o patriarcado, o racismo...) A seletividade do sistema penal é revelada, assim, como classista, sexista e racista, que expressa e reproduz as desigualdades, opressões e assimetrias sociais.” (p. 182) A autora destaca o caráter periférico-ausente da Criminologia. Neste sentido o presente trabalho abordará a Criminologia Crítica na perspectiva da Sociologia Jurídica.

³ O autor prossegue: “[...] categorias ou ferramentas de análise pelas quais o direito pode ter seus papéis nas políticas públicas enxergados com algum ganho de clareza e nitidez. Por trás disso está a suposição de que se de fato é possível observar e compreender os papéis do direito nas políticas públicas, seria também possível, em tese, aperfeiçoá-los desde uma perspectiva jurídica.” (p. 181/2)

⁴ A expressão é de Garcia (2014) no contexto de uma pesquisa sobre direitos humanos mas que por ser utilizada como referência de análise sobre

o campo jurídico está próxima da proposta do presente artigo: “Em outras palavras, é importante manter aberta a possibilidade que a significação dos ‘direitos humanos’ possa variar não apenas no tempo e no espaço, mas também em função do observador que a observa e que a comunica (sistema político, sistema jurídico, sistema científico, etc.) . Assim, o *medium* ‘direitos humanos’ pode conter diferentes possibilidades de formas, as quais serão ‘diferentemente’ exploradas, dependendo do observador e do quadro de referência mobilizado para lhe atribuir um sentido. Deve-se assim revestir o conceito de direitos humanos, não como se fosse uma realidade ontológica, mas a partir de um ponto de observação específico, a partir de um sistema de referência.” (grifos no original, p. 199) Para a autor o conceito de direitos humanos depende da função do sistema que os considera como tais, “políticos para o sistema político, jurídicos para o sistema jurídico”... Para nós esta noção é a dificuldade de compreensão sobre a função da pena no caso da violência contra a mulher e será objeto de reflexão no decorrer do artigo.

Esta leitura pressupõe uma compreensão construtivista da realidade: os atores sociais constroem a realidade social mediante suas práticas, os sujeitos não existem antes desta construção, a realidade é simbólica e discursiva (Villegas, 2010, p. 139) Isto se expressa na fala de um recente acusado de tentativa de feminicídio no Núcleo Bandeirante no Distrito Federal: “tenho o direito de agredir a minha mulher”.⁵

O Direito estabelece a visão oficial, legítima e autorizada do mundo, contudo, é preciso articular análises que privilegiam a ação individual com elementos estruturais e esta é a proposta do presente artigo.

2. Campo teórico sociojurídico

A perspectiva sociojurídica apresentada neste artigo é da violência de gênero – violência interpessoal, marcada pelas “dissimetrias de poder”.

Afinal, é pela perspectiva de gênero que se entende o fato de a violência contra as mulheres emergir da questão da alteridade, enquanto fundamento distinto de outras violências. Ou seja, esse

tipo de violência não se refere a atitudes e pensamentos de aniquilação do outro, que venha a ser uma pessoa considerada igual ou que é vista nas mesmas condições de existência e valor que o seu perpetrador. Pelo contrário, tal violência ocorre motivada pelas expressões de desigualdades baseadas na condição de sexo, a qual começa no universo familiar, onde as relações de gênero se constituem no protótipo de relações hierárquicas. (Bandeira, 2014, p. 450)

Bandeira (2014) aponta algumas linhas de indagações sobre a violência de gênero nas ciências sociais e nos concentraremos na presença das dissimetrias das normas e regras sociais em relação aos comportamentos de homens e mulheres.⁶ Isto porque “as relações violentas existem porque as relações assimétricas de poder permeiam a vida rotineira das pessoas”. (p. 451)

Logo, não há ruptura significativa nas estruturas antigas, as que ordenam e regem as hierarquias e os papéis femininos e masculinos na esfera familiar. Isto é, as concepções dominantes de feminilidade e masculinidade ainda se organizam a partir de disputas simbólicas e materiais, que operam no interior dos espaços domésticos e que, por conseguinte, acabam por se

⁵ Frase que inicia uma reportagem especial de Alan Rios para o Correio Braziliense publicada no dia 12 de setembro de 2018 sobre seis vítimas de violência contra a mulher em duas horas em cinco regiões do Distrito Federal.

⁶ As outras são: hegemonia do poder masculino, que permeia as relações entre homens e mulheres; a condição de subalternidade

feminina, baseada na hierarquia de gênero; a reprodução das imagens de homem e mulher e dos papéis a ambos atribuídos por meio da construção social da violência; a existência disseminada e, ao mesmo tempo, invisibilizada das violências nas relações familiares e sociais. (p. 455)

projetas a outras searas, sendo processadas em outros espaços institucionais. (Bandeira, 2014, p. 457)

Por isso, compreender as múltiplas faces da violência de gênero perpassa a própria função do Direito. O patriarcado e a dominação masculina, isoladamente, não são causas suficientes para explicar a violência contra a mulher (Bandeira, 214, p. 457), inclusive diante das tensões entre público/privado presentes nestes conflitos interpessoais. Aqui começa a análise do próprio campo jurídico.

Considerando a interpretação de Bourdieu (1989)⁷ temos que o campo jurídico é um espaço de luta pela última manifestação sobre “dizer o que é o direito”:

O campo jurídico é o lugar de concorrência pelo monopólio do direito de dizer o direito, quer dizer, a boa distribuição (*nomos*) ou a boa ordem, na qual se defrontam agentes investidos de competência ao mesmo tempo social e técnica que consiste essencialmente na capacidade reconhecida de interpretar (de maneira mais ou menos livre ou autorizada) um *corpus* de textos

que consagram a visão legítima, justa, do mundo social (p. 212).

Neste sentido, a cultura jurídica, seja do campo jurídico seja do campo social, é um conjunto complexo de discursos e marcos simbólicos mediante os quais os indivíduos dão significado a suas atividades legais; disposições internalizadas por meio de socialização, de esquemas de percepção e compreensão do mundo, mas que de alguma forma representam uma ordem hierárquica. (Villegas, 2010, p. 154-158)

Por isso acompanhamos Villegas (2010) quando reflete sobre os Estudos de Consciência Jurídica – ECJ, movimento que surgiu no final da década de 80 dentro do *Law and Society* americano. A proposta do ECJ é investigar os sujeitos.

We seek access to the meaning of law in the lives of ordinary citizens - the ways in which commonplace transactions and relationships come to assume or not to assume a legal character, and the ways in which the shape of everyday life is informed by law. Studies of legal culture and consciousness attempt to address these questions

⁷ Os estudos de Pierre Bourdieu tratam basicamente das relações humanas como relações de poder, que reproduzem um sistema objetivo de dominação interiorizado enquanto subjetividade. A reprodução desta lógica de dominação não se restringe apenas às instituições estatais mas se inscreve também em níveis mais profundos, atingindo representações sociais de diversos campos como político, educacional,

artístico e linguístico. (Ortiz, 1983) Neste sentido a sua relevância para o campo jurídico e para a presente pesquisa: suas reflexões sobre as relações de poder envolvidas nas diferenças e desigualdades sociais, que podem acarretar ferramentas legais que busquem diminuir as relações de dominação. (Bourdieu, 1989; 1990; 1996; 2002; 2003)

about the place and meaning of law in the lives of ordinary citizens. (Ewick; Silbey, 1992, p. 738)

Para as autoras o objetivo é compreender o papel do Direito nas relações sociais relativizando o papel da estrutura⁸, o que para Villegas (2010) é um equívoco: ao isolar a consciência jurídica, o ECJ subestima o papel da dominação na análise. *“En términos sociojurídicos, sería cuestión de combinar la visión simbólica del derecho... con una teoría de la estrategia simbólica, entendida como un instrumento político, sea éste de dominación o de emancipación social”.* (p. 169)

⁸ “Cultural-constitutive analyses begin by rejecting, I believe, the dichotomy between agency and structure that is reproduced in the effort to specify mechanisms of accumulation or points of condensation. Treating consciousness as historical and situational, cultural analyses also shift attention to the constitution and operation of social structure in historically specific situations rather than macro-sociological, transhistorical processes. These analyses reject the dualisms implied by recurrent debates about the relative role of structure and agency in shaping the work and focus instead on the role of consciousness in (re)producing the social world.” (SILBEY, 1992, p. 47)

⁹ Apenas após ter dessubstancializado o conceito é que pudemos sair da confusão que o cerca, podendo observá-lo *de um ponto de vista empírico*. Foi necessário separar o conceito de sua ‘substância’, destacá-lo das formas e dos conteúdos com os quais estamos habituados a justapô-lo[...]. A dessubstancialização das

Portanto, a análise dos dados sobre respeito por parte dos apenados na pesquisa que será objeto adiante permitirá uma “dessubstancialização”⁹ do conceito de violência de gênero a partir de três campos: o social, o jurídico e o político (especificamente da política pública). Esta análise permitirá observar a função do Direito nos objetivos perseguidos pelas políticas públicas que provocaram a Lei Maria da Penha¹⁰.

Além disso, a discussão sobre os efeitos de leis e de políticas públicas privilegia, entre nós, enfoques e abordagens predominantemente estruturais (em oposição a funcionais), que tendem a ser estáticos, formais ou procedimentais. Exemplos disso são controvérsias e disputas de interpretação envolvendo a observância de regras de competência, a autonomia de órgãos e entes públicos, a legalidade dos atos praticados por

categorias jurídicas aparece assim como uma condição de possibilidade para a observação do direito *de um ponto de vista externo*. Ela nos obriga a criar uma distância com relação às categorias jurídicas produzidas pelo ponto de vista interno, pois trata-se do único modo de ‘controlar’ a qualidade da observação e sua ‘independência’” (Garcia, 2014, p. 201/2)

¹⁰ A Lei Maria da Penha, Lei 11.340/2006, pode ser considerada um paradigma à proteção da mulher. Para Ribeiro (2013), a Lei tem como objetivo resguardar e amparar a mulher contra todo tipo de violência, seja de natureza física, psicológica, sexual, patrimonial e moral. A Lei ainda prevê diversos instrumentos para o combate à violência contra a mulher, desde as sanções penais, mas também sanções com aspectos administrativos, civil, penal e trabalhista. Prevê ainda o aumento da pena, prisão em flagrante e preventiva para o agressor, a determinação de medidas protetivas.

autoridades administrativas e as possibilidades e limites da revisão de decisões de política pública pelo Judiciário. (Coutinho, 2013, p. 183)¹¹

Os fins das políticas públicas podem ser objeto de análise sob dois ângulos: como produto de escolhas políticas (campo político) onde o Direito é instrumental, eminentemente realiza essas escolhas; e como fonte definidora dos próprios objetivos aos quais serve como meio (Coutinho, 2013, p. 194). A análise aqui proposta não exclui as duas abordagens, pelo contrário, busca definir uma “espécie de ‘mapa’ de responsabilidades e tarefas nas políticas públicas” (Coutinho, 2013, p. 196) atribuída ao Direito. Por isso o enfoque na função da pena, que será analisada no próximo item.

As normas jurídicas dão lugar a múltiplas práticas sociais, e a presente pesquisa busca justamente refletir sobre a função da dogmática penal sob um olhar sociojurídico. Quando o apenado responde se respeita a mulher, o que isso significa? O “Ser” mulher está carregado

de sentidos: ser esposa, filha, mãe, cuidadora, entre os compromissos de ser fiel, companheira, amiga, boa mãe... (Bandeira, 2014). É possível relacionar este “ser” com as funções do Direito na política pública?

Enquanto categoria elaborada pelo feminismo, depois agregada à academia, a perspectiva de gênero, intrinsecamente, carrega em si a politicidade e o compromisso com as transformações sociais relacionadas às mulheres, assim como um novo olhar sobre as relações de poder estabelecidas entre mulheres e homens, homens e mulheres e mulheres e mulheres. (Godoy, 2011, p. 29)

Portanto, problematizar a violência de gênero a partir da função da dogmática penal expressa na Lei Maria da Penha demanda explicar e compreender a violência contra a mulher a partir da lógica da hierarquia de poderes presente na sociedade: “a mulher sempre ocupou posição social inferior, sofrendo injustiça social, em virtude das desigualdades construídas e naturalizadas historicamente” (Godoy, 2011, p. 6)

Neste sentido a proposta inicial

¹¹ O autor trabalha com quatro ideias-chave: “Confrontado com o intrincado desafio de observar e descrever as políticas públicas desde um ponto de vista jurídico, proponho e descrevo, a seguir, alguns papéis e tarefas para o direito e seus operadores em políticas públicas. Esses papéis consistem em apontar fins e situar as

políticas no ordenamento (direito como objetivo), criar condições de participação (direito como vocalizador de demandas), oferecer meios (direito como ferramenta) e estruturar arranjos complexos que tornem eficazes essas políticas (direito como arranjo institucional)”. (p. 193/4)

de “dessubstancialização” da violência de gênero, pois a compreensão dos dados exige um olhar que depende do campo.

3. Campo jurídico e função da pena

A partir de Andrade (2013) sobre a relação entre Criminologia e Dogmática Penal, abordaremos agora um entrave na reflexão sobre a função da lei no contexto da violência de gênero, que é o próprio papel da dogmática enquanto ordem vigente.

Ensinar criminologias, nesta perspectiva, é concorrer para a formação de uma consciência jurídica crítica responsável, capaz de transgredir as fronteiras, sempre generosas, do sono dogmático, da zona de conforto do penalismo adormecido na labuta técnico-jurídica; capaz de inventar novos caminhos para o enfrentamento das violências (individual, institucional e estrutural) e esse talvez seja o melhor tributo que possam prestar ao Ensino e à formação profissional-cidadã. (p. 183)

Contudo, não será através da Dogmática Penal que “a mulher encontrará a proteção e a igualdade, pois a mudança de comportamento e de mentalidade vem através da educação e de ações preventivas” (Mello, 2010, p. 946).

Neste sentido a crítica de Ferraz sobre a dogmática e a necessidade de

incluir outros saberes na análise do fenômeno jurídico:

Uma disciplina pode ser definida como dogmática à medida que considera certas premissas, em si e por si arbitrárias (isto é, resultantes de uma decisão), como vinculantes para o estudo, renunciando-se, assim, ao postulado da pesquisa independente. Ao contrário das disciplinas zetéticas, cujas questões são infinitas, as dogmáticas tratam de questões finitas. (2008, p. 24/5)

No Direito, os juristas procuram compreender o fenômeno jurídico nos marcos da ordem vigente, como uma limitação para a sua atuação, controlando as “incertezas” (Ferraz, 2008). Apesar da relevância da lei, ela não acaba com as incertezas, pois o fenômeno jurídico é também um fenômeno social, repleto de complexidades.

Nem sempre é absoluta, coerente e linear a relação que existe entre a norma positiva, a norma aplicada aos casos e os valores presentes na sociedade. Fica patente que o momento da aplicação do Direito é muito mais do que o momento de uma mecânica subsunção do fato à norma positiva jurídica. É o momento supremo do Direito em que ressaltam muito mais os valores do que fatos sociais. Contudo, os valores sociais, por vezes travestidos em estereótipos e preconceitos discriminatórios, atuam sub-repticiamente, inconscientemente nas argumentações dos operadores do Direito, impedindo-os de desempenharem suas funções tendo em vista o respeito, a dignidade e a justiça. (Pimentel; Schritzmeyer; Pandjarian, 1998,

p. 65)

Conforme será apontado adiante, os resultados da pesquisa demandam uma observação a partir de um ponto de vista multidisciplinar, evitando a dimensão normativa do dever-ser¹² e a crença ingênua de que a ordem vigente pode transformar a realidade. Esta é na verdade uma das grandes contribuições da Sociologia Jurídica – o olhar externo para a defasagem entre o plano formal e o real, entre o dever-ser e o ser. (Azevedo, 2005)

4. A pesquisa ANVERSO

O presente estudo foi realizado a partir da coleta de dados primários, no escopo de uma pesquisa quantitativa, com aplicação de questionários. Os entrevistados foram apenados nas

98
audiências de *sursis* e prisão domiciliar semanais na Vepera, tendo sido entrevistados todos os apenados que compareceram às audiências nas sextas-feiras no período de 10/02/2017 a 24/03/2017.

Pela natureza da pesquisa e da dificuldade de controle das audiências e os crimes correlatos da Lei Maria da Penha, não há possibilidade de influência e controle das variáveis, o que caracteriza esta pesquisa como correlacional.

O universo foram os apenados da Lei Maria da Penha que se apresentaram em audiência na Vepera¹³, de todas as classes sociais com mais de 18 anos. A técnica de pesquisa utilizada foi quantitativa de entrevista individual com apenados em condições de *sursis* da pena ou início do cumprimento da pena em prisão domiciliar, não foram entrevistados apenados provenientes da

¹² “Para criar as condições de ‘escuta’ entre o Direito as Ciências Sociais e a possibilidade de que o diálogo seja verdadeiramente um, devemos aprender a complexificar e a olhar de maneira mais crítica, não exclusivamente as insuficiências do olhar interno, mas também os pontos cegos que caracterizam frequentemente o olhar externo”. (Garcia, 2014, p. 204)

¹³ RESOLUÇÃO N. 15/2015 - TRIBUNAL PLENO DO TJDF. Art. 2º Compete à Vara de Execuções das Penas em Regime Aberto - VEPERA:

I - a execução de penas restritivas de liberdade em regime aberto provenientes de sentença

penal condenatória, da suspensão condicional da pena e o regime aberto em prisão domiciliar e livramento condicional;

II - fixar as condições do regime aberto em prisão domiciliar;

III - colaborar com a Vara de Execuções Penais na descentralização de suas atividades;

IV - decidir pedidos de unificação das penas nas hipóteses previstas no inciso I;

V - inspecionar os estabelecimentos onde se efetive o cumprimento de penas restritivas de liberdade em regime aberto provenientes de sentença penal condenatória.

progressão de regime. A abrangência da pesquisa foi apenas na Vepera do Tribunal de Justiça do Distrito Federal (TJDFT). A amostra total foi de 60 questionários.

O procedimento adotado para a coleta dos dados foi o de aplicação de questionários estruturados com perguntas fechadas, com entrevista que tinha duração média de 15 a 20 minutos, nos meses de fevereiro e março de 2017, num total de cerca de oito semanas de aplicação de questionários e uma semana de aplicação de questionário teste (Anexo C). Os entrevistadores foram em maior parte mulheres, o critério de gênero do entrevistador não será computado para separação da amostra de dados coletados, por não representar uma parcela significativa e pela natureza da amostra.

A ferramenta de análise é um questionário estruturado que é composto por cinco partes principais, perfil geral/socioeconômico, relação e regime de união com a mulher que consta no processo, questões secundárias, sobre o cumprimento da pena e a percepção/autoavaliação do apenado. O total é de 24 questões nas primeiras quatro partes e 20 itens na parte correspondente à autoavaliação.

Na aplicação de teste para a validação do instrumento de pesquisa, que foi feita com quatro apenados, foi verificada a necessidade de ajuste do instrumento de pesquisa. Os principais fatores que indicaram a necessidade de aperfeiçoamento foram a dificuldade de leitura dos apenados, a dificuldade de entendimento das questões, o que levou a adoção da aplicação por meio de entrevistas. Nas quais os entrevistadores podem explicar as situações.

Entre as dificuldades enfrentadas no primeiro instrumento de pesquisa houve uma negação dos apenados quanto ao fato de serem chamados de réu, ou mesmo se citada a palavra crime. Outra pergunta que precisou ser remodelada era a que tratava sobre quando as agressões começaram. Foi substituída a palavra agressão por problemas. Qualquer menção à agressão era veementemente negada. A pergunta sobre o maior medo na relação anterior também foi substituída, pois há a negação do medo em qualquer relação. Foi então substituída para o que você não gostaria que ela fizesse no relacionamento. A pergunta que questionava sobre o motivo das agressões foi abrandada para qual foi o

motivo da situação que está narrada no processo.

Qualquer um destes termos ensejou um grande número de escusas de que houvesse sido cometido um crime ou que se tivesse feito alguma coisa. Com a presença destas afirmativas, a aplicação do questionário se estendia longamente com a presença de um desabafo do apenado sobre o fato de não ter cometido crime algum. Assim, diante da total negação de envolvimento, o preenchimento do questionário restava-se prejudicado, o que inviabilizaria a aplicação da pesquisa. Observando estes requisitos, foi feito um ajuste no questionário de teste e definido o questionário final (Anexo A) a ser aplicado.

Destacamos o caminho percorrido para definição dos termos no questionário porque ele, por si só, já demonstra a dificuldade na categorização da violência de gênero por parte do apenado conforme salientaremos adiante.

Uma das áreas contempladas pela pesquisa trata do relacionamento com a mulher que ocasionou a ação penal, o que para os apenados é conhecido como o processo em questão. A percepção do homem a respeito das dificuldades

enfrentadas no relacionamento: falta de respeito (cuidado, consideração, medo, não atender as ordens do marido) falta de diálogo (comunicação), excesso de ciúmes (desconfiança), falta de carinho (carícia/contato, toque), falta de empatia (capacidade psicológica de colocar-se no lugar do outro) foi destacada para o presente artigo. Também foi observada a expectativa do homem em relação ao comportamento feminino e do não cumprimento de possibilidades como: abandonar, trair, ter maior sucesso profissional, ser trocado por outro.

Na segunda parte do questionário considerada para o presente artigo, há informações sobre o marco do distúrbio/crise do relacionamento conjugal, quando e em qual situação/momento houve o início da violência, que passou-se a denominar problemas. Também foi abordado o motivo da situação relatada no processo, tendo o comportamento da mulher como causa (a mulher fez por merecer, ela te desobedeceu, ela te pressionou, ela te traiu, ela tem ciúmes); comportamento do homem como causa (tenho ciúmes dela e não confio nela); dificuldades como falta de diálogo e falta de respeito; sem motivo aparente (porque eu tive vontade).

Para o tratamento estatístico dos dados foi criada uma máscara específica para o recebimento dos dados no questionário, digitados utilizando um formulário desenvolvido propriamente

para o trabalho no *Google Docs*. O objetivo deste método é facilitar a organização da informação e gerar resultados fidedignos e precisos acerca dos questionários aplicados.

Dificuldades enfrentadas no relacionamento e comportamento esperado da parceira

		Frequência	Porcentual (%)
de ciúmes	Excesso	10	18,2
carinho	Falta de	1	1,8
diálogo	Falta de	11	20,0
empatia	Falta de	9	16,4
respeito	Falta de	20	36,4
	NR	4	7,3
Total		55	100,0

Tabela 1 - Frequência das maiores dificuldades enfrentadas no relacionamento.

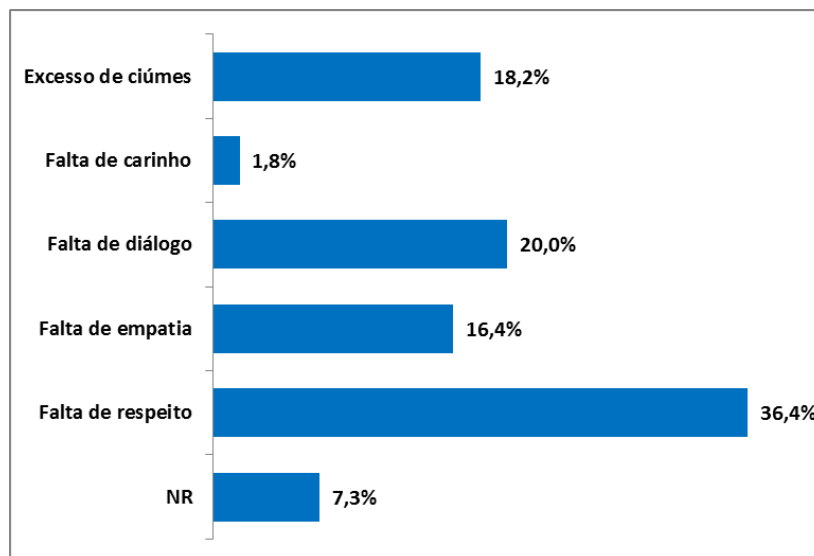


Gráfico 1 - Distribuição das dificuldades enfrentadas no relacionamento.

Quanto às dificuldades enfrentadas no relacionamento e o comportamento esperado da parceira, temos que a maior dificuldade enfrentada no relacionamento é a falta de respeito, presente em 36,4% das relações, seguida pela falta de diálogo, que representa 20%, e o excesso de ciúmes, que representa 18,2% dos problemas. Ao mesmo tempo, tem-se que o maior medo dos homens no relacionamento é a traição, 32,7%. Já a troca e o abandono representam, juntos, 23,6% dos casos.

Neste conjunto de dados, pode-se analisar que os homens acreditam, em grande parte, que as parceiras devem respeito a eles: não controlar, não discordar, não invadir o espaço alheio podem ser atitudes relacionadas à falta de respeito. A falta de diálogo pode ser

entendida como uma dificuldade de comunicação entre os parceiros, o que culmina em atos de violência para a legitimação do controle e do poderio do parceiro na relação.

A ideia de posse e controle está intimamente relacionada com a questão da traição, no que chamamos anteriormente de “dissimetrias de poder”. Quanto ao comportamento não esperado da parceira, a maioria dos entrevistados não respondeu esta questão por acreditar que não tem medo de nenhum comportamento da parceira, o que corresponde a 29,1% do quantitativo. Embora quase 1/3 dos homens dissessem isso, há uma clara dificuldade em aceitar qualquer um dos fatores como abandono ou traição por parte dos mesmos.

	Frequência	Porcentual (%)
A		
mulher fez por merecer	3	5,5
Ela te desobedeceu	4	7,3
Ela te pressionou	5	9,1
Ela te traiu	4	7,3
Ela tem ciúmes de você	6	10,9
Há falta de diálogo	8	14,5

Há falta de respeito	6	10,9
Não confio nela	2	3,6
Qual? Outro	10	18,2
Tenho ciúmes dela	3	5,5
NR	4	7,3
Total	55	100,0

Tabela 2 - Frequência de situações desencadeantes de violência doméstica.

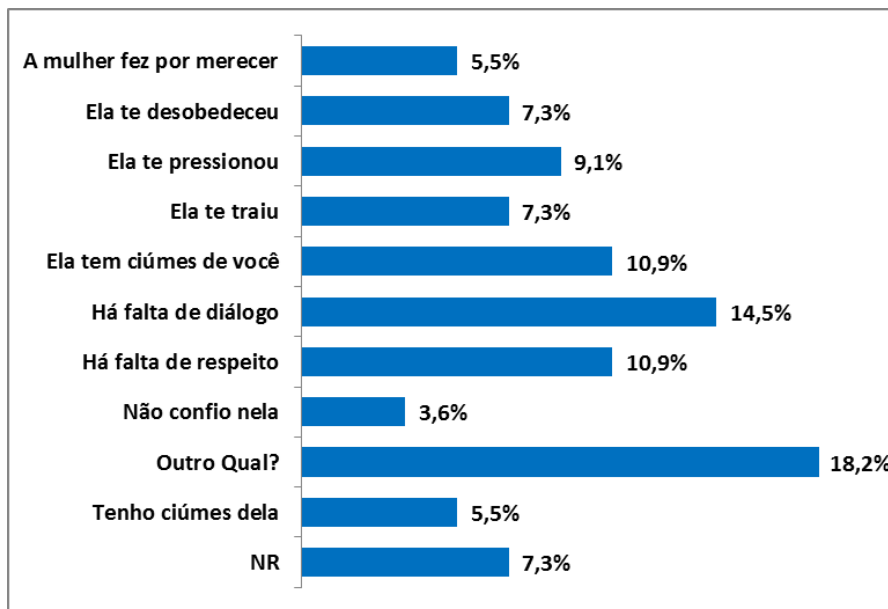


Gráfico 2 – Distribuição das situações desencadeantes da violência doméstica.

Quanto ao marco temporal de início da violência doméstica, pode-se observar que ela pode surgir no início ou no final do relacionamento. Baseado na verbalização das entrevistas, há um momento desencadeante para o ápice da violência física, como um novo emprego, mudança de cidade, novos amigos. São situações que podem representar a perda do poder de controle sobre a vítima. Pode-se encontrar relatos nos questionários de pesquisa que vão

desde a falta de motivo até a influência de terceiros.

Quanto às situações desencadeadoras da violência doméstica, surge novamente a falta de diálogo como um dos principais desencadeadores da violência doméstica, com 14,5%, seguido de ciúmes e falta de respeito, variáveis já examinadas na questão relativa às dificuldades enfrentadas no relacionamento. Se somadas, as variáveis relativas ao comportamento da parceira (a mulher fez por merecer, ela te

desobedeceu, ela te pressionou, ela te traiu, ela tem ciúmes de você) representam 40,1%, ou seja, pode ser

percebido que há uma culpa da vítima por ter sofrido violência doméstica.

Definição do apenado sobre o que é ser homem

	Frequência	Porcentual (%)
Ser educado	16	29,1
Ser educado; Ser respeitador	3	5,5
Ser educado; Ser respeitador; Outro	1	1,8
Ser respeitador	27	49,1
Outro (s)? Qual	3	5,5
NR	5	9,1
Total	55	100,0

Tabela 3 – Frequência dos comportamentos definidores da masculinidade sob o ponto de vista dos apenados.

	Frequência	Porcentual (%)
Bom e fiel	1	25,0
Humildade	1	25,0
Inteligente	1	25,0
Ser companheiro	1	25,0
Total	4	100,0

Tabela 4 – Frequência de outros comportamentos que definem a masculinidade sob o ponto de vista dos apenados.

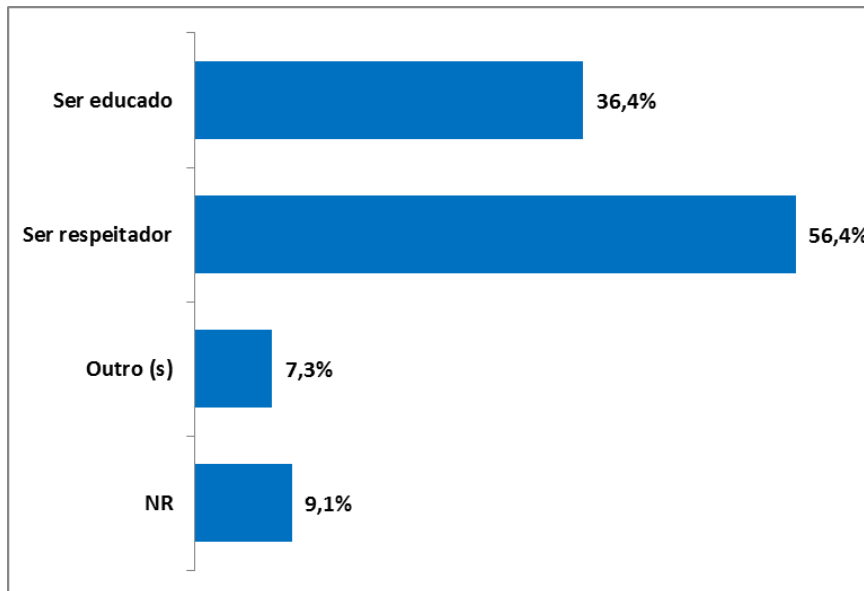


Gráfico 3 – Distribuição dos comportamentos que definem a masculinidade sob o ponto de vista dos apenados.

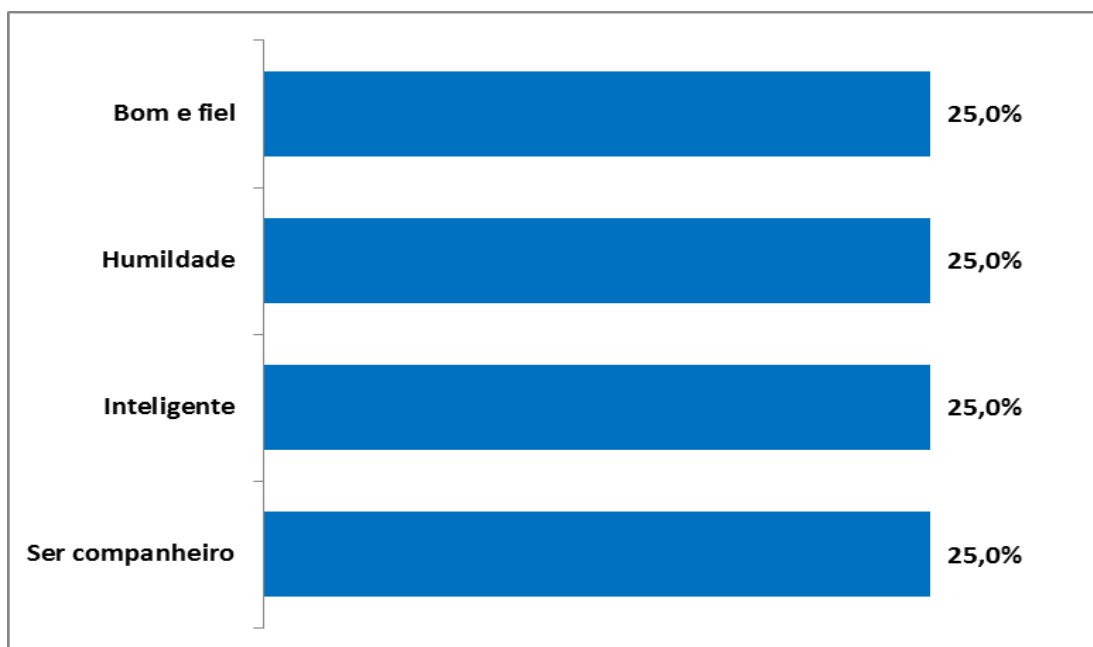


Gráfico 4 – Distribuição de outros comportamentos que definem a masculinidade sob o ponto de vista dos apenados.

Pode-se observar que ser respeitador é responsável por 56,4% das respostas que definem um homem, e entre outros foram citados bom e fiel, humilde, inteligente e companheiro com

menor frequência. É possível relacionar a definição de homem com respeitador.

Aqui, abre-se um espaço para a discussão do conceito de respeitador, que pode ser desde o respeito à intimidade e

privacidade da parceira como o fato de ser respeitador aquele que não força intimidades sexuais diretas com sua parceira, não a tratando como objeto. Assim, parece haver uma forte presença cultural do que significa respeito para o homem, o que não está relacionado diretamente com a prática de violência

doméstica, criando uma relação diferenciada, a “dissimetria” de poder que provocou o ato violento.

Afirmativa: É preciso respeitar as mulheres em escala de avaliação variando de concordo totalmente a descordo totalmente

	Frequência	Porcentual (%)
Concordo parcialmente	4	7,3
Concordo totalmente	43	78,2
Discordo parcialmente	1	1,8
Discordo totalmente	1	1,8
Indiferente	2	3,6
NR	4	7,3
Total	55	100,0

Tabela 5 – Frequência da avaliação da percepção dos apenados sobre a necessidade de respeito às mulheres.

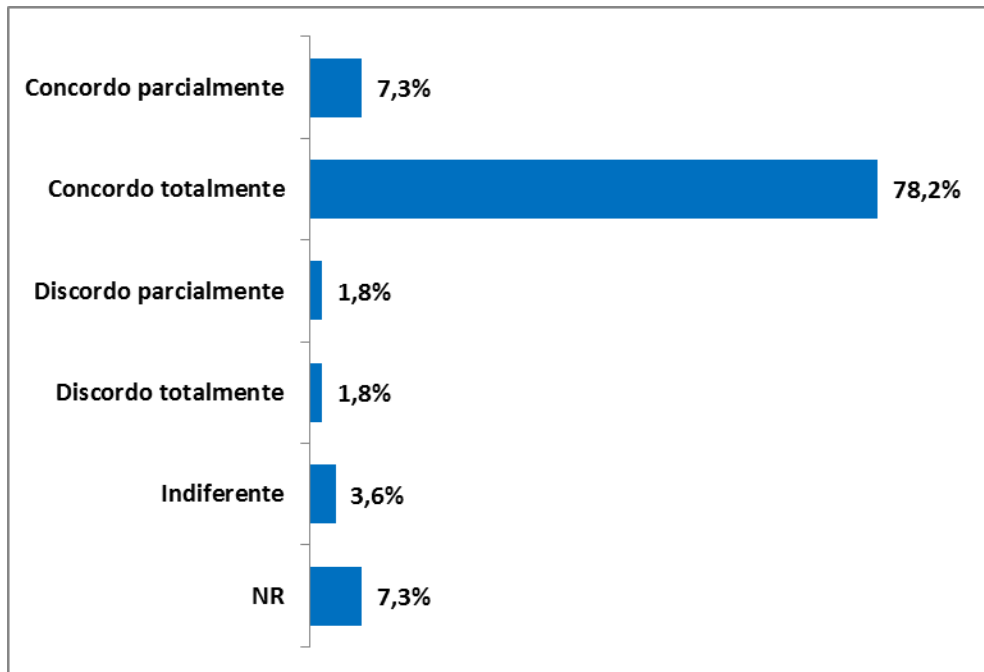


Gráfico 5 – Distribuição dos apenados em relação à percepção dos mesmos sobre a necessidade de respeito às mulheres.

Na afirmativa relativa à necessidade de respeito às mulheres, tem-se que 85,5% dos homens acreditam que é preciso respeitar as mulheres e apenas 3,6% acreditam que não seja preciso ter respeito em relação às mulheres. Esta informação pode parecer contraditória, ou partir do pressuposto que a prática de violência doméstica não é considerada um desrespeito contra a mulher. Para uma análise mais acurada é necessário

compreender profundamente a representatividade do conceito de respeito para os apenados e o quanto ele expressa uma hierarquia valorativa que ele nem tem consciência.¹⁴

5. Os sentidos da violência de gênero

Após a apresentação das principais categorias teóricas e dos dados, passaremos à conexão de sentido entre eles. Conforme já destacamos, a

¹⁴ Uma importante contribuição para esta reflexão e a que será levantada a seguir é a de Jessé Souza. O autor utiliza as categorias teóricas de Bourdieu e de Charles Taylor para avaliar a importância jurídica e política do funcionamento da sociedade para a questão da percepção da dignidade, e da hierarquia valorativa que ela pressupõe em uma sociedade desigual como a

brasileira. “O corpo é, enfim, o campo de forças de uma hierarquia não expressa – entre sexos, classes ou grupos de idade – contribuindo decisivamente para a naturalização da desigualdade em todas as suas dimensões”. (Souza, 2013, p. 152)

“dessubstancialização” da categoria violência de gênero permite uma reflexão mais multidimensional, a partir dos diferentes campos envolvidos. Na mesma linha Matos aponta que:

Ao pesquisador resta a tarefa contínua tanto de desconstruir as diferenças quanto de desnaturalizá-las; procurar desvendar o estabelecimento das hegemonias discutindo com rigor as questões de subordinação/dominação; adotar uma perspectiva de gênero — relacional, posicional e situacional —, lembrando que gênero não se refere unicamente a homens e mulheres e que as associações homem-masculino e mulher-feminino não são óbvias, devendo-se considerar as percepções sobre masculino e feminino como dependentes e constitutivas das relações culturais; procurando não essencializar sentimentos, posturas e modos de ser e viver de ambos os sexos. (Matos, 2002, p. 251)

A violência de gênero será agora analisada pela perspectiva de três campos: o social, o político e o jurídico.

Na perspectiva política surge a Lei Maria da Penha, que determina ao poder público o desenvolvimento de ações que visam a garantir os direitos humanos das mulheres no âmbito das relações domésticas e familiares, no sentido de resguardá-las de toda forma de negligência, discriminação, exploração, violência, crueldade e opressão. Surge em um contexto de

políticas públicas dirigidas especificamente às mulheres como forma de diminuir a desigualdade de gênero no Brasil. Aqui o Direito como objetivo (Coutinho, 2013) no âmbito das políticas públicas.

Na perspectiva jurídica, a execução penal foi a principal decorrência da Lei Maria da Penha—. Foi a partir da execução da pena, oriunda dos fatos de violência doméstica ocorridos na sociedade, em especial, por aqueles levados ao conhecimento do Estado, por meio do Judiciário, que a pesquisa foi realizada no momento da execução da pena. Os dados apurados e apresentados no presente trabalho são de grande relevância para tentar entender a aplicação da culpabilidade e da pena, na percepção do apenado em comparação com o Direito Penal dogmático e mesmo da perspectiva do Estado e do juiz.

No entanto, essas medidas dependem do envolvimento de diferentes atores nos âmbitos do governo e da sociedade, bem como da introdução de conhecimentos específicos sobre a temática e tecnologias diferenciadas para profissionais que atuam diretamente na atenção à saúde. Essas transformações devem ser integradas a outras iniciativas, possibilitando, assim, a formação de redes de atenção para mulheres em situação de violência, uma vez que problemas complexos exigem soluções multifacetadas. (Fonseca; Guedes 2011, p. 28)

Neste sentido a Dogmática Penal não parece considerar as peculiaridades da violência de gênero. Por isso o papel da Criminologia.

Ensinar Criminologias, nesta perspectiva, é concorrer para a formação de uma consciência jurídica crítica e responsável, capaz de transgredir as fronteiras, sempre generosas, do sono dogmático, da zona de conforto do penalismo adormecido na labuta técnico-jurídica; capaz de inventar novos caminhos para o enfrentamento das violências (individual, institucional e estrutural) e esse talvez seja o melhor tributo que possam prestar ao Ensino e à formação profissional cidadã. (Andrade, 2013, p. 183)

Claro que a Dogmática Penal não é o mecanismo para fazer política social, e “as mulheres não podem buscar a sua emancipação através do poder punitivo e sua carga simbólica” (Mello, 2010, p. 941). A própria mulher, foi vítima da carga simbólica do Direito Penal, “quando só poderia ser considerada vítima de determinados crimes quando fosse honesta, ou seja, quando se portasse da maneira adequada na visão masculina” (Mello, 2010, p.

941) Mas a criminalização e o punitivismo por si só não irão alterar o quadro da violência de gênero atual.¹⁵

Por fim, a perspectiva social. Aqui, “por sua característica basicamente relacional, a categoria gênero procura destacar que a construção do feminino e masculino define-se um em função do outro, uma vez que se constituíram social, cultural e historicamente em um tempo, espaço e cultura determinados” (Matos, 2002, p. 244).

Assim, segundo Bourdieu (2002), a lógica da relação de dominação chega a impor e inculcar nos homens e nas próprias mulheres todas as propriedades negativas que a ideologia machista dominante atribui à natureza feminina. A visão patriarcal é continuamente confirmada e legitimada pelas próprias práticas que determina, fazendo com que as mulheres incorporem o preconceito desfavorável contra o feminino. Sendo assim, a dominação masculina tem todas as condições favoráveis para seu pleno

¹⁵ Na verdade esta constatação existe para a própria redução da criminalidade, conforme aponta Azevedo: “A resposta penal se converte em resposta simbólica oferecida pelo Estado em face das demandas de segurança e penalização da sociedade, expressas pela mídia, sem relação

direta com a verificação de sua eficácia instrumental como meio de prevenção ao delito. O direito penal se converte em recurso público e gestão de condutas utilizado contingencialmente e não em instrumento subsidiário de proteção de interesses ou bens jurídicos”.(2005, p. 236)

exercício, uma vez que a primazia masculina se afirma e é incorporada por toda a estrutura social. (Fonseca; Guedes, 2011)

As mudanças na legislação e a implementação das políticas públicas relativas à violência são necessárias e fundamentais, porém, isoladamente, não significam a garantia de efetividade para o enfrentamento do problema, uma vez que a violência contra a mulher é permeada por uma complexa trama de fatores sociais, culturais e ideológicos que dificultam e até mesmo impedem a efetiva vigência dos direitos humanos. (Fonseca; Guedes, 2011, p. 30)

Isto porque as desigualdades de gênero são estruturantes da sociedade brasileira, ou seja, os papéis sociais de homens e mulheres foram sendo construídos ao longo da história, constituindo relações sociais hierárquicas e desiguais, as mencionadas “dissimetrias de poder”.

6. Conclusão

Diante dos dados apresentados neste artigo e a conexão com as categorias teóricas, é possível concluir a relevância e o desafio que representa o olhar sociojurídico para a dogmática penal diante da contínua naturalização da violência contra a mulher apesar da

legislação e da onda punitivista da dogmática.

A explicação para a persistência da violência reside nas “dissimetrias de poder”, e na necessidade de compreensão de como a sociedade se “inscreve” em cada indivíduo e se reproduz a partir dele (Souza, 2013).

A proposta de análise dos dados sobre a percepção do apenado acerca do respeito visou responder esta inquietação a partir da hierarquia valorativa presente nas relações de gênero, nos “sujeitos, mesmo que eles não tenham consciência de que agem da forma como agem e que avaliam do modo como avaliam”(Souza, 2013, p. 150).

Por isso também o desafio de observar a legislação e seus fins (erradicar a violência contra a mulher) na sua dinâmica e complexidade, pois “o direito não apenas é elemento constitutivo das políticas públicas, mas também componente-chave na sua implementação” (COUTINHO, 2013, p. 200).

A desnaturalização da dissimetria de poder nas práticas sociais e nas relações de gênero é o desafio para a Dogmática Penal. O olhar sociojurídico e a criminologia podem ajudar a construir estratégias para que a igualdade

de gênero seja efetivamente internalizada nas práticas sociais, na dimensão da vida cotidiana. (Souza, 2013)

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TORNAR-SE MÃE: IMPLICAÇÕES DA MATERNIDADE NO CONTEXTO DA PREMATURIDADE EM UMA UTI NEONATAL

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Rivalina Maria Macêdo Fernandes³

Abstract: This research aims to analyze the subjective aspects that involve the maternal experience before the hospitalization of a preterm, clarifying the paths taken in maternity to the present, considering the maternal feelings that manifest due to gestational idealizations, or impact with the baby. real and bereavement, and the loss of an imaginary baby, which may alter maternal perception, influences bereavement strategies due to maladaptive feelings. The search for understanding the duality of the imaginary and the real baby around the psychic functioning of the mother is necessary for the study in question. Given this, a qualitative bibliographic research would be proposed, considering the phenomena as presenting themselves

in their essence. The discussion takes place under the view of cognitive behavioral therapy, in the case of thinking about differentiation of mother and baby relationship in a natural circumstance and prematurity, considering the process of grief experienced, illustrating a new family use, such as the characteristics of the maternity hospital. , as well as visualize the neonatal intensive care unit (ICU) responsible for providing essential care for preterm care and the role of hospital psychology that hears expert and welcoming in the face of conflicts experienced by the family in the institution. Given the above, the concern, the interest and the relevance of the text can be interpreted as the support to a maternal resource provided directly and

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activated directly to the satisfactory development of the child, and as such, intercommunication with reduction of neonatal death rates.

Keywords: Maternity. Prematurity. Mother-baby bond. Neonatal ICU.

Introdução

A compreensão dos aspectos subjetivos que envolvem a maternidade no contexto da prematuridade é um campo que ainda deve ser explorado. A pesquisa evidencia a singularidade da mulher que assume o papel de mãe – entre tantos outros papéis sociais e culturais adquiridos ao longo do tempo – e vivencia a realidade de não ser capaz de prover um bebê saudável; não poder oferecer os cuidados primordiais ao mesmo devido à separação que sucede após o nascimento com a internação do pré-termo (recém-nascido com menos de 37 semanas gestacionais) na Unidade de Terapia Intensiva (UTI) neonatal e estar distante do ambiente familiar. Diante de tantos conflitos emocionais, esta mulher tem a incumbência de fornecer um ambiente propiciador para o desenvolvimento do pré-termo através do acolhimento e interação contínua com

o mesmo.

Discute-se que nas últimas décadas, a tecnologia tem sido aliada a sobrevivência dos pré-termos na UTI neonatal, com isso, a taxa de óbitos neonatais vem sendo consideravelmente reduzida, porém, a tecnologia não pode avançar isolada, há a necessidade da participação materna de maneira contínua nos cuidados com o recém-nascido. Estudos apontam que o vínculo afetivo estabelecido durante a internação do pré-termo é essencial para que o mesmo possa alcançar um estado de saúde mental e orgânico satisfatório.

Como ressaltado, a mãe tem a tarefa de criar uma esfera de acolhimento à criança que está adoecida, no entanto, e por vezes, a mesma encontra-se fragilizada por dar-se conta de que não tem em suas mãos o bebê idealizado. Diante dessa situação/problema pergunta-se: Quais os sentimentos que permeiam esta vivência? O objetivo desta pesquisa – por meio da revisão bibliográfica – é compreender de que maneira se constitui a vivência da maternidade diante da hospitalização de um pré-termo em uma UTI neonatal. Para tal, é necessário considerar as representações sociais e culturais da maternidade, a percepção materna diante

da perda do objeto de desejo e as especificidades do processo de hospitalização de um prematuro em uma UTI neonatal.

Para tanto, buscamos estabelecer uma busca qualitativa que considera os significados dos fenômenos apresentados dando visibilidade ao contexto e considerando a natureza dos dados obtidos diante do cerne do fenômeno encontrado (Lakatos, 1992). O marco teórico mencionado na pesquisa apresenta-se fomentado através da revisão bibliográfica que contemplou artigos pesquisados na base de dados Scielo e Google acadêmico, e através de livros que são referências no assunto abordado. De acordo com Ludwig (2012), a pesquisa bibliográfica fornece um amplo acervo de informações, uma vez que permite a procura, análise e interpretação de conteúdos através de uma documentação efetiva que considera a temática discutida. Para isso, a mesma propõe que se realize busca em livros, periódicos, revistas, sites, dissertações, entre outras fontes.

Correia e Sousa (2010) afirmam que a pesquisa de cunho bibliográfico confere subsídios ao pesquisador, uma vez que atende à demanda objetivando a problemática explanada de forma a ceder

resultados. É necessário, portanto, um levantamento para a definição de quais textos evidenciam resultados favoráveis ao que está sendo estudado, se preciso e pertinente ao trabalho, como também, podem ser utilizados questionários e observação, dentre outras ferramentas metodológicas.

Neste artigo foram utilizadas revistas e livros, textos de autores como, Bowlby, Spitz, Judith S Beck entre outros. As palavras-chave utilizadas foram Maternidade, Prematuridade, Vínculo mãe-bebê, UTI neonatal, e foram assim mencionadas para estender o número de artigos que podem ser encontrados a partir da pesquisa das mesmas, que culminaram em um achado literário para a composição do trabalho. Os textos que foram considerados para compor a pesquisa delimitam-se aos últimos seis anos em que a temática se apresenta.

Após o levantamento dos dados serem constituídos, buscamos estabelecer alguns momentos de discussão, onde análises interpretativas e ligações teóricas foram feitas e articuladas.

No primeiro momento foi realizado um apanhado histórico sobre o papel da mulher frente a maternidade e a

representação social desta, contemplando os desdobramentos da função materna e como esta atravessou diferentes conjunturas sociais e adentrou em uma nova configuração que adota a multiplicidade de papéis, a necessidade de ser mãe e a ponderação em adiar esse evento significativo, para corresponder as novas expectativas sociais em torno de sua condição feminina.

Já no segundo, buscamos compreender a teoria postulada por Aron Beck e suas considerações acerca do modelo psicológico de funcionamento humano frente a perspectiva da relação materna com o bebê adoecido, e, como essa, poderia tornar-se saudável, ou de outro modo, adoecedora. Elucida-se como acontece o processo de luto e a instauração do mesmo de maneira patológica como vivência propiciadora de sentimentos de desamparo, ansiedade, tristeza, cognições negativas entre outros que se dão no acontecimento que não há a superação da perda do bebê ideal.

No terceiro, contribuímos falando sobre a percepção familiar diante do bebê adoecido e do processo de hospitalização que pode culminar em sentimentos de inutilidade, despreparo e medo, frente a iminência de morte que

assola a família como um todo. Ainda sobre a nova dinâmica com ausência de figuras importantes no convívio familiar e a adaptação a um ambiente considerado hostil, o papel secundário exercido pelo o pai em relação aos cuidados com prematuro e a sensação de abandono sentida pelo irmão que não participa dos primeiros momentos como novo membro da família. Dessa forma, apontamos que o apoio psicológico é indispensável, uma vez que fornece acolhimento ao sofrimento materno e apoia o processo de mudança de percepções negativas e disfuncionais da nova realidade, como também, proporciona a família estratégias para lidar com o luto.

Este texto está justamente interessado em aprimorar conhecimentos referentes aos processos de subjetivação que cercam a maternidade diante do nascimento de um prematuro, dando visibilidade à importância da implicação materna para o desenvolvimento do pré-termo e, conseqüentemente, diminuição da taxa de mortalidade infantil.

Sobre maternidade e sociedade

A maternidade está envolta de processos de representações sócio-

histórico-cultural que fazem alusão ao exercício maternal na contemporaneidade, dessa maneira, é necessário que se entenda todo o contexto que a figura feminina enquanto mãe perpassou perante a sociedade através do tempo e quais as transformações que acarretaram mudanças na função maternal exercida na atualidade (Gutierrez, Castro e Pontes, 2011).

Segundo Ariés (1981), o arranjo familiar na antiguidade era marcado pela primazia paternal. Nesta posição, o homem submetia a família a valores religiosos cristãos para que os mesmos pudessem ter a vivência arraigada da moral frente à sociedade. Além disso, não havia valor sentimental atribuído à criança que ocupava apenas uma posição social no seio familiar, enfrentando a severidade, punição do pai e o distanciamento da mãe. O papel materno era silencioso e resignado, e por muitas vezes a amamentação era restrita às amas de leite, culminando assim, no flagelo do abandono infantil.

Ariés (1981) diz que nos séculos XVII e XVIII, uma nova configuração adentrava às famílias. Estas passavam a enxergar a criança como parte fundamental e fonte de afeto,

geradora de diversão e prazer. Havia maior investimento na criança que agora era vista como um ser de produtividade para o estado, o que corroborou com o vínculo mãe e filho. Desde então, a mulher passou a dar significado aos laços afetivos estabelecidos com a criança que agora era idealizada por toda a família.

No passar das décadas, as mulheres antes vistas como domésticas, passivas, que dedicavam suas vidas a cuidar da casa, marido e filhos, aderem a uma nova realidade, ganham o mercado de trabalho e vivenciam a multiplicidade de papéis atuando como esposa, mãe e provedora do lar. Neste contexto, assim como a maternidade é valorada e almejada, está sendo também postergada (Carter e Mcgoldrick, 2008).

O nascimento de um filho, todavia, é uma experiência singular para a mulher, é uma fase de transição marcada por expectativas, fantasias e desejo que lhe asseguram uma nova identidade. Os primeiros meses são marcados pela ambivalência de sentimentos relacionados ao bebê e à presença da segregação de papéis. Ser mãe é ter que portar a incumbência e o medo de não dar continuidade à gestação ou de gerar uma criança que possa nascer adoecida, prematura; situações estas que

acabam desencadeando regressão e introversão, condutas que beiram a infância como o desejo de colo, mimos e proteção. Os meses posteriores da gestação são concretizados através do sentir, em que a mulher consegue perceber as mudanças corporais, onde há um novo ser em sua barriga e então começa a viver um misto de conflitos caracterizado por medo de possíveis consequências advindas do parto e do abandono do parceiro (Quayle, 2005).

Aspectos psicológicos da relação mãe-bebê no contexto da prematuridade e a terapia cognitivo comportamental

Em meados da década de 1960, o psiquiatra Aaron Beck propôs uma nova forma de considerar aspectos psicológicos do funcionamento humano através de um olhar voltado a psicoterapia, hoje denominada de Terapia Cognitivo-Comportamental. O mesmo expôs um modelo para tratar a depressão caracterizado por ser breve, estruturado e focado em mudanças funcionais cognitivas, comportamentais e na resolução de problemas. O tratamento proporcionado pela terapia cognitivo comportamental é concebido através do reconhecimento de crenças e

padrões específicos de comportamento que são evidenciados em um transtorno (Beck, 2013).

Segundo Beck (2013) todos os transtornos psicológicos funcionam devido a manutenção de pensamentos desadaptativos que induzem o estado de humor e pensamento do paciente. Ao explorar e constatar como acontece esse processo, o paciente consegue reestruturar pensamentos e crenças sob forma adaptativa.

Nesse sentido o terapeuta trabalha a conceituação de caso do paciente, investigando quais os pensamentos disfuncionais que são mantidos através de crenças intermediárias e nucleares; como estas crenças permitem que o paciente veja o mundo a si mesmo e o outro. E a partir disso, pode haver melhora duradoura e mudanças significativas diante do estado adoecido (Beck, 2013).

A TCC tem sido uma abordagem amplamente difundida e reconhecida devido a comprovação da sua eficácia através de estudos empíricos que comprovam sua validade, sendo adaptável para diversos grupos culturais com diferentes faixas etárias. Atualmente, é utilizada em diversos contextos, desde especializações em

saúde, programas de orientação vocacional até em sistemas prisionais (Beck, 2013).

A relação mãe-bebê tem sido um assunto abordado por vários autores que questionam e fundamentam esta díade. Este assunto tem fomentado a ideia de que a relação mãe-bebê pode ser propiciadora de um desenvolvimento infantil saudável, quando a mãe oferece o aporte emocional necessário para sustentação desse vínculo desde o primeiro contato com o bebê, permitindo que o mesmo contemple e organize-se psiquicamente para as novas experiências (Klaus, Kennell e Klaus, 2000).

Spitz (2004) define o termo díade como uma relação circular onde a mãe e o bebê estão em conexão com os desejos de ambos, desta maneira, vivem em uma constante atitude persuasiva frente ao outro. O autor afirma que eles vivem um amor egoísta quando o ambiente se torna secundário diante do poder do vínculo que os une. Nesta relação, o termo empatia é evidenciado quando a mãe é responsiva às necessidades do bebê e este por ter a capacidade de perceber o humor dela e ajustar-se aos seus desejos inconscientes.

A subjetividade só pode ser

alcançada pelo bebê quando o mesmo consegue sentir a presença do outro, neste sentido, a mãe oferece esse aporte nos cuidados que dedica ao bebê, sendo ainda uma figura desconhecida para o mesmo. A relação permite que a criança viva um cuidado humanizado (Avellar, 2011).

Bowlby (1985) fala sobre o conceito de “apego” para descrever a relação que estimula a criança ao contato afetivo com os pais e familiares, para sustentar a ela mesma uma posição de segurança que constitui um funcionamento psíquico saudável. Uma rede de apoio satisfatória fornecida pelos pais, pode alavancar o desenvolvimento infantil, encorajando a criança a enfrentar o sofrimento que a envolve e nutrindo um modelo de apego que prevalecerá na vida adulta da mesma.

Spitz (2004) afirma que o cuidado materno voltado ao bebê possibilita que se evidencie de maneira significativa a relação. Quando não há o investimento materno, o bebê é desprovido de afeto e torna-se carente, o que o conduz a um desenvolvimento infantil fragmentado, adocido.

Com esta perspectiva, Klaus e Kennell (1992) ressaltam a ideia do bebê imaginário e real. O imaginário é o bebê

idealizado durante toda a gestação, enquanto que o real é aquele em que pode ser acariciado e segurado.

Stern (1997) considera que a prematuridade transcorre para a mãe de forma conflituosa, pois há o momento necessário a ser vivido, o momento da destituição da ideia do bebê imaginário para a receptividade do bebê real, em que a mãe adota novas representações a respeito deste, recompondo e significando a nova realidade. O autor denomina esse período de “constelação da maternidade”, porém, com a vinda antecipada da criança, é inconcebível a passagem por esta fase, causando confusão na nova ordem psíquica adotada pela mulher.

A prematuridade ocorre quando o bebê nasce antes da trigésima sétima semana de gestação. O parto acontece de forma precoce, e assim, a mãe e a criança correm riscos devido a doenças obtidas, como pré-eclâmpsia, doenças infecciosas, hipertensão, entre outras. Devido a estas complicações, o bebê e a mãe são separados, a mãe é lotada em uma enfermaria, enquanto o bebê segue para internamento na UTI neonatal, ou seja, só há proximidade de ambos quando sucede a visita da mãe ao pré-termo (Gomella, Cunningham, Eyal e

Zenk, 2006).

A equipe da UTI neonatal é incumbida a prestar cuidados ao recém-nascido, para isso, os mesmos averiguam quais os procedimentos que deverão ser adotados para cada caso, se há necessidade de ganho de peso para o pré-termo, controle da frequência cardíaca, respiratória e da pressão arterial. Tudo através de sondas, catéteres e escalpes para acesso venoso e aplicação medicamentosa e alimentar. Em casos de gravidade, outras medidas para a reabilitação são tomadas, fazendo com que haja a percepção aguçada da fragilidade de vida do bebê, estendendo-se assim, o seu tempo de internação, o que limita a vida familiar e social da mãe devido à dedicação que deve ser voltada à criança e à rotina estabelecida no hospital (Marchetti e Moreira, 2015).

Ferrari e Donelli (2010) mencionam que quando o parto acontece de maneira imponderável não há uma noção para a mãe de cisão do outro e de que o mesmo é um novo ser dotado de peculiaridades distintas. Este momento torna-se então impactante por evidenciar a incapacidade da mãe de controle diante do filho. Os laços que os une são fragmentados e ela deve aceitar a ideia de morte que passa a envolver a

realidade da criança, sentindo-se incapaz de exercer sua função frente a um arranjo acordado desde a entrada do bebê na UTI neonatal.

Comumente há uma culpabilização materna referente ao bebê adoecido. A mãe sente que falhou por não ter concebido o bebê ideal que foi fantasiado, nesse sentido, ela pode assumir posições frente a tal demanda, especificamente três, que são: superproteção, visando tratar o bebê adoecido até além do que pode ser feito, com o intuito de findar o sentimento de culpa internalizado pela mesma; abandono, que acontece devido a criança estar sobre o cuidado do outro ou por haver dificuldade de estabelecer um vínculo afetivo; e por fim, uma continuidade da gestação do prematuro (Sales, 1992 apud Netto e Duarte, 2010).

A hesitação materna é o resultado do não reconhecimento do bebê do qual se esperava, agora enfermo, ele começa a ser visto desajuste a dinâmica familiar. Mudando a direção da vida almejada, torna-se estranho, sem pertencimento ao meio, gerando uma privação do bebê ideal (Levin, 2005).

O processo de luto e a terapia cognitivo comportamental

A resposta da perda é o luto que se instaura nesse período, reverberando suas diferentes facetas no funcionamento psíquico do ser, o que faz o mesmo sentir emoções e vivenciar comportamentos singulares. Pode-se significar o luto como a descontinuidade afetiva em uma relação, devido à ruptura com o objeto proporcionador de satisfação, podendo haver o luto normal, que é elaborado através de outra compensação afetiva e no trabalho focado na aceitação a partir do meio que se está inserido e o luto patológico, onde o indivíduo recusa a perda investindo afetivamente e demandando reciprocidade da pessoa que não poderá atender às suas necessidades, ocasionando sentimentos ambíguos de negação e esperança, fixando o sujeito em um vínculo abstrato (Freitas, 2000).

Bowlby (1985) distingue o luto através de quatro fases. Uma delas é a fase do choque, na qual o indivíduo pode apresentar-se inerte diante de conflitos internos e descargas emocionais, pode ter acessos de raiva e pânico, e nesta situação é imprescindível o acompanhamento e acolhimento dos demais. A fase seguinte é a de busca pela concretização do desejo através da ideia

do retorno da figura desaparecida. Nesse caso, acontece uma busca incessante do objeto que foi perdido concebendo o sentimento de frustração diante da sensação de perda e esperança de retorno do objeto. A terceira fase se caracteriza com vivências de desespero e desorganização frente à exposição da realidade. A última fase é a de reorganização que é atrelada à condescendência com a perda.

Encontramos na vivência do luto materno, a culpa, negação e a ambivalência. Dentre estes, podemos destacar a primeira, referida na crença de ter falhado no papel de "protetora" ou "geradora" (nascimento pré-termo) desse filho. A morte desmascara a onipotência, atando todo e qualquer movimento da mãe em torno da recuperação do filho, pois é inelutável (Baltazar, Gomes e Segal, 2014, p. 95).

Para Basso e Wainer (2011) e assim como mencionado anteriormente, na perspectiva da TCC a trajetória de vida de um indivíduo permite que o mesmo experiencie situações e obtenha cognições que permitem a construção de uma visão de si, do outro e do futuro. Com isso, é recorrente que aconteça distorções de pensamentos gerando sofrimento psíquico. Nesse contexto, Dattilio e Freeman (2004) afirmam que pode haver o desencadeamento de

crenças disfuncionais frente a uma situação de perda se configurando em um evento crítico para o indivíduo.

A percepção do indivíduo sobre a perda poderá influenciar diretamente na maneira com que as estratégias de enfrentamento serão adotadas pelo mesmo. A aprendizagem que foi subjetivada e os padrões de sentimentos e comportamentos serviram de preditores de respostas emocionais (Remor, 1999).

Dessa forma, o luto pode causar intenso estresse, quando não elaborado de forma desadaptativa, sentimentos de raiva, auto recriminação, ansiedade, tristeza, cognições negativas, isolamento social, sensação de despersonalização e desamparo entre outros (Parkes, 1998).

Contudo, e diante de tantas questões que a mãe vivencia no âmbito do nascimento de um bebê prematuro, é necessário que haja uma ressignificação voltada ao bebê adoecido, para que a mesma possa elaborar a noção de prematuridade que acomete ambos e estabelecer uma interação no tocar, olhar, ou seja, uma comunicação vinciativa (Klaus e Kennel, 2000).

Percepções familiares acerca da

prematividade

A família frente a uma estrutura limitante como da hospitalização de um dos seus membros se depara com o confronto de uma mudança repentina nos hábitos do cotidiano, isso gera uma esfera de insegurança e sensação de desconstrução de tudo o que a família alcançou, trazendo à tona sentimentos de medo, segregação e mudanças comportamentais, o que se intensifica com a falta de domínio e iminência de morte que cerca a nova realidade imposta (Oliveira e Sommerman, 2008).

Na prematividade há o afastamento de duas figuras do ambiente familiar, mãe e filho, o que reforça sentimentos negativos para os envolvidos. No entanto, pouco se ouve falar do papel da paternidade diante de um recém-nascido pré-termo. Normalmente, os pais estão em um processo de construção de uma nova forma de dinâmica, onde a mãe encontra-se à mercê do bebê no que confere o tempo e a dedicação, e o pai, exercendo papel secundário nesses cuidados direcionados à criança. A mãe detém toda a responsabilidade para si por não conseguir adaptar-se à nova configuração paterna, ocupando-se dos

cuidados e afetos ao prematuro e, dificultando assim, a interação pai e filho neste período. Isso repercute diretamente nos desajustes emocionais vivenciados pela mãe (Barros, Trindade, Meandro e Bonomo, 2003).

Segundo Morsch e Braga (2003), outro membro da família que é afetado é o irmão do pré-termo, pois este tem suas expectativas frustradas e ao mesmo tempo a figura da mãe lhe é roubada. Este irmão deve suportar a mudança brusca que acomete sua vida e muitas vezes a falta de apoio afetivo da mãe ou do pai que necessita trabalhar e se esquivar do ambiente familiar.

A família pode ser resiliente e adaptar-se à nova dinâmica, ou pode desajustar-se por não conseguir lidar com demandas psíquicas conflitantes. Por isso é essencial a figura do psicólogo hospitalar nestas circunstâncias (Oliveira e Sommerman, 2008).

O atendimento psicológico em um hospital maternidade e as contribuições da terapia cognitivo comportamental.

A introdução da psicologia no âmbito hospitalar vem com a proposta de

compreensão e tratamento no que se refere aos aspectos psicológicos do paciente em adoecimento. São destacados como aspectos psicológicos, todas as vivências que permeiam a vida do sujeito, como crenças, fantasias, concepção de vida e do adoecer. Estes aspectos envolvem a vida do paciente de tal forma que podem desencadear a doença ou ser o fator fortalecedor dela. No contexto hospitalar, a psicologia não se aplica somente ao adoecer, ela aparece como um instrumento facilitador nas relações estabelecidas na instituição, assim como na angústia que se torna presente na vida do paciente, familiares e na equipe de saúde. O psicólogo funciona como espectador do paciente, uma vez que não pode prever o curso da doença e coadjuvante, quando auxilia o mesmo a passar pela experiência do adoecimento (Simonetti, 2013).

No que concerne às vivências maternas na instituição hospitalar, a psicologia compreende o atendimento na obstetrícia com gestantes em todas as dimensões que permeiam esta experiência e até posteriormente do puerpério, quando há necessidade de internação de prematuros na UTI neonatal, no berçário e/ou no suporte em casos de perda, luto (Fortes, 2016).

O centro obstétrico disponibiliza atendimentos para gestantes de risco, que apresentam as mais variadas intercorrências, como de parto prematuro, doença hipertensiva da gravidez, diabetes gestacional, amniorrexe prematura, aborto, óbito fetal, entre outras, para parturientes e puérperas. Na gestação de alto risco, a psicologia atua cedendo e facilitando espaços que possam proporcionar reajustamentos psicológicos com o intuito de readaptar a mulher a uma nova configuração no que se refere à gestação (Baptista e Furqim, 2010).

O parto representa uma nova etapa na vida emocional da mulher, que entra em uma fase conflituosa de um misto de sensações como fragilidade, medo de afastar-se do feto, da perda da vagina – que fantasiosamente a mulher sente que foi retirada junto com o recém-nascido, – da dor e morte. A mulher necessita de acolhimento, orientação a respeito da importância da sua participação ativa no processo, para que se sinta útil frente ao nascimento do filho e assim possa estabelecer vínculo com o mesmo. É importante que nos casos de intercorrência durante o parto, a equipe esteja prontificada para orientar a parturiente a respeito dos procedimentos

que serão realizados e apoiarem durante todo o desfecho do parto (Zimmermann *et al*, 2001).

O puerpério é um período que pode durar em torno de 40 dias. Logo após a expulsão da placenta, a mulher passa a vivenciar este estágio, envolvida de novas percepções. Essa é uma fase transformadora em que a mulher reconhece que não carrega um feto e sim um novo ser, real, um filho, no qual será dependente de sua atenção e cuidados. Isso faz com que a puérpera passe a nutrir fantasias e expectativas em torno da criança (Zimmermann *et al*, 2001).

No caso de nascimento de um bebê prematuro que necessita de cuidados intensivos em uma UTI neonatal, o papel materno, como dito anteriormente, se configura em estranhamento, medo, ansiedade e impotência. A mãe preocupa-se em como pode manter seu lugar diante do filho. O psicólogo desenvolve seu trabalho voltado ao apoio e auxílio aos pais e familiares que precisam entender o seu papel frente a esta nova etapa de vida e buscar clarificar a importância do estabelecimento de vínculo que devem propiciar para a criança (Morsch e Delamonica, 2015).

O atendimento psicológico no

hospital vem elucidar questões que trazem sofrimento ao paciente, devido a aspectos cognitivos, comportamentais e físicos que se apresentam disfuncionais, pode-se citar a TCC como efetiva e necessária nesse sentido (Dattilio e Freeman, 2004).

Mazutti e Kitayama (2008), consideram que há crenças limitantes e irrealistas, distorções cognitivas como a catastrofização na qual o paciente focaliza e supervaloriza situações de forma negativa, e, com isso, julga de maneira intensa e limitante a sua vivência frente ao adoecimento.

Nessa perspectiva, é importante a investigação de tais crenças de forma que o paciente consiga ressignificá-las. Para isso, a utilização de algumas técnicas pode servir de suporte ao paciente nesse período, como a criação de aliança terapêutica, o foco colaborativo do atendimento – que se mostra como potencializador frente a posição muitas vezes de passividade do paciente, – o estabelecimento de objetivos alcançáveis e realistas, avaliação das estratégias de enfrentamento adotadas e a busca pelo desenvolvimento de um relacionamento autêntico e empático (Beck, 2013; Dattilio e Freeman, 2004).

Segundo Lustosa (2010), é necessário que o profissional que vai utilizar esta técnica como sua abordagem de trabalho, seja capacitado para realizar uma participação ativa e dinâmica nesse processo. O autor destaca que há pacientes que não se encaixam nesse tipo de atendimento, assim como existem terapeutas que não estão preparados para exercer o devido papel que a psicoterapia breve exige.

Torna-se indispensável citar o acolhimento da psicologia diante do luto que passa a ser presente na vida de uma grande parcela de pais que vivenciaram uma perda gestacional ou perinatal. Esses pais ficam desorientados em relação à temporalidade, por pensarem que a morte deve acontecer de forma crescente, em que os pais devem morrer antes dos filhos e, dessa forma, buscam adaptar-se ao momento de maneira célere. Diante disso, acabam negando a realidade e constituindo, ou melhor, produzindo conflitos psicológicos. O psicólogo, como citado acima, além de acolher, deve apoiar o processo de elaboração dessa perda, assim como proporcionar estratégias de intervenção e orientação dos mesmos, para participarem de grupos de pais enlutados, a fim de fazer-se perceber e

identificar-se como mais um em mundo de tantas perdas (Iaconelli, 2007).

Considerações finais

Comumente a maternidade representa um privilégio conferido à mulher. Ela tem capacidade de prover um ser humano que pode ser respondente aos seus desejos e transformador da dinâmica familiar, trazendo consigo um amor inabalável e singular. Porém, a maternidade além de ter uma parcela de representatividade social, é um cenário cheio de ambivalência de sentimentos que se fortalecem devido as crenças disfuncionais adotadas pela mesma. Esta mulher que se torna mãe idealiza um bebê perfeito que a faça renascer e quando se depara com o bebê real, vive conflitos que podem levá-la a não estabelecer um vínculo com ele/ela, principalmente se este for adoecido, como a pesquisa explanou, prematuro.

Uma nova experiência se apresenta à maternidade, pois, em épocas anteriores, ao nascer adoecido, o bebê muitas vezes não sobrevivia por não haver tecnologia que assegurasse a sua saúde, porém com cenário atual, dispõem-se hoje de aparatos tecnológicos e profissionais especializados para a

sustentação da vida do bebê. Contudo, está sustentação não ocorre em vias de mão única, é necessário o apoio materno e familiar para o desenvolvimento da criança. Em muitos casos, a mãe não apresenta uma vivência hospitalar anterior e encontra-se desorientada com o processo de internação de um ser frágil, carregando consigo aparelhos que transmitem a ideia de empecilho para o estabelecimento de vínculo, que por muitas vezes, não se pode amamentar e dar colo ao bebê.

O luto, como citado, acontece pela perda do objeto de desejo da mãe, sendo necessário que a mesma faça ressignificação deste objeto para atender às necessidades do bebê, porém este processo de ressignificação pode acontecer lentamente, ou, se não houver auxílio, pode não ser elaborado. Nesse contexto a terapia cognitivo comportamental serve como importante ferramenta a atuação do psicólogo, uma vez que o profissional proporciona ao paciente formas adaptativas de enfrentar a realidade e lidar com o processo emocional, oferecendo vazão aos sentimentos disfuncionais e não perceptivos pelo mesmo, a presença do psicólogo também é necessária para fornecer subsídios para o bem-estar do

paciente na instituição, servindo como um elo a equipe de saúde.

Assim, a maternidade não pode ser vista como um período unicamente de satisfação para a mulher, tendo em vista tudo que a mesma vivencia, como a ambiguidade de emoções, o distanciamento do ambiente familiar e a tarefa de ser provedora de um bebê saudável e ser uma mãe suficientemente boa. É necessário considerar todo o contexto que envolve a mulher para o entendimento de sua subjetividade diante da maternidade, pois o acolhimento proferido à mãe, é indispensável para o seu bem-estar. Sabe-se que o vínculo mãe-bebê é primordial para a sobrevivência do bebê, e assim, conseqüentemente, para a diminuição dos óbitos neonatais. Mas para isso, deve-se considerar primeiro como a mulher está enxergando e elaborando a sua nova realidade e oferecer-lhe suporte adequado neste momento que é inadiável.

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A SUBALTERNIDADE PERFORMÁTICA COMO RESISTÊNCIA NA SEXUALIDADE DO TRABALHADOR: A MARGINALIZAÇÃO DE GAYS E LÉSBICAS NO DIREITO DO TRABALHO.

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Abstract: The present study aims to ascertain, through the juridical-sociological bias, how the male construction suffocates and oppresses dissident performativities. For this, we intend to demonstrate the mode of contemporary capitalist production, also classified as imperialist capitalist, which submits the whole set of social life to a process of intense subordination to a normative standard, engendered by the division heteronormative work. Thus, within this ideological framework one finds and reinforces patterns and behaviors of a universal said subject. The core of this pedagogical proposal is to break with this masculine division of work. For this, it will be investigated how this obstacle (in) enables the safe, free and developmental insertion of mental and cognitive formations-as a way of recognizing and developing working capacities-of performing subaltered bodies.

Keywords: heteronormative construction. Dissident performativities. Imperialist capitalist production. Heteronormative Division of Labor.

1. Introdução

As transformações pelas quais passou o mundo do trabalho, que ensejam não apenas transformações nas formas de trabalhar, mas também, transformações dos modos “de viver, de pensar e de sentir a vida” (GRAMSCI, 2008), repercutem necessariamente e são, ao revés, alimentadas, por novas formas de organização do Estado, das instituições públicas, do Direito e da própria sociedade.

Essas mudanças propiciaram a consolidação do capitalismo como sistema econômico, social e cultural hegemônico nos países do Ocidente, tendo como um de seus elementos a relevância do ambiente laboral na vida dos cidadãos e cidadãs.

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Assim, a imposição de restrições para que o ser se expresse livremente no que tange à sua orientação sexual no ambiente de trabalho pode comprometer sua realização e formação, o que repercute negativamente não apenas em sua vida pessoal, mas na sociedade como um todo.

Isso porque as concepções de trabalho, trabalhador e tempo de trabalho foram padronizadas a partir de parâmetros masculinos e atreladas a arranjos familiares rígidos e com papéis pré-definidos (VIEIRA, 2018).

A partir disso, as reificações de gêneros e identidades cristalizam hierarquias e alimentam relações de poder, o que normaliza corpos e práticas, reproduzindo privilégios e exclusões. Essa normalização das identidades e, sua consequente opressão, define padrões de comportamento e, ao mesmo tempo, rejeita as diferenças (BUTLER, 2003). Assim, a identidade de gênero torna-se normalizadora, posto que fixa e determina o que é ser mulher, homem, feminino, masculino, negro, branco etc., perpetuando e reproduzindo subordinações.

Partindo-se desse pressuposto, denota-se que a forma de execução das

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funções laborais, bem como o meio ambiente de trabalho, influenciam, sobremaneira, na subjetividade do indivíduo, podendo fazê-lo de forma salutar ou pernicioso. No entanto, alguns autores observam que há uma integração de opressões, sejam elas advindas do âmbito laboral, ou da esfera da discriminação baseada na sexualidade.

De acordo com os estudos de Siqueira e Zauli-Fellows (2006), no que se refere ao meio ambiente de trabalho, é evidente a posição marginal ocupada por lésbicas e gays, tendo em vista a lógica heteronormativa, que é, por definição, impositiva e excludente em relação àqueles que não se incluem em seus preceitos. Como reflexo disso, observa-se na sociedade brasileira o referencial da heterossexualidade como padrão, relegando lésbicas e gays a objetos de abusos e violências de cunho moral (GUEDES, 2003).

Esses autores partem do conceito de discurso construído por Michel Foucault, segundo o qual o discurso constitui o conhecimento e, nesse sentido, legitima, através da produção de categorias do saber, o que é legítimo de ser expressado e o que não é. Assim, o discurso concebe as regras de

poder e conhecimento ao mesmo tempo. O discurso delimita o sujeito, delineando e demarcando quem ele é e como lhe é permitido atuar, existir. Isso explica por que alguns padrões de pensamento e formas de argumentação se tornam irrefutáveis e tidos como certezas, enquanto aquilo que difere do padrão construído pelo discurso, seja pela sua forma de agir, pensar ou opinar, é relegado à margem da sociedade.

A sociedade atual, moldada pelo discurso, baseia-se na premência de se difundir a ideia de heterossexualidade como correta, padrão a ser obrigatoriamente seguido e cumprido. Evidencia-se, portanto, que a heteronormatividade influencia a sociedade de maneira totalizante, de modo que todos que a compõem estão sujeitos a preceitos impostos, estabelecendo-a enquanto categoria que fundamenta e direciona a própria dinâmica social.

Dessa forma, percebe-se que as normas impostas por esse modelo de coação comportamental impedem, em certa medida, que pessoas não heterossexuais exerçam com liberdade e efetivamente sua subjetividade, com os traços e trejeitos próprios de sua

individualidade.

Pode-se entender o conceito de heteronormatividade enquanto normas que moldam, de acordo com valores culturalmente construídos, as noções do que é correto, ou não. Essas normas e valores estão intrinsecamente ligados à heterossexualidade enquanto modelo a ser seguido, compulsoriamente, pelos indivíduos que compõem a sociedade. Isso se reflete em termos relacionados a locais de poder, nos âmbitos político, social, religioso e filosófico. (BORGES, BULSING, PASSAMANI, PERURENA, 2013, p. 67).

Nesse sentido, de acordo com Nilson Fernandes Diniz (2011), a heteronormatividade é um conceito criado para “descrever a norma que toma a sexualidade heterossexual como norma universal e os discursos que descrevem a situação homossexual como desviante”.

A imposição da heteronormatividade, oriunda da matriz colonial, promove o chamado “binarismo restritivo” (PELÚCIO, 2012, p. 410), caracterizado pelo falocentrismo, que incentiva a chamada

heterossexualidade compulsória².

A colonialidade, este elemento constitutivo do padrão mundial de poder capitalista, tem se mostrado mais persistente que o próprio colonialismo, pois é nela que se encontra a dimensão simbólica desse processo de imposição subjetiva, material e cultural (QUIJANO, 2000).

Especificamente ao analisar a economia de mercado, a lógica da reprodução do capital e da acumulação de riquezas se dá mediante fundamentos econômicos que tendem a colonizar a vida social de modo danoso de corpos subalternizados.

Colhido esse panorama mais amplo, cumpre observar que no âmbito específico da regulação das relações de trabalho, “o foco da regulação, para além da manutenção dos níveis de salário, consumo e lucro satisfatórios à acumulação capitalista” (DUTRA, 2017), se volta ao cumprimento dos padrões heteronormativos que resultam das contradições e disputas desse sistema segregacionista.

A lógica neoliberal se infiltra na regulação por meio do comprometimento de subjetividades dos próprios trabalhadores, debilitando a organização, a luta e a resistência dos sujeitos explorados (DUTRA, 2017, p. 90).

O neoliberalismo é, pois, uma questão a ser pensada do ponto de vista do trabalho, da democracia, da cidadania e, certamente, da regulação.

Levando em conta o panorama do trabalho e questionamentos feministas em torno do próprio conceito de trabalho – que exigem revisão das oposições como produção e reprodução, público e privado, formal e informal (DEBERT; PULHEZ, 2017, p. 18) –, pretende-se desenvolver uma interpelação do Direito a partir da perspectiva de sexualidade de criticar a maneira como a teoria jurídico-trabalhista uniformizou, universalizou e recepcionou o trabalho.

Busca-se, dessa maneira, a extensão do Direito do Trabalho para que “inclua todos os processos da reprodução social das normas pré-concebidas, o que

2 A heterossexualidade compulsória é um instrumento de poder do patriarcado, é um regime político. Por meio da patologização de sexualidades desviantes, institui-se a heterossexualidade como aquilo que é normal—

e, conseqüentemente, esperado. Não é a mera atração sexual pelo sexo oposto. É a atração por aquilo que o outro sexo *representa*, suas funções, suas prerrogativas; e a submissão e assunção da prerrogativa relegada a seu próprio sexo.

não significa de modo à desnaturalizar os limites da disciplina” (FUDGE, 2014, p. 20), entretanto, busca cultivar uma perspectiva crítica a fim de possibilitar o desenvolvimento de capacidades técnicas e livres de performatividades dissidentes.

É evidente que a ideia de dominação e racionalidade são usualmente incorporadas e entrelaçadas a uma concepção tradicional de masculinidade, que são sustentadas e valorizadas nas corporações por homens e também por mulheres.

Há um paradoxo: esses sujeitos que procuram libertar-se estão, desde já, presumidos, fixados e restringidos pela identidade (PELÚCIO, 2002, p.410).

O dilema, portanto, que se procura solucionar se baseia no seguinte questionamento: “até que ponto a performatividade de grupos dissidentes pode ser positiva ou negativa para a inclusão, a aceitação e a inserção livre, desenvolvedora de capacidades pelo sistema capitalista, especificamente, pelo Direito do Trabalho?”

Questiona-se, igualmente, se existe nas organizações um preconceito contra gays efemindas e lésbicas masculinizadas, a partir de uma

resistência ao que é tido como feminino e quanto a construção do que é conhecido como masculino.

Para isso, a metodologia da pesquisa adotada baseia-se na revisão bibliográfica, adotando-se o método dedutivo, com técnica qualitativa e análise doutrinária.

Esse estudo se caracteriza como uma pesquisa teórica, destacando-se, por sua vez, a natureza qualitativa da pesquisa. Problematizaram-se os elementos conceituais em diálogo com a realidade de trabalhadoras lésbicas e trabalhadores homossexuais, a partir de um padrão socialmente imposto, dito como heteronormativo.

Para tanto, iniciamos o trabalho com uma revisão bibliográfica sobre os temas sexualidade, diversidade e interculturalidade a partir da teoria *queer*.

2. Teoria *queer* of colour e a crítica ao neoliberalismo: a capturação de identidades.

Os estudos *queer* sublinham a centralidade dos mecanismos sociais relacionados à operação do binarismo hetero/homossexual para a organização

da vida social contemporânea, dando mais atenção crítica a uma política do conhecimento e da diferença (MISKOLCI, 2009).

Essa teoria baseia-se na politização da dissidência sexual e das sexualidades contra-hegemônicas, defendendo uma política das identidades não essencializadas. Nesse sentido, a identidade afirma-se enquanto oposição à norma estabelecida e dominante seja a norma heterossexual, a norma de branquitude ou o cânone ocidental e burguês (REA; AMANCIO, 2018).

Especificamente, em relação às teorias *Queer Of Colour* se diferenciam daquelas que, por oposição teórica, chamamos de “teorias queer brancas”, que colocam em primeiro lugar a figura e as reivindicações de um “sujeito dominante do ponto de vista da raça, da colonialidade e da classe, ou seja, um sujeito branco de classe média” (BACCHETTA; FALQUET; ALARCÓN, 2011). Desse modo, buscase o enfrentamento às normas sexuais, às sociais e às corporais, pressupondo sempre uma leitura interseccional da dominação (BOURCIER, 2002).

Em específico, na organização do trabalho, essa crítica deve ser

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compreendida como uma questão política. Para tanto, parte-se do conceito do trabalho como um espaço potencial de construção de capacidades de desenvolvimento do labor e na liberdade performática, de modo que as possíveis relações entre trabalho e emancipação residam na possibilidade de construir, a partir do labor, “processos de subjetivação de inconformismo, em detrimento de processos de subjetivação vazios e adoecedores como aqueles aos quais o neoliberalismo tem conduzido” (DEJOURS, 2002)

Assim sendo, rompem-se as lógicas binárias que resultam no estabelecimento de hierarquias e subalternizações (MISKOLCI, 2019). O lugar não identitário, desse modo, se define a partir de um “lugar epistêmico questionador” da homonormatividade eurocêntrica e neoliberal (MISKOLCI; PELÚCIO, 2012, p.10), que, por sua vez, tentam, recorrentemente, engendrar em corpos dissidentes ao padrão socialmente aceito, isto é, o branco, o burguês, o heteronormativo.

Nesse sentido, a generalidade dos empregadores indica preferência por indivíduos que mantenham sua orientação sexual – caso seja desviante

da heterossexual – em segredo, revelando-a, em último caso, para poucos colegas de trabalho (MCNAUGHT, 1993).

A partir dessa cumplicidade com o imperialismo ocidental e com o ideal hegemônico de masculinidade e um ideal de feminilidade, submetem-se gays e lésbicas na obrigação de abdicarem suas subjetividades para enquadrarem-se nos padrões impostos. Assim, os corpos dissidentes, contrários à lógica anteriormente exposta, são deixados às margens. Estes são os sujeitos não policiados pelas “múltiplas normatividades acerca do heterossexismo, da branquitude e dos padrões de classe média, entre os quais a branquitude foi privilegiada enquanto marca do essencialismo e das identidades políticas gays” (HARITAWORN, 2008, p.6).

Nesse sentido, há que se trazer o conceito de abjeção, desenvolvido por Judith Butler. Por meio deste, entende-se que há uma negação relativa a determinados sujeitos, conseqüente do binômio normatização/exclusão. Os corpos rejeitados não são o *outro*, o *relativo*, o *inessencial*, uma vez que sequer merecem – ou podem – ser

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nomeados, não podem existir e não fazem sentido dentro da matriz cultural opressor.

Concomitantemente, os abjetos, negados, representam o exterior dessa matriz excludente, representando uma ameaça aos limites impostos. No entanto, quando se denomina um determinado grupo como “excluído”, passa a ter tal *status* de maneira oficial. Assim, surge, para esses sujeitos marginalizados a possibilidade de reivindicar direitos que lhes são negados. É neste contexto de corpos abjetos que se inserem as lésbicas e gays em desconformidade com a lógica heteronormativa.

Essa heteronormatividade expressa às expectativas, as demandas e as obrigações sociais que derivam do pressuposto da heterossexualidade como natural e, portanto, fundamento da sociedade, perpetuado, muitas vezes, em locais de trabalho (CHAMBERS, 2003; COHEN, 2005, p.24).

A crítica pós-colonial e *queer* responde, em certo sentido, à impossibilidade de o sujeito subalterno articular sua própria posição dentro da análise da história do marxismo clássico. O lócus da construção da subjetividade

política parece ter-se deslocado das categorias tradicionais de classe, labor e da divisão sexual do trabalho, para outras constelações transversais como podem ser o corpo, a sexualidade, a raça, mas também a nacionalidade, a língua, o estilo ou, inclusive, a linguagem. (PRECIADO, 2007, p.383).

Enquanto lugar de subalternidade continuamente ressignificado, as teorias e as práticas *queer* fazem parte das “experiências culturais antihegemônicas, de contestação da sociedade normativa e das suas múltiplas formas de exclusão por meio de sítios de contestação social e de desconstrução política das normas majoritárias” (REA; AMANCIO, 2018).

A luta contra a heterossexualidade compulsória e a posição contrária a binarismos fáceis são características que conferem aura de transgressão e contestação ao pensamento *queer*, o que pode sugerir, numa abordagem apressada, uma integração das posições num todo único e homogêneo (RICH, 1993)

Em específico, na capacidade laboral e das dinâmicas de trabalho na conformação de subjetividades, moldadas ideologicamente à

participação nos processos de disputa pela regulação, é, pois, parte inerente a esse sistema de regulação do trabalho. As sociedades capitalistas, além de gerar sistemas de expectativas relacionais, constituem também subjetividades intrinsecamente mergulhadas na lógica da mercadoria ocidental eurocentrizada.

Nesse contexto, a ascensão do neoliberalismo fragilizou não apenas direitos sociais, mas, por meio dos processos de subjetivação e de esvaziamento do político, debilitou, profundamente, as capacidades dos sujeitos envolvidos nas relações de trabalho, principalmente em se tratando de sexualidades subalternizadas (como gays e lésbicas). Como consequência disso, depara-se com “o enfraquecimento das premissas constitucionais de proteção ao trabalho, inclusive em seu conteúdo axiológico, pelo qual perpassa a aplicação e interpretação do Direito” (DUTRA, 2017, p.90).

Reforçam-se, com isso, processos de exclusão e desigualdade sociais, que engendram condições de subcidadania ou não-cidadania. O risco de ruptura e desconstrução jurídica, portanto, não se apresenta apenas para o

Direito do Trabalho e os demais campos dos direitos sociais, mas, também para a construção jurídico-política que “a partir dele se erige, notadamente a cidadania e a práxis democrática, que, do ponto de vista dessa pesquisa, são exercidas, por excelência, na dialética da regulação do trabalho” (DUTRA, 2017, p.91).

Chega-se, pois, à intersecção entre a conformação subjetiva ao trabalho, decorrente das dinâmicas de precarização, cobrança excessiva ao enquadramento da norma euro-americanizada e da “disciplina rígida nas quais se assentam a estratégia de gestão da empresa de matiz neoliberal, e o agir dos trabalhadores, individual ou coletivamente, em face delas” (DUTRA, 2017, p. 224).

O Direito do Trabalho, desse modo, também assume como correta a forma particular das relações produtivas capitalistas. Assume, igualmente, que as relações de emprego devem ser organizadas a partir de uma divisão heteronormativa, o que acaba, em grande parte, por manter as estruturas de poder, corroborando papéis fixos e rígidos.

2.1 Corpos à margem no ambiente laboral: o não alcance do Direito do Trabalho

Neste tópico, serão feitas críticas ao Direito do Trabalho no que concernem às políticas de contratação; a dispensa imotivada e o assédio moral sofrido de modo recorrentemente por gays e lésbicas.

É necessário considerar que existem formas de exclusão e segregação de trabalhadores gays e lésbicas no mercado de trabalho, quais sejam: “(a) discriminação no acesso e (b) discriminação no tratamento. Sendo barreiras efetivas para a inclusão e a ascensão desse grupo no mercado formal. Esses ambientes, que geram pessoas infelizes e menos produtivas por causa de preconceito, estigmas, assédio, violência e práticas de discriminação não interessam pela luta e pela ampliação dos direitos dos(as) trabalhadores(as)

Sinaliza-se que com “medo de perder seu emprego, até mesmo para evitar repressão e resistência por parte da organização trabalhista, muitos homossexuais tentam esconder sua orientação sexual”. (FERREIRA, SIQUEIRA, 2007, p. 126). Além disso,

existem o temor e o sofrimento diante de atitudes preconceituosas, comportamentos homofóbicos e estereótipos negativos.

Essas formas traduzem a relação da sociedade com a homossexualidade, profundamente caracterizadas por ideias de repulsa, desprezo, subjugação e imposição da heterossexualidade como única forma de “expressão da personalidade humana” (GIRARDI, 2017, p.367).

Neste sentido, é sabido que o trabalho – como condição de elemento central da vida, - preenche parte significativa do tempo e das relações interpessoais do sujeito contemporâneo, influenciando a construção de identidades, e, por essa razão, apresentando-se como "um microcosmo, um resumo da vida social” (SANTOS, 2012, p. 99)

No entanto, não se pode concluir que o Direito brasileiro e, mais especificamente, o Direito do Trabalho brasileiro toleram ou mesmo admitam a reprodução de práticas e atitudes homofóbicas no contexto das relações de trabalho.

Afinal, o Direito brasileiro e, mais especificamente, o Direito do

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Trabalho apresentam normas que proíbem a prática de atos discriminatórios fundados em motivos ignóbeis que dificultem ou, até mesmo, impossibilitem o ingresso, a permanência e as possibilidades de ascensão profissional de pessoas no âmbito do mercado de trabalho formal (REIS, 2012). Contudo, essas normas se apresentam falhas, posto que esses grupos ainda se mostram, muitas vezes, a margem do mercado de trabalho.

A aplicação das normas anti-discriminatórias - integrantes dos sistemas jurídicos: nacional e internacional - devem se complementar, de modo concorrente e cumulativo, com o intuito de assegurar o maior nível possível de proteção da pessoa humana e de sua dignidade (REIS, 2012).

Contudo, o insuficiente reconhecimento formal de que os sistemas jurídicos nacional e internacional rechaçam práticas discriminatórias - que dificultam ou impossibilitam o ingresso, a permanência e a ascensão profissional de gays e lésbicas no mercado de trabalho formal- não são suficientes para erradicar a homofobia do mundo do trabalho e, assim, conferir concretude

aos direitos humanos, aos direitos fundamentais trabalhistas e de outras naturezas que lhes são assegurados por esses sistemas jurídicos e seqüestrados por esta modalidade de discriminação.

Tampouco basta para atender às demandas e às reivindicações específicas das gays afeminadas e das lésbicas masculinizadas, do Sul Global, para que se possam vivenciar, livremente, suas identidades de orientação sexual em seus ambientes de trabalho e fora deles.

Ressalta-se, desse modo, a necessidade de se compreender a epistemologia decolonial, retomando seu projeto anticapitalista, antihomofóbico, antirracista e anticlassista, posicionando a luta contra o heterossexismo como instrumento de transformação social ampla.

Reconhece que esse grupo é subjugado como inferiores por outras masculinidades, devido às raízes coloniais homofóbicas que criam relações assimétricas de poder, criando-se uma masculinidade hegemônica patriarcal do homem branco, heterossexual, burguês e cristão. Essa violência colonial aprisiona, até os dias atuais, as subjetividades e as

representações da feminilidade performatizada pelas gays afeminadas.

Essa crise acaba corroendo suas estruturas dogmáticas e comprometendo-lhe a efetividade, tendo como pano de fundo a realidade socioeconômica desta virada de século e a maneira como o Estado.

É irrefutável, desse modo, a investigação das raízes e dos alcances da crise estrutural que atinge o Direito do Trabalho hoje em vigência no Brasil, seja no plano de sua formação dogmática, seja no da efetividade de suas normas e princípios, bem como apontar alguns caminhos para o futuro das relações de trabalho de grupos gays periféricos.

3. Divisão heteronormativa do trabalho

A relação típica de trabalho sobre a qual se fundamenta o Direito do Trabalho, conforme visto no item anterior, é atrelada ao sujeito que participa da relação juridicamente tutelada e que, nesse caso, é o trabalhador homem, com um contrato de trabalho em tempo integral, emprego

fábrica, sindicalizado, possivelmente de um país do norte (VIEIRA, 2018, p. 97).

A categoria “trabalhador” é contratualmente universal e aplicável a todos que ingressam no mercado capitalista e vendem sua força de trabalho (PATEMAN, 1993, p. 200). No entanto, “a construção do trabalhador pressupõe que ele seja um homem que tem uma mulher, uma dona-de-casa, para cuidar de suas necessidades cotidianas”, numa relação de sustentação mútua entre contrato de trabalho e contrato sexual (PATEMAN, 1993, p. 196).

É no contexto da empresa de matriz neoliberal e de categorias extremamente fragilizadas pela vivência da precariedade do trabalho (resultado dos processos da prática da remuneração variável, de registros organizacionais de assédio moral, da intensidade do trabalho e da sua baixa remuneração, que igualmente se insere num contexto de alta competitividade e prática de metas excessivas), que será perquirido o papel das trabalhadoras e trabalhadores na dialética da regulação do trabalho, avaliação que se fará em diversos níveis que se sobrepõem (DUTRA, 2017, p. 223-224).

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É nesse contorno que as instituições jurídicas e as normas legais não refletem simplesmente as “diferenças naturais entre os sexos, entretanto, estão profundamente envolvidas em designar gênero para diferentes formas de trabalho” (FUDGE, 2016, p. 10). Isso se explica, na medida em que a separação consignada no ordenamento jurídico ajudou a moldar a participação de simbolismos relacionados a papéis designados especificamente às mulheres e aos homens nos arranjos empregatícios para os quais são relegados, bem como o valor atribuído a esses diferentes tipos de trabalho, o que reflete, igualmente, em grupos marginalizados como as gays afeminadas e as lésbicas masculinizadas. Dessa forma, as instituições jurídicas foram construídas na promoção de “arranjos de trabalho e normas profundamente marcadas pelo gênero” (FUDGE, 2016, p. 11).

Identificam-se e sintetizam-se três vertentes centrais para a formação do pensamento ocidental: o trabalho é interpretado, no pensamento cristão, como a “atividade fundamental do homem, que ao mesmo tempo agrega valor ao mundo e a si mesmo, isto é,

espiritualiza a natureza e permite o aprofundamento das relações com os outros” (MÉDA, 2002, cap. 1, tradução nossa).

Já o pensamento humanista defende uma concepção de trabalho muito próxima da anterior, entendendo-o como “a atividade humana que expressa no mais alto grau a liberdade criativa do homem”; de modo similar, o “pensamento marxista atual, independente da vertente, continua a defender vigorosamente a ideia de que o trabalho é uma categoria central e que constitui a essência do homem” (MÉDA, 2002, cap. 1, tradução nossa).

Ademais, interessante destacar que o tal “homem” que executa o “trabalho” por mais que seus teóricos reforcem se tratar de um ser humano universal – que corresponderia a qualquer pessoa, independente do gênero, da raça, da classe, da idade e de qualquer outro fator social –, de fato não o é (MÉDA, 2002, cap. 1, tradução nossa)

Nossa concepção atual do Direito do Trabalho baseia-se em instituições e normas jurídicas que historicamente constituíram, e atualmente intensificam uma série de

dicotomias entre trabalho que reforçam as concepções acerca dos papéis tradicionais de gênero. Ao pedir que o campo do Direito do Trabalho seja expandido para abranger a regulação de todos os dilemas recorrentes dos mercados de trabalho capitalistas e que seu objetivo normativo seja o de alcançar a igualdade democrática, se adentra na tentativa de construção de novos imaginários sociais (FUDGE, 2016, p. 25-26, tradução nossa).

Sabe-se que esse sujeito do trabalho é masculino; apresentado como universal e, ao mesmo tempo em que abre espaço para que as relações “homem-homem” sejam naturalizadas, enquanto as condições sociais de trabalho são historicizadas, falhando por deixar de considerar, por exemplo, as relações sociais de sexo (HIRATA; ZARIFIAN, 2009, p. 252).

Nessa linha, Carrasco (2013, p. 46) chama atenção para o fato de que o modelo masculino de trabalho no mercado não é generalizável, já que implica liberdade de tempos e ações, o que não é compatível nem conciliável com as responsabilidades do cuidado e, conseqüentemente, evidencia que qualquer possibilidade de igualdade só

será realizável com uma mudança de modelo, sem que se tente enquadrar figuras subalternas no modelo masculino de emprego.

É irrefutável que, na perspectiva de gênero no Direito do Trabalho, não se restringe à temática “das mulheres”, pelo contrário, diz respeito a afastar o padrão normativo masculino que se pretende universal.

Assim, mais do que assegurar normas jurídicas mais igualitárias entre os sexos e sexualidades contrahegemônicas – sem deixar de reconhecer a importância dessas conquistas –, há a necessidade de se prestar atenção nos aspectos heteronormativos da organização social do trabalho que, por sua vez, rechaçam padrões desviantes em postos de trabalho que exigem formalidades tradicionais.

Considerando a relevância da divisão heteronormativa do trabalho para a organização social, seria de se prever que o gênero fosse considerado um fator de importância na teorização do Direito do Trabalho. O impasse do Direito do Trabalho, sempre transferido para sua efetividade, reside, em grande medida, na dificuldade de seu controle democrático (CONAGHAN, 2014, p. 2)

Os riscos da pós-democracia, portanto, se confundem com os desafios já enfrentados pelo Direito do Trabalho, nos constantes ataques que vem sofrendo e, sobretudo, no seu efetivo regresso, notadamente quanto ao seu ideal de proteção.

Essas reflexões levam à busca dos modos de regular o trabalho, o que vai além de somente ampliar o escopo da legislação trabalhista para incluir gays e lésbicas nas noções de proteção. É preciso “desenvolver um novo imaginário do Direito do Trabalho que se baseie numa caracterização mais inclusiva dos processos e instituições sociais que constituem um mercado de trabalho” (FUDGE, 2016, p. 11).

Assim, é preciso que o Direito do Trabalho deva ser capaz de garantir dignidade e valorização de corpos subalternizados sem levar em consideração os modelos inicialmente forjados para explorar e oprimir esses corpos, superando dicotomias que historicamente servem ao *status quo*.

4. Performatividades dissidentes

Considera-se que existe um modelo socialmente construído de

masculinidade³ dominante no persuasivo discurso gerencialista, que seria imposta aos indivíduos como adequada ao mundo profissional, cabendo a homens e mulheres adequar-se a tal padrão (TEIXEIRA, PERDIGÃO E CARRIERI, 2016, p. 400)

As gays que são consideradas afeminadas⁴ encontram o desafio de equilibrar sua feminilidade com a premência de performatividade de masculinidade, que é hegemônica, sob pena de sofrerem discriminação ou, até mesmo, exclusão do contrato de trabalho por não estarem inseridos no padrão socialmente imposto.

A imposição da heteronorma afeta, de igual maneira, as mulheres lésbicas que destoam dessa lógica. A pressão cultural e social relativa à aceitação de pessoas que performem de acordo com o gênero a elas imposto favorece a exclusão de lésbicas fora desse padrão no mercado de trabalho.

Observa-se que as gays afeminadas⁵ são inferiorizadas por outros trabalhadores a partir da lógica da heteronormatividade, pois dentro dessa concepção existe um modo “certo” de ser homem, que está enraizada nas características estipuladas pela masculinidade hegemônica (ECCEL; SARAIVA E CARRIERI 2015).

Neste sentido, as noções localmente construídas sobre as masculinidades afetam diretamente as expectativas colocadas sobre todos os indivíduos nas organizações⁶ (HANSEN, 2002) e há também “a resistência dos homens que incorporam um estilo combativo e antigo de masculinidade da classe trabalhadora” (CONNELL; PEARSON, 2015, p. 258).

As atitudes de “anti-afeminamento” consistem na ideologia propagada pela masculinidade hegemônica, que se subscreve a um sistema de valores que considera a

3 No que refere ao homem másculo a definição de um padrão de masculinidade é caracterizada, entre outros, por atributos como violência, força física para exercer a dominação e modos intempestivos de lidar com diversas situações.

4 A gay afeminada é aquela que se enquadra dentro dos parâmetros da feminilidade em relação a uma identidade masculina, que geralmente são relacionados às características tradicionalmente associadas a mulher como a delicadeza, gentileza e compaixão

(características convencionalmente femininas construídas socialmente).

⁵ Utiliza-se “as gays afeminadas” relacionado ao feminino, como ato político e de resistência ao padrão heteronormativo, masculino, branco e europeu.

⁶ O conceito de organização – que não se deve fetichizar – é aplicado para designar empresas, como também instituições ou entidades públicas, políticas ou sociais, e pode ser estendido a outros tipos de vida social organizada.

feminilidade como algo inferior (TAYWADITEP, 2002).

Lado outro, as gays afeminadas exercem profissões em que seja possível a sua interação com as identidades femininas. No entanto, há uma segregação nestas profissões, uma vez que os homossexuais pertencentes às “classes populares” exercem profissões socialmente consideradas “inferiores” e desvalorizadas, como por exemplo, cabelereiro, garçom, cozinheiro, trabalhadores de *fast food*. (ANJOS, 2000).

Verifica-se que a afeminação de um homem constitui-se em uma identidade que tem, notavelmente, características consideradas do sexo oposto, ou seja, características psicológicas diferentes daquelas esperadas do masculino e associadas então com o gênero feminino na expressão social e cultural, contradizendo um aspecto diferente do que é considerado como “normal” dentro da natureza masculina na sociedade (BEM, 1974).

Essa exclusão pode ser entendida como o preconceito para além dos homossexuais, mas em relação àquilo que se apresenta como a

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manifestação do feminino. Sendo assim entende-se que “o preconceito implica sempre uma relação social. Aparece como um modo de relacionar-se com ‘o outro’ diferente, a partir da negação, ou desvalorização da identidade do outro e da supervalorização, ou afirmação da própria identificação” (BANDEIRA; BATISTA, 2002).

Tratar de gênero e organização significa tratar sobre vantagem e desvantagem, exploração e controle, ação e emoção, significado e identidade, na medida em que estes termos são modelados pela distinção entre macho e fêmea, masculino e feminino.

A homossexualidade e a lesbianidade como tabus organizacionais são envoltas pelo silêncio, especialmente no âmbito formal, e por sua negação. Posto isto, “vale dizer que as empresas preferem que o gay não revele a própria identidade homossexual” (SIQUEIRA; FELLOWS, 2006, p. 77).

Nesse contexto, o sexo é incorporado em estruturas hierárquicas, trabalhos, divisões de trabalho e processos bem como a contratação e fixação dos salários, em imagens de trabalhadores e gestores, em interações no local de trabalho, em interconexões

trabalho / família, e em construções individuais de identidade (PULLEN; RHODES, 2011).

Ao mesmo tempo, aquelas mulheres que rompem com as características atribuídas ao feminino, utilizando signos que remetem ao masculino – roupas, acessórios – são rechaçadas pelo mercado e ambiente de trabalho, pois desviam da norma a ser seguida. De acordo com Jack Halberstam, em sua obra *Female Masculinity*, as masculinidades performadas por mulheres lésbicas são vistas como resto ou paródia deformada da masculinidade praticada pelos homens conformados com a heteronorma – é a masculinidade não abjeta⁷: assim enxerga a sociedade.

Nesse sentido, a negação da masculinidade lésbica apresenta-se como forma de transferência da discriminação e do estigma social justamente para as lésbicas masculinizadas (aquelas que quebram com a performatividade posta socialmente como feminina). Essas mulheres estigmatizadas estão, não raramente, relacionadas pelas pessoas em geral, a comportamento violento e a

desleixo estético, além de destoar da expectativa de manutenção de uma discricção em relação à lesbianidade.

Nádia Eliza Meinerz (2011) em trabalho de entrevista a mulheres lésbicas, aduziu que estas apontaram dificuldades relacionadas ao ambiente de trabalho, justamente no que tange à forma de vestir e se caracterizar ao frequentar o local de labor. Dessas mulheres, era exigido, o uso de maquiagem e saia durante o trabalho, o que, segundo elas, as faziam sentir-se alijadas daquilo que representa seu jeito de ser, sua forma de se colocar visualmente perante a sociedade.

Desse modo, engendram-se o raciocínio juslaboralista uma série de estereótipos de gênero e sexualidade dissidentes. O reflexo mais visível da desvalorização do trabalho de homossexuais é sua histórica exclusão das normas específicas de proteção ao trabalho (VIEIRA, 2018).

A condição de silenciamento que aparece na objetificação das trabalhadoras lésbicas e dos trabalhadores homossexuais e na distância tempo-espacial das suas pautas em relação àquilo que é levado ao crivo

⁷ Conceito de abjeção da Butler.

público se reproduz, em grande medida, nos espaços de representação sindical.

O resultado é, desse modo, uma nova e dividida “organização da reprodução social, comodificada para aqueles que podem pagar por ela e privatizada para aqueles que não podem” (FRASER, 2016, p. 112). Isso porque esses indivíduos aceitam performatividade em troca de salários (baixos) para pessoas da primeira, como, por exemplo, as gays afeminadas em fast food.

Portanto, a estética da masculinidade e da feminilidade hegemônicas no ambiente de trabalho privilegia padrões ditos como masculinos, que seria mais adequada aos negócios. Aos homens é negada qualquer possibilidade de uma estética considerada feminina e às mulheres existe “uma negação implícita da feminilidade para o ambiente de trabalho” (TEIXEIRA; PERDIGÃO; CARRIER, 2016, p. 398).

5. O perverso silêncio da legislação trabalhista

Sobre a discriminação no meio ambiente de trabalho, Convenção

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111 da OIT (Organização Internacional do Trabalho), ratificada pelo Brasil e promulgada por meio do Decreto nº 62.150, de 19 de janeiro de 1968, prevê em seu artigo primeiro:

1. Para fins da presente convenção, o termo "discriminação" compreende:

a) Toda distinção, exclusão ou preferência fundada na raça, cor, sexo, religião, opinião política, ascendência nacional ou origem social, que tenha por efeito destruir ou alterar a igualdade de oportunidades ou de tratamento em matéria de emprego ou profissão;

b) Qualquer outra distinção, exclusão ou preferência que tenha por efeito destruir ou alterar a igualdade de oportunidades ou tratamento em matéria de emprego ou profissão, que poderá ser especificada pelo Membro Interessado depois de consultadas as organizações representativas de empregadores e trabalhadores, quando estas existam, e outros organismos adequados (BRASIL, 1968).

Não existe, portanto, garantia específica aos empregados gays e lésbicas de que suas orientações sexuais serão respeitadas pelos seus superiores hierárquicos e colegas de trabalho, tendo em vista que, em diversas situações, o assédio moral praticado contra essas pessoas tem um aspecto humorístico, através de piadas proferidas pelos agressores. Essa conotação jocosa esconde, na maioria das vezes, seu

sentido pejorativo, além de causar traumas nos trabalhadores vítimas do assédio.

Existe uma oposição binária que propicia a inserção da lógica da divisão sexual do trabalho na conformação dos modelos de produção e de organização laboral, sem deixar, por óbvio, de condicionar o ideal de trabalhador desejado pelos empregadores – em regra, heterossexuais. A dificuldade se impõe, portanto, na própria formação do contrato de trabalho, o que intensifica a situação de exclusão e marginalização de gays e lésbicas em relação ao mercado de trabalho.

Nesse sentido, pesquisa realizada em 2015 pela Elancers – especialista em sistemas de recrutamento e seleção do Brasil – evidenciou o preconceito existente contra pessoas não-heterossexuais no mercado de trabalho. O estudo, que consultou 10 mil empresas, dentre as quais, 1.500 responderam à pesquisa online, abarcando cerca de 2.075 recrutadores, demonstrou que uma em cada cinco não contrataria homossexuais para determinados cargos (Portal G1...,

2015). De acordo com Cezar Tegon, presidente da Elancers:

Quando 11% dizem que não contratariam homossexuais para determinados cargos, eles se referem essencialmente a cargos executivos que, via de regra, representam a empresa em público. Somados aos 7% que dizem que não contratariam homossexuais de modo algum, temos um cenário onde quase um quinto das empresas não contrataria homossexuais no Brasil. (PORTAL G1, 2015).

Em outro estudo, realizado pelo IBOPE, em 2011, demonstrou-se que 8% dos entrevistados se posicionam contrariamente à presença de médicos homossexuais no serviço público, enquanto 15% não concorda com pessoas não-heterossexuais desempenhando a função de policiais (IBOPE INTELIGÊNCIA, p.18-23). A partir da análise das duas pesquisas, conclui-se que a discriminação enfrentada por gays e lésbicas frente ao mercado de trabalho se dá tanto na formação do contrato, como em seu curso e, até mesmo, na extinção.

Há que se falar, ainda, a respeito do assédio moral em virtude da orientação sexual dos trabalhadores, bem como de suas performatividades desviantes. Assédio moral, instituto de recente apreciação pela doutrina e na

jurisprudência trabalhistas, é praticado por meio de atos ou palavras que provoquem constrangimento, baixa autoestima e desequilíbrio emocional na vítima, a partir de sua exposição a situações vexatórias no ambiente de trabalho (DELGADO, 2012). Tais condutas podem ser executadas por indivíduos em posição hierárquica superior ao sujeito passivo, por colegas de trabalho e, até mesmo, superiores hierárquicos, ainda que não ocorra com frequência.

No caso horizontal (colegas versus colegas), os grupos tendem a nivelar os indivíduos e a não suportar as diferenças, seja de gênero, raça, religião ou, no caso especificamente estudado, orientação sexual. Em uma sociedade tradicionalmente reservada a heterossexuais, não é fácil para uma lésbica ou um gay se posicionarem. Eles estão sujeitos a piadas grosseiras, gestos obscenos, desdém a respeito do que dizem e fazem, e recusa em terem seus trabalhos levados a sério.

A problemática do assunto se inicia na discussão de quais atitudes seriam classificadas como assédio moral. A intenção do opressor deve ser considerada na avaliação dos casos ou tal

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aspecto subjetivo deve ser colocado à parte a fim de que a proteção ao trabalhador seja amplificada? Piadas e intervenções de cunho “humorístico” em geral poderiam ser interpretadas como formas constrangedoras, vexatórias e/ou humilhantes para/com gays e lésbicas?

6. Conclusão

As reflexões iniciadas pela crítica a heteronormatividade foram aplicadas as bases teóricas e categoriais fundamentais do Direito do Trabalho, com o intuito de revisitar a noção jurídica de “trabalho”, o programa do trabalhador universal, o conceito de tempo e às formas de mensurá-lo, bem como os moldes usados para definir produtividade e fixar a remuneração e, por meio disso, promover a uma análise crítica. Isso será feito com a atenção voltada ao ordenamento jurídico-trabalhista nacional, ainda que o pano de fundo seja o Direito do Trabalho em uma perspectiva internacional.

Percebe-se que a feminilidade dentro das organizações deve ser renegada, inclusive por parte das mulheres. Neste sentido, as mulheres devem se masculinizar, porém são

também criticadas quando adotam comportamentos masculinizados.

Os manuais de Direito do Trabalho aparentam partir de uma ideia de trabalhador assexuado, mas na verdade utilizam-se do padrão masculino, que deriva da ideia de que ele é a norma, sendo, portanto, invisível, enquanto o sexo feminino é o desviante ou problemático, que precisa ser demarcado. Logo, o sexo se torna um “problema” quando a trabalhadora é uma gay afeminada ou uma lésbica masculinizada motivo pelo qual elas não figuram especificamente no Direito de um modo peculiar, em categorias específicas.

É irrefutável reconceituar o trabalho em termos que atinjam além do emprego, englobando o significado e as implicações do trabalho, desviando seu foco tradicional na relação empregado-empregador. Em termos objetivos, desafia-se o pensamento jurídico trabalhista que coloca gays e lésbicas à margem, dando enfoque, especialmente, à perspectiva heteronormativa.

Por conseguinte, abre-se espaço para desvelar a profunda crise ideológica no cerne do discurso tradicional do Direito do Trabalho, que é o colapso do

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trabalhador homogêneo e do quadro normativo que pretende servi-lo. Portanto, não é possível considerar que há neutralidade, objetividade ou universalidade no Direito do Trabalho se seu referencial é masculino e, por conseguinte, a legislação que toma o trabalhador masculino como padrão acaba por reforçar a desigualdade de gênero e, principalmente, de corpos desviantes da norma.

A partir da revisão realizada é possível considerar há uma rejeição ao feminino, a noção de que a feminilidade deve ser rejeitada, principalmente se o portador da mesma for um homem. Essa rejeição ao feminino é uma maneira de manter o homem heterossexual e macho dominante em sua posição privilegiada dentro da sociedade.

É preciso revitalizar os estudos jurídico-trabalhistas a partir da inserção de conceitos-chave para ampliar e repensar o sentido normativo ao qual a norma se atribui, ampliando o sentido atribuído a fim de abarcar o conteúdo do gênero, das sexualidades dissidentes, da norma heterossexual compulsória. Evidencia-se, desse modo, que a perspectiva de gênero não é transversal ao Direito do Trabalho, ocasionando

distorções sexistas em suas categorias fundamentais.

Portanto, pensar em uma nova chave do Direito do Trabalho com a ideia de trabalho e de trabalhador diferente, que fuja de padrões masculinos, evita que se tenha que viver sobre a tênue responsabilidade dos corpos subalternos revestirem das normas heteronormativas constantemente impostas.

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LA VIOLENCIA SEXUAL DESDE LA PERSPECTIVA DE GÉNERO. APUNTES PARA UNA REFORMA PENAL EN CUBA

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Abstract: The updating of the economic model and the legal system in Cuba, after the recent approval of the Constitution of the Republic of 2019, requires the consequent insertion of a gender perspective in the legal spaces where the actors of the Law play a significant role. In this regard, this study aims to assess the legal regulation of the types of sexual violence provided for in the Cuban Criminal Code, as guidelines for legal reform based on an adequate gender perspective. For this, scientific methods such as theoretical-legal, exegetic-analytical, legal comparison and documentary review were used. Its use allowed to identify two essential problems: the absence of emerging figures of social practice (femicide, homophobia, transphobia and cyberbullying), and the insufficient and discriminatory regulation of crimes already foreseen (rape, pedophilia with violence, lascivious abuse and trafficking in persons). A legal comparison was also made of the criminal offenses regulated in Spain, Argentina, Bolivia, Venezuela and Peru, whose references allowed visualizing the challenges and perspectives in the context of legislative reform in which Cuba is immersed, for a correct configuration of the gender approach in the Cuban legal system.

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Keywords: gender; Cuban Criminal Code; criminal reform; sexual violence

Introducción

Las relaciones inequitativas de género trascienden de manera particular al escenario socio-jurídico, donde se tipifican determinadas conductas con la imposición de sanciones. En la actualidad, el tratamiento de la temática de género -desde la arista jurídica- continúa siendo un imperativo para las sociedades contemporáneas, teniendo en cuenta que dentro de los Objetivos de la Agenda 2030 para el Desarrollo Sostenible se localiza en el numeral quinto *la igualdad de género*, aspiración a la que tributan las Ciencias Jurídicas desde los contextos de reformas legales.

Si bien las realidades latinoamericanas difieren de otras más severas como el caso de Arabia Saudita, donde la mujer es discriminada, aún queda mucho camino por recorrer si de equidad de género se trata, constituyendo una necesidad que los actores sociales que responden a políticas públicas tengan un rol más activo y eficaz.

En correspondencia con ello, el análisis de la problemática de género -como categoría transversal a los procesos con repercusión jurídica y trascendencia social- en materia de investigaciones gana mayor presencia cada año en la agenda de talleres y eventos científicos de Derecho, por hacer prevalecer el Principio de Igualdad plasmado en la recientemente promulgada Constitución de la República de Cuba el 10 de abril de 2019 y que hace referencia a que todos los ciudadanos gozan de iguales derechos y están sujetos a iguales deberes; asimismo, que la mujer y el hombre gozan de iguales derechos en lo económico, político, cultural, social y familiar.

Si bien los preceptos de la Constitución, evidencian como regla general de que en una sociedad socialista ambos sexos tienen igualdad ante la Ley, algunas normas del ordenamiento jurídico y específicamente del Derecho Penal, son tendentes a reproducir patrones discriminatorios que, en ocasiones ubican en posición de desventaja a las mujeres al sustentarse en políticas igualitarias, mientras que en otras, se conciben tratamientos diferenciados, cuando lo más conveniente sería una formulación única para ambos sexos.

Las mujeres jóvenes y niñas son especialmente vulnerables por las diferentes tipologías de violencia sexual que están previstas en el Código Penal cubano, las que

tienen un carácter arbitrario en su configuración, pues penalizan con mayor severidad los supuestos donde el hombre aparece como sujeto pasivo.

En tal sentido, el presente estudio tiene como *objetivo* valorar la regulación jurídica de las tipologías de violencia sexual previstas en el Código Penal cubano, de manera que se fundamenten pautas para una consecuente y necesaria reforma de esta ley sustantiva. Para ello se emplearon métodos científicos tales como el teórico-jurídico, el exegético-analítico, la revisión documental y el de comparación jurídica. En el caso de este último, las deficiencias identificadas en la realidad socio-jurídica cubana dieron paso a establecer una comparación de los ilícitos penales regulados en España, Argentina, Bolivia, Venezuela y Perú, los cuales resultan referentes para el contexto latinoamericano y caribeño, y en particular para Cuba. Su sistematización implica contextualizar la equidad en toda su configuración teórica, con especial impacto en la identificación de otras formas de violencia sexual no visualizadas a priori en la Isla.

La investigación *grosso modo* ofrece un análisis crítico que enaltece la representación social de las mujeres jóvenes y niñas desde el Derecho, con particular atención a las propuestas de modificación de la ley penal sustantiva. Se visualizan por tanto los retos y perspectivas en el contexto de la reforma legislativa en que Cuba está inmersa, para una adecuada configuración del enfoque de género en todo el ordenamiento jurídico cubano.

Es preciso acotar, que el presente estudio en la materia de Derecho Penal, da continuidad a la investigación desarrollada con el título “Fundamentos para la prevención de desigualdades desde el sector jurídico cubano en función del desarrollo social”, publicado por el este propio Periódico del Núcleo de Estudios y Pesquisas sobre Género y Direito en el volumen siete, número dos del año 2018.

Referentes teóricos sobre el enfoque de género desde la perspectiva de la equidad

La palabra género designa a una categoría gramatical y no es, por tanto, sinónimo de sexo. Pero también es cierto que el género es, como el sexo, una característica que comparten hombres y mujeres. Se trata de tipologías completamente diferentes: el sexo es un rasgo fisiológico, y el género, una categoría gramatical que solo afecta indirectamente a hombres y mujeres a través de la palabra que los designa.

Desde la teoría de género varios han sido los autores y las autoras que se han referido a lo que debe entenderse por género desde finales del siglo pasado. Para Lagarde (1996), por ejemplo, es una categoría que abarca lo bio-socio-sico-econo-político-cultural, que analiza la síntesis histórica que se da entre todas estas esferas y por tanto, su construcción es nacida de un histórico proceso de condicionamientos que atribuye rasgos, características y potencialidades a cada sexo, y que más que basarse en diferencias biológicas: es un patrón cultural.

Según Caram (1996) y coincidiendo con Lagarde, es un proceso histórico de condicionamiento social y cultural que atribuye rasgos, características y potencialidades a los sexos, conformando una forma de ser y actuar, y que aunque se basa en las diferencias biológicas es un patrón cultural.

Coincide Fleitas (2000), en que el género es un concepto que se refiere a una construcción social y cultural, que se ha incidido en la formación de una identidad femenina subordinada y que tradicionalmente ha sido enfrentada al sexo como indicativo de procesos biológicos que significan el ser mujer frente al ser hombre, los cuales atendiendo a su carácter natural, no determinan diferencias de posición social.

Sin embargo, Proveyer (2005) lo define con una visión más amplia, plantea que es un conjunto de prácticas, símbolos, representaciones, normas y valores sociales que las sociedades elaboran a partir de la diferencia sexual anátomo-fisiológica y que dan sentido a las relaciones entre las personas sexuadas, alude a mujeres y hombres y a las relaciones que entre ellos se producen. Las cuestiones relativas al género tienen, por tanto, un contenido relacional; son social y culturalmente e involucran a ambos géneros.

Las definiciones expuestas con anterioridad evidencian que existe consenso de criterios en torno a la categoría desde el punto de vista doctrinal y se entenderá a los efectos del presente estudio como aquel “proceso de construcción social y/o cultural que asigna a cada persona según su sexo -desde el momento de su nacimiento-, características, roles, valores y normas de todo tipo, ya sean sociales, políticas, económicas, jurídicas, culturales y psicológicas” (Silva González, Pérez Véliz y Delgado Rodríguez, 2017, p. 1495).

Asimismo, se concibe que el tratamiento de género en función de una sociedad más justa, debe valorarse teniendo en cuenta el principio de equidad como principio

general del Derecho y a partir de la concepción romana de equidad de dar a cada cual lo que le toca en el tratamiento y aplicación del Derecho.

En 1996, Marcela Lagarde refirió que el enfoque de género es sinónimo de perspectiva de género y contiene también el análisis de género, permitiendo analizar y comprender las características que definen a las mujeres y a los hombres de manera específica, así como sus semejanzas y diferencias.

Desde el punto de vista del Derecho, Staff (1999), plantea que la perspectiva de género, significa la promoción de la igualdad y de las nuevas identidades de género, reduciendo o eliminando las causas y efectos de la discriminación en el ámbito jurídico.

A partir de los criterios de las autoras anteriores se considera que la equidad de género en el campo del Derecho y en otros ámbitos, no supone que hombres y mujeres sean iguales, pero sí que tengan acceso y disfruten de los bienes sociales, las oportunidades y los recursos sin distinción alguna.

El énfasis en la equidad o en el empoderamiento de género, no presupone un modelo definitivo de igualdad para todas las sociedades, pero refleja la preocupación de que ambos sexos, aunque no sean iguales por razones biológicas, sí tengan las mismas facilidades para tomar decisiones y trabajen juntos para lograrlo en virtud del Principio de Igualdad reflejado en la Constitución cubana de 2019 y que debe hacerse extensivo a todo el ordenamiento jurídico, en especial a la rama objeto de investigación: el Derecho Penal.

Valoraciones sobre el enfoque de género en el Código Penal cubano, como base para el estudio comparativo y la fundamentación de los retos actuales

La norma sustantiva cubana, en el caso del Código Penal o Ley No. 62 de 29 de diciembre de 1987, puesto en vigor el 30 de abril de 1988 y modificado por el Decreto-Ley No. 150 de junio de 1994, con sus dos últimas modificaciones: el Decreto-Ley 175, de 17 de junio de 1997 y la Ley 87 de 16 de febrero de 1999, regula en el capítulo XI los delitos contra el normal desarrollo de las relaciones sexuales.

Las figuras básicas de los delitos de Violación, Pederastia con Violencia y Abusos lascivos respectivamente, plantean:

Artículo 298.1: Se sanciona con privación de libertad de cuatro a diez años al que tenga acceso carnal con una mujer sea por vía normal o contra natura, siempre que en el hecho concorra alguna de las circunstancias siguientes:

- a) usar el culpable de fuerza o intimidación suficiente para conseguir su propósito;
- b) hallarse la víctima en estado de enajenación mental...o carente de la facultad de dirigir su conducta.

Artículo 299.1: El que cometa actos de pederastia activa empleando violencia o intimidación, o aprovechando que la víctima esté privada de razón o de sentido o incapacitada para resistir, es sancionado con privación de libertad de siete a quince años.

Artículo 300.1: El que, sin ánimo de acceso carnal, abuse lascivamente de una persona de uno u otro sexo, concurriendo cualquiera de las circunstancias previstas en el apartado 1 del artículo 298, incurre en sanción de privación de libertad de seis meses a dos años o multa de doscientas a quinientas cuotas.

Con la regulación de dichos delitos en el Código Penal vigente desde 1987, según Rega (2003), se incorporan actos, agresiones y abusos sexuales que atentan directa o indirectamente contra el normal desenvolvimiento de las relaciones sexuales. Incluye tanto la libertad del sujeto de elegir de forma autónoma en el ámbito de la sexualidad lo referente a la excitación y satisfacción sin traspasar las barreras del Derecho Penal, así como de elegir su pareja, determinar la opción sexual que se prefiera en cada momento.

El enfoque de género a partir de un análisis crítico en ambos delitos y desde la equidad, atendiendo a los sujetos que intervienen y el marco sancionador, se puede apreciar que el legislador cubano formuló dos figuras de delitos analógicamente semejantes por presentar conductas similares, pero con diferencias para ambos sexos.

En el caso de la Violación, según la disposición del artículo, se presenta sólo a la mujer como sujeto pasivo del delito, mientras que en la Pederastia con violencia la acción recae sobre el hombre.

En el caso de la sanción, se evidencia en el marco sancionador del delito de violación de cuatro a diez años, a la mujer, con un tratamiento desventajoso con respecto al marco sancionador del hombre en la pederastia con violencia, lo que evidencia o sugiere que el legislador otorgó con la plasmación de tal diferenciación, una mayor protección a la integridad sexual del hombre de siete a quince años, como si fuera de superior valor a la integridad sexual de la mujer de cuatro a diez años.

Según la consideración de los autores, estamos en presencia de una concepción expresada en Ley, de carácter tradicionalista y sexista, que no otorga el mismo tratamiento para ambos sexos, aun cuando la propia práctica jurídica y social indica que la Violación tiene mayor radicación que la Pederastia con violencia.

Al decir de Rega, “el término violación sin dudas de gran tradición cultural, criminológica y legal, no ha logrado romper la idea que la asocia con la relación heterosexual, donde solo puede ser sujeto pasivo la mujer” (2003, p.137).

Se está en definitiva, en presencia de disposiciones normativas que suponen una diferencia de género por ende discriminatoria, que reconoce que en materia penal en Cuba, no se ha logrado superar el tratamiento del contexto del delito de violación, con cualquier persona, dígame hombre o mujer como sujeto pasivo del delito.

Es preciso aclarar -partiendo del análisis del enfoque de género-, que no ocurre lo mismo en el delito de abusos lascivos, donde sí se contemplan como sujetos pasivos a ambos sexos, concurriendo inclusive cualquiera de las circunstancias previstas en el apartado 1 del artículo 298 Violación, lo que presupone y ratifica la concepción tradicionalista predominante en el modo de pensamiento del legislador cubano al plasmar las figuras delictivas de la violación y la pederastia con violencia.

Por ende, al realizar un análisis comparativo de los delitos de Violación y Pederastia con Violencia desde la perspectiva de la equidad, se identifica un elemento sumamente discriminatorio en torno al marco penal, toda vez que la sanción de privación de libertad es más severa para los supuestos de violación sexual a hombres (7 a 15 años) que para la violación cometida hacia mujeres (4 a 10 años). De igual forma, se prevé un marco penal de 7 a 15 años para las adolescentes víctimas que tienen entre 12 y 14 años; sin embargo, se ofrece mayor protección a la integridad sexual del adolescente varón menor de 14 años como víctima, pues el marco penal en este caso resulta de 15 a 30 años o muerte.

Al ofrecer mayor connotación a la violación cometida de un hombre hacia otro, que aquella consumada de un hombre hacia una mujer, el enfoque de género es de carácter tradicionalista y sexista. Incluso, quedan fuera de la ley penal los supuestos de violación de mujer a mujer o aquellos cometidos contra personas transexuales. Asimismo existen tipicidades específicas que no encuentran asidero en la ley cubana,

tales como las asociadas a la penetración de objetos y la *felatio in ore*, supuestos estos que configurarían el delito de Abusos Lascivos. De tal manera, existe una perspectiva reduccionista del tipo penal de Violación, al configurarse solo cuando se realiza la penetración de miembro viril en cavidad con esfínter.

Se considera que dicha problemática hubiera sido resuelta con una única norma que contemplara a ambos sexos como sujetos pasivos de los dos delitos antes mencionados y como se evidencia en materia penal en países del Sistema de Derecho Romano-Francés como Venezuela, Argentina, España y Bolivia (Silva & Pérez, 2018).

Estudios comparados de la violencia sexual. Referentes desde las legislaciones de Venezuela, Argentina, España, Bolivia y Perú

Las deficiencias identificadas en la realidad socio-jurídica cubana dieron paso a establecer una comparación jurídica de los ilícitos penales regulados en España, Argentina, Bolivia, Venezuela y Perú, los cuales resultan referentes para el contexto latinoamericano y caribeño, y en particular para Cuba. Su sistematización implica contextualizar el principio de equidad en toda su configuración teórica, con especial impacto en la identificación de otras formas de violencia sexual no visualizadas a priori en la Isla.

En materia de Derecho Comparado, en la actualidad, una mirada al enfoque de género bajo la égida de la equidad, específicamente en el delito de violación en materia penal, sugiere revisar el tratamiento dado por el Código Penal de países específicos. España, porque es el tronco del cual emanó todo el ordenamiento jurídico latinoamericano; Venezuela y Bolivia porque son de los casos cuyo enfoque sociopolítico es más semejante al cubano, y Argentina porque es uno de los países que se reconoce en América Latina como de mayor desarrollo de su ordenamiento jurídico y su actividad jurisprudencial.

El Código Penal de Venezuela, divulgado por la Gaceta Oficial Nº 5.494 Extraordinario del 20 de octubre de 2000, plantea en su Título VIII, Capítulo I “De la violación, de la seducción, de la prostitución o corrupción de menores y de los ultrajes al pudor”, artículo 375, que “El que por medio de violencias o amenazas haya

constreñido a alguna persona, del *uno o del otro sexo*, a un acto carnal, será castigado con presidio de cinco a diez años”.

Por su parte, el Código Penal de Argentina actualizado o Ley 11.179 de 1984, en su Capítulo II, artículo 119 plantea:

Será reprimido con reclusión o prisión de seis meses a cuatro años el que abusare sexualmente de persona de uno u otro sexo cuando, ésta fuera menor de trece años o cuando mediare violencia, amenaza, abuso coactivo o intimidatorio de una relación de dependencia, de autoridad, o de poder, o aprovechándose de que la víctima por cualquier causa no haya podido consentir libremente la acción.

El Código Penal de España de 1995, en el artículo 179, también asume el concepto amplio de violación, que asimila no solo como sujeto pasivo a la mujer sino también al hombre; este plantea que:

Cuando la agresión sexual consista en acceso carnal por vía vaginal, anal o bucal, o introducción de objetos por cualquiera de las dos primeras vías, el responsable será castigado como reo de violación, a prisión de seis a doce años (Rega, 2003, p.135).

Por último el Código Penal de Bolivia, modificado por la Ley 2033 de 1999 en su artículo 308 dice: *“Quien empleando violencia física o intimidación, tuviera acceso carnal con persona de uno u otro sexo; penetración anal o vaginal o introdujera objetos con fines libidinosos (...)”*.

Una formulación de referencia aparece en el Código Penal peruano, Capítulo IX: Violación de la libertad sexual, Artículo 170: *“El que con violencia o grave amenaza, obliga a una persona a tener acceso carnal por vía vaginal, anal o bucal o realiza otros actos análogos introduciendo objetos, o partes del cuerpo por algunas de las dos primeras vías, será reprimido con (...)”*.

Al analizar cada uno de los casos citados anteriormente se llega a la conclusión de que existen diferencias entre las figuras delictivas de la violación de los países expuestos y la norma cubana que contempla dicho delito en el Código Penal.

La diferencia más significativa radica en los sujetos pasivos en los que recae la Violación, pues tanto España como Venezuela, Bolivia, Argentina y Perú, lo regulan en una misma normativa para ambos sexos, sin necesidad de establecer la misma conducta con marcos sancionadores diferentes para el hombre o la mujer, otorgándole a ambos el mismo valor e importancia. Sin lugar a dudas, estos constituyen modelos de países

cuyos legisladores han tenido en cuenta la equidad de género respecto al delito de Violación, un patrón a seguir la futura reforma penal en Cuba.

Retos del enfoque de género en el Derecho Penal cubano en torno a la violencia sexual

Las pautas para el perfeccionamiento de la ley penal cubana en materia de género van desde considerar la inexistencia de una figura de Femicidio hasta la propia denominación de la figura penal asociada a la transgresión de la libertad sexual. En tanto en el Código Penal cubano se emplea el término genérico “Violación”, el que pudiera aludir a Violación de domicilio, Violación de la correspondencia, entre otros; se evidencia una ambigüedad, cuando en realidad debería denominarse al delito como “Violación de la libertad sexual”, de manera que quede explícito el bien jurídico protegido.

Asimismo existen tipicidades específicas que no encuentran asidero en la ley cubana, pues si bien la norma penal debe ser general y abstracta, no se prevén actualmente como Violación las conductas asociadas a la penetración de objetos y el sexo oral, lo que sí se establece en otras legislaciones de Derecho Comparado. Esta situación conlleva a un aparente concurso de normas penales entre las figuras de Violación y Abusos Lascivos, siendo esta última la aplicable cuando se realizaron prácticas lascivas sin consumarse la penetración de miembro viril en la cavidad con esfínter.

Un elemento sumamente discriminatorio en torno a la equidad de género resulta ser el marco penal diferenciador para las figuras de Violación y Pederastia con Violencia. Para este último supuesto la figura básica es más severa, sancionando por ende con mayor connotación la violación cometida de un hombre hacia otro, que aquella que consuma un hombre hacia una mujer.

Otro de los supuestos que pudieran tener lugar en la cotidianidad es el de la Violación dentro del matrimonio, cuestión profusamente discutida en la doctrina. Realmente existen los elementos de tipicidad para configurar el delito, mas no se identifica la situación como tal, al preponderar “supuestamente” los derechos del cónyuge sobre la libertad sexual de su esposa. Realmente la situación trasciende las

barreras del Derecho Penal, pues aun estando regulado en ley, las mujeres víctimas no lo identifican como delito y en otras ocasiones no establecen la denuncia. Este último supuesto limita la perseguibilidad de oficio del delito de Violación, que por su carácter de semipúblico requiere de la denuncia del perjudicado, según estipula el artículo 309 del Código penal vigente.

Por ende, las propuestas de perfeccionamiento estarían dirigidas hacia la tipificación de una figura única para ambos sexos, sin diferenciar en Violación o Pederastia, sino definiendo sujetos generales, tal como lo hacen disímiles Códigos penales analizados desde el Derecho Comparado. De tal manera, los principales retos que encuentra una adecuada perspectiva de género en el Derecho Penal cubano van dirigidos a su reconfiguración normativa.

De cara a una reforma penal en Cuba, las perspectivas de un coherente enfoque de género en la ley penal sustantiva implican, respecto al delito de Violación, los siguientes elementos:

1. Adecuada denominación de la conducta, alusiva a la violación “de la libertad sexual”.
2. Inclusión de otras tipicidades referidas al sexo oral y la penetración de objetos.
3. Igualdad de sanción penal para los supuestos de violación sexual a hombres o mujeres.
4. Unicidad de figura jurídica para la tipificación de conductas de sujeto general, tanto activo como pasivo.

A tono con una adecuada perspectiva de género en el Código Penal, se valora además la figura de la Trata de Personas. Esta última evidencia un carácter restrictivo en su formulación, referida solo a la explotación sexual, excluyendo otras tipologías como los matrimonios forzados, la adopción irregular, la extracción de órganos, la esclavitud reproductiva y otras formas modernas de esclavitud. Por ende, la mera delimitación a la violencia sexual resulta insuficiente y amerita de una nueva formulación que incluya la violencia psicológica, material, doméstica, intrafamiliar y otras que convierten a mujeres y niñas en sujetos con especial necesidad de protección.

Otras formas de violencia sexual que también requieren de un análisis crítico resultan aquellas como el feminicidio, la homofobia, la transfobia y el ciberacoso. Ninguna de ellas encuentra respaldo en la actualidad jurídica cubana. Así aparecen muchas veces las amenazas y coacciones que devienen posteriormente en un Feminicidio, delito que no está tipificado explícitamente en la ley penal. De igual forma, el acoso sexual del cual son víctimas las mujeres, incluso adolescentes cibernautas, a través de las redes sociales, es una conducta que queda impune en la generalidad de los casos. Estas constituyen tipologías de violencia sexual de índole psicológica, las que, sin constituir agresión física, afectan la integridad sexual y moral de las víctimas, su derecho a la imagen, al honor y al respeto de la identidad sexual.

Este análisis crítico de la ley penal cubana enaltece la representación social de las mujeres jóvenes y niñas desde el Derecho, con particular atención a las propuestas de modificación de la ley sustantiva. Se visualizan por tanto los retos y perspectivas en el contexto de la reforma legislativa en que Cuba está inmersa, para una adecuada configuración del enfoque de género en todo el ordenamiento jurídico cubano.

Grosso modo los principales aspectos propuestos para una reforma penal en Cuba, en pos de una adecuada perspectiva de género, implican la reconfiguración de un tipo penal genérico que proteja indistintamente la libertad sexual del hombre y la mujer, en sus diversas manifestaciones y tipologías, de manera equitativa tanto en la configuración de las figuras de delitos como en la cuantía de sus sanciones penales. De igual forma se propone la modificación de la figura de Trata de Personas y la inclusión de nuevas tipologías de violencia de género que potencien valores de justicia y seguridad jurídica. Su impacto social irradia a la población juvenil, en tanto las contribuciones teóricas de la presente investigación resultan, a su vez, referentes jurídicos insoslayables para la implementación de la Campaña Nacional por la no violencia hacia mujeres y niñas.

Conclusiones

El enfoque de género en el Código Penal cubano en los artículos 298.1 (Violación) y 299.1 (Pederastia con Violencia) correspondientes a la Sección Primera del Capítulo I “Delitos contra el normal desarrollo de las relaciones sexuales”, del

Título XI, del Código Penal, es de carácter tradicionalista y sexista en tanto ofrece mayor protección a la integridad sexual del hombre que a la de la mujer, lo que no se ajusta a la equidad sustentada en el Principio constitucional de Igualdad. En tal sentido, los principales aspectos a tener en cuenta para una reforma penal en Cuba, en pos de una adecuada perspectiva de género, implican la reconfiguración de un tipo penal genérico que proteja indistintamente la libertad sexual del hombre y la mujer, en sus diversas manifestaciones y tipologías, de manera equitativa, tanto en la configuración de las figuras de delitos como en la cuantía de sus sanciones penales.

Por otra parte, la delimitación a la violencia sexual resulta insuficiente y merece una nueva formulación que incluya diversos tipos de violencia como la psicológica, la material, la doméstica, la intrafamiliar y otras que convierten a mujeres y niñas en sujetos con especial necesidad de protección, tales como el feminicidio, la homofobia, la transfobia y el ciberacoso, las cuales tienen presencia en países del contexto latinoamericano y caribeño como España, Argentina, Bolivia, Venezuela y Perú.

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A MODEL FOR IMPLEMENTING MONETARY AND BANKING POLICIES (CASE STUDY IN IRAN)

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Abstract: This research has addressed the pathology of the implementation of monetary and banking policies in Iran and identifying the factors affecting the implementation of these policies in the banking system. In this research, concurrent with collecting researches and studies performed about the factors affecting the implementation of policies, by conducting exploratory interviews with 20 experts in the field of policy-making and banking and monetary experts, 36 indicators affecting the implementation of monetary and banking policies in Iran were also identified. Afterwards, in order to fit the "proposed analytical model of implementing monetary and banking policies in Iran", 13 hypotheses were defined. Then, by selecting appropriate statistical sample and distributing the

questionnaire among them, the fitness of the model was investigated. Finally, the proposed research model for implementing monetary and banking policies in Iran was fitted and confirmed, and out of 13 hypotheses, 2 were rejected and the rest were confirmed.

Keywords: Public Policy, Policy Implementation, Monetary Policy, Banking Policy.

Introduction

Today, the banking network and monetary institutions have the role of lubricating oil in order to make the economic system's movement on the path to growth and development smoother. Without the principled planning, implementing the policies adopted in the banking system of the

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countries will face with serious problems. (Mojtahed & Hassanzadeh, 2005)

The health of banking network is affected by the overall environment governing economic relations and economic macro policy making, and the lack of banks health leads to the expansion of concern to the whole economy and has consequences for budget and monetary policies. If monetary and banking policies, including monetary policies, executive regulations, and precautionary regulations are not properly implemented, a kind of monetary irregularity will be formed and the Financial Services Industry of the countries will suffer from a crisis. (Mahdavian, 2013)

The results of recent official reports indicate the undesirable situation of banking system in Iran, in a way that the Researches Center of the Islamic Consultative Assembly of Iran (2016), in a report entitled "Bankruptcy Stop in the Banking System", proposed the capital adequacy indicator in the topic of balance sheet stop among the existing banks in Iran in 2012 as: private banks had the highest ratio of capital adequacy,

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and the lowest capital adequacy ratio has been related to the private banks in this year, and the specialized banks had been after them. However, the bank's capital has the role of protecting the bank against the risks; therefore, capital should be proportional to the bank's assets ratio.

The Researches Center of the Islamic Consultative Assembly of Iran (2016), in another report, "has also investigated the performance of monetary and credit policy maker in Iran", in which a series of monetary policy damages in Iran, such as the rise in liquidity growth over the past three decades due to the lack of proper control on monetary based, determining bank interest rates by command inappropriate with the inflation rate in previous years, the lack of supervision over unauthorized financial institutions and its precautionary rules, and the impossibility of conducting open market operations by the central bank of Iran.

The numerous issues of recent decades in the field of monetary and banking policies in Iran have led to the creation of unfavorable conditions. In this regard, over many years, a set of monetary and banking policies have

been approved, including the Law for Combating Money Laundering, the Islamic Banking Law, the 29 Fundamental Principles for Effective Banking Supervision (Basel I and II), etc. Nevertheless, it seems that despite the prediction and approval of the necessary policies in this regard, the expected consequences and results have not yet occurred. Therefore, the pathology of the implementation of monetary and banking policies in Iran is one of the most important issues that should necessarily be performed.

Accordingly, this research aiming to help the correct, efficient and effective implementation of monetary and banking policies has investigated and identified the most important factors affecting the implementation of the policy according to the viewpoint of researchers and the thinkers of policy making area. Therefore, in this research, considering the stated issue and its importance and necessity, this question was investigated that: "What are the factors affecting the implementation of monetary and banking policies in Iran?"

Literature Review

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The implementation of the policy, as one of the most difficult stages of the policy making process, is among the controversial issues across the world. However, all governments have duties against the people that in order to perform these duties it is necessary to compile some policies. As the correct implementation of policies can lead to the results such as country development, citizens' general satisfaction, welfare level increase, and the country's empowerment, and the lack of accurate implementation of them can also lead to general dissatisfaction, welfare level decrease, country's backwardness, and so on, here it is necessary to address some of the most important studies performed about the factors affecting the implementation of policies.

Shardy Abdullah et al. (2013), in an article entitled "Implementation barriers of ISO 9000 within the Malaysian local government", have identified the most important implementation barriers. They have located the main implementation barriers into four categories of organizational barriers, resources related barriers, cultural and behavioral barriers, and technical barriers.

In an article entitled "Exploring barriers to the implementation of city development strategies (CDS) in Iranian cities A qualitative debate", Maghsoodi Tilaki & Hedayati (2015), have named five main barriers for implementing the urban planning process of Iran that are: urban planning structure focus, coordination and communication of agencies, financial resources, relevant laws and regulations and public participation.

In a research entitled " Barriers to urban freight policy implementation: The case of urban consolidation center in Oslo," Elvsaa Nordtømme et al. (2015), concluded that the main barriers to implement this policy are: financial and practical barriers, cultural and social barriers, institutional barriers, and legal barriers.

In a research entitled "Barriers to policy implementation and implications for Zambia's forest ecosystems" Kalaba (2016) considers the barriers for implementing this policy as: inadequate institutional capacity, inadequate legal framework, political influence, unsafe lands occupation, poor budget and the lack of intersectional coordination.

Rameezdeen et al. (2017), in the article "Practices, drivers and barriers of implementing green leases: lessons from South Australia" stated the important barriers in implementing the Green Leasing Policy in South Australia as the lack of awareness, transaction costs, commitments and penalties, and expectations difference.

Mosannenzadeh et al. (2017), in the article "Identifying and prioritizing barriers to implementation of smart energy city projects in Europe: An empirical approach" consider the most important obstacles for implementing Urban Smart Energy Projects in Europe as the lack of coherent political support of political levels for long-term, the lack of proper cooperation and the lack of proper acceptance among project partners, inadequate foreign financial support, the lack of skilled and trained personnel, and the scattered ownership at the project level.

By investigating previous research, it is specified that limited research has been done about the implementation of policies and in particular monetary and banking policies. Therefore, this research seeks to identify the factors affecting the

implementation of monetary and banking policies in Iran.

Policy Making Process

A policy in the general sense is the practical model of sustainability that responds to various and sometimes contradictory expectations and creates motivation to attract cooperation in solving problems. (Alwani, Sharifzadeh, 2006) The policy is a general orientation that specifies how organizations and institutions operate in the future.

The public policy-making process has six stages that are: first stage: recognizing and understanding general problem, second stage: agenda, third stage: design and formation, fourth stage: policy implementation, fifth stage: policy evaluation, and sixth stage: modification, change or termination of the policy.

From a process viewpoint, implementation is in the fourth stage, in which an approved policy is used to achieve the desired goals. Implementing the policy is expressed to the operations and actions of the executor organizations and institutions and how they are performed. (Daneshfard, 2014)

The implementation of the policy refers to organizational activities that are carried out by administrative bureaucrats at the national, state, and local levels in respect of implementing the policies approved. (Clemons & McBeth, 2009)

One of the effective definitions of implementation presented by Mazmanian and Sabatier is: Implementation is to perform a public policy decision, usually inserted in one law, but it can also be in the form of important executive orders and/or court decisions. (Hill & Hupe, 2002)

Policies Implementation Models

Numerous models have been presented about the implementation of policies. Here two models are mentioned.

The model of Van Meter and Van Horn (1975): This model has been drawn in accordance with the up-down approach and the down-up approach. The emphasis of this model is on the willingness and motivation of the executors. In this model, as shown in Figure 1, six variables affect the final performance of the policy, which is the

same as policy consequence, in a dynamic and effective way.

Figure 1: A model for Policy Implementation process (Van meter & van horn, 1975)

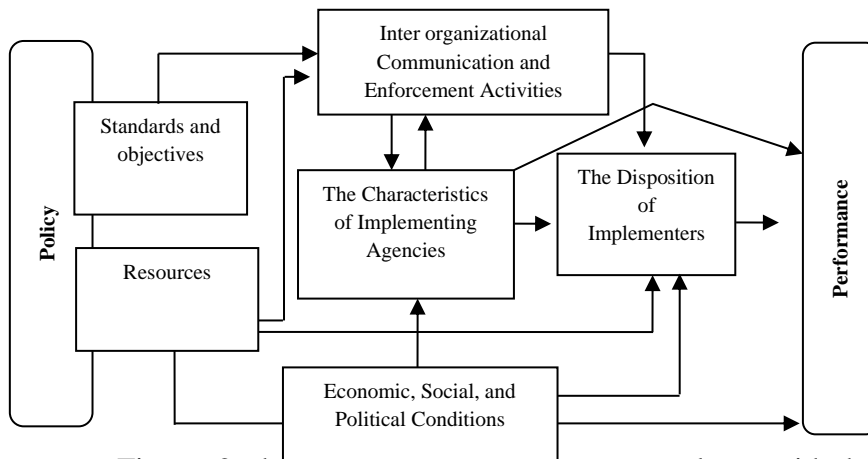
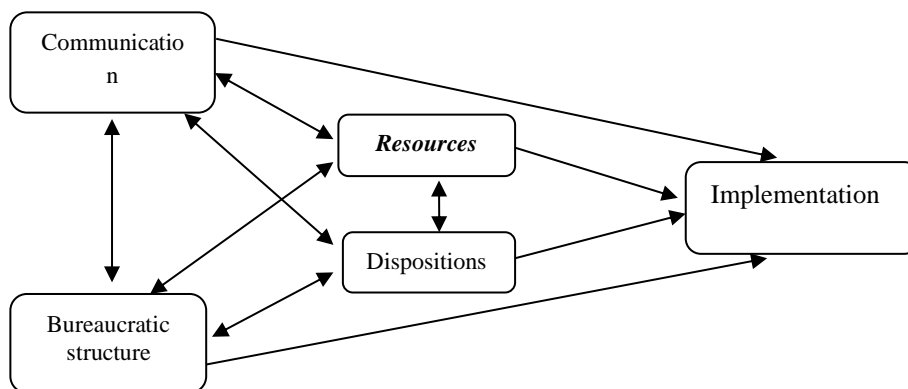


Figure 2 shows the model of Edwards (1985). In this model, organizational communication and structure affect the resources needed for implementation. Also, this set of factors, along with the attitudes and interests of the executives lead to policy implementation. If the tendencies of the executors are favorable and in

accordance with the policy issue and the necessary resources are also provided, the realization of efficient implementation can be expected. Of course, flexible organizational structures and the ease of communication between the execution agents are the necessity of successful implementation. (Nayam, 1995)

Figure 2: direct and indirect impacts on implementation (Edwards, 1985)



Monetary and Banking Policies

Monetary policies are a set of measures used by monetary authorities (central bank) to control the economic activities of the community. (Mojtahed and Hassanzadeh, 2005)

In another definition, monetary policy is a general concept or inference of the capacities, power and tools of the monetary policy maker institution and the process of applying policy (through tools) and its impact on the major economic variables. (Jalali Naeni, 2015)

In general, monetary policy forms a part of the country's economic policies through which the country's monetary authorities are trying to control in a way the supply and demand of money in a framework coordinated with other economic policies that is in line with the country's economic goals. (Baizaei, 2006)

In recent decades, the majority of monetary policies have been decreased into four categories: (a) policies that keep the currency rate unchanged; (b) policies aiming at the monetary volume, often indirectly through interest rate, (c) policies aiming at inflation, and (d) policies aiming at linear combination of individual goals,

such as Taylor's law. (Barnett & Javadi, 2015)

Monetary policy tools are divided into two categories: (A) Quantitative tools of monetary policy refer to the tools that can change the volume of money in the economy. (B) Qualitative tools of monetary policy that compose a set of tools provided for the central bank that monetary authorities by using them influence the way and method of consuming money in the economy. (Mojtahed and Hassanzadeh, 2005)

Research Methodology

The orientation of this research is applied-developmental in the field of policy making and fundamental in the area of money and bank. Also, the desired research method of this research is a quantitative method type. The strategy of this research is also of survey type and the purpose of this research is descriptive and exploratory.

Exploratory studies are carried out in the form of two related and correlated activities. These activities include reading texts and exploratory interviews. Exploratory interviews reveal aspects of the phenomenon of the

research topic for the researcher, which he himself did not think of them, and thus completes the research fields that open reading texts for him. (Nikgozar, 2007)

In the present research, concurrent with studying texts and literature on the field of implementing a

variety of policies, by conducting exploratory interviews with experts in the field of monetary and banking in Iran as well as policy maker experts, those factors that affect the implementation of monetary and banking policies have been identified. Table 1 has depicted the output of this stage.

Table 1: Factors Affecting the Implementation of Monetary and Banking Policies in Iran

Concept	Dimensions	Component	Indicators
Factors Affecting the Implementation of Monetary and Banking Policies	Policy facilitators	Policy determination and goal setting	1. Transparency of policy and its goals. 2. The presence of numerous research centers in the monetary and banking sector. 3. Decisions shall be made in accordance with applicable laws and regulations. 4. Determine the tasks and responsibilities of the Executive agencies. 5. Attention to interest groups. 6. No deviations from political intentions (lack of partisan look). 7. Alignment and agreement on policy goals (among policy makers). 8. Attention to the economic, political, social and cultural conditions governing society. 9. Focus on organizational culture. 10. Participate or consult with executives. 11. Non-conflict with the beliefs and values of society. 12. Existence of public trust
		Resources and Instrument needed	13. The adequacy of the resources and financial resources necessary for implementation. 14. Applying advanced technologies and new technologies to policy implementation. 15. No restrictions on foreign loans (e.g. Boycott)
		Logistic factors	16. Existence of complementary policies 17. Political support of policy (by policy makers)
		Ability of Policy makers	18. Enough science 19. The lack of multiplicity and interference of policy makers. 20. Paying attention to the policy feedback system. 21. Paying attention to the group's work of policy making for the use of others' experiences.

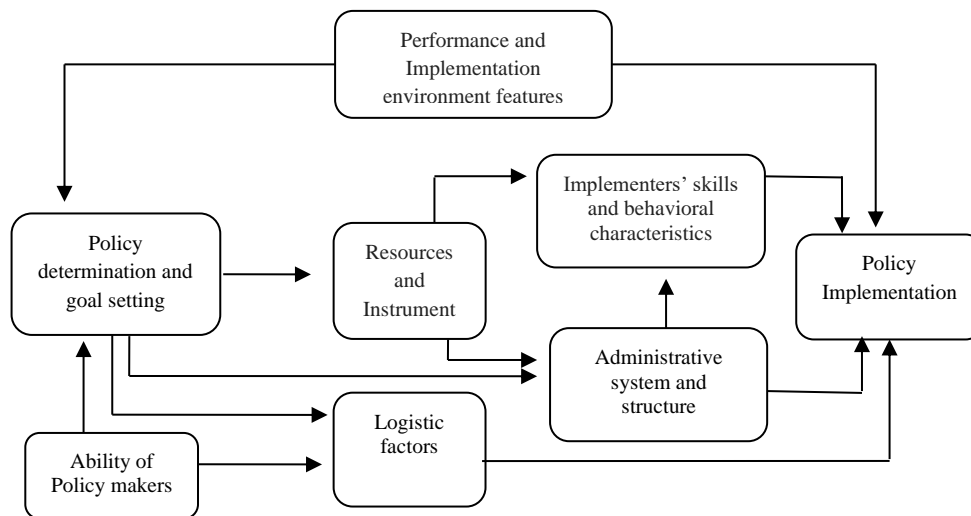
		22. Using a unit model of policy implementation approaches (such as: top-down, bottom-up, and fusion-based approaches)
	Performance and Implementation in environment features	23. Features of government, non-government, economy and market, community and social media. 24. Features of international sections and standards (such as: World Bank, IMF, etc.)
Policy implementation factors	Implementers' skills and behavioral characteristics	25. Existence of empathy and cooperation in the organization. 26. Existence of necessary motivation and commitment in the administrators. 27. Positive attitude towards policies and their acceptance. 28. Aptitude, expertise, and competence in administrators. 29. Availability of managerial capabilities (such as leadership, coordination, monitoring and evaluation, etc.)
	Administrative system and structure	30. Appropriate internal and external communication 31. Proper bureaucratic structures 32. Non-conflict of policies with the mission and plans of the organization 33. Appropriate decision making system 34. Not enough participants in the implementation 35. Effectiveness of delegation of powers and proper distribution of power in implementation 36. Lack of competition and conflict among the organizations that implement the policy.

Research Analytical Model

An analytical model is a hinge that connects the research topic compiled by the researcher with his subsequent work that is to observe and analyze information. (Nikgozar, 2007)

Figure 3, which is the result of exploratory studies of the researcher, illustrates the proposed research analytical model.

Figure 3: The proposed model for implementing monetary and banking policies in Iran



Research Hypotheses

H1. The Policy determination and goal setting affects the Administrative system and structure.

H2. The Policy determination and goal setting affects the Logistic factors.

H3. The Policy determination and goal setting affects the Resources and Instrument needed.

H4. The Resources and Instrument needed affects the Administrative system and structure.

H5. The Resources and Instrument needed affects the Implementers' skills and behavioral characteristics.

H6. The Ability of Policy makers affects the Policy determination and goal setting.

H7. The Ability of Policy makers affects the Logistic factors.

H8. The Logistic factors affect the implementation of monetary and banking policies.

H9. The Administrative system and structure affects the Implementers' skills and behavioral characteristics.

H10. The Performance and Implementation environment features affects the Policy determination and goal setting.

H11. The Performance and Implementation environment features affects the implementation of monetary and banking policies.

H12. The Implementers' skills and behavioral characteristics affect the implementation of monetary and banking policies.

H13. The Administrative system and structure affect the implementation of monetary and banking policies.

Research Statistical Population and Sample

The population under study of this research is the experts and professionals in the banking and monetary system in Iran from various institutions (including the banking system of the country, universities, Islamic Consultative Assembly, etc.) as well as the experts in the field of policy making.

It should be mentioned that for doing this research, among the mentioned statistical population, 230 individuals were selected by random sampling method, that the same number of questionnaires were distributed among them, among which 176 questionnaires were returned. This number of returned questionnaires was regarded as the criterion for analyzing the present research.

Findings Analysis

The results of statistical analysis have been presented in two parts of descriptive findings and inferential findings.

In the present research, investigations were first carried out through studying books, articles, and dissertations, so that the important concepts and variables used in the research and how they are measured in the organization are specified, in a way that we can design appropriate questions for the hypotheses. Then, in order to measure the questionnaire validity, the face validity and content validity were used by exposing the questions of the questionnaire for the judgment of the scientific community. In fact, the content validity of this questionnaire has been confirmed by several professors of the field of policy-making and the Ph.D. and master students of management field that had the required validity.

Also, to investigate the initial reliability (pilot) and final reliability of the variables, and the questionnaire, Cronbach's alpha coefficient was used. Cronbach's alpha coefficients for each of the research variables showed that all the research variables have acceptable

reliability and the values obtained from the reliability confirm the measurement tool (questionnaire).

The results of descriptive statistics of the research showed that 76% of the statistical sample was male and 24% was female, of which 58% were people with master education, 39% had doctoral education and 3% had bachelor education. Also, people were classified into four categories according to the job

type: 44% had an executive job, 34% had a supervisory job, 14% had educational jobs, and 8% were activating in other jobs.

Normality of the Variables Test

The Kolmogorov-Smirnov test and the skewness and kurtosis indicators were used to determine the data distribution status (normality). Table 2 shows the extracted values.

Table 2: The Kolmogorov–Smirnov test and the skewness and Kurtosis indices

Kurtosis	Skewness	significant	Variable
.666	-.568	.114	Policy determination and goal setting
1.03	-.846	.073	Resources and Instrument
.298	-.451	.163	Logistic factors
.306	-.677	.105	Ability of Policy makers
-.174	-.376	.159	Performance and Implementation environment features
1.20	-.877	.068	Implementers' skills and behavioral characteristics
-.262	-.512	.092	Administrative system and structure
1.76	1.19	.058	Policy Implementation

The results obtained from the Kolmogorov-Smirnov test show that the significance level for all research variables is higher than the value of 0.05. Thus, all of them are normal. Also, regarding the skewness and kurtosis

values of the research variables located in the range of +2 to -2, it can be concluded that all of them have a normal or partially normal distribution.

Confirmatory Factor Analysis

The first and second order factor analysis (if needed) was used to investigate the validity of the policy factors structure. The findings showed that the value of factor loads obtained for all questions or obvious variables (other than questions 4 and 34 of the questionnaire, which had a weak factor load and were excluded from the analysis) was more than 40% and is located at a significance level lower than 0.05. Therefore, the validity of the structure of all the factors and, consequently, the overall structure was confirmed.

Research Analysis Model Test

The research conceptual model was tested using the Structural Equation Modeling Technique through Partial Least Squares (PLS) method by using Smart PLS software. In Figure 4, the research model has been fitted in the state of standardized coefficients along with obvious variables.

In Table 3, the results of investigating the model's fitness indicators have been presented.

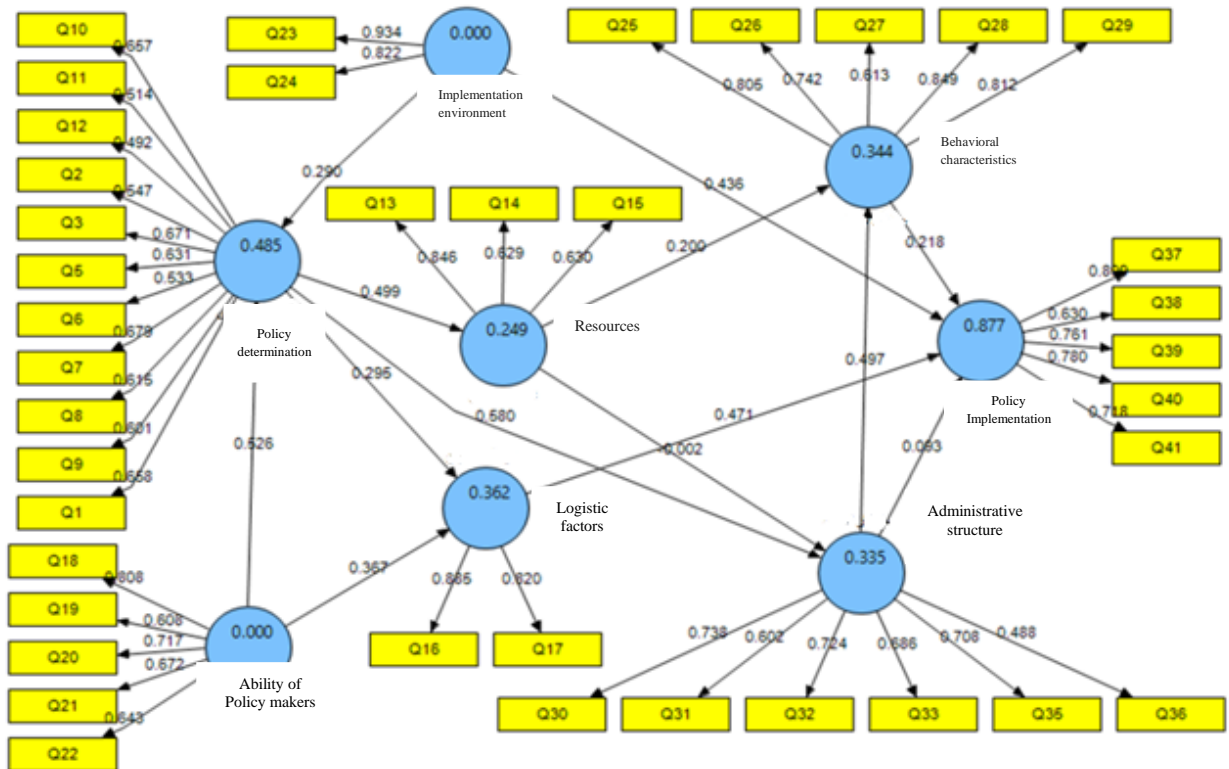
Table 3: Model fit indices

GOF	Q ²	R ²	dependent variable
.66	0311	.877	Policy implementation

By investigating the results of all three fitness indicators (determination coefficient, CV-Redundancy indicator (Q²), and goodness of fit indicator (GOF)), we conclude that the fitness of the model is confirmed and we can

confirm the model in general. In other words, the data has been able to be an appropriate support for the model, and the model in the research sample has given an appropriate result.

Figure 4: Testing the model of research in the mode of standardized path coefficients



Results Obtained from Research Hypotheses Test

The results obtained from testing the research hypotheses have been mentioned in Table 4, in a way that

the results showed that most of the research hypotheses were confirmed and only two hypotheses including hypothesis 4 and hypothesis 13 have not been confirmed.

Table 4: The results of testing hypotheses

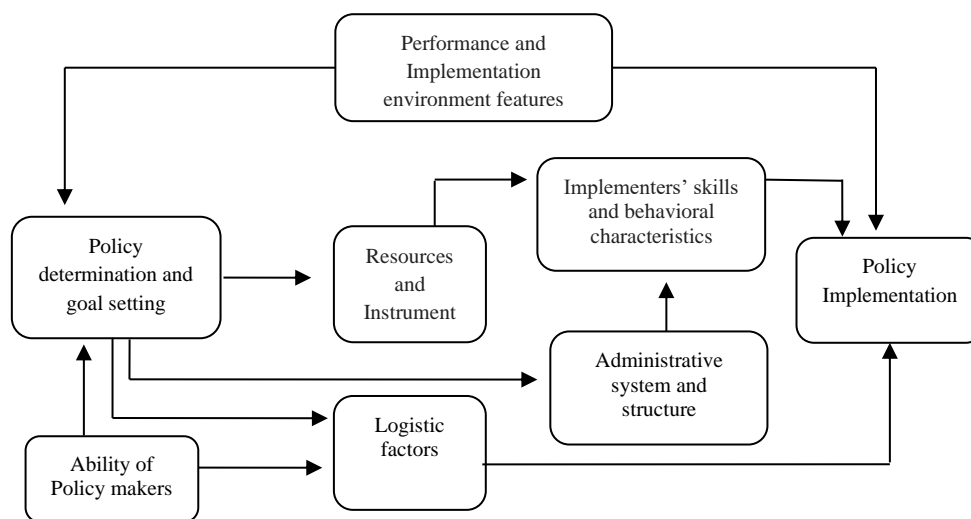
Hypothesis	standardized coefficient	T-value	p-value	Test result
H 1	.580	6.16	< .001	Confirmed
H 2	.295	2.50	< .05	Confirmed
H 3	.499	7.70	< .001	Confirmed
H 4	-.002	.02	> .05	Rejected
H 5	.200	2.35	< .05	Confirmed

H 6	.526	5.58	< .001	Confirmed
H 7	.367	2.80	< .01	Confirmed
H 8	.471	9.62	< .001	Confirmed
H 9	.497	5.94	< .001	Confirmed
H 10	.290	3.19	< .01	Confirmed
H 11	.436	8.30	< .001	Confirmed
H 12	.218	4.07	< .001	Confirmed
H 13	.093	1.60	> .05	Rejected

Therefore, based on the results obtained from testing the research hypotheses, the final model of the

implementation of monetary and banking policies in Iran was compiled as Figure 5:

Figure 5: A model for implementing monetary and banking policies in Iran



Conclusion

Considering the presented model for implementing monetary and banking policies in Iran and also taking into account the other outcomes of this

research, in order to implement the monetary and banking policies in a deserving and optimal way and to end them with complete productivity, while considering the policy facilitator factors,

other variables of this model, including the implementers' skills and behavioral characteristics, the Administrative system and structure, the Performance and Implementation environment features should also be considered.

Also, with a process look at the policy making topic, as the findings showed the variable of behavioral characteristics and implementers' skills and the variable of administrative structure and system play an important role at the time of policy implementation. This role is such that policy implementers while having adequate knowledge, expertise and managerial capabilities, should also have necessary incentive and commitment to implement the related policies. Of course, having proper organizational structures for desirable decision making, facilitating internal and external organizational communication and interactions, and preventing and reducing inappropriate internal organizational conflicts, are the important cases that also lead to the proper policy implementation.

Therefore, the proposed model for implementing monetary and banking policies in Iran can be used as an

important reference in the policy-making process in general and in the implementation of the monetary and banking policies in Iran in particular.

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DESIGNING A MODEL FOR MAKING DECISION ABOUT OUTSOURCING ACTIVITIES IN BANKING SYSTEM

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Parvaneh Gelard

Abstract: Despite the growing trend of outsourcing of financial services in recent decades, most outsourcing projects have failed due to the qualitative nature of decision-making criteria and lack of paying attention to differences in environmental conditions. The aim of this research is to design a model for decision making about outsourcing activities in the public banks. This research is applied and developmental study in terms of objective and descriptive-survey in terms of data collection method. The research tool was interview in qualitative section and a questionnaire in quantitative section. The research population included banking experts in 6 public banks and central bank. After studying the theoretical foundations and exploratory interviews, the initial model was

identified. Then, the final model of the research was identified with 6 factors and 22 sub-factors using the fuzzy Delphi method. Fuzzy DEMATEL and fuzzy ANP methods were used to examine the relationship between criteria and weighting the factors. Finally, "logistics and support sector activities" option with the highest weight was rank first and selected for outsourcing using gray and fuzzy MOORA methods. Moreover, the activity of the "human resources" sector was ranked second and the "legal and claims receivable sector activities" option was ranked last.

Keywords: Decision-making, outsourcing activity, public banks

1-Introduction

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Considering the great advances in the business environment, including globalization, information technology advances, public sector reforms, increased competitive pressure, high-speed technological change and the diffusion of knowledge across different companies and markets with geographically different positions in the last two decades have forced organizations to respond increasingly to customers' needs. For this purpose, many organizations that were hierarchically controlled in the past have been forced to outsource their activities to specialist suppliers (Mcivior, 2008).

In this regard, managers in Iran have faced continued emergence of management tools. In the last two decades, tools such as ISO 9000, productivity improvement systems, organizational excellence models, administrative transformation programs, service compensation systems, process reengineering, outsourcing, strategic planning, etc. have been introduced into work plans of organizations (Akbari and Nikzad, 2011). Nowadays, organizations consider outsourcing as an operational necessity and plan many services for outsourcing. Due to the involvement of

different decision making groups as well as the interrelationships between outsourcing criteria and options, outsourcing decision making on processes and selecting outsourcing contractor is a process that requires examining different and sometimes conflicting theories of experts considering the multiple and complex quantitative and qualitative factors. Inaccurate and wrong decision-making is associated with payment of cost for errors and it is irreversible in some cases and requires the use of robust and practical techniques in the area (Masrur et al., 2018). Since the 1980s, an outsourcing trend has begun in organizations. It starts with outsourcing of information systems and continues up to the advanced strategic and transformational outsourcing level. It involves outsourcing the core and strategic business activities (Schniederjans et al. 2007).

Numerous previous studies have investigated the phenomenon of outsourcing and its various aspects, different types of outsourcing in terms of the nature and scope of activity, and sourcing models in terms of service delivery and seller location. Large

volume of the previous studies have focused on outsourcing IT-related activities (Ai et al., 2019) such as digital logistics (Teo et al., 2014), e-commerce (Grandon and Pearson, 2004), e-business (Zhu and Kraemer, 2005), and organizational resource planning (Amoako-Gyampah and Salam, 2004).

Some previous studies have also considered the benefits and risks associated with outsourcing (Di Gregorio et al., 2009) and have focused on success and failure of outsourcing projects (Law, 2018). In addition, past studies have also investigated the factors affecting outsourcing of logistics (Zhu et al., 2017). However, limited number of studies has investigated the decision-making process for outsourcing activities in the banks as a whole. Hence, this study was conducted with the aim of designing and developing a model to help managers in decision making with regard to outsourcing of activities. In addition, outsourcing of financial services has grown in recent decades. Banks, along with other organizations around the world, are increasingly outsourcing their activities. Regardless of non-core activities such as maintenance services, security services,

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property and buildings maintenance, preparing food, etc., which their outsourcing have become obligatory in some cases, many banks are significantly outsourcing IT processes, administrative affairs, and human resources (Tabatabaei and Mohammadi, 2015). It has been globally observed that the banking industry has a high potential to make a profit from outsourcing given the nature of information technology (Tas and Sunder, 2004). In fact, industry studies have shown that the banking and financial services industry, after production, has been the largest user of outsourcing services sector around the world (Ackermann, 2003). Despite increasing knowledge of managers of this issue, most outsourcing projects in financial institutions are facing problems such as increased costs (Frost and Sullivan, 2004), reduced employee motivation (Liapopoulos and Moschuris, 2013) due to the qualitative nature of decision-making criteria and lack of attention to differences in environmental conditions and various risks. Some previous studies conducted on outsourcing in the banking industry have investigated some of the advantages and disadvantages of outsourcing in the

banking industry (Tayauova, 2012). Moreover, a large number of studies have investigated outsourcing of IT in banking industry foreign countries (Blumenberg et al., 2009) as well as information systems in this industry (Adeleye et al., 2004). Another study conducted by Hanifzadeh et al in Iran in 2017 investigated the factors affecting the decision-making on e-banking outsourcing.

This study investigates the decision-making criteria for outsourcing of activities in Iran's public banks. According to the general policies of Article 44 of the Constitution, the stocks of Iranian Banks, including Melli, Sepah, Sanat and Madan, Keshavarzi, Maskan and Tosee cannot be transferred to the private sector. Given the important role of these banks in the Iran's economy and the intense competition of the banking network, outsourcing the activities of these banks from a scientific point of view can greatly help these banks to improve their efficiency and effectiveness.

Hence, this research was conducted to improve the decisions made on outsourcing of banking industry activities in Iran's public banks. In

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general, the present study seeks to answer the question of what are the principles and criteria for making decision on outsourcing of activities in banks, given the specific sensitivity and duties of banks and financial Institutes, and how are the effects between criteria, weighting, and priority of activities for outsourcing.

The research literature was reviewed first to become familiar with the concept of outsourcing and in particular the factors affecting the decision-making of outsourcing activities. Next, the research methodology will be discussed. Then, the research model and results will be presented, and finally, the conclusion of the research will be presented.

2- Literature Review

2.1-Definition of outsourcing

The term "outsourcing" was first used in 1989 to describe Kodak Company's decision in outsourcing its information technology activities to one of the IBM subsidiary companies as a business strategy (Tjader et al., 2014). However, before it, many companies were not doing all of their activities themselves and were outsourcing their

activities with lower competition potential to external contractors. Outsourcing has been a type of “manufacturing-purchasing” decision (Gray, 2006). Outsourcing in current organizations is rapidly finding its main position and it will be used rapidly. Theoretical foundations of outsourcing suggest that no single and unique definition has been provided on outsourcing. Experts have provided different definitions for outsourcing. Tayauova (2012) defines outsourcing as the process of assigning operations or jobs to a third party who can do it better. Choudhry (2014) views outsourcing as providing products and services from sources outside the organization.

Perunović (2007) categorized all planned processes into five stages, including initial evaluation and outsourcing decision making, contractor selection, transfer, relationship management, and reconsideration. In this stage, the first stage, initial evaluation and outsourcing decision making, is considered.

Sia et al. stated that “outsourcing is a strategic option that few organizations can ignore it” (Sia et al., 2008). Ignoring outsourcing makes it

impossible to use of its benefits and advantages. Various and sometimes incomplete and exaggerated reasons have been reported for benefits of outsourcing. (2012) In a study on 1,200 companies, Outsourcing Institute concluded that the main reasons for outsourcing were controlling and reducing operating costs, improving organization concentration, benefit of access to world-class capabilities, releasing internal resources for other goals, access to resources that are not available within the organization (access to external resources), accelerating the benefits of reengineering, managing difficult or uncontrolled performance, accessing funds, risk sharing and cash injection. Outsourcing also improves flexibility to change work conditions, demand for products, services, and technologies (Lee and Lan, 2013).

The decision-making criteria for outsourcing internal and external activities and factors affecting these decisions can be divided into the following dimensions.

2-2-Criteria for making deciding on outsourcing of activities in banks

2.2.1-Criteria related to enhancing organizational capability

Strategic outsourcing is a tool for risk-sharing and transfer of investment and business risks by forming an investment portfolio for different areas of its business and selecting different contractors and the way of outsourcing organizational activities, which cut the costs, use capital and force of other companies and reduces the risk of lack of technology, technical knowledge, and skill (Parvyzyan, 2006).

2.2.2- Security criteria

Information security is one of the most influential criteria in outsourcing banking activities (Click and Duening, 2004). In the outsourcing process, organizations must provide useful confidential and specialized information to contractors. Therefore, an organization should consider intellectual property rights when selecting an external sourcing structure option (Sean, 2009). In general, it is essential for organizations to ensure that service providers meet security-related indicators and criteria (Hanifzadeh, 2017).

2.2.3- Technological criteria

The use of new technology tools and development of business enterprises are vital for gaining advantage and growth of organizational capability in global competition. Hence, much attention should be paid on making decision to deploy new technology due to its sensitivity, high cost and risk of success. Moreover, before taking any action, necessary information needs to be collected and analyzed (Farzad et al., 2012). It is necessary to update the information in providing some services including banking services. The more important this factor is in production of a product or service in an organization, the more its activities will be influenced by technology (Tayles, 2001).

2-2-4-Management criteria

Outsourcing management goals include managers' access to more time, reducing managers' trivial tasks, and facilitating the management of difficult tasks. The biggest concern of employees is job security that is compromised by outsourcing. Therefore, in evaluating outsourcing decision, it is necessary to consider its effects on morale, motivation and loyalty of the employees (Olfat and Barati, 2010). Reduced

motivation due to lack of job security decreases the interest in controlling the environment and employees will less perform their duties (Axelrod, 2009). Quality improvement, including quality planning, quality control, and quality assurance can also be considered as management goals. (Assaf, 2011). In a study entitled "Outsourcing of accounting tasks and its impact on the quality of financial reporting", Hoglund (2016) showed that outsourcing of accounting tasks such as providing legal financial statements as well as having long-term relationships with service providers enhances the quality of reporting. However, outsourcing of other tasks such as payment of wage does not lead to higher quality in this area. In a study entitled "factors affecting outsourcing of the logistics sector (documents from Malaysian companies)", Zailani (2015) also found a positive relationship between outsourcing and performance.

2.2.5-Criteria related to service and goods suppliers

In order to outsource an activity, a company requires potential suppliers for that activity. If there is only

one supplier, the company needs to show lower tendency to outsource the activity, because it is associated with a risk of complete dependence on the supplier. In addition, lack of paying attention to the contractor's background and experience along with the tools, capabilities and technical knowledge of supplier in the outsourced process can lead to failure in outsourcing process. Moreover, the contractor must have a reasonable financial capacity in order to prevent the interruption in the outsourced process when facing with financial problems (Masrou et al, 2018). In a study entitled "effective factors of outsourcing in US municipalities", Zhang and Gibson (2016) showed that although external stakeholders' involvement is an influential factor in outsourcing, lack of appropriate service suppliers is one of the important barriers of outsourcing in organizations.

2.2.6- Criteria related to characteristic of the activity outsourced

The question that arises in outsourcing is to what extent performing an activity in the organization is necessary and important and if lack of

performing it actually disrupts the system or not (Kuhani et al, 2013).

In addition, as an activity becomes more tangible, it will be more difficult to monitor the performance (and quality) of the service delivered to the customer. For example, in air flights, it is very difficult to monitor the performance of the crew during flight because such services are performed practically and experimentally. For this reason, very few airlines assign their flight crew activities to the private sector. However, monitoring the quality of food served on the fly is very easy, because the food is inherently tangible. If it is difficult to evaluate and monitor a performance, the tendency to outsource will decrease (Alvani et al., 2012).

2.3- External influential factors

2.3.1-Social criteria influencing the outsourcing of activities

The expansion of civil community and the establishment of democracy in communities, along with other social developments in Western communities have led development of new perspectives that rely on the renewal of government intervention in citizen affairs, assigning the activities to non-

public sector, privatization, outsourcing, and so on (Lewis, 2001). Additionally, during outsourcing, many employees may be fired because of outsourcing contracts. Outsourcing reduces the demand for low skilled workers and can increase unemployment. Therefore, outsourcing:

- Reduces the wages and increases unemployment for low skilled workers

- Increases inequality between high and low income groups.

- Increases the cost of social insurance (Keuschnigg, 2009).

2.3.2- Economic factors

The technological process and globalization of the financial services has made banks face increased competitive pressure and focus on optimizing operations and productivity, performed often through merging and acquiring the ownership of companies and outsourcing (Fiorentioni, 2009). Due to government restrictions in financing the domestic economy (inefficiency of the tax system) in Iran, the control of the government over the banking system has increased. Unfortunately, despite the strong tendency to reduce the control of

government, it has not been achieved so far and stock market and securities boom failed to increase the depth of the financial markets, so the firms' ability to attract capital has weakened (Isa Zadeh and Saheri, 2012).

2.3.3- Political and legal factors

External pressure from business partners, competitive pressures, laws and policies of governments can influence decisions of the companies. For example, government policies may put pressures on companies to improve and use modern technology (Hanafizadeh, 2017). One of the major barriers to outsourcing is the conflict between unions and labor unions because, despite processes such as privatization and outsourcing, many employees of the organization will lose their jobs, and take actions such as protest (Rajabzadeh, et al., 2010). Privatization and the transfer of control of affairs to private sector have been on the agenda of Iran's authorities in past decades. According to the relevant laws (National Service Law, Article 44 of the Constitution, 20-year Vision 1404, five-year development plans laws, etc.), outsourcing of the processes and activities of organizations

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and changes in this regard have been emphasized by senior officials of Iran (Bagheri et al., 2015).

2.4-Internal influential factors

2.4.1-Mission and strategy of the organization

As the mission of the organization is proving guidance for doing the works and adopting different strategies, those activities that are consistent with the organization's vision must be maintained and rest of activities must be outsourced to external organizations (Dastyari et al., 2014). According to the subject literature and interviews with experts, making organization agile and decentralization are among the major objectives (missions) in the issue of bank outsourcing. Reforming organizational structure and processes, human resource development, and so on are among the strategies of the study banks in the strategic planning process. Although today's companies around the world are moving towards outsourcing to achieve benefits such as cut in cost, access to advanced technology, etc., differences in organizational cultures and complexity of management of relationships created

in outsourcing can lead to failure or dissatisfaction (Rezaei et al., 2015).

2-4-2-Cultural factors

Proper work interaction among employees of a company reduces time and increases productivity. Companies whose relationships are based on personal communications among the employees not merely based formal contracts have stronger relationships. Strong communication between two organizations will result in increased problem solving, cooperation, mutual trust, mutual satisfaction and confidence in the relationships of the parties (Gottschalk, 2006).

2.4.3- Size of organization

The size of the organization increases the ability of the organization to pay training and maintenance related costs. Increasing the size of the organization increases the ability to access large amounts of the resources required and increases the ability to better manage the risks associated with outsourcing. Moreover, large companies have more experience with suppliers' management than smaller ones. As a result, they will be probably more successful in managing and signing

outsourcing contracts. (Hanifizadeh, 2017).

Based on the research literature and exploratory interviews, the factors of politics, missions, size and culture were identified as influential factors of internal environment and economic, political, legal and social factors were identified as influential factors of external environment.

3-research methodology

This study was conducted to identify the dimensions and components of decision-making regarding outsourcing of Iran's public banks. In order to answer the main question, the following questions were asked in the research :

-What are the elements of decision-making model of outsourcing of activities in the banking system?

-How is the interaction of elements of the decision-making model of activities outsourcing in the banking system?

-What is the priority of each of these factors?

-What are the effective factors (internal and external) in the outsourcing decision-making model?

-What is the appropriate model for outsourcing activities in the banking system?

-Which of the banking system activities are in priority of outsourcing?

The research is an applied and developmental study in terms of objective and descriptive-survey in terms of method of collecting data and information. In this study, questionnaire on a Likert scale in fuzzy Delphi method as well as DEMATEL and Vikor questionnaire were used to investigate the effects of criteria, weighting, etc. for fuzzy calculations. The geographical domain of the research is limited to Tehran and it was carried out between autumn 2017 and winter 2018.

The opinions and views of experts, university professors and related experts in the banking system were used in this study. Since the study included six public banks, the relevant heads of departments (organization and human resources, etc.) who had more than 15 years of employment history in public banks, including experts in the areas of organization, management of studies and banking regulations and human resources of the Central Bank were selected to join the Delphi Group. Snowball technique

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was used to select the experts. In this technique, some managers with characteristics such as having relevant postgraduate studies, relevant scientific experience especially managerial experience, sufficient motivation for participation and cooperation were selected. Then, 20 individuals (14 from public banks and 6 central banks) were identified with similar characteristics. Moreover, in the data analysis stage, 7 banking experts' views of were used.

The main stages of this research are:

1- Initial identification of the elements of the decision-making framework for outsourcing activities in Iran's public banks after reviewing the outsourcing literature and various decision-making models and exploratory interviews.

2- Developing and testing the initial model by selecting the fuzzy Delphi method and using the views of banking system experts and designing the final model

3-Collecting information using questionnaires and finally using fuzzy DEMATEL and fuzzy ANP methods for inter-criteria effects, weighting and prioritizing of decision making criteria

and fuzzy MOORA and gray MOORA for ranking and prioritizing activities

4- Designing and identifying the elements of the decision making model

In the theoretical stage, the conceptual model and theoretical framework were developed based on the theoretical foundations and different models. At this stage, the dimensions, components, and indicators extracted from theoretical foundations and studies conducted on the subject and exploratory studies were used as a base for identification of the conceptual model. Then, during several stages of exploratory interview with banking system experts and after numerous reviews and consultation with 15 honorable professors of university, dimensions and components were identified and initial model was designed.

4-1-Model identification using Fuzzy Delphi method

The fuzzy Delphi method was invented in the 1980s by Kaufman and Gupta (Cheng and Lin, 2002). Using this technique to make decision and reaching a consensus on issues whose goals and parameters are not explicitly stated

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yields very valuable results. At this stage, the conceptual model and a questionnaire with 29 questions (each question representing one factor) were sent to 20 expert group members and their agreement on each of the factors were obtained and their suggested and corrective views were applied. These questionnaires are scored qualitatively on a five-point Likert scale ranging from extremely important to unimportant. At this stage, the conceptual model presented along with a questionnaire with 29 questions (each question representing one factor) was sent to 20 expert group members and their agreement with each of the factors obtained and their suggested and corrected points of view. Split. These questionnaires were qualitatively based on five Likert ranges from extremely important to unimportant.

Then, the second questionnaire was prepared and sent back to the expert group along with the previous views of each individual and their differences with the views of other experts were sent to expert groups. In the second stage, the expert team members again responded to the questions based on the views of the other group members. According to the

views presented in the first stage and comparing with the results of this stage, if the difference between the two stages is less than the threshold of 0.2, the survey process stops. As expert groups reached a consensus in some of the components and the rate of disagreement in the first and second stages was less than the threshold of 0.2, the survey on these factors stopped and the factors in which the defuzzified mean of the

experts' view was less than 8 were excluded from the conceptual model of the research. At this stage, 24 factors stopped and survey was performed on rest of 5 factors in the third stage.

Finally, during the three-stage survey of 29 factors, 7 factors were excluded from the final conceptual model of the research and the final model consisted of 22 factors.

Table 1-1: Factors and secondary factors affecting the decision-making on outsourcing of activities

Main factors	Secondary factors	Abbreviations
Security C1	Lack of access to confidential organization	C11
	Defect in dependency on companies providing service	C12
	Defect in disclosing information of clients	C13
Organization's capability C2	Improving the capability and releasing the human resources within the organization	C21
	Eliminating non-core activities	C22
	Obtaining competitive advantage	C23
	Access to specialty of contractors	C24
Technological C3	Lack of human resource in applying technology	C31
	Complexity of technology	C32
	Access to new technology	C33
	Technological uncertainty (rapid changes in	C34
Management C4	Improving controlling and monitoring	C41
	Improving service quality	C42
	Motivation and morale of employees	C43
	Cost	C44
	Speed of provision of services by contractors	C51

Suppliers' market	Multiple and potential contractors	C52
	Experience and background of contractors	C53
Activity characteristic C6	Standardization of activities	C61
	Simplicity or complexity of activity	C62
	Tangibility of activity	C63
	The level of dependency of an activity to other	C64

5- Results

The step of examining the internal relationships between the factors using the F.DEMATEL method is as follows:

To prepare the fuzzy direct relationship matrix, the experts answered the level of effect of each of the factors influencing each other based on the scale

ranging from very high effect (4), high effect (3), medium effect (2), low effect (1) and no effect (0). Then, the answers were converted to fuzzy numbers and arithmetic mean of opinions was obtained. Table (1) shows the fuzzy direct relationship matrix for the primary and secondary factors.

Matrix of fuzzy direct relationships between factors

	C1			C2			C3			C4			C5			C6		
	L	M	U	L	M	U	L	M	U	L	M	U	L	M	U	L	M	U
C	0	0	0	0.	0.	0.	0.	0	0.	0.	0.	0.	0.	0.	0.	0.	0.	0.
C	0.	0.	0.	0	0	0	0.	0	0.	0.	0.	0.	0.	0.	0.	0.	0.	0.
C	0.	0.	0.	0.	0.	0.	0	0	0	0.	0.	0.	0.	0.	0.	0.	0.	0.
C	0.	0.	0.	0.	0.	0.	0.	0	0.	0	0	0	0.	0.	0.	0.	0.	0.
C	0.	0.	0.	0.	0.	0.	0.	0	0.	0.	0.	0.	0	0	0	0.	0.	0.
C	0.	0.	0.	0.	0.	0.	0.	0	0.	0.	0.	0.	0.	0.	0.	0	0	0

Matrix of fuzzy direct relationships between secondary factors

	C11			C12			C.	C63			C64		
	L	M	U	L	M	U		L	M	U	L	M	U
C1	0	0	0	0.1	0.2	0.5	...	0.1	0.2	0.5	0.1	0.2	0.5
C1	0.0	0.2	0.4	0	0	0	...	0.2	0.4	0.6	0.1	0.2	0.5
C1	0.4	0.6	0.8	0.0	0.2	0.5	...	0.1	0.2	0.5	0.0	0.2	0.4
C2	0.1	0.2	0.5	0.2	0.5	0.7		0.1	0.2	0.5	0.1	0.2	0.5
C2	0.0	0.2	0.4	0.0	0.2	0.4	...	0.1	0.3	0.6	0.3	0.5	0.7

C2	0.3	0.5	0.7	0.3	0.5	0.7	...	0.1	0.2	0.5	0.1	0.2	0.5
C2	0.0	0.2	0.5	0.2	0.5	0.7	...	0.0	0.2	0.4	0.0	0.1	0.4
C3	0.0	0.2	0.5	0.4	0.6	0.7		0.1	0.3	0.5	0.1	0.3	0.5
C3	0.0	0.2	0.4	0.4	0.6	0.8		0.1	0.2	0.5	0.0	0.2	0.4
C3	0.1	0.2	0.5	0.3	0.5	0.7	...	0.1	0.2	0.5	0.1	0.3	0.5
C3	0.0	0.1	0.4	0.2	0.5	0.7	...	0.1	0.2	0.5	0.0	0.1	0.4
C4	0.5	0.7	0.8	0.4	0.6	0.7	...	0.4	0.5	0.7	0.3	0.5	0.7
C4	0.0	0.2	0.4	0.2	0.5	0.7		0.1	0.2	0.5	0.0	0.2	0.4
C4	0.1	0.2	0.5	0.2	0.4	0.6		0.2	0.4	0.6	0.2	0.4	0.6
C4	0.3	0.5	0.7	0.3	0.5	0.7	...	0.1	0.3	0.5	0.1	0.3	0.5
C5	0.0	0.1	0.4	0.2	0.4	0.6	...	0.0	0.2	0.4	0.0	0.2	0.4
C5	0.2	0.4	0.6	0.5	0.7	0.8	...	0.0	0.1	0.4	0.1	0.2	0.5
C5	0.3	0.5	0.7	0.1	0.3	0.6		0.0	0.2	0.4	0.0	0.1	0.4
C6	0.0	0.1	0.4	0.1	0.3	0.5		0.0	0.2	0.5	0.1	0.2	0.5
C6	0.1	0.3	0.5	0.2	0.5	0.7		0.1	0.2	0.5	0.2	0.4	0.6
C6	0.1	0.3	0.5	0.1	0.3	0.5		0	0	0	0.0	0.2	0.4
C6	0.0	0.1	0.4	0.3	0.5	0.7		0.1	0.3	0.5	0	0	0

Note: Due to the small size of page and the large size of the matrix (24 x 24), the matrix has been summarized.

Then, using other steps of fuzzy DEMATEL, the normalized fuzzy direct relationships matrix was formed. Finally, the sum of column elements and the row of matrix \tilde{T} was calculated for

the primary factors and their secondary factors and presented as \tilde{D} (influencing) and \tilde{R} (influenced) vectors. The calculations are presented in Table 1-2.

Table 2-1: The values of \tilde{D} , \tilde{R} , $\tilde{D} + \tilde{R}$, $\tilde{D} - \tilde{R}$

	\tilde{D}	\tilde{R}	$\tilde{D} + \tilde{R}$	$\tilde{D} - \tilde{R}$	Result
Security	3.01	3.11	6.12	-0.097	influenced
Lack of access to confidential organization information by the contractor	0.249	0.228	0.478	0.02109	influencing
Defect in dependency on companies	0.239	0.255	0.494	-0.0167	influenced
Defect in disclosing information of	0.242	0.247	0.489	-0.0044	influenced
Organization's capability	3.48	3.36	6.83	0.12	influencing

Improving the capability and releasing the human resources within the organization	0.37	0.363	0.734	0.00691	influencing
Eliminating non-core activities	0.359	0.334	0.694	0.02489	influencing
Obtaining competitive advantage	0.373	0.429	0.802	-0.0561	influenced
Access to specialty of contractors	0.361	0.336	0.697	0.0243	influencing
Technological	3.21	3.08	6.29	0.13	influencing
Lack of human resource in applying technology	0.372	0.392	0.764	-0.0202	influenced
Complexity of technology	0.377	0.379	0.756	-0.0021	influenced
Access to new technology	0.397	0.387	0.784	0.00988	influencing
Technological uncertainty (rapid changes in technology)	0.352	0.34	0.692	0.01242	influencing
Management	3.44	3.6	7.03	-0.162	influenced
Improving controlling and monitoring	0.432	0.429	0.86	0.00312	influencing
Improving service quality	0.408	0.422	0.83	-0.0136	influenced
Motivation and morale of employees	0.387	0.366	0.753	0.02159	influencing
Cost	0.453	0.465	0.918	-0.0111	influenced
Suppliers' market	2.86	2.93	5.79	-0.064	influenced
Speed of provision of services by contractors	0.189	0.236	0.425	-0.0475	influenced
Multiple and potential contractors	0.196	0.217	0.413	-0.0213	influenced
Experience and background of contractors	0.213	0.145	0.358	0.06884	influencing
Activity characteristic	2.92	2.85	5.77	0.073	influencing
Standardization of activities	0.291	0.287	0.578	0.00414	influencing
Simplicity or complexity of activity	0.292	0.306	0.598	-0.0142	influenced
Tangibility of activity	0.272	0.275	0.547	-0.0033	influenced
The level of dependency of an activity to other activities	0.285	0.272	0.557	0.01334	influencing

Based on table 2-1, the factors that have positive $\tilde{R}-\tilde{D}$ show that these factors are influential and factors that have negative $\tilde{R}-\tilde{D}$ show that these factors are influenced by other factors. Therefore, among the primary factors “technological” is the most influencing factor and “management” is the mostly influenced factor. Generally, *positive* $\tilde{R}-\tilde{D}$ factors are considered cause factors and negative $\tilde{R}-\tilde{D}$ factors are considered as influenced factors.

5.1-Weighting of factors by fuzzy ANP method

The Network Analysis Process Method was presented in 1996 by Saaty for multiple criterion decision making. Its aim is to provide a model to break

down complex multiple criterion decision-making problems into smaller components to make the final decision by giving reasonable value for simple components and then merging these values.

In this study, the fuzzy ANP was solved based on the general relations matrix showing to what extent these factors are influencing or being influenced. In this section, the general relations matrix was first normalized and the fuzzy weighted super matrix was calculated. After normalization, the weighted super matrix was converged to form a limited super matrix.

Finally, weights of factors and secondary factors were identified, as shown in Table 1-1

Table 3- 1- Weight and priority of factors affecting outsourcing decision making

Weight and relative priority of primary factors		Code	Weight and relative priority		Weight and final priorit	
Security C1	0.163 (3)	C11	1	0.2789	0.0454	10
		C12	3	0.4198	0.0683	1
		C13	2	0.3013	0.0491	7
Organization's capability C2	0.182 (2)	C21	2	0.2265	0.0412	14
		C22	1	0.2116	0.0385	17
		C23	3	0.3213	0.0585	4
		C24	4	0.2405	0.0438	11

Technological C3	0.162 (4)	C31	4	0.2949	0.0479	9
		C32	2	0.2569	0.0417	13
		C33	3	0.2603	0.0422	12
		C34	1	0.1879	0.0305	22
Management C4	0.202 (5)	C41	3	0.2668	0.054	6
		C42	2	0.2425	0.049	8
		C43	1	0.1932	0.0391	16
		C44	4	0.2975	0.0602	2
Suppliers' market C5	0.147 (1)	C51	3	0.4011	0.0588	3
		C52	2	0.3877	0.0568	5
		C53	1	0.2112	0.031	21
Activity characteristic C6	0.144 (6)	C61	3	0.2611	0.0376	18
		C62	4	0.2832	0.0408	15
		C63	2	0.2329	0.0336	19
		C64	1	0.2228	0.0321	20

As Table 3-1 shows, the highest weight belonged to the factor of “defect in dependency on companies providing service” which is a secondary factor of “security”, so it was ranked first. The second priority belonged to “cost” factor, the third priority belonged to speed of providing the services by contractors, the fourth priority belonged to “competitive advantage”, the fifth priority belonged to “presence of multiple and potential contractors”, and sixth priority belonged to “improvement of control and monitoring” among the 22 factors. They

approximately accounted for 35.65% of the total weight of the factors, indicating the high importance of these secondary factors.

5.2-Fuzzy MOORA (multi-objective optimization on the basis of ratio analysis) method

The MOORA method was proposed by Brauers and Zavadskas (2006). Then, fuzzy MOORA was developed. This technique is a multi-objective optimization method that can be used to solve a variety of complex

problems. It means multi-objective optimization on the basis of ratio analysis (Akkaya et al., 2015).

As stated above, based on interviews performed with banking experts, the following three activities were selected to prioritize activities in the banking system:

- 1-Human resources sector activities (A1)
- 2- Logistics and support sector activities (A2)
- 3- Legal and claims receivable sector activities (A3)

The prioritization of these activities was performed using the fuzzy MOORA technique as follows. First, a comparisons matrix was used to determine the importance of each factor relative to the options. It was completed by 7 experts.

Considering the decision makers' views by geometric mean method, the component of fuzzy

numbers was calculated for each option (outsourcing activities) and the fuzzy decision matrix was formed.

Then, the fuzzy decision matrix was normalized and the aggregated normalized fuzzy decision matrix was obtained.

Then, weighted normalized fuzzy decision matrix was calculated by multiplying the normalized fuzzy decision matrix on the fuzzy weight of the sub-factors.

To rank with the fuzzy MOORA method, it is necessary to obtain the value of each option in the cost and profit factors. At this stage, the sum of the value of each option was calculated on the cost factors and profit factors. Then, the general performance index (Si) for each of the options was obtained by the vertex method

$$S_i(s_i^+, s_i^-) = \sqrt{\frac{1}{3} [(s_i^+ - s_i^-)^2 + (s_i^{+m} - s_i^{-m})^2 + (s_i^{+n} - s_i^{-n})^2]}$$

, as shown in Table 1-4:

Table 4-1: Ranking activities for outsourcing by using fuzzy MOORA method

گزینه		\tilde{S}_i^+			\tilde{S}_i^-			Si	rankin g
		L	M	U	L	M	U		
Human resources	A	0.13	0.21	0.27	0.07	0.12	0.17	0.083	2
	1	6		5	9	6	2		

sector activities (A1)									
Logistics and support sector activities (A2)	A							0.109	
	2							7	
		0.13	0.20	0.26	0.05	0.08	0.13		
		6	2	3	8	7	4		1
Legal and claims receivable sector activities (A3)	A							0.076	
	3							1	
		0.13	0.19	0.26	0.07	0.12	0.16		
		1	8	2	9	4	6		3

The value gained of the options is sorted and ranked in ascending order. Accordingly, the option with the highest Si value is selected as the superior option. Therefore, "logistics and support sector activities" option was selected was ranked first for outsourcing using fuzzy MOORA as it obtained the highest

weight. The "human resources sector" activity was also ranked second.

5.3-Gray MOORA

To form the gray decision matrix, the linguistic variables shown in Table 5-1 are transformed to gray numbers and the gray evaluation decision matrix is formed.

Table 5-1: Linguistic variables for ranking options

Linguistic variables	Corresponding gray numbers
Very poor (VP)	(1,2)

Poor (P)	(3,4)
Moderate (P)	(5,6)
Good (G)	(7, 8)
Very good (VG)	(9, 10)

Then, the decision-making matrix of options ranking was calculated based on the views of decision makers and after the geometric aggregation of the views of experts.

Then, gray decision matrix was normalized. Then, the weighted normalized gray decision matrix was calculated by multiplying the normalized gray decision matrix in fuzzy weight of sub-factors.

The value of each option in the cost criteria needs to be calculated for ranking. At this stage, the sum of the value of each of the options was calculated in the cost criteria. Then, the general performance index (Si) for each of the options was obtained by using the distance method between the two gray numbers as shown as using the formula of

$$d(\bar{A}, \bar{B}) = \frac{a_1 + a_2}{2} - \frac{b_1 + b_2}{2} = \frac{1}{2} [(a_1 - b_1) + (a_2 - b_2)]$$

Table 6- 1: ranking bank outsourcing activities by Gray MOORA Method

		\tilde{S}_i^+		\tilde{S}_i^-		Si	rank
		L	M	L	M		
Human resources sector activities (A1)	A1	0.237	0.277	0.149	0.182	0.008	2
Logistics and support sector activities (A2)	A2	0.227	0.269	0.103	0.139	0.016	1
Legal and claims receivable sector activities (A3)	A3	0.222	0.263	0.146	0.179	0.007	3

Based on the results in Table 6-1, the "Logistics and support sector

activities" option obtained the highest weight and it was ranked first.

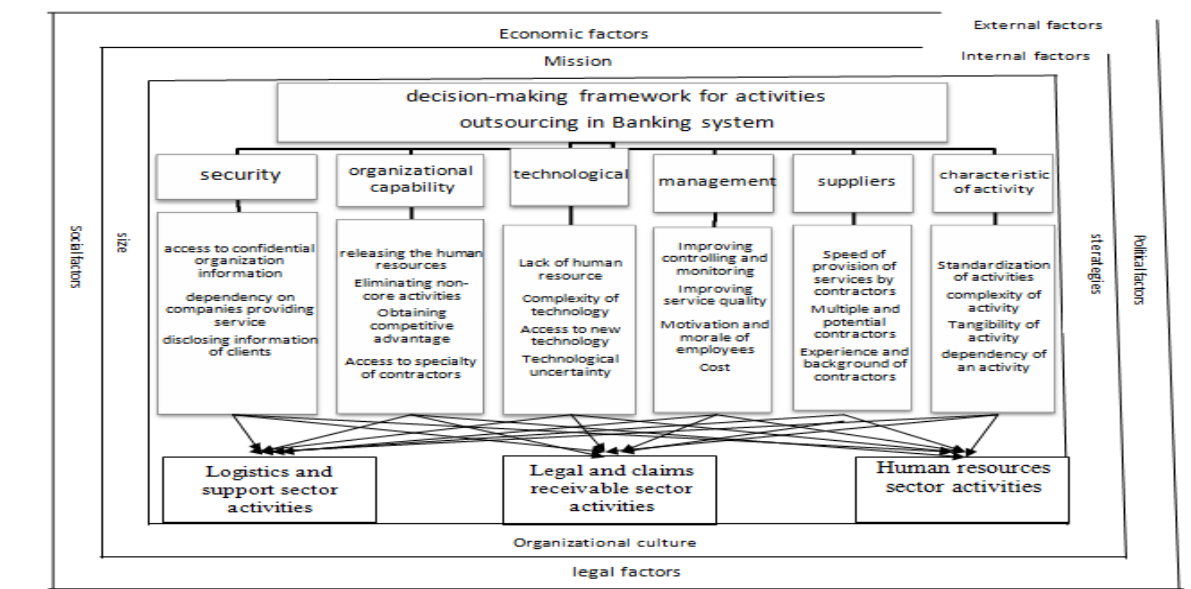
Table 7-1 shows the final ranking between the two gray and fuzzy MOORA methods:

Table 7- 1: Final ranking using two fuzzy and gray MOORA methods

G-MOORA	F-MOORA		
2	2	Human resources sector activities (A1)	A1
1	1	Logistics and support sector activities (A2)	A2
3	3	Legal and claims receivable sector	A3

As shown in Table 7-1, there is no difference between the fuzzy MOORA and gray MOORA ranking methods.

6-Conclusion and final model



The aim of this study is to identify the criteria and standards for decision making regarding outsourcing of activities in Iran's public banks.

The results of literature review and Delphi three rounds showed that 6 main factors influence the outsourcing decisions in the Iran's public banks. Among the factors, goods and service

suppliers, organization's capability and security criteria had the highest priority. Among the secondary factors, the highest weight belonged to the factor of "defect in dependency on companies providing service" which is a "security" factor.

The literature on outsourcing activities has discussed numerous risks in this regard. An organization can rely on a few service providers and accordingly it is influenced by them. Obviously, banks have lower tendency to outsource activities or processes related to security issues.

As expected, the cost factor is a very important criterion in the outsourcing of activities in the Iran's public banks. In general, an organization can perform its services at a lower cost than its competitors with outsourcing its activities can. Reduced manpower and operational costs are outcomes of the outsourcing (Dastyari et al., 2014).

"Speed of providing service by contractors" is the third priority among the criteria of making decision on outsourcing the activities in public banks. This secondary factor indicates that managers expect that providers to provide the required services of the bank

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in the shortest possible time, as lack of it will reduce the competitive power of the bank. It is highlighted when there is a competition among the banks (Nahavandi et al., 2010).

"Gaining competitive advantage" is the fourth priority among the criteria of making decision on outsourcing the activities in public banks. Outsourcing enables banks use their resources more effectively to create value and gain competitive advantage by focusing on their core activities. Hence, in outsourcing decisions, managers did not show tendency to outsource activities that create competitive advantage for the organization (Olfat and Barati, 2010).

"Existence of numerous and potential contractors" is the fifth priority. In order to outsource an activity, a bank requires potential suppliers for that activity. If there is only one supplier, the company needs to show lower tendency to outsource the activity, because it is associated with a risk of complete dependency on the supplier, which this secondary factor is highly associated with secondary factor of "defect in dependency to companies providing services, as stated before. Thus, the greater the number of potential suppliers,

the tendency for outsourcing the activity will be higher (Masrour et al., 2018).

Finally, “improving the process of controlling and monitoring” is the sixth priority among the criteria of making decision on outsourcing the activities in public banks. Outsourcing not only involves assigning the activity by the outsourced organization but also involves assigning the right of decision-making to external supplier. By assigning the right of decision-making, external supplier will make the decision and it will be responsible for consequences of its decisions to the outsourcer organization. Hence, it allows the outsourcer organization to focus more on its core competences. It will also help the bank improve the process of controlling and monitoring other activities.

Based on the obtained indicators, the highest priority belonged to logistics and support sector activities, banks should give priority for this type of activities to cooperate with the private sector. Human resources activities and legal and claims receivable activities were also ranked second and third, respectively, in outsourcing the activity to private sector.

This research was conducted to develop a model to deal with the complexities of decision making in the real world. In general, the results of this study emphasize that the one-dimensional outlook of the outsourcing decision-makers will not lead to the desired results. As the Iran’s economy is a bank-centered economy and banking system affects the economy and lives of citizens, if the focus of decision-makers is merely on cost factors or on a limited set of factors, we cannot be optimistic for future of such decisions.

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ABILITY TO ANIMATE PERSIAN TYPOGRAPHY IN COMPARISON WITH ENGLISH TYPOGRAPHY

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Abstract: Text is the main component of the animated typography. Moving typography works primarily focus on the visual aspects of the work, but the visual aspect of the text also allows the rules of the text to form which ultimately influence the transmission of the concept of the verbal dimension. The foundations of the visual arts in animated typography, as in other arts, exist in the sense that if the text were to make a structural change, it would undermine its visual dimensions. Understanding the features and dimensions of Persian text in accordance with English text for the purpose of forming animated typography is one of the essentials for acquainting with the visual and visual principles of Persian animated typography. Understanding these rules is effective in creating powerful and dynamic compositions and prevents text alienation in the animation, text was not

intrinsically animated, the next move being added to the text. Accordingly, it is necessary to know the principles and principles of animation. The general question of this research is whether from the visual arts perspective, the visual aspect of Persian writing has a place for use in the design of animated typography. If so, what are the differences and commonalities of Persian and English animated typography? This research is a comparative study based on the principles and principles of typography and deals with the similar function of animating English typography. The purpose of this study is to identify the diversity of Persian typography structures for animating and to compare their visual function with English animated typography in order to emphasize the existence of completely different possibilities in the creation of

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compositions in these two types of writing for animation. It is expected that the study of Persian and English typography and their function in animated layout conclude that attention should be given to the effect of how text is used, the types of face types and their function in the structure of Persian animated typography, as in English animated typography. Also, it affects the power of conveying meaning and sense to the recipient. Overall, the works typified by Persian typography appear to be more structurally diverse than English letters, enabling them to be more dynamic, resulting in a greater variety of sensations in composition and animation.

Keywords: Animation, Persian Typography, English Typography, Motion Graphic

Introduction

When written in a work, both Persian and English text immediately carry both visual and verbal aspects simultaneously. The alienation of the common components between the text and the morphology of the letters causes them to not interact and form a

mismatched morphology. In the basics of the visual arts the line is different visually and emotionally. The text has different meanings and uses in terms of the types of lines available in different structures and by changing the type of these lines and their directions, and as a result of their visual circulation, the shape and feel of the moving text is also affected.

Understanding the types of letter structures in moving typography can be examined in several aspects: 1- The basic and constituent lines of the letters. 3. Visual representation of letters and visual capacities of letters. 4. Applying punctuation; in all these modes, the presence of text, visual appearance and types have a direct impact on the visual sense and emotional charge of the text.

This article aims to answer the following questions:

1. Is the variety and visual appearance of animated letters influencing their composition and senses in conveying meaning and meaning?
2. What role do letters play in visual accentuation or stopping in

moving typography and eye orientation during message reading?

3. What is the visual representation of Farsi animated typography in English with regard to animation?

The place of animated typography in the field of graphics

Today, typography is no longer limited to simple definitions such as lettering, because typography in our age is boldly advanced, print, computer, and information networks in a complex, subtle, vast, profound, and potentially changing and affecting category. Has become. The text is no longer confined to static and spatial forms of communication but is controlled by time and motion. These added dimensions increase its communication power.

Animated typography consists of two words: typography and animated graphics. Animated typography is text that moves or changes over time. Animated typography can be seen as a tool to add some of the film's features to the text.

In moving typography, time has provided a different approach to logic in dealing with letters. Statically designed

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letters cannot be inherently moving. Animated typography, text that has recently emerged as a new form of communication by means of shifting or other temporary changes, capable of conveying the feel and image of important characters and direct visual attention to the strong textual features. Although animated typography is an important option for extended communication outside a small range, it is having problems due to the lack of suitable tools for creating animated text. In moving typography, it should be noted that unlike dance, typographic music is not inherently animated. The letters must be of the time design. This dimension adds time to new possibilities in the use of letters, for example quality such as dance and acting or even dance music. The most important task of the animator is to convey the essence of the message without any distortion or distortion. The next move the designer adds is to create a new whole that is not part of the essence of typography. Therefore, letters in moving typography are similar to those in typography on paper and require criteria for aesthetic examination and alphabetic function. (Darwish, 65: 2007)
The designer should not allow

movement to overcome the message. The message has to be understood and communicated in a special way.

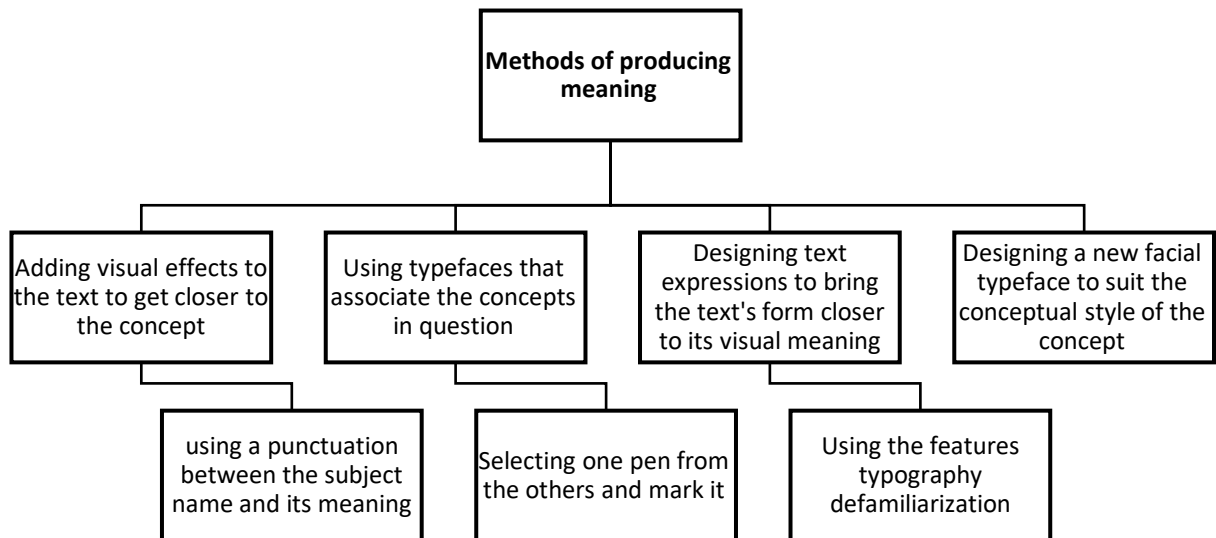
One thing to note in animated typography is that form and content are never separated; text words can be transformed into images or associations. In these works, the letters should be seen as well as read and There are two kinds of sight and read (Rezaei Nabard, 2010: 47).

In animated typography, creative work is important, which means that our basis should be design, not form; that forms are geometric or free, sometimes the letters of each letter can help, for example, the alphabet number of a letter may be very helpful. On the other hand, if the spirit of the subject can be partially incorporated into letters and words, the final work is done; For example, the lead letters used for titles and headlines have a warning and alert character, which is very appropriate for bold headlines while lacking in spirituality and spirituality, and is more of a propaganda spirit, narrowing the gap. There is also an incident state where the line is thickened, in which case it is very appropriate to write the original title of an incident or an alert slogan or

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propaganda. Mood and culture is something that can be shown to the viewer by choosing the type of line and the shape of its design, which is one of the capabilities of letters in animated typography.

Purpose of Animated Typography

The purpose of mobile typography is to send messages and communicate effectively, create meaning, influence more than ordinary writing, and visual appeal. Animated typography is nowadays transformed into a very broad, complex, delicate and pervasive category that has infiltrated a myriad of aspects of human life. Animated typography, using the visual aspects of text and the visual values of letters to express the concept, helps to clarify and facilitate communication, as well as the fact that the alphabet is not only an alphabetical representation of letters and always carries a specific semantic burden. It does. Animated typography attempts to enhance the visual characteristics of letters and bring the text closer to the visual aspect of the concept (Demirchillo, Sojoodi, 2011: 93). In animated typography, the words of the letters are visual symbols that have



gained alphabetical validity and function.

Methods of producing meaning

Animated typography seeks to enhance the visual properties of letters and to approximate the text visually to the concept in question, and to do so by altering the letters to bring it closer to the concept that this requires changes in color, size, Shape, proportions, intervals, positioning (up, down, left and right) positioning (tilting, flat, curved) and even choosing the right type for any particular subject (Demirbilek, Saicedi, 2011: 1).

The Nature and Benefits of Animated Typography

The letters each have their own distinct form and sound, but the decoration of each emphasizes each of the elements of the highly meaningful visual world that have created the language, line and words. (Bayat: 2006, 4) In other words, the content and context of the subject should be expressed in some way in the text, in

Diagram 1 - Conceptual Model of the Meaning Generation Method (Authors)

the text evokes meaning and guides the viewer to

some extent on the subject, culture, and content of the text. The nature of animated typography is the translation of spoken language into visible forms (animated typography). In fact, with moving letters a literal emphasis becomes a visual emphasis. Animated

typography converts spoken expressions into image expressions in a variety of ways and experiences different features such as how to align the size, the distance between letters and words and lines, colors, thickness, and so on.

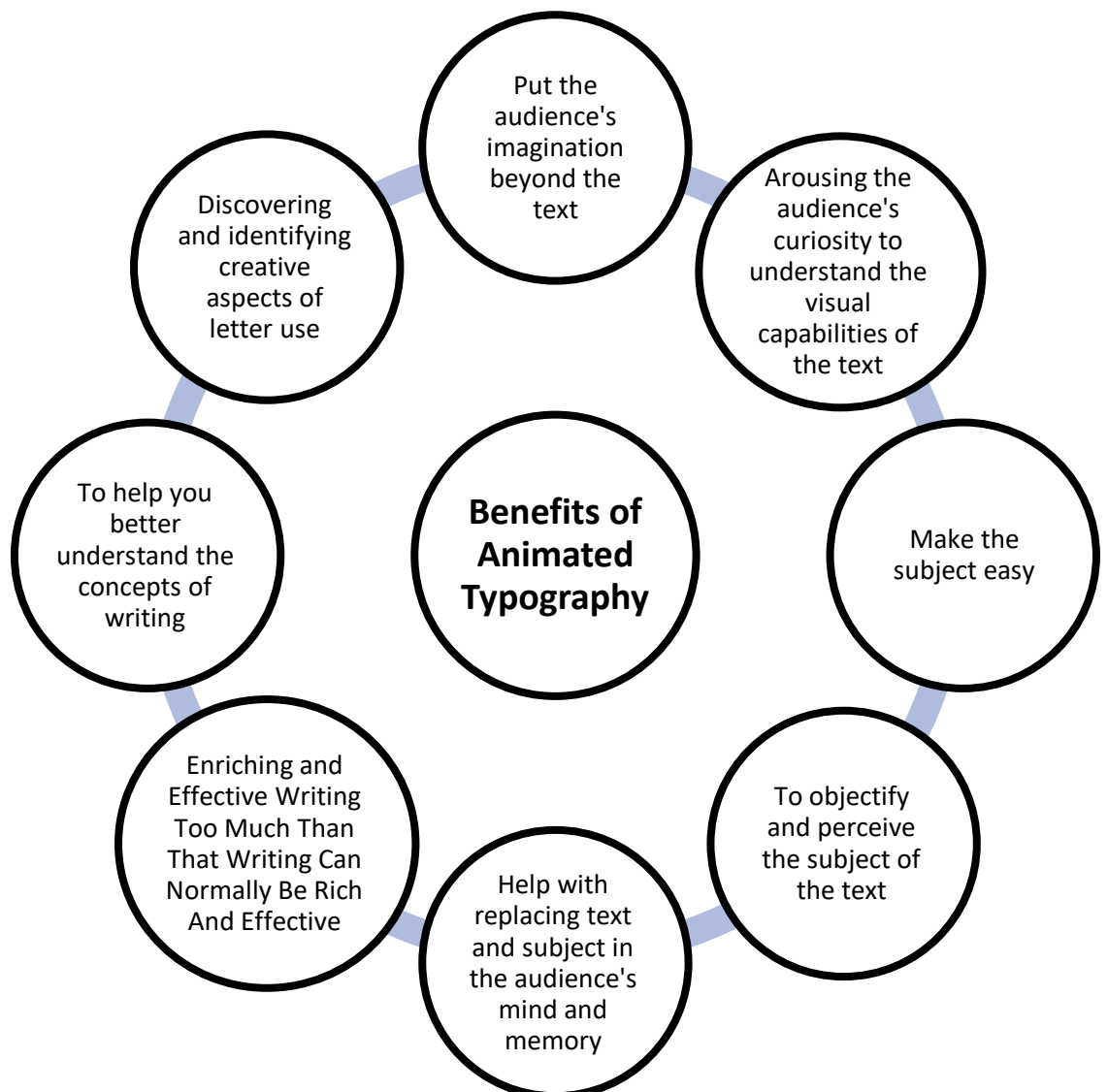


Diagram 2 - Benefits of Animated Typography (Authors)

Successful, logical and successful use of text in an animated typography requires knowing and recognizing the different visual capacities of the letters and other factors, having different lines of organization and visual contexts, with common visual elements and criteria. They are specific to assessing that they are quite different from the aesthetic values of letters; although they have some common visual elements, the practical value of writing in moving typography depends on its proper use. Each line is of the highest importance when it is in the most appropriate state of affairs regarding the form of the content of the work.

Animated typography is visual language processing to enhance the clarity and power of writing. Spoken language has components related to rhythm, song, and loudness, and other speech and audio qualities: for example, banging on a table indicates anger. Visual representation of text can also include components in moving typography; for example, changes in letter width, spacing, location, and lettering style can help convey the message.

There are various important factors in the field of moving typography such as readability. Therefore, it is vulnerable to transmission, and only a designer's sense of responsibility in dealing with the audience can provide their sensitivity. The most important task of the animator is to convey the essence of the message without any distortion. (Mehdi Darvishi Thesis) Movement is a stunning factor in itself and can neglect to receive the original message. (Sepehr, 2009: B). The designer should not just delight the viewer by moving him away from understanding the essence of the message. The ease of working with the software available today has allowed designers to master the technique before they have a clear understanding of creativity. For a successful design, the need to use creative techniques and acquire talent and an understanding of the tools came to fruition. The tool should serve to convey the central theme. The availability of software to inexperienced individuals eliminates the in-depth sensitivity and thinking of the audience in dealing with the visual effects presented. The initial ideas of the designer must, apart from the visual appeal, ultimately retain their loyalty to

the essence of the message. In animated typography, images contain alphabetical symbols, which convey the message in addition to their abstract expression, and must be fully recognizable and recognizable by the viewer. In many cases these alphabets are not readable as text but are understood as physical forms that generate complex experiences through metaphor. The aesthetic principles of design work in a fixed framework are different from those that can be expanded over time. That is, in an animated typography work, all the cadres are formed together and it is impossible to examine them in detail and to consider the effects of what the viewer has observed. It is essential to know the principles of editing for a mobile essay designer. The designer is aware of the volume of the image, the text, and how the visual impact of the lettering and subtraction changes and the gender and dimensions of the letters, as well as changing the spacing of the letters in vertical and horizontal proportions can create exquisite spaces. To achieve.

In the art of moving typography, the designer can make letters and words round or close, lower or uppercase, separate the letters of a

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word, uppercase or lowercase, and even delete the dash. When used in typography, images are actually created with texts. (Maroufi, 31: 2006) Word and writing is a tool used in a number of interactive works. The words and letters in these works are transformed by They lose their permanent meaning, and with the constant changing of their order, a new concept is created. When used in interactive works and virtual environments, text becomes a different function and is no longer used only for reading, but also as a means of communicating and promoting the work of art (Dehghani, 128: 87).

Reading Quality in Animated Typography

To achieve the art of animated typography, one must have a thorough understanding of typing and the ability to analyze and apply correct and correct modifications according to the seat and drawing of Persian typography. From the science of designing letters it is not possible to make any slight changes to the sizes and proportions of the letters already designed and as a material at the designer's disposal. The most important and at the same time the most difficult

branch of animated writing is to create a space that, by letters and words, can bring the audience closer to the subject and engage the viewer in the designer's perception of the subject.

There is a need for a more realistic approach to the process of making transparent typography forms, because the forms are meaningful, the aim being to promote constant and one-dimensional reading in multilevel reading (with multiple layers) to motivate the reader to have him / her active in the creation of a participatory message.

Morphological categories in animated typography

What is important in animated typography in the aesthetics is not the style or morph of the characters, but the visual concept that carries the message of the main concept. That is to say, in any language at a glance, what the message or meaning of the letter or concept is all about, dry and serious, humorous, educational and scientific, fashionable or traditionalist or classical. Written in Persian and English, when placed in an animated typography, it immediately

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encompasses both visual and verbal aspects.

The foundations of the visual arts in Persian typography are, like other visual phenomena, meaning that if the text makes a structural change, the visual aspects of it will be impaired. Understanding the visual rules in animating text is effective in creating dynamic and canonical compositions. The line is divided into three main types: straight, curved and broken. These three types of lines are different visually and emotionally. Just as the types of visual lines in the structure have different meanings and uses, the text has the same principles and meanings in terms of the types of lines in its structure (Daneshgar, Taheri, 2007: 91). 1- Type Right 2- Curve 3- Broken. Straight lines include: Stretched or horizontal lines 2- Vertical, standing or occupied lines 3- Slanted lines (AyatollahI, 2006:25)

The capabilities and limitations of Persian and English typography

The performance of any medium requires recognition of its capabilities and drawbacks. Familiarity with the capabilities and limitations of animated typography in Persian writing

allows the artist to be more successful in expressing his ideas to his audience. Understanding the features and problems of Farsi text can be used correctly and can create interesting tasks for optimal use of them. Using Farsi text features such as correct use of dots, links, visual features of Persian characters, Rotations, repetition of letters, beautiful use of shapes and finesse, order and placement, symmetry, proximity, moderation in pen, length of pen, moderation in thickness, and thinness to give the designer a high and meaningful use.

One of the important features of the Persian line is its fluidity and interconnection. It may be possible to separate the letters and get closer to the English classified system, but what is certain is that the connection of the letters in Persian is one of the most important and almost unique features, although in the eastern lines such as this one, but this character is a character. Unique to the Persian script. (Lotfi, 1997: 43). Farsi letters are written along the horizon from right to left. This conjunction is used not only in word, row and page but also on walls and other areas such as pottery, cloth, metal and so on. Persian writing is one of the most

difficult alphabets in the languages of the world due to its connections and also the presence of dots.

Persian typography is more sophisticated and diverse than English, though both are similar in form and image, but differ in terms of possibilities and variety in layout. Persian typography is highly fluid due to the association of letters with English, while English text seems more consistent. The directions of the letters in Persian text are much more varied than in English typography. Understanding the structure of letters and their role in the layout of the text is a visual aspect of animated typography. Through this knowledge, we can greatly understand the capabilities of Persian animated writing and its similarities and differences with English typography. Hence the visual challenges and variations that come with animated typography through Persian writing create many possibilities for the artist due to the variety of lines and shapes in each of the letters and words in the composition.

The major difference between Farsi and English text is the strong presence of the horizontal line in Farsi text, whereas the uppercase or lowercase

letters in English text do not connect horizontally. Farsi typography lies in a harmonious relationship between the three evolved vertical, horizontal, and rotational motions. Vertical motions that give the letters special dignity, the horizontal motion (surface) that links the letters together in a continuous process, and the rotational motion.) Which doubles the beauty and causes the eye to rotate between two horizontal and vertical movements and creates a kind of visual pleasure in the viewer.

In Persian, there is a variety of lines, connected motions, the presence of dots and indentations, which add to the visual pressure, which is balanced by the curved motion of some letters. According to the point mentioned, although Persian text is a combination of various lines, almost all types of lines are involved in the formation of letters and Persian text. (Taheeri, 1391: 125)

Farsi typography is connected and English letters are separated, with the resulting morphology approaching the horizontal line, but the centrality and dynamics of the horizontal line are more pronounced in Persian writing. The horizontal alignment of the letters in Persian text plays an essential role in

modulating the force, emphasis, and concentration of the motions, perhaps because it seems that the placement of the English text in the overall composition of the works is less challenging than the Persian text. As all the forces entered in Persian text move to the horizontal line, as a result, the horizontal line in the Persian text results in more visual stress, meaning that the letters are separated during word formation, with the presence of vertical or diagonal curves or lines. They have an effective role in discharging this pressure. How the letters come together in Farsi and English texts are different, in Persian text the letters are interconnected in some parts and the letters are made up of several types of lines. The Persian letters have an almost unified axis due to their interconnectedness, whereas in English text these linear groups form separate and separated groups. In Persian, less can be achieved in a geometric form, while in English, this is much easier. In the Persian line, it is less possible to achieve a geometric form than to fit into a square or rectangular form, while in the Latin script is much easier to do.

English letters are more letters that fit geometrically, the letters spaced closer together and less space between them. Rows are also relatively short. In English fonts, the spacing between words is determined by font thickness, letter size, and usage; But in Farsi language, and in particular the Nastaliq calligraphy, the concept of spacing is more complex. On the Nastaliq calligraphy, the calligrapher decides how to draw distances. The spacing between the letters one second to one third the words. If letters and words are considered to be small and large stains, the accumulation and division of stains into a linear texture, the white stains inside the letters and between the words, are the same value as the black stains, that is, the letters. It can be said that Persian words are the product of visual emphasis as well as visual relaxation, and this linear variation in Persian writing creates a dark and clear visual.

The problems encountered in typing Persian faces in this area can be classified into two categories:

"structural" and "drawing". Another point of distinction between Persian and English texts is the letter and their dots, which are involved in creating balance, eye circulation and correct and logical orientation during reading.

The words of the Persian text are also very simple and varied in structure. Farsi letters are more capable than English, these letters and words can be designed infinitely. In Farsi, a fifteen-word sentence can be arranged and combined in different ways. If added to the graphic technique, it would be infinite, while English designers would not, but Iranian designers are experiencing a lack of font variability in animated typography design. One of the biggest limitations of Farsi writing compared to English writing in animated typography is the fact that letters and words apart from news media have visual shapes, for example the letters A can represent a mountain or a pencil. While the Font does not have this feature.

Table1: Differences between Persian and English animated

	Farsi	English
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Morphology	Fluid	Geometric
Product lines	Horizontal	Vertical
Letter fittings	Connected	Disconnected
Point and Rogue	Don't have	Don't have
Number of letters	32 letters	17 letters
Text direction	Right Writing	Left Writing
Araabs	Don't has	Don't has
distances	Diverse	Without diversity

Table2: The similarities of Persian and English animated

	Farsi	English
Multi-audio being the letter sound	has it	has it
Positive and negative atmosphere	has it	has it
Visual representation	has it	has it
Weight, fit, angle	has it	has it
Contrast, texture, rhythm	has it	has it

English typography is essentially a geometric structure, and has geometric, regular, and defined shapes.

Western characters can also be transformed into visual display systems, regardless of their specificity. The

English text lacks any horizontal orientation in its essence due to the discontinuity of its letters. In English text, especially in capital letters, the vertical line is dominant; Vertical lines are more important because of the lack of letters. English letters are more letters that fit very closely in geometric terms, and less space between them. Vertical alignment with equal width can be seen throughout the text. Rows are also relatively short, so there is no need for long rows. When looking at a few rows of these letters, it encounters a heavy texture in which the black and white spaces are evenly divided, and this pattern of compression evokes solidity and power. In Latin fonts, the spacing between words is determined by font thickness, letter size, and usage; the spacing is not very variable.

English typography essentially has a geometric structure. They put their alphabetic shapes on geometric shapes such as circles, squares, and triangles and used two horizontal lines to create the order. So, when the original form of the letters is geometrically definable, it will certainly fit in with the original forms of images and shapes that are definitely conceivable in geometric form and

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mathematical rules, and can be approximated (Letters and images) in a communication stream as a means of conveying graphic messages to the audience. (Tawfiqi, 1991: 81) The letters can easily be changed, merged and used. They can also be easily modified to accommodate their shape. Another reason designer tends to line up is to make it easy to work with, and it's much easier to type, seat, and line align than Persian type. English letters are single-lettered and have a neatly arranged structure and structure, whereas Persian letters have dots and they need letters to form a word or phrase, and the arrangement of Persian letters is more sophisticated than English.

Conclusion

In today's society, communication is essential to the existence of any society. From the beginning, mankind has sought to discover different ways of communicating and conveying the right message. Moving typography is one of the ways of communicating in today's society in a society that is witnessing a variety of technological advances and

multimedia arts every day. Animated typography is one of the newest graphic media in the field of graphics.

The performance of any medium requires the recognition of its capabilities and obstacles. Familiarity with the capabilities and limitations of animated typography in Persian writing allows the artist to be more successful in expressing his ideas to his audience. This study attempted to identify the structure and function of Persian typography and to compare it with English typography from the perspective of motion typography and to show the following results:

In Persian animated typography, such as English, the visual representations of letters and the variations of letters structure play a role in the orientation of the view and interaction, although it is noteworthy that the structure of Persian text is more diverse than English text.

In English type the role of the vertical lines and the geometric shapes of the letters are more important and the letters are separated from each other, while the letters in the Persian text are horizontal and the dominant line is horizontal and the presence of dots,

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revolutions, letter holes, curves The vertical lines of letters make the compositions more dynamic, while the English text is simpler in composition because of its geometry.

By recognizing the visual capacities of the typing and recognizing the features and differences of the Persian typing in English, they can be used correctly and create interesting works for their optimum use. The point, the connections, the visual features of the Persian letters, the rotations, the repetition of the letters, and so on can be used well in animated typography. With the advancement of technology and multimedia arts, typography has emerged in new fields that need to be recognized and nurtured, and carefully studied using Persian text.

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EXPLAINING THE IMPLEMENTATION MODEL OF GREEN TECHNOLOGY IN IRANIAN AUTOMOBILE INDUSTRY

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Abstract: Today, the automobile industry plays a critical role in enhancing the transportation level in societies and has become an integral part of human life. Given its direct and indirect interaction with environment in all sectors of production cycle from exploiting the natural resources to manufacturing, production, consumption, and from post-consumption to disposing its wastes, this industry is considered among the major sources of environmental pollution. One of the ways to protect the environment is to institutionalize the use of green technologies in automobile industry, an industry which plays a significant role in this pollution. On the other hand, using green technologies involves the necessary infrastructure in various

dimensions which is always facing multiple challenges. The necessary condition to exploit the green technologies is identifying its effective and deterrent challenges which is the focus of this discussion and has been analyzed in two principle phases. In the Phase I, the main framework of the research is formed based on identifying the challenge dimensions, factors and effective indexes according to the presented conceptual model. In the Phase II, given the qualitative nature of research, the Delphi consensus technique is applied. Regarding the consensus obtained by the experts in the first and Phase IIs of Delphi technique, the research process reached its final consensus, thus making it unnecessary to enter into the Phase III. Finally, ten

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environmental and internal challenging factors along with 25 indexes from their subsets were confirmed by the experts, which was used as the basis for the inference and explanation of green technology implementation in the automobile industry.

Keywords: Green Technology, Green automobile Industry, Challenges in Exploiting the Green Industry

Introduction

The development of technology and innovations in the domain of industry has led to formation of competitiveness paradigm as a critical and multidimensional index in various industries, so that it is today necessary to give special attention to competitiveness as an effective and critical factor, in a way proportionate and aligned with technology growth in international arena, because in international interactions- i.e., globalization- any unsuitable programming can potentially bring the new technologies into failure. Also the development of green technology in the one hand and the challenges of applying it inside and outside of an organization either in terms

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of technology transfer or providing the required infrastructures on the other hand, are the relevant theoretical foundations considered today by the industrial societies in both developed and developing countries.

The emphasis of Iranian managers on environmental issues, the necessity of interacting with the international communities, making the necessary infrastructures to join to the World Trade Organization (WTO) and raising the competitive edge relative to imported products are among the issues which lead the Iranian industries including the automobile industry towards applying the green technology.

In other words, a qualified and sophisticated organization should be able to adapt with the environmental rules. Such an organization can understand the environment, prepare the necessary information and knowledge, be agile in responding, be a suitable base for innovation and creativity, learn from lessons and revise its structures.

Industrial development is one of fundamental components for development of countries. In the competitive world of today, industries possess a strategic status, as progress in

this field not only causes increased production and employment, but also facilitates service provision and leads to increased productivity in other sectors.

Perhaps no one in the past could see that someday the health of society and consumer gains as much interest as the profitability and sales. However, the dynamics and severe competitions as well as the increased concerns on environment and also the governmental and international regulations along with increased knowledge of consumers led the companies to reflect on the mental and physical health as well as the cleanness of the consumer environment [3].

Given the increased environmental laws and regulations as well as public awareness, the contemporary companies should not ignore these issues if they want to survive in the world market [4]. Understanding the fact that the environmental effects are not only limited to the final phase of production led the attentions towards the environmental issues not only in production operation but throughout whole supply chain [5].

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Globalization, increased governmental and nongovernmental organizations and the pressure from public knowledge regarding the environmental issues led the organizations to investigate the needed actions in order to exploit the green technologies for enhanced environmental and economic performance [6].

The automobile industry as an old, important industry which is predicted to constitute at least a gross production value of 4% in 2025 is both in direct and indirect interaction with the environment in all parts of its life cycle from exploiting the natural sources to manufacture, production, consumption and post-consumption.

In our country, unfortunately due to resource endowment, the production process has remained mostly unattended; we have been always waiting for others to think for us in producing new products and processes, this leading us to obtain and apply the obsolete and outdated results.

Surviving in a highly competitive age requires inevitably continuous improvement of related products and services in all dimensions

so as to make it possible to compete with the foreign powerful competitors. One such country currently having a special place in automobile industry is South Korea, which has dominated the world markets, particularly the markets in developing countries. Evidently, this success owes to abilities and opportunities provided for automobile manufacturing companies [8].

In this research, by explaining a model, the author aims to identify the factors effecting the exploitation of green technologies in automobile industry and presents the exploitation model of green technology in automobile industry.

Problem Statement

Given the changes occurring in attitudes and general culture of society (albeit with a slow rate), domestic laws and international requirements, the movement of industries including the automobile industry- as a most widely consumed production in society, towards green technology is inevitable.

In other words, the contemporary industries would not be able to survive in absence of customer relationship and understanding their

opinions and attitudes on their good performance as well as without attending to the social and environmental responsibilities.

In the other hand, dependency of the country's revenue to petroleum and its lower non-petroleum exportations are the source of its economic problems. As the automobile industry has a high potential, it can be expected that the growth and reinforcement of this industry along with enjoying the green technology can help to increase the employment level and flourishing of the internal markets as well as show higher effectiveness in regional competition, thus have a higher share as a non-petroleum good in exports of the country. For this purpose, the role of up to date standards and innovations should be considered, whether in production of parts to enhance the safety level and convenience, or in exploiting the technologies which protect the environment.

It is worth mentioning that the all issues in terms of performance from customers' and social observer's perspective and environmental aspects are being judged. Success in determined

by manufacturers but also by the customers and observers.

In this research we attempt to identify the most important elements and challenges in exploiting the green technology in Iran's automobile industry. Accordingly, in order to realize the goals, it is necessary to identify the capabilities and apply the international environmental regulations. Although the atmosphere governing our country's automobile industry very different from that of developed countries, this distance can be reduced using the present experiences in a short time.

In fact, being aware of the factors can help the managers in this industry as decision makers to understand the environmental issues relevant to the industry and include them in the company's objectives and strategies so as to can achieve higher share in the market, increase their profitability and even protect the company against the failures.

Also the valuable teachings of Islam put emphasize on subject of environment and the way humans interact and adapt themselves to it. The constitution of the Islamic Republic of Iran also considers environmental

protection as a public responsibility, where the growth and excellence of current and future generations depends on protection of resources.

“In the Islamic Republic, the protection of environment is considered a public responsibility, in which the current and future generation should live an evolving social life. Therefore, any activity incurring irremediable damage to environment shall be forbidden”.

The term “resistive economy” refers to reduced vulnerability against threats and damages. As a result, it does not only imply a defensive and passive meaning; but there is now an emerging concept of economic resiliency for the organizations. In fact, the concept of resiliency refers to avoidance from some risks and restrain others. And in case facing the risk, it is necessary for organizations to reach to needed stability by returning to the desirable conditions and using the existing opportunities.

Also the other necessity in dealing with this subject originates from increased environmental awareness.

The environmental processes, including the processes to supply raw material, design, manufacture, use and recycling and reuse (creating a closed

loop) are material flow to reduce the resource consumption and the damaging environmental effects [7]. Therefore, the organizations should apply the environmental management in all lifecycles of their products so as to ensure the improvement of environmental performance.

One fact necessitating this study in Iran is that the deputy of Iranian human environmental protection organization stated that based on the statistics from the World Bank, the damages from air pollution in 2006 in Iran amounted to 8 billion dollars, reaching to 16 billion dollars in 2016 [6], which would be essentially significant in case of continuing the current trend.

Literature review

One of the basic components of growth and development in any country is its industrial development. The strategic status of industries in the competitive world of today is evident for anybody, as the development in this field leads not only to increased production and employment but also facilitates the service supply and increase productivity in other sectors. Evidently, the automobile industry has contributed as a

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driving force for the economic growth in the 20th century. The automobile industry and its related activities, from the steel industries, rubber manufacturing, parts manufacturing and glass manufacturing to after-sale-services, recycling the old cars etc. have been among the most widespread and profitable economic networks. Forty years ago, Peter Drucker (1909-2005) called the automobile industry as “the industry of industries.” With offering more than 65 million vehicles, the automobile industry still faces 20 million over-capacities per year. The 28 percent profit reduction besides of early increased production indicates the heavy competition to protect or increase the market share through decreased profit and increased productivity and development of automobile electronics section.

In sum, it should be acknowledged that the automobile industry has significant role regarding the importance and extensiveness of its related industries, generating employment, applying high techs, development indexes, profitability, intensive competition in production and business. The cultural

and social implications from development in this industry on human societies, including welfare, diversity, entertainment, sports, is still widespread.

However, the contribution of governments in supporting the automobile industry should be considered due to its high significance and stance in the international economy. It is worth reminding that during the world economy crisis, the loud voice of automobile industry was heard first from banks and then via media. Subsequently, the governments rushed to save this industry without any hesitation.

The automobile industry has played role in the economic destination of most countries, acting as the driving force for transportation, business, employment, innovation, technology and economical restoration. The positive, permanent and remarkable growth of automobile manufacturing in the post-world war II offered a significant economic growth to the market and world economy, thus transformed the welfare level of societies.

The final status of automobile components is of high significance for car designers. In Germany, for example, it is awaiting the adoption of the law on

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the responsibility of the automobile manufacturers to return and recycle vehicles, similar to the one currently in place for the recovery and recycling of product packaging.

The vision of this law has already created a momentum in the German car company by creating some strategies to decrease the number of different types of plastic used in the car and "design for disassembly" to facilitate the economic recycling of worn-out vehicle parts by designers. It is anticipated that such regulations may be introduced in the United States.

In the current conditions, it is not possible to recycle more than 25% of a vehicle (one third of types of plastic including 20 different types – about 220 pounds- one-third rubber and other elastomers, and one-third glass, textile and liquids) and it is generally can be buried.

In the USA, this automobile waste constitutes 1.5 percent of total municipal waste. These wastes sometimes contain heavy metals, oils and other dangerous materials.

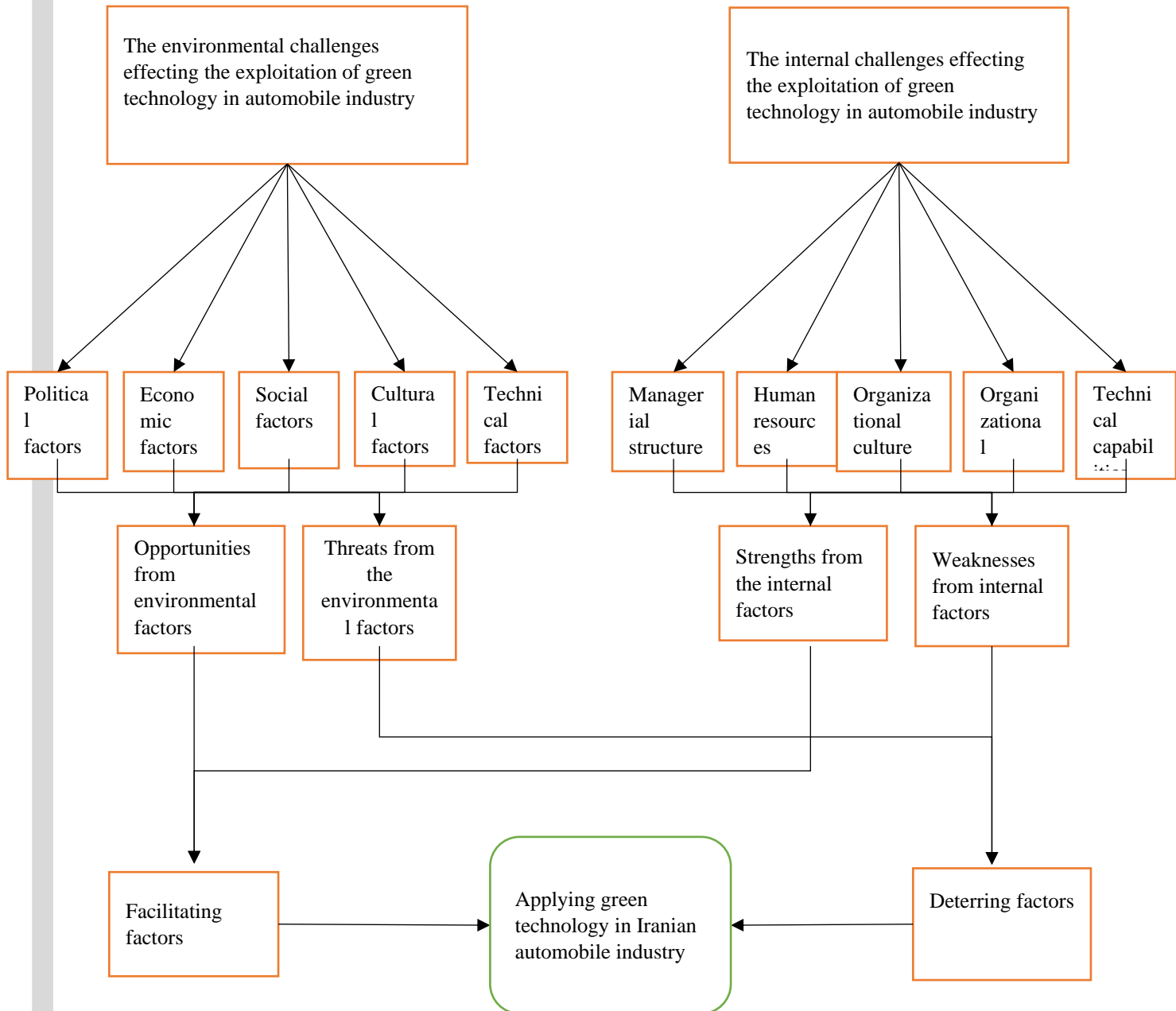
In future, the alternative driving force system can create new concerns about recycling. For example, many

electrical vehicles are produced and sold which are made of lead acid batteries, causing remarkable lead extension into the environment. Other stranger types of batteries such as Sodium sulfur, nickel metal hydride, or lithium polymer can increase new issues regarding recycling and disposal (10).

The Conceptual Research Model

Using the results from literature review and with the aim of exploiting the green technology in Iranian automobile industry, the conceptual model (detailed) is as follows.

Research Methodology



The present research aims to identify the most important challenges effecting the green technology in Iranian automobile industry. For this reason, as shown in the initial research proposition, the Delphi technique was used as an acceptable tool in qualitative statistical analysis.

In this research, with respect to the content and heuristic method predicted in research and being qualitative, the statistical population included the following subjects: professionals and experts of Iranian automobile industry, university professors in relation with the subject, automobile experts of environmental protection organization. The sampling method is also a non-probability or selective (purpose-based) sampling from this population. Library studies and questionnaire tools were used to collect data. Considering the nature of the research (qualitative) and its data analysis (Delphi technique), a questionnaire consisting of three options (low, medium and high) was used to obtain the opinions of experts in the automobile industry and the automobile sector of the environmental protection organization and active university

professors. With regard to the qualitative research, the descriptive statistical method was used.

Research Findings

In the Delphi Phase I technique, out of the 27 participants in the specialized panel, 21 subjects responded to the questionnaires (78%).

Given the number and quality of the panel members mentioned, these numbers and their results are acceptable and are the basis of research evaluation.

In addition to the selection of expert panel members, their challenging factors and indexes was selected for questionnaire after reviewing articles, conferences, commentaries, and so on, and after doing the necessary modifications by the research team.

The first questionnaire was designed so that contain an introduction to the research and the personal information for the members of specialized panel along with a spectrum of three-parted response (low equal to “3”m medium equal to “3” and high equal to “5”).

In other words, the questionnaire evaluation section consisted of 33 questions and was

designed in ten internal and external domains (factors) respectively as follows: political and governmental challenges (7 indexes), economic challenges (4 indexes), social challenges (3 indexes), cultural challenges (2 indexes), technical and technological challenges (2 indexes), management structure (4 indexes), human resources (3 indexes), organizational culture (2 indexes), organizational structure (3 indexes), technical and technological capabilities (3 indexes)

Also some open space for presenting complementary propositions and the opinion of participants on indexes were included in the questionnaire. The members of the specialist panel then were asked to

include their views and observations in the place for the open-ended questions and write the amount of their agreement of the indexes in the mentioned scale by giving scores to questionnaire indexes.

At this phase, according to the consensus obtained on 33 indexes, 24 indexes were accepted with the agreement above 75%. No indexes subject to the agreement below 25% and were not excluded and therefore 9 indexes were transferred to the Phase II questionnaire. In addition, four suggested indexes were added at this phase that were added to the Phase II questionnaire.

The results of the Phase I are summarized in below table.

Table 8: Number of accepted, excluded, residual, and normal indexes in Delphi Phase I

	Number of Indexes	Accepted Indexes	Excluded indexes	Residual indexes	Proposed indexes	Indexes to enter into the Phase II
Environmental Challenges						
Political	7	7	0	0	1	1

Economic	4	3	0	1	0	1
Social	3	3	0	0	2	2
Cultural	2	1	0	1	0	1
Technological and technical	2	2	0	0	1	1
Internal challenges						
Managerial structure	4	2	0	2	0	2
Human resources	3	2	0	1	0	1
Organizational culture	2	1	0	1	0	1
Organizational structure	3	1	0	2	0	2
Technical and Technological capabilities	3	2	0	1	0	1
Total	33	24	0	9	4	13

The Delphi Phase II

At this phase, the Phase II questionnaire was sent after inserting the results of the Phase I (accepted indexes, mean agreement obtained with expert panel member evaluation on each of the remaining indexes, and proposed indexes of the Phase I), specifically to 21

individuals from panel members who participated in the Phase I.

Of the 21 respondents in the Phase II specialized panel, 16 respondents responded to the questionnaires (76%). As noted above, given the number and quality of panel members, this number and the results

obtained are also acceptable and are the basis for evaluating the present study.

Summary of Delphi Phase II

At this phase, according to the consensus of the 13 indexes that entered this phase, only one index with a high

agreement of 75% was accepted. Other indexes, as mentioned above, were excluded in this phase and thus were not included in the Phase III. The results of the Phase II summary are presented in the table.

Table 9: Number of accepted, excluded, residual, and normal indexes in Delphi Phase II

	Number of Indexes	Accepted Indexes	Deleted	Residual indexes	Proposed indexes	Indexes to enter the Phase II
Environmental Challenges						
Political	8	7	1	0	0	0
Economic	4	3	1	0	0	0
Social	5	4	1	0	0	0
Cultural	2	1	1	0	0	0
Technological and technical	3	2	1	0	0	0
Internal challenges						
Managerial structure	4	2	2	0	0	0
Human resources	3	2	1	0	0	0
Organizational culture	2	1	1	0	0	0

Organizational structure	3	1	2	0	0	0
Technological capabilities	3	2	1	0	0	0
Total	37	25	12	0	0	0

It is noted that out of a total 37 indexes out of ten challenging titles, 25 indexes were consensually over 75% and 12 indexes were removed due to lack of consensus. In other words, the evaluation of challenging research indexes in Delphi Phase II has finally been achieved and the need to enter Delphi Phase III has been eliminated.

It can be inferred that, for the following reasons, the experts reached a consensus and consensus in the Delphi Phase II:

1- The anticipated characteristics and challenges of past studies and research, and the views of experts in the field of automobile industry were derived from practically expert panel experts.

2- Experts from the panel of experts in all three sets of statistical populations (automobile industry, environmental organization, and

university) had relatively similar views on the challenges of the research topic.

Summery

In analyzing the results according to the description of nature and quality of Delphi, obtaining the opinions of 21 experts in the first round and 16 people in the second round in the expert panel were desirable and the obtained results had a good and acceptable level. Given that the Phase I questionnaire was drawn from papers, conferences, opinions of experts and domestic and foreign experts and considered almost all their points of view, the results obtained from the Phase I (a significant number of accepted indexes and the lower number of suggested indexes) were not far from expectation.

The other feedback included the development of the Phase I questionnaire as described above, that no indexes were

removed due to poor evaluation, indicating that all indexes are of expert concern but not prioritized.

In other words, in the Phase I, about 73% of the indexes were agreed and agreed by the experts. In the Phase II, only one of the four proposed indexes was approved by the experts. The results of the Phase II study indicate that the experts were almost constant on their first theory and no significant change was made at this phase.

This consistency of opinion reflects the consensus of the experts that the researcher seeks to achieve. In other words, experts in two phases of the Delphi technique screened the proposed and proposed challenge indexes, followed by eliminating a range of those that were not prioritized, and adopted a relatively favorable range.

Finally, by conducting library studies and receiving expert opinions, the most important features of green technology challenges in the automobile industry were identified and introduced.

Summary and Approval of Final Indexes

As noted, the results of the Delphi process and consensus process resulted in the acceptance of a range of the above indexes, which are presented as a result of the research and the answer to the research questions.

A: Identify and approve the most important environmental indexes and challenges

Approved indexes along with expert agreement percentages and averages based on the maximum score of "5" are presented in Tables 1-5 to 5-10 with titles of environmental challenge subsets.

Political and Governmental Challenges

Table 10: Approved indexes of "Political and Governmental Challenges" from Delphi technique

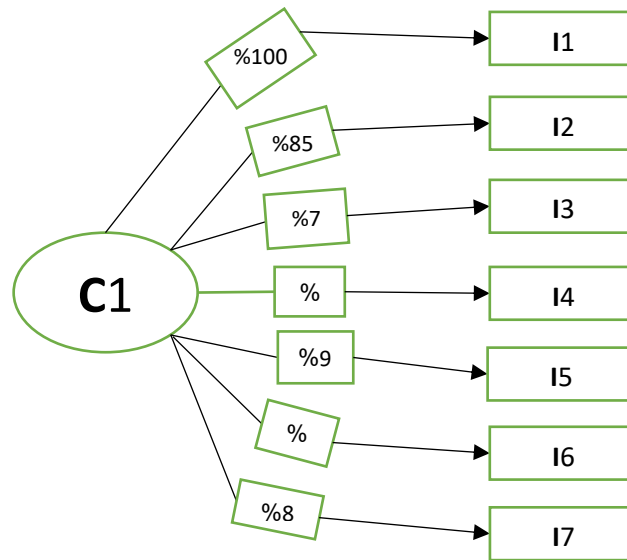
Item	C1: Political and Governmental Challenges	Percentage of consensus	Average Score

I1	Green technologies being effected from the unity of opinion in the upstream institutions of the automobile industry	100	5
I2	The effects of sanctions on international technology partnerships for green technology application	85	4.24
I3	Lack of access to green technology application standards and infrastructure	77	3.86
I4	The challenges of changing domestic laws and policies on green technologies application	7979	3.95
I5	Lack of attention to focal points with the use of green technologies in the automobile industry	90	4.48
I6	Absence of product expiration laws at the end of life	83	4.14
I7	Non-payment of government subsidies in line with utilization of green technologies	84	4.19
	Average political and governmental challenges		4.27

The consensus of experts shows that the indexes of political and governmental challenges are influenced by the seven effective indexes as described in the table above. The number and variety of characteristics, as

illustrated in Figure 1, illustrate the extent and magnitude of the impact of political and governmental challenges in utilizing green technologies in Iran's automobile industry.

Diagram 1: Indexes of political and governmental challenges



Economic Challenges

Table 11: Approved Indexes of "Economic Challenges" obtained from Delphi technique

Item	C2: Economic Challenges	Percentage of consensus	Average Score
I8	Lack of research funding for green technologies in the automobile industry	87	4.33
I9	Financial constraints; effective implementation of green technology strategies in the automobile industry	89	4.43
I10	High cost / finished price (competitive price) of utilizing green technologies	86	4.29
	Average economic challenges		4.35

The consensus of experts shows that economic challenges are influenced

by the three effective indexes described in the table above. The number and

variety of characteristics, also illustrated in Figure 2, illustrate the extent to which economic challenges can be exploited to

exploit green technologies in Iran's automobile industry.

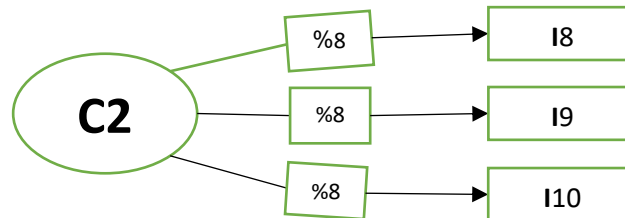


Diagram 2: Economic Challenges Indexes

Social Challenges

Table 12- Approved Indexes of "Social Challenges" obtained from Delphi technique

Item	C3 : Social Challenges	Percentage of consensus	Average Score
I11	Inappropriate mentality and low credibility of Iranian green technology products compared to products from other foreign companies	81	4.05
I12	Unfavorable business environment and unstructured import of cars with green technology	83	4.14
I13	Not having a well-known brand with and internationally independent Iranian identity	83	4.14
I14	Lack of adequate relationship between universities and knowledge-based companies regarding the use of green technologies	75	3.75
	Average social challenges		4.02

The consensus of the experts shows that the social challenges are

influenced by four attributes as shown in above Table. The number and variety of

attributes, as illustrated in the diagram, show the magnitude of the impact of

social challenges in utilizing green technologies in the automobile industry.



Diagram 3: Social Challenge Indexes

Cultural Challenges

Table 13 Approved indexes "Cultural Challenges" from Delphi technique

Item	C4 : Cultural Challenges	The Consensus percentage	Average Score
I15	Public unacceptance of the cost of using a green car relative to similar cars	87	4.33
	Average Cultural Challenges		4.33

The consensus of experts shows that cultural challenges are influenced by an effective index as described in the table above. Schematically illustrated

graphs illustrating the impact of cultural challenges in utilizing green technologies in the automobile industry.

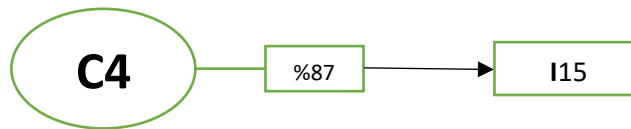


Diagram 4: Cultural Challenges Indexes

Technical and Technological Challenges

Table 13 Approved indexes "Cultural Challenges" obtained from Delphi technique

Item	C5: Technical and technological Challenges	The Consensus percentage	Average Score
I16	Technology gap in application of green technologies between the country and the international automakers	89	4.43
I17	Unpreparedness of Green Vehicle Parts Manufacturers Chain	87	4.33
	The average technical and technological challenges		4.38

The consensus of the experts shows that the technical and technological challenges are influenced by the two effective parameters as described in the table above. As

illustrated in the diagram, it illustrates the state of play of the technical and technological challenges involved in utilizing green technologies in the automobile industry.

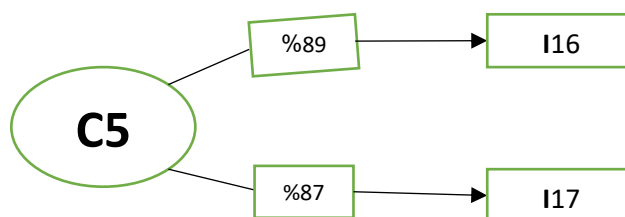


Diagram 5: Technical and Technological Indexes

The indexes for environmental challenges have varied from 75 to 100 percent in terms of agreement and expert agreement, the closer the agreement to 100 indicates the severity and effectiveness of the indexes in terms of expert consensus.

On the other hand, based on the mean scores given by environmental experts, the environmental challenge subset shown schematically in Figure 1 radar can be deduced from the qualitative analysis.

Environmental Challenges

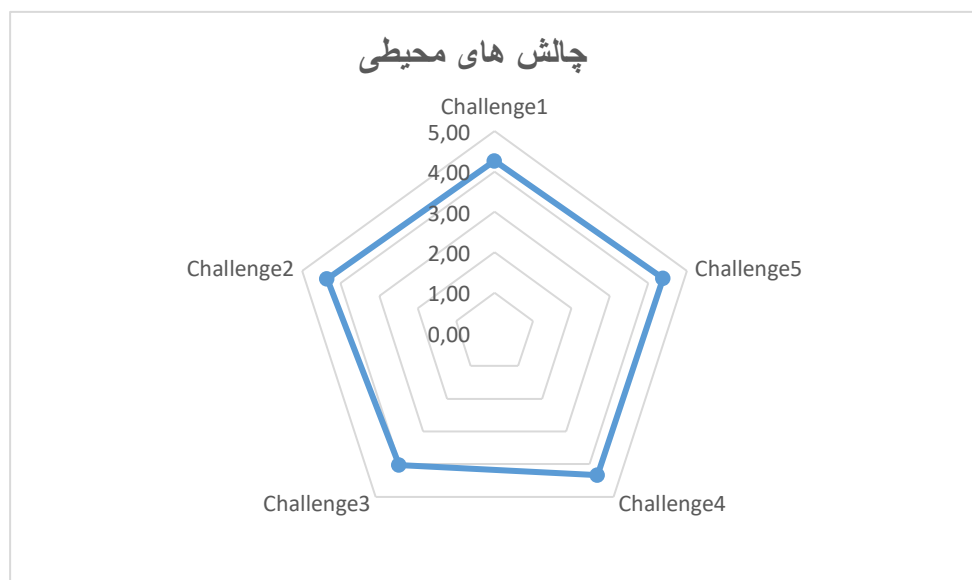


Figure 1: Radar diagram for the position of environmental challenge subset

According to the findings of the study, the challenges discussed are almost identical, while among the five

environmental challenges, from the expert panel's point of view, technical and technological challenges have the

highest percentage of agreement and political challenges. Governmental in terms of number and volume of features has the most impact on the utilization of green technologies in the Iranian automobile industry.

B. Identifying and adopting the most important indexes and internal challenges

Approved indexes along with expert agreement percentages and averages based on the maximum score of "5" are presented in Table 5 5 to 5-10 with sub-categories of internal challenges.

Table 14: Approved indexes of "managerial structure Challenges" obtained from Delphi technique

Item	C6: managerial structure	The Consensus percentage	Average Score
I18	Lack of strategies to perform the activates related to green technology utilization	89	4.43
I19	Lack of comprehensive roadmap to utilize green technologies in automobile industry	90	4.52
	The average managerial structure		4.48

The consensus of the experts shows that the challenges of management structure are influenced by two effective indexes as described in the table above. The indexes are illustrated

in the diagram and illustrate the impact of management structure challenges on the use of green technologies in the automobile industry.

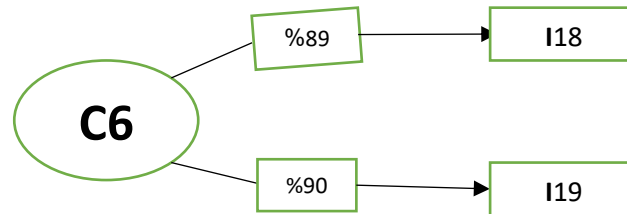


Diagram 6: Indexes for managerial structure challenges

Human Resources

Table 15: Approved indexes of "human resources challenges" obtained from Delphi technique

Item	C7: Human Resources	The consensus percentage	The average score
I20	Lack of required skills and capabilities in deploying green technologies among senior executives	81	4.05
I21	Lack / shortage of motivation among employees to utilize green technologies	75	3.76
	Average human resources		3.90

The results of the consensus of experts show that human resource challenges are influenced by two effective indexes as described above.

The benchmarks are illustrated in graphs and illustrate the impact of human resource challenges on utilizing green technologies in the automobile industry.

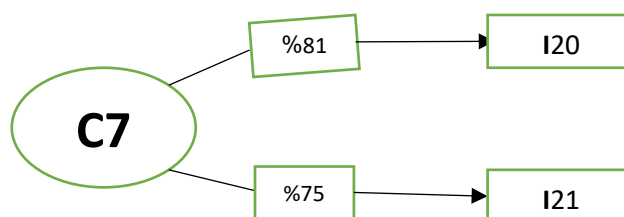


Figure 7- The indexes for human resources

Organization culture

Table 16: Approved indexes of "organizational culture challenges" obtained from Delphi technique

Item	C8: Organizational culture	Consensus percentage	Average Score
I22	Incredulity and lack of understanding of the paradigm shift caused by the emergence and presence of green technology in the automobile industry	85	4.24
	Average organizational culture		4.24

The consensus of experts shows that the challenges of any organization are influenced by an effective benchmark as described above. The benchmark is illustrated in the diagram

and illustrates the state of play of the impact of organizational challenges in utilizing green technologies in the automobile industry.



Diagram 8- Indexes for organizational culture challenges

Organizational Structure

Table 17: Approved indexes of "organizational structure challenges" obtained from Delphi technique

Item	C9: Organizational structure	Consensus percentage	Average Score
I23	Lack of alignment with green technology strategies and corporate macro strategies	85	4.24
	Average organizational structure		4.24

The results of the expert consensus show that the challenge of organizational structure is influenced by an effective index as described above. The benchmark is illustrated in the

diagram and illustrates the impact of the organizational structure challenge on utilizing green technologies in the automobile industry.

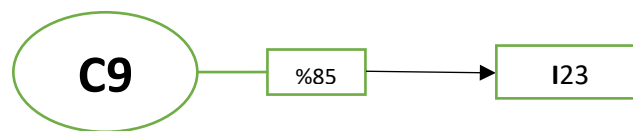


Diagram 9- Indexes for organizational structure challenges

Technical and technological capabilities

Table 18: Approved indexes of "technological and technical capabilities" obtained from Delphi technique

Item	C10: Technical and technological capabilities	Consensus percentage	Average Score
I24	Inadequate capabilities in manufacturing green automobile	89	4.43
I25	Weaknesses and inadequacies of support systems and utilization of green technologies in the automobile industry	85	4.24
	Average technical and technological capabilities		4.33

The consensus of the experts shows that the challenge of technical and technological capability is influenced by two effective factors as described above. The benchmarks are shown in graphs and

illustrate the impact of the challenge of technical and technological capability on utilizing green technologies in the automobile industry.

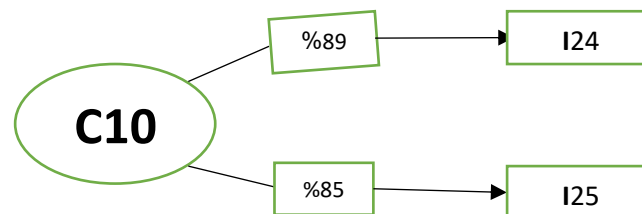


Diagram 10- Indexes of technical and technological capabilities

Likewise, it can be seen that the indexes of internal challenges in terms of percent agreement vary from 75 to 100 percent, the closer they are to 100, indicating the importance and effectiveness of the indexes in the expert consensus.

On the other hand, based on the mean scores given by experts to internal challenges, the position of the internal challenges subset, which is schematically shown in Figure 2 and Figure 1, can be deduced from the qualitative analysis that can be made.

Internal Challenges

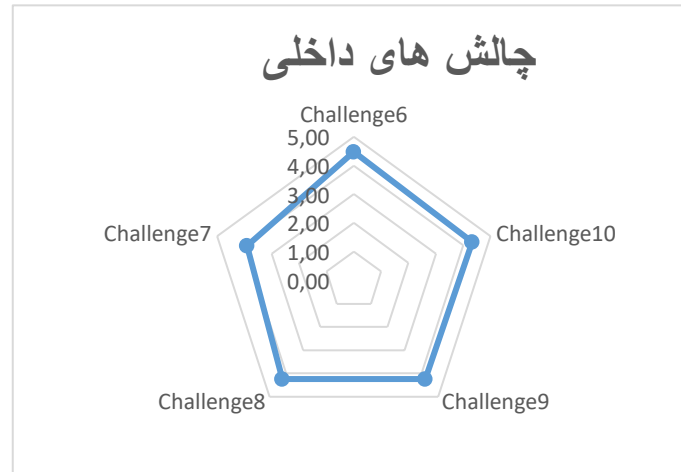


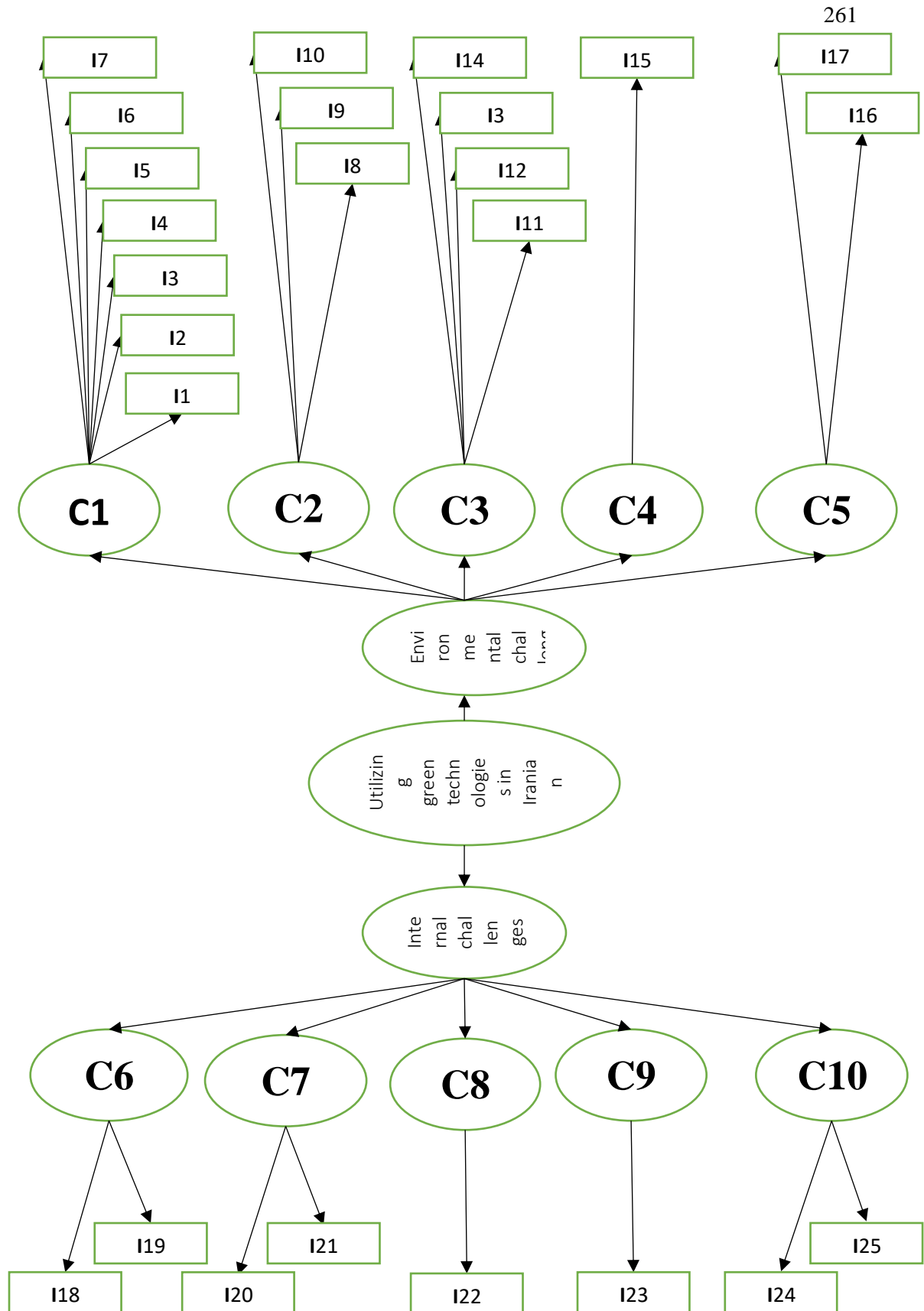
Figure 2: Radar diagram of the position of internal challenges subset

Similarly, it is observed that according to the research findings, the challenges under discussion are almost the same, however, among the five internal challenge factors, from the expert panel's point of view, the challenge of managing the highest percentage of agreement and in terms of number and volume. It is also subject to the highest number of attributes. In other words, according to the research results, among the internal challenges factors, from the experts' point of view, the challenges of management structure have the most impact on utilization of

green technologies in Iranian automobile industry.

It is recalled that in this research, the methodology of exploratory qualitative research has been utilized by the consensus of experts to provide a basis for future quantitative research.

In other words, accurate assessment and judgment for both environmental and internal challenges is subject to quantitative analysis of the proposed model and the above-mentioned characteristics.



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AZERBAIJANI LITERARY LANGUAGE OF THE 17th CENTURY: THE SOCIO-POLITICAL CONTENT AND LANGUAGE OF THE ERA

Abdullaeva Gizilgul Agali Gizi¹

Abstract: The article reveals the socio-political content of the XVII century. Both dependence on foreigners and the influence of internal tensions between tribes on the political life of the Safavid state are investigated. In such historical circumstances, the cultural environment is also based on sources that have not yet been identified. Under such circumstances, a description of the language is given. In particular, during the period of the Shah Abbas (during the rule of other shahs), attitudes toward the Turkish language are expressed in contradictory ideas. It has been established that the stage of the XVII century literary language is not a way out, but history as a turning point. This is proved, on the one hand, by scientific data, as well as facts about language. As a result of the research, it turns out that the language policy that underlies the

existence of the state and the nation is carried out in the direction of Turkic rule in the 17th century. The article contains the rich language of the real world, including the introduction of the Turkish language in the history of the 17th century Azerbaijani literary language, the decline of the Persian language (including the accompanying Arabic language), the destruction of cults, as well as the intensification of new processes, such as differentiation, stabilization and democratization examples. In the 17th century, as in all periods of the history of the Azerbaijani literary language or at all stages of historical development, the process of defining a literary language and defining different styles (charming, scientific, official epistolary) took place. Style plays a significant role in relationships. In volume, the rate is determined in style

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and appears. As a result, it is noted that the 17th century very dynamically develops phonetic, lexical and grammatical norms in the direction of nationalization. The development of literary language, of course, all levels of language are available. But what if you want to translate it into one language? The real fact, which is obvious, or hidden, or not, is voluminous in the volume, which is a lexical system, which leads to great changes. This does not mean that in other languages, such as the phonological system, the language is checked and the file is checked. All, that is, it is not so, but here is a breakthrough for change. This is not an idea or an idea of ignorance and ignorance, but there is no certainty that changes in language change. The truth is that everything that creates a change in the original of another phenomenon, which confirms the existence of legality. The definition of phonetic norms for a certain period of time (continent, period or phase) is contained in a volume that is one of the other publicly available versions of the phone in the language, and, in each other's eyes, by removing from one-dimensional parallels, stabilization in language and content.

Keywords: Azerbaijani literary language, literary language norms, differentiation, stabilization, democratization, periods of literary language, socio-political and historical content, linguistic landscape, classical poetry genres, classical poetry, language, national language, folklore language, syllables, fairy tale, norm variability ...

Introduction

Relevance of the topic. The XVII century is an integral part of the XVII-XVIII centuries, the first half of the final stage of the Azerbaijani literary language. This is a very controversial issue, and from a socio-political point of view, this is a very tense phase. To solve the dilemma in this tense policy, to clarify the position of the Turkish language, is one of the pressing issues that are really needed. XVII-XVIII centuries are considered norms of civilization. However, the differentiation, stabilization and democratization, defined in the 17th century through self-analysis and originating from this historical stage, point to the eighteenth century and the rise of this hegemony. In the case of

stabilization of differentiation, both processes lead to democratization, and ultimately this unifying process causes trials, and it is transmitted through the XVII century to the XVIII century, and also consolidated in this century. Given that all ages are interrelated. Thus, one cannot even speak of a complete study of the historical paths of development of our language in the study of the literary language of the seventeenth century, the historical stage of our literary language. The separation of phonetic, lexical and grammatical norms is more relevant for explaining the independence, presidency and durability of the Azerbaijani language in the light of discussions in the 17th century. It is impossible to comprehensively study literary linguistic norms without revealing the socio-political, historical context and language. This proves once again how relevant our to.

Methods

The Azerbaijani literary language has two historical epochs. One of them is the period of writing, which, according to the new classification of T. Hajiyev, dates from the second century

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BC and the VI-VII centuries BC. This era dates back to the history of our literary language as tribal consolidation. The consolidation and consolidation of the Turkic-speaking peoples leads to the creation of a people, and this means that the language of the people communicates. All this contributes to the development of the culture of writing our language. The period of writing begins with the VII century and continues to this day. Based on convincing scientific foundations and logic, T. Hajiyev's new classification, which he presents to the world of science, shows that the writing period has three phases (Hajiyev T.I.,2012). The first stage covers the VII-XII centuries. This is characterized by the historical stage at which the "Book of Dede Gorgud" was a magnificent monument. If this can be said, the period begins with the existence of the book Dada Gorgud. The basis of the national language is also derived from the book Dede Korkwood. These realistic scientific discoveries of T. Hajiyev are due to the vocabulary fund, which is always stable and not constant. Starting from the second stage of the writing period (XIII-XVI centuries), the national language is determined. Thus, this

definition summarizes the complete formation of our national language, which developed in the XIII century, at the end of the second stage of Fizuli. At the stage of the XVII-XVIII centuries, our national language enters a new developmental perspective. It turns out that normalization norms are based on this update. A foreign language, which includes the concept of a leading language, is Persian (also Arabic, which, despite the degradation, even if it is Arabic with the same name), has always been translated into Turkish, but this foreign language is slowly being translated into Turkish. Thus, the concept of leading language varies depending on the Turkish language. As a result, the Turkish language is decided in favor of the Turkish language, as well as the variability of the genre. At the stage of the next XIX-XX centuries, there is a change in styles, as well as fluctuations of lexico-terminological norms. It is well known that phonetic, phonetic, phonetic, phonetic, phonetic, phonetic and phonetic, which covers the norms of the literary language, reflecting the language of the previous historical stages in the final phase of the writing period (from the 30s to the present) orthographic,

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orthoepic, and lexical and grammatical norms. In this regard, works are written, dictionaries are compiled, opinions and opinions are met in the media, but not confusion, the principle of unity begins, the correct orientation to regulating the complexity contained in the terminology of the language is taken as the basis. Thus, the literary language has stepped forward to its development.

It should not be forgotten that stylized styles, style, functional and structural certainty, national language, which plays a vital role in the development of literary language and most of the linguistic facts and plays a major role in this issue, and most importantly, literary the norm that constitutes the essence of the language is taken as the main factor.

Results

Each of these stages has a special role in the development of the literary language. Especially in the 17th century it is necessary to mention them. Because the XVII century is a time of intensification of new processes, indeed, it is an important milestone in the history of Azerbaijani literary language. In order to further clarify our thoughts, we can

say that every historical period moves to the memory of history with its socio-political, economic, historical and cultural content, as well as the national language environment. From this point of view, XVII century is not an exception. XVII century is a component of XVII-XVIII centuries, the first half of the new stage of the national language. In all historical periods, as in the stages, the XVII century presents multidimensionalities with socio-political and historical content. The XVII century feudal wars, which are neighbors of the 16th century on the one hand, and on the other hand, prepare for the 18th century from various angles, as a stage of long-term internal strife after the 18th century feudal wars, attacks by foreign countries, and the death of I Shah Tahmasib (1524-1576). The Ottoman and Safavid wars between the two brothers were an example of this. Sunnis and Shia aggression, which has already won politics in strengthening these struggles, also played a leading role. II Shah Ismail (1576-1577), who came to power after Shah Tahmasib, attempted to soften the Sunnis and Shia relations, one of the foundations of the Ottoman and Safavid wars, did not bear fruit on their

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own, but this resulted in the creation of the Safavid opposition to the Shah. Apparently, as a result, II Shah Ismayil was killed in his mysterious appearance. The arrival of the Shah's elder brother, Mohammed Mirza Khudwain, will be instrumental in the weakening of the Sawwezi state. Thus, the Ottoman sultans, themselves using this internal weakening of the Safavid Empire, are able to occupy Azerbaijani lands in parts. Naturally, both domestic dependence and internal conflicts between tribes cause the weakness of the Safavids state. Until the reign of Shah Abbas, the territorial integrity of the Azerbaijani lands to the Ottoman Empire and the indefinite state continues. Historian O. Afandiyev writes that "the Ottoman-Safavid wars are closer to the reality than to the hostility of the two brotherly Turkish people (Ottoman and Turkish Turks) as the collision of the economic and political interests of Ottoman-Safavid rulers" (Emmani,1983). The historian, S.Ashurbeyli, also made an appropriate comment about the Ottoman Empire's occupation of Azerbaijani lands in order to capture the commercial caravan routes of the Ottoman Turks in the territory of Azerbaijan and to free the

Caspian Sea with the Baki port (History of Azerbaijan, 1999). For us, no matter for what purpose, it was to occupy our lands and to have our ancient and everlasting lands occupied by another. And these lands begin to be returned during the reign of Shah Abbas. This is when the power of Muhammad Hodja, who understands the complexity of the situation, begins voluntarily after his son I Shah Abbas (Bakikhanov A.A., 1987). It was a historic period that "the Ottomans had already captured all the provinces of Azerbaijan except the Ardabil, Garabagh and Talysh regions" (Gurbanov C., 2011). Naturally, "the main task of Shah Abbas in 1587 was to get rid of the destruction of a state that was exposed to foreign invaders" (History of Azerbaijan, 1999). The truth is that after Shah Abbas was proclaimed king, he first achieved concentration of internal control in his own hands and prevented internal paralysis. It was during this period that the Safavid state began to grow stronger (Gudratov D., 2000).

Discussions

The Azerbaijani lands occupied by the Ottoman sultans were

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returned by Shah Abbas (Demirli M., Mammadli M., 2000). Shah began reforms reflecting different areas. First, "I, Shah Abbas, skillfully used the contradictions between European countries and strengthened the borders of the Safavid Empire. His actions as a reformer created favorable conditions for the development of the country's economy" (Hasanaliyev Z.M., 2000). Naturally, in these areas a culture of culture existed, and language policy was the basis for the existence of the state and the nation. Demirchizade wrote in the seventeenth century: "In Azerbaijan there was Persian, Rumyr (Osmanli) in another place, Azerbaijani everywhere, Arabic was used everywhere, and even at that time there were changes" (Demirchizade A., 1978). True, this is an axiom that does not need proof that wars, bloody battles, massacres, or even small ones or at least have their negative consequences. However, as Demirchizade said, in spite of the fact that various languages function at this historical stage, as a result of intensive processes, the Azerbaijani language in these languages is characterized as a historical reality, which develops ascending line. Speaking about the

Azerbaijani literary language of the XVII century, T. I. Hajiyeu also notes that "the national literary language of Azerbaijan has entered the ascending line of life" (Hajiyeu T.I., 2012). Unfortunately, there are conflicting opinions about the language policy of the 17th century. Thus, it is time to return to this issue and exchange views on the position of the literary language of Azerbaijan in the seventeenth century. In the seventeenth century, most researchers associate all this with the policies of I Shah Abbas (particularly in language policy). Naturally, the controversial presentation of the political trends of Shah Abbas is a shadow of reality. On the one hand, the policy of codification of the king is exaggerated, and on the other hand, the policy of the Turkish language (ie, Azerbaijani) as the state language is also ignored. The policy of falsification of Shah Abbas is largely connected with the movement of the capital to one of the Iranian cities of Isfahan, as well as with particular attention to the Persian-speaking citizens of the country and their placement in various government posts. For us, this cannot be taken as the main reason. Due to the change of capitals in many

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countries throughout the history of any policy. "Why should I accept the Safavid state as a Persian state by transferring the capital to Isfahan by Shah Abbas, before we accept Nishapur, Ray, and then the state Isfahan as a Turkic state? Or Sultan Teymuri, Shahruh? moved the capital of his state to Herat. Did the Teymuris state come to the Afghan state after that, meaning the Turkish state? Of course not!" (Gurbanov C., 2008). The reason is that Shah Abbas moved to Isfahan to protect the capital of the Ottoman Empire from the occupation of the Ottoman Empire as a result of the occupation, and placed all state affairs there. In our opinion, along with the transfer of the capital, countless Azerbaijani families, even prominent poets and intellectuals, transfer them to Isfahan with their families the number of ethnic minorities in favor of the Turks, their position in the immediate vicinity of the Turks, the majority of Turks who use the Turks, who are the basis of diplomats sent to foreign countries who are the guarantors of negotiations in Turkish after the dinner given to foreigners visiting the state of Safavid (Mahmudov Y.M., 1980), the president of the country that built the state palace

in Isfahan in the style of painting of the Tabriz state palace (Emmani., 1994), - this is not the kind of Persian politics on this unrealistic soil, on the contrary, it should remain in the memory of history as a propagandist of the Turkinsians national policy.

Writing poems by the name "Abbas" and "Shah Abbas" is also a sign of this reality. In addition to all of this, as it is widely reflected in our tales, I have been continuously advocating for the purpose of identifying the causes of the dissatisfaction of the people's representatives in order to get acquainted with the suffering of the people, to learn their desires and desires, evident proof.

The poem "Efendi", written in the genre of the above example, was written by Abbas in the seventeenth century. Another poem "Effendi" in the same genre tells about MP Vagife, the creator of the scene in the eighteenth century:

I do not know what happens to this mountain every day, I fell out from behind a tulip. I was lucky again that when it was time to leave, sir (Vagif M.P., 1988).

The first of these is the linguistic material of the XVIII century,

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the recovery period of healing, i. E. Time of the XVII century, and the other - the peak of healing. Consequently, one of the initial stages of healing is a linguistic environment in which the genres of folk poetry are already publicized and gained prestige. Nevertheless, the language, the style features, the state of folk poetry, the level of artistic value and the appearance of the language are ambiguous in both. This shows that the XVII century was a historical stage in which genres of folk poetry were presented, and most importantly, the Turkish language. In fact, it should be emphasized that "in the state of Safavid ... the overwhelming majority of emirs and idols who were members of the Shah's family were Turks or Turks. Of course, the state itself was " them. "And in the palace, in the army, in the correspondence, the Turkish situation remained in the 17th century" (History of Azerbaijan, 1996). All this confirms that the activity of the " golden language" (Karimov P., 2013), which was equivalent to the Turkish language in the 17th century, continued at this historical stage. In the real sense of the word, in the 17th century, "Turkish was the official language of the Safavid palace" (18. This took place in the era of

Shah Abbas, in the period of the Shah Safi, during the second Period of Shah Abbas, and also in the later stages of our language development. II Shah Abbas, like me Shah Abbas, “entered the nation, realizing problems and difficulties of people of all classes, solved their difficulties in the court of justice and tried to improve the country. He issued decrees to heal society, and settled houses of corruption, that is, barracks, caravans, deck chairs (opium houses)” (Hasanaliyev Z., 2011). That is, during the rule of these rulers “they were Turks who built and defended the state” (Bayramli Z., 2006). Engelbert Kempfer, a German scholar who traveled to Iran between 1685 and 1694, wrote that “the Turkish language spread from the palace to the home of high-ranking and influential people, and so far the one who wants to be honored, speaks this language. It is now criminal to ignore Turkish for anyone worthy of his head. Turkish is easier than all oriental languages. Vugar and the magnificence of the Turkic-speaking style led him to the fact that he became the only spoken language in the palace and the kingdom of the heavens” (Sources of History of Azerbaijan, 1989). Before Kempfer in

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the Safavid era, French traveler Jan Baptiste Taverna also informs us in the 40s – 60s of the 17th century (Onullahi S.M., Hasanov A.Q., 1974).

Azerbaijani Turkish was a fact of generality in the Caucasus and even in the East. Additionally, from the beginning of the XVI century and beginning of the 17th century, introspective novelties began to function, giving them “decree” for the Turkish language as a state language. The issue of the ethnic identity of the Safavid State plays an important role in the root of all these issues. There are also facts that the Safavid State was presented as a non-Turkic state, in particular the Iranian state, despite the fact that it was a Turk state until it collapsed. Researcher Z. Bayramli very well states that the Safavids in the 17th century preserved their Turkish essence as a basis for our sincere handling of the false ideas about the transformation of Persian into the end of the sixteenth and sixteenth centuries (10, p. One of the main factors that proves the continuity and strengthening of the Safavids' Turkic essence is the fact that the Persian language was influenced by the more Turkish language in this historical period was compared with the

prevalence of the Turkic language in comparison with Mongols and Seljuks (Azeroglu B., 1981). As a continuation of our ideas, the following information is further emphasized by M.Seyidov's ideas: "In the XVI-XVII centuries, Azerbaijani intellectuals were the most commonly written in their native language. This aspect also influenced even the judges. Some of them enjoyed poems written in Azerbaijani language. If not, the artists who lived in the palace did not live in the palace" (Seyidov M., 1963). This is a matter of particular importance and not of the researchers' attention. It should be noted that the XVII century is a middle-aged position in the neighborhood of XVI and XVIII centuries. It is a transition phase, both in politics and in the economy, as well as the transition phase of the XVII century XVIII through this historical development phase of our language. Thus, XVII century plays a transitional phase. This proves that the Azerbaijani literary language of the XVII century is traditionally developed in the background of the unity of the innovation. That is, it does not break down before itself, and it prepares its renewal in the future. Thus, while

classical linguistic traditions dating from the 16th century continue to resettle in the XVII century, on the other hand, introspection changes take place, and they continue to be "continuing their own development" in the process. If it is possible to say so, the new language between the old and the new, that is, the tradition and the modernity takes on the national language. Thanks to the national language, the tradition also becomes a shareholder. New processes such as differentiation, stabilization, democratization, reorganization, and transformation make the new stage of national language a reality. In short, XVII centuries centered on the process of modernization within the language, and "literary language - the literary language of Azerbaijan in the XVII century enriched at the expense of live folk language, far away from alien influences" (Arasli H., 1956). All of this looks like a preparatory phase for the XVIII century. From this historical point of view, the Arabic language, which goes as far as the Persian language and the winged wing, breaks down, and these languages are already in the recession. This is because of the classic poetry genres that the direct Persian and Arabic

tongue is drawn by, and the classic poetry genres, and the Arabic and Persian linguistic examples (especially non-common Arabic and Persian words) to the path of recession to reality.

As a result, intravenous intuition becomes a massive form of the classical book language. Thus, as a result of these new processes going on in the language, Turkish language gains a balance between Persian and Arabic, and only after this equilibrium begins the Turkish way of propaganda. Because the Turkish language presupposes, of course, the genre of folk poetry associated with syllabic, syllabic, syllabus, Turkic language units that form the basis of folk poetry genres, including Turkish-Arabic and Persian lexemes, more specifically, the generalization of common foreign lexical units will provide. It was a sedate Arabic and Persian words all over the world in the dictionary of our language (also in the vocabulary fund). Which, since the words "Dede Korkut" from the words of the 17th century, has gained a wide range of work in all historical periods of our language, and today the vocabulary of our language and even the vocabulary collection were in the form of a

dictionary. Finally, as a result of all these speeches, folklore language is embraced by the way of leadership. As we move toward the eighteenth century, this level of leadership continues to evolve over the rising line and has already gained a peak in the 18th century. Democratization does not make a difference only with folk poetry genres. There is such democratization in the allegory. It is also determined by the introduction of the livelier language elements at different levels of language and the direction of the language of the literary and artistic language written in the dialect to the simplicity. Thus, such processes as language differentiation, stabilization, democratization, reorganization of calligraphy make the Azerbaijani literary language of the XVII century a unique norm. The norm of each age is determined by the language of literary and artistic samples that emerged at that time. Let's remind, "In the XVII century Persian language literature was in deep recession. In the 16th century BC Persian-language literature was the center of Iranian-Azerbaijani territory. However, since the beginning of the 16th century this literature has entered the recession, the

process of Turkish-speaking literature has begun" (Hasanaliyev Z., 2007). Naturally, such a direction of development is that in the 17th century, a great army of command is formed. The authors of this word army, written in Turkish language by "XVII century, independent and original development of the literature of the 17th century" (Safarl A., 1992), not only mention the traditions of Fadai, Mohammed Ammani, Christi, Gavsı Tabrizi, Saib Tabrizi, Shah Abbas Kabr (I Shah Abbas), Zafar, Tazi Afshar, Sadiq bey Afshar, Vahid Kazvini, Shah Abbas Sani (Shah Abbas Shah), Makhbed Ganjavi, Movi, Majub, Mirza Saleh Tabrizi, Melik bey Avci, Vaiz Gazvini, Safi, Murtazulu Sultan Shamlu, Effect of classical poetry as well as Ashig Abbas Tufarganli, Yellow Ashig, Azizi. For a long time, these artists have been told that they are only followers of the Fuzuli literary school and can not go beyond Fuzuli. True, enough linguistic facts to confirm this are also recorded. The comparative analysis of Fuzuli's poem "Leyli and Majnun" and the poem "Warga and Gulsara" of Christ confirms the similarity of language, which coincides with one another in parallel.

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Even in the poems of some poets, we can see the repetition of Fuzuli's expressions, thoughts, inclinations, emotions, moods. But in general, all these poets did not imitate Fuzuli as a whole, but simply regarded it as their master, teacher, and learned creatively from it. The tradition of these outstanding artists who wrote and created in various genres of classical poetry, such as Mesnevi, ghazal, qesi, kita, muhammas, muhadda, mabrabba, scribe, translator, taṭbeyt, rübai, sünzâmî ... Fuzuli as well as Alisher Navai effect. True, "Fuzuli's influence was more apparent in the works of poets who wrote in classical style. But learning from Fuzuli was creative "(Safarl A., 1998). Some of those creators of classic style writing have appealed to folk poetry genres and have dual writings in their creativity. Poets such as Azizi, Sari Ashug, Ashyg Abbas Tufarganli who appealed to folk poetry in the XVII century directly influenced the development of XVII century poetry with examples of literary and artistic samples, and in addition to the classical poetry in the dual genre, the language of classical literature towards democratization they have not lost their power. The result, however, was that

these great word makers gave birth to the ideal of literary and artistic language, and to democracy.

Thus, representatives of the XVII century, especially the artistic style, introduced the new language of the language. But they could not separate from each other. Thus, there was a transitional connection between the classical book and the folklore language. The first ones conveyed their traditional words and phrases, the general Arabic and Persian words to the latter, while the latter did not deprive them of the spirit of the spoken language. The transmitted transmissions did not allow them to break the barrier of the livelier language; they only expanded the scope of their linguistic wealth and added to their poetic power; the latter were able to present the tradition of the XVII century by combining the tradition with the live word language. In this connection, the latter were insistent on meeting, so they could properly fulfill their mission to reach the peak of the XVIII century. T.I.Hajiyev writes that "the 17th century is sometimes called stagnation, sometimes a period of fall. It is a period of time when no one is saying that the two language styles change their

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position" (Hajiyev T.I., 2012). It really is. As a result of the synthesis of this place of change, these linguistic materials, which were created by these prominent personalities and transferred to the memory of history, should have laid the foundation for the definition of the 17th century language standard. That is, fluctuations in the language led to normal variability. Because in any period of the norm it does not matter, in general it belongs to the historical category. This means that the norm is a variable. But this volatility, of course, is not systemic. That is, the variability of the norm is not a frequent process. For example, from the Hasanoglu period to the XVII century, i. E. Stability of the XIII-XVI centuries. This date is four centuries. The factors that make up the stability or variability of the norm are mainly related to the language background, gesture, genre, style. If a leading language can maintain its stability for a long time, the stability of the norm and its lifetime will expand, even if the language is predominant. Since Persian language (including Arabic), which challenged foreigners in the XIII-XVI centuries, ensured the prestige of Arabic and classical poetry, the norm reflecting

Persian (and Arabic) language retained its stability, maintaining its stability. However, from the beginning of the 17th century, as we have already mentioned above, the Azerbaijani language, gradually becoming the state language, is capable of turning the protection of syllable and folk poetry into reality, as we have already mentioned, with the gradual decline of foreign languages.

Conclusion

Thus, the classical norm, which demonstrates long-term activity, if you can say, “the norm financed from abroad” in the 17th century, gives its place to the “national norm” reflecting the Turkish language, syllable, and genres of folklore. In all cases, the literary-linguistic norm of the XVII century prevents the occurrence of a gap between the oral and written texts of the literary language. Thus, this new development trend in normalization leads the literary language of the 17th century to a living spoken language, which ends at the end of the 18th century. The development of the literary language in the XVII century and its peak in the XVIII century due to the expansion of the scope of the more

popular genres of folk poetry. Thus, the line of development of a language is based on a folk language. As a result, new complex processes, such as differentiation, stabilization, democratization and nationalization, since the beginning of the 17th century, reached their peak in the 18th century. Thus, the fact that the norm, which reflects both the macro and microsystems in all historical periods and stages, is the first of its kind manifestation of the renewal of the Azerbaijani literary language of the XVII century.

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EFFECTS OF LAND USE CHANGES AND LAND VEGETATION ON WATER BIRDS AND WADERS DIVERSITY OF ANZALI, ALAGOL, ALMAGOL AND AJIGOL INTERNATIONAL WETLANDS

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Abstract: The purpose of this study was to determine the diversity of wintering water birds and waders in Alagol, Almagol, Ajigol and Anzali wetlands and the impact of land use changes on the distribution of these wetlands. **Materials and Methods:** ETM + satellite images after atmospheric and geometrical correction were used to evaluate the changes. The NDVI index identified the overall vegetation cover of the wetlands on and out of the coast. Then, dominant plants and representative of wetland

status were identified and evaluated by unsupervised classification. The diversity of water birds and waders was assessed using Total Count Method. Species diversity index, species uniformity and interspecific similarity were calculated and reported. **Results:** The catchment area of the studied wetland has decreased significantly during the last 10 years and the type of vegetation and area of the catchment area has increased toward nutritional state. The highest number of migratory water

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birds belonged to the duckweed, with an average of 65.99% of the total migratory bird population belonged to this species, especially the water feeding ducks. **Conclusion:** Due to the lack of legal compliance with the wetland and the increasing use of agricultural and human-made land uses, this changing and growing land use will have adverse effects on the wetland ecosystem.

Keywords: Alagol, Almagol, Ajigol, Anzali, Wetland.

Introduction

Wetlands are among the richest ecosystems that are important for biodiversity conservation (Amat and Green, 2010). However, it may be argued that wetlands are more neglected than other natural habitats. The most important reasons in this regard are land conversion and invasion of wetlands due to the inefficiency of existing laws in protecting wetlands, and the decline in the quality of existing wetlands is due to various causes, such as the entering of other types of pollution (Ballan et al., 2002). Therefore, it is important to evaluate the changing trends of wetland use and the continuous monitoring of

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surrounding lands. Accurate and timely understanding of changes in land surface effects is important for better understanding of human communication and interactions with natural phenomena in order to properly manage and utilize resources at the spatial and temporal scales (Gallego, 2004). With 250 wetlands, Iran is ranked first in the importance of wetland systems in the Middle East, among these wetlands, Anzali, Alagol, Almagol and Ajigol International Wetlands that are registered in the Ramsar Convention and it is very important in many aspects, It is also observed that the conversion of land and the introduction of sediments and types of pollutants and nutrients into the wetland have reduced the natural life of these valuable aquatic ecosystems, So that, if the current situation continues, these wetlands will disappear much sooner than their natural destiny (Ghorbani, Taghipour, Mahmoudzadeh, 2012). Birds are one of the most important indicators of wetland habitat suitability. Studying and comparing the density and diversity of birds in a few years in a habitat can well represent the desirable or unfavorable habitat quality and other necessary conditions for each

species (Brown and Dinsmore, 1986). Therefore, the study of the changes in the diversity and population of aquatic birds in different years can be considered as a biomarker of health status or the presence of threats in wetland ecosystems. Therefore, the purpose of this study was to investigate the impact of land use changes and land vegetation cover on water birds and wader's diversity of Anzali, Alagol, Almagol and Ajigul wetlands.

Materials and Methods

Study area, Alagol wetlands (2500 hectares), Almagol (207 hectares), Ajigol (320 hectares) near Iran-Turkmenistan border in Golestan province and Anzali wetland (15000 hectares) in geographical position. 37°25' to 37°30' north latitude and 49°25' to 49°30' east longitude on the southwest coast of the Caspian Sea in Gilan province, Iran.



Figure 1: Location of Almagol, Ajigul and Alagol Wetlands

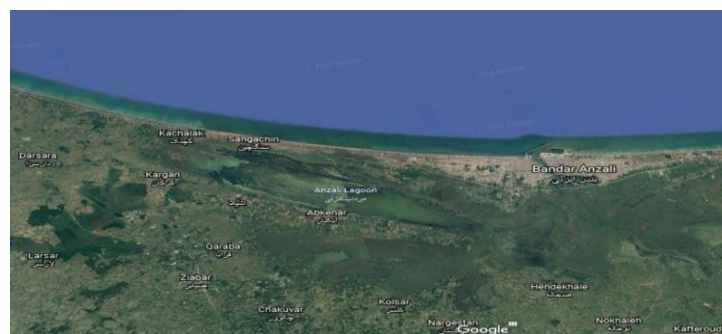


Figure 2: Anzali Wetland Location

Land use Changes

For the purpose of investigating the changes, ETM + multi-temporal satellite images were selected in the

dates listed in Table 1, the Anzali, Alagol, Almagol and Ajigul International Wetlands area, which were available.

Table 1: Sources of information from the types of satellite image

Resolution	Sensor	Year
30 meters	ETM+	1987
30 meters	ETM+	2000
30 meters	ETM+	2005
30 meters	ETM+	2010
30 meters	ETM+	2019

Data conversion and satellite data processing were performed for the use of satellite numeral information in the ILWIS software environment. After preparing multi-temporal images of the area, all the satellite images were subjected to radiometric, geometric corrections and normalization techniques in the pre-processing phase. In this study, the dark pixels value method was used, using ETM + 7 band, where the water and shadow in this band have zero DN values, the pixel digits of bands 1 to 5 and 7 of the region were positioned on X and Y axes relative to

each other, and by using least squares method, the amount of atmospheric error (distance from origin) was deducted from the whole band data from 1 to 5. The pixel-to-pixel split images range from -255 to + 255 for ETM + images. Next, the classification of satellite images was used to attribute the numeral values in the image to groups with homogeneous characteristics, with the aim of distinguishing different objects or phenomena from each other. Maximum likelihood classification was performed using the following formula (Seaby and Henderson, 2007).

$$L_k = P(k/x) = P(k) * P(x/k) / \sum P(i) * P(x/i)$$

The following relation was also used to separate image categories (Seaby and Henderson, 2007).

$$L_k(x) = \frac{1}{(2\pi)^{n/2} |\Sigma_k|^{1/2}} \exp\left\{-\frac{1}{2}(x-\mu_k) \cdot \Sigma_k^{-1} \cdot (x-\mu_k)^t\right\}$$

In addition to using the automatic method for separating water and land boundaries, numeral and visual interpretation was used according to the Ozesmi and Bauer method (Ozesmi and Bauer, 2002).

Investigation of Vegetation

Distribution

For this purpose, the 6 bands TM sensor Landsat satellite 5 used from 2009 to 2019 for NVIDA imaging. Also, field survey and sampling of plants, index of each wetland, identification and dominance of plants in the area were determined. This information was used to explain unsupervised classification using the ISOCLUST module. In order to determine the dominance of plants in the area, a point sampling and evaluation method along transect from proximity to drought was considered. The initial length of each transect was assumed to be one kilometer, which increased or

decreased with respect to topographic conditions. Also, the number of transects, their path and location of sampling points based on environmental changes along the slope were determined by satellite imagery and initial field visit. In areas where it was not possible to continue transect, additional points were considered. In sum, the position of these points was entered into the GPS device by DNRGarmin software. According to the vegetation layers, three circular plots with radius of 1, 5 and 9 m were selected for land cover, bushes, seedlings and trees, respectively. By selecting the sampling location with the conditions listed above, circular plots of the same sizes as estimated for each of the layers estimated to estimate the abundance of each, begin first with the ground cover layer (if any) and by observing the specified plots. The abundance of plants for each species and layers in the plot was evaluated by percentage of cover.



Figure 3: Location of sampling points, number of transects and their path in Almagol, Ajigol and Alagol wetlands

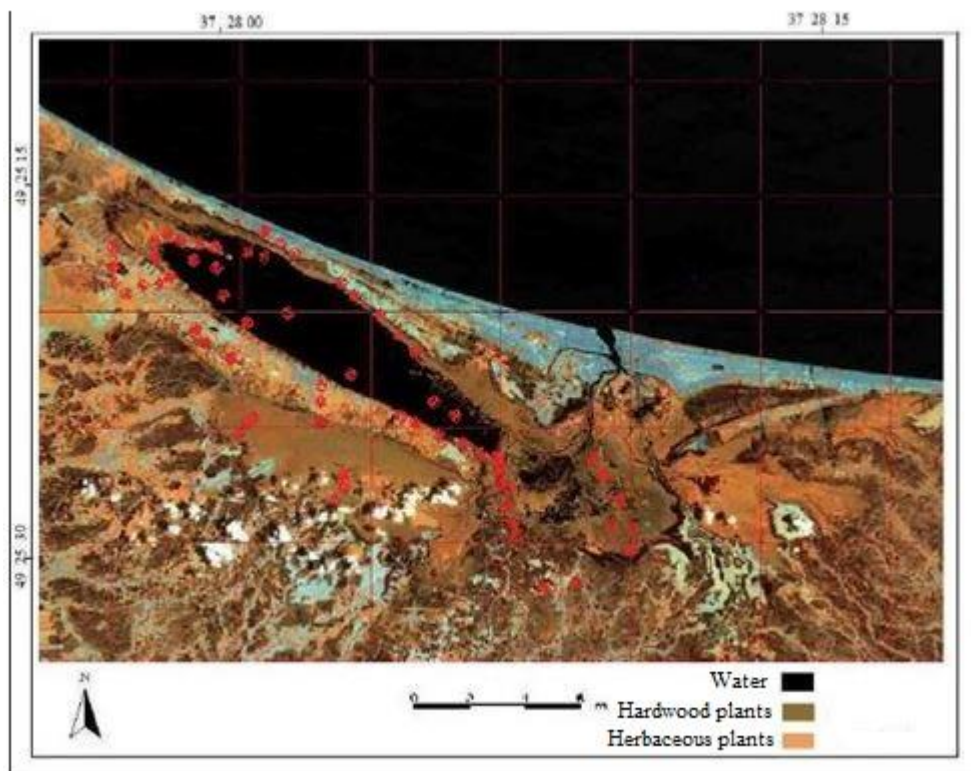


Figure 4: Location of sampling points, number of transects and their path in Anzali Wetland

Species diversity of water birds and waders

In recent years, the wetlands under study from January to February for four days each year for water birds and waders counted by experts from the General Directorate of Environmental Protection of Guilan and Golestan. To identify birds in the field from the Wild Birds Guidebook and Total Count method was used to count the birds (Camargo, 1993). In this study, the results of 8 years of census of aquatic birds in Anzali, Alagol, Almagol and Ajigol Wetlands were analyzed. To determine species diversity of water

birds and waders in the studied years from Shannon-Wiener species diversity index and vice versa Simson index, To determine species richness of Margalph and Menhink indexes, to determine species uniformity of Pilo and Simpson and Moristas indices were used to determine the interspecific similarity of aquatic birds in different years and different parts of Anzali Wetland (Simpson, 1949; Morisita, 1959).

Finally, to link the relationship between wetland land use change and the distribution of birds by Pearson's correlation coefficient in SPSS program were used.

Results

Satellite imagery from 1987 to 2019 was first studied in order to study landslide trends of Alagol, Almagol and Ajigol wetlands.

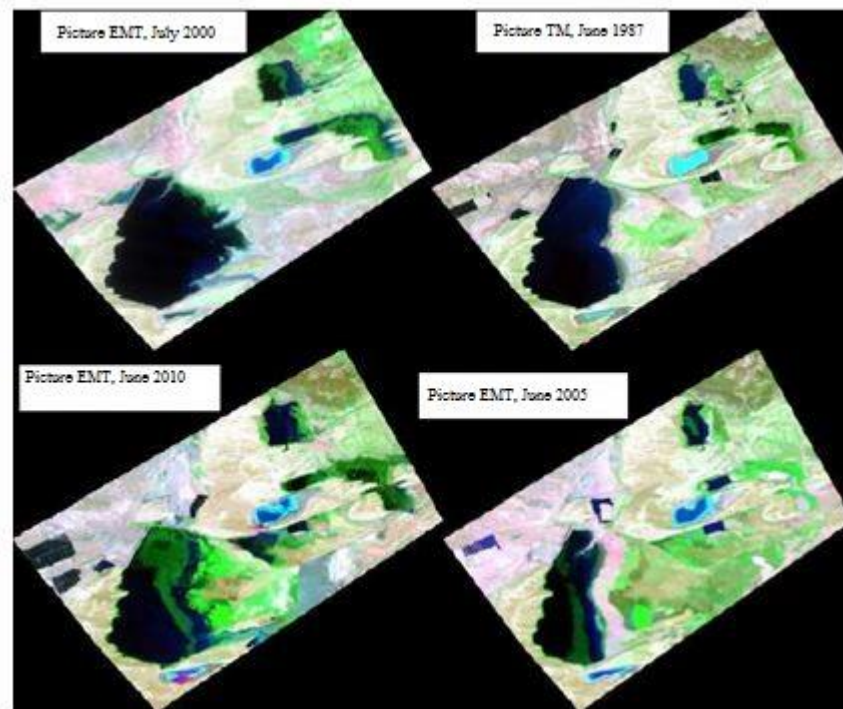


Figure 5: Visual changes of Alagol, Almagol and Ajigul international wetlands from 1987 to 2010.

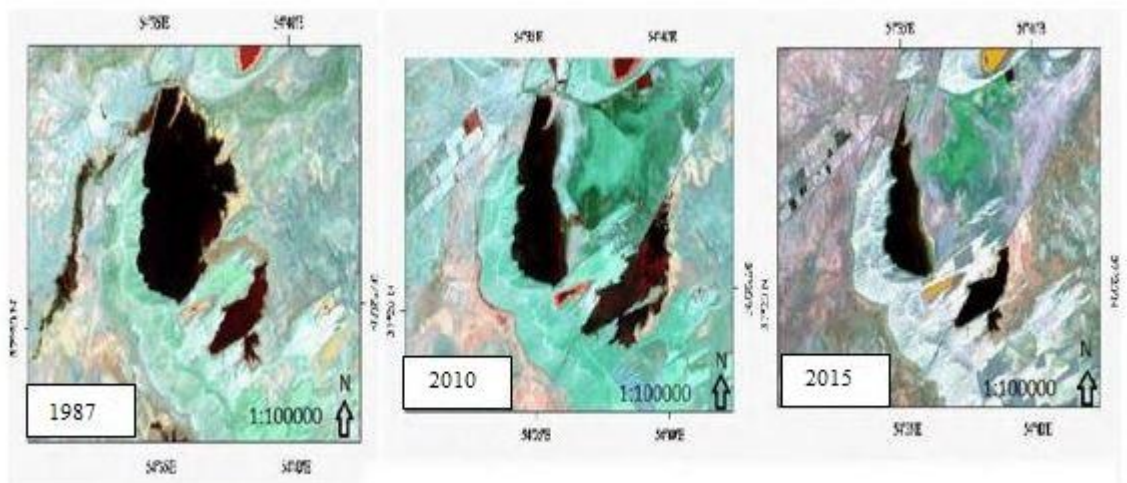


Figure 6: Trends of Alagol Wetland Changes from 1987 to 2015, Landsat satellite



Figure 7: Virtual color combination RGB = 457

By examining the maps and tables of changes, the following were obtained about the extent of changes in different uses:

✓ The water class has declined 33.72% over the 13 years (1987 to 2000). Also, between 2005 and 2010, the water class dropped 48% in 2019, it decreased to 906.3 hectare (10%).

✓ Studies of the salt marshes of Almagol, Alagol, and Ajgul Wetlands showed that during 1987 to 2019, the salt class decreased from 523.4 hectares to 162 hectares in 2019.

✓ High-density vegetation increased from 1247.6 hectares in 1987 to 2070.6 hectares in 2005, but during

2005 to 2010 the vegetation class decreased significantly to 832.3 hectares in 2010.

✓ A study of the average vegetation showed that this cover was 1919.4 hectares in 1987, which decreased to 989.6 hectares in 2000. Then increased to 3573 hectares until 2010. This has increased to 3691 in 2015 and 3708 hectares in 2019.

✓ Changes in vegetation with low density have increased from an area of 976.2 hectares in 1987 to 1732.2 hectares in 2019.

✓ In this study, the area of wasteland increased from 5647.8

hectares in 1987 to 5821 hectares in 2019.

Table 2: Comparison of land use changes and vegetation of lands based on classified images,
 The numbers are in hectares.

1987 to 2000							
Total Classes	High density vegetation	Medium density vegetation	Low density vegetation	Waste land	alt lands	Water	
1957.1	97	31.5	1.5	104.6	.7	717.8	Water
298.5	33	4.4	1.6	5.3	6.1	28.7	Salt lands
6185.1	257.6	1067.2	198.5	4041	02.6	318.4	Waste land
1888	56.3	307.1	728.9	760.1	2.5	12.9	Low density vegetation
994.2	79.7	301.2	28.4	324.9	7.3	202.7	Medium density vegetation

1	7	4	1	3	5	2	H
856.2	23.7	81	7.3	61.8	0.2	12.2	High density vegetation
0	1	2	9	5	5	2	Total Classes
	247.6	192.4	76.2	647.1	23.4	591.8	
0	5	1	2	1	5	3	Class changes
	24.1	891.5	47.4	607	47.6	74.2	
0	5	1	9	5	5	5	Subtract images
	08.7	198.3	11.8	37.5	-25	-34.6	
2000 to 2005							
Total Classes	High density vegetation	Medium density vegetation	Low density vegetation	Waste land	Waste lands	Water	
1	1	4	4	1	5	1	Water
648.7	06.1	10.4	10.7	90.2	2	262.3	
3	4	5	1	2	5	0	Waste lands
38.4	1.8	10.6	1.9	13.2	5.6	0.24	
5	3	2	5	4	5	5	Waste land
465.4	50.4	21.3	74.4	244.4	4.1	0.8	
1	5	9	1	3	5	1	Low density vegetation
518.8	2.7	8.3	045.6	15.3	1.5	1.4	

2	7	4	1	5	0	1	M
035.2	81.1	50.2	70	13.3	.9	0.8	edium density vegetation
2	5	2	5	5	0	5	H
070.4	11.9	09.8	4.3	74.7	1.3	28.4	igh density vegetation
0	1	9	1	5	0	1	T
	807	89.6	878	151	98.4	954	otal Classes
0	1	5	3	1	0	5	C
	344.6	44.2	42.6	941	03	95.1	lass changes
0	2	1	-	-	0	-	S
	14.3	041.5	364.7	715.2	4.7	306.8	ubtract images
2005 to 2010							
T	H	M	L	V	A	V	
otal Classes	igh density vegetation	edium density vegetation	ow density vegetation	aste land	alt lands	ater	
1	3	3	2	5	0	3	W
280.6	15.2	.2	.2	0.1	5.4	54.5	ater
1	1	2	5	5	0	1	S
79.7	3.7	.1	.6	6	7.7	4.6	alt lands
5	4	4	5	3	0	3	W
648.7	61.5	28.6	08.2	881.4	1.7	17.3	aste land

1	9	2	3	3	0	L
611.5	5.4	99.9	37	68.2	0.8	ow density vegetatio n
3	7	1	1	1	1	M
573	75.2	268.8	53	059.8	79.1	edium density vegetatio n
8	4	2	3	4	3	H
32.3	09.6	3.9	.2	1.5	6.1	igh density vegetatio n
0	2	2	1	5	1	T
	070.6	026.5	514.2	477	80.8	otal Classes
0	1	7	5	1	3	C
	662.4	66.8	84.4	613.3	05.5	lass changes
0	1	1	9	1	-	S
	239.4	542.3	8.1	77.3	203.2	ubtract images
2010 to 2015						
T	H	M	L	V	V	
otal Classes	igh density vegetati on	edium density vegetatio n	ow density vegetati on	aste land	alt lands	ater

1	1	7	5	4	3	3	W
015.2	18.8	.2	.2	3.1	6.4	04.5	ater
1	1	1	2	4	1	1	S
62	1.7	.1	.3	1.7	3.9	1.3	alt lands
5	4	4	5	3	3	3	W
648.7	61.5	28.6	08.2	881.4	1.1	17.3	aste land
1	9	2	3	3	0	0	L
611.5	5.4	99.9	37	62.2	0.8	.27	ow density vegetatio n
3	5	1	1	5	2	2	M
691	25.2	932.8	51	71.8	79.1	13.1	edium density vegetatio n
3	4	2	3	4	3	3	H
32.3	09.6	3.9	.2	1.5	6.1	33	igh density vegetatio n
0	1	2	1	5	1	1	T
	622.2	693.5	505.9	041.7	88	697.4	otal Classes
0	1	5	3	1	3	3	C
	632.4	76.6	43.4	273.3	12.5	28.6	lass changes
0	1	1	9	1	-	-	S
	642.1	369.5	2.3	85.1	218.7	384.1	ubtract images
2015 to 2019							

Total Classes	High density vegetation	Medium density vegetation	Low density vegetation	Waste land	Water lands	Water	
906.3	0.9	2.2	.6	8.1	9	12.5	Water
162	6.3	.8	.6	9.1	4.9	8.3	Salt lands
5821	83.5	18.6	89.2	578.6	2.3	98.8	Waste land
1732.2	5.4	09.9	26	86.2	3.9	.21	Low density vegetation
3708	62.3	712.8	23	71.8	79.1	29.1	Medium density vegetation
32.3	41.9	6.4	.3	3.7	2	79	High density vegetation
0	320.3	581.1	552.7	71.2	7.2	537.9	Total Classes

0	1	7	5	1	7	C
	539.2	55.2	51.5	612.8	55.6	lass changes
0	1	1	9	1	-	S
	338.5	342.7	3.4	66.3	233.2	ubtract images

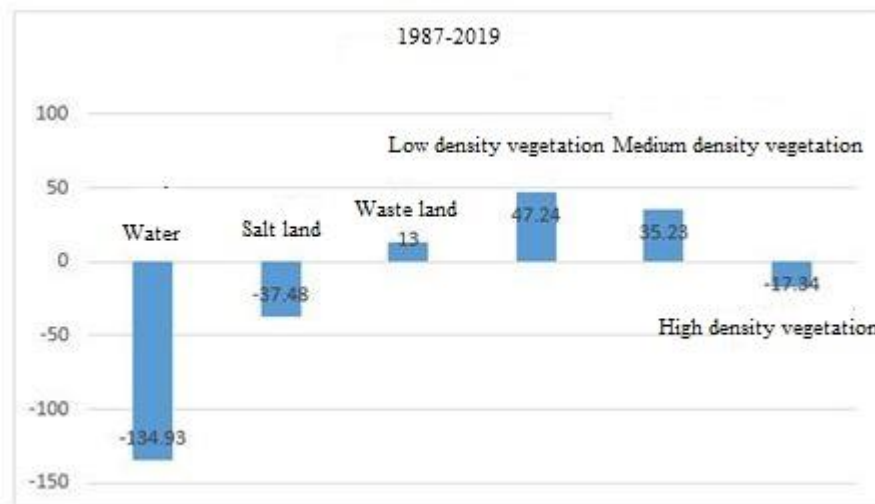


Chart 1: Changes in land use levels in Alagol, Ajigol and Almagol International Wetlands from 1987 to 2019. Changes are expressed in percent.

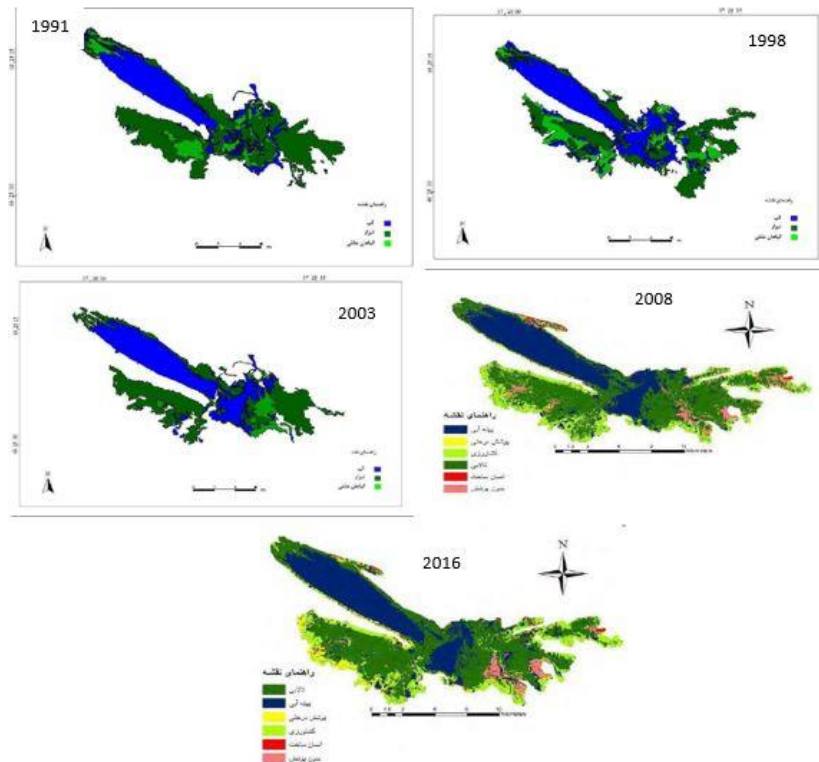


Figure 8: Anzali Wetland Range from 1991 to 2016 using Landsat satellite

The results of the interpretation of the images from Figures 1 to 5 were studied as RGB virtual color

combinations (Fig. 9). In this picture, the water part and the herbaceous and hardwood plants are separated.

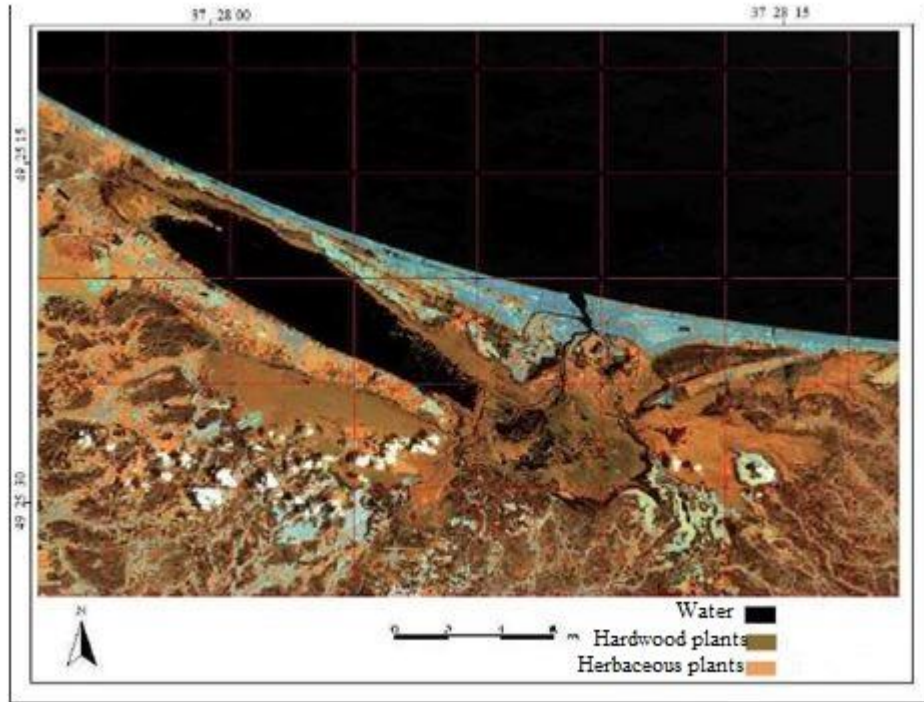


Figure 9: Virtual RGB = 457 color combination and vegetation resolution.

The results show that the area and width of the catchment area increased from 1991 to 1998 to 81/61 square kilometers and then decreased until 2019. Also in the mud sector from 1991 to 2019 it has decreased from 17 square kilometers to 8.7 square kilometers. Over the years, the area of

the pond and mud has declined, but the herbaceous section has increased from 40 square kilometers in 1998 to 148.1 square kilometers, in hardwood sector, it increased from 78 square kilometers to 139.6 square kilometers and in the human-made section from 1.7 square kilometers to 3.8 square kilometers.

Table 3: Comparison of land use changes and land vegetation cover based on Anzali wetland classified images using visual-numeral interpretation (numbers in square kilometers)

1991 to 1998						
Total Classes	Human-made	Hardwood	Herbaceous	Mud	Water	

		plants	plants			
8	0	3.1	6.6	.7	6	Water
1	0	0.6	1	.3	6	Mud
4	1	6.6	12.8	.3	1	Herbaceous plants
7	1	30.6	24.2	3.3	9	Hardwood plants
1	0	0.2	0.2	.2	0	Human-made
0	3	21.2	44.8	9.8	9	Total Classes
0	1	14.2	28.9	4.3	3	Class changes
0	1	11.8	18.1	21	-	Subtract images
1998 to 2003						
Total Classes	Human-made	hardwood	Herbaceous plants	Mud	Water	
6	0	5.1	9.9	.7	3	Water

14	0.27	0.7	1.2	.6	3.3	Mud
111	10	11.9	65.7	2.6	10.1	Herbaceous plants
98	4	49.9	20.2	6.4	7.3	Hardwood
2.1	0.2	0.9	0.3	.4	0.3	Human-made
0	14.87	68.5	97.3	6.7	59.8	Total Classes
0	12.4	19.4	20.3	2.5	12.3	Class changes
0	33.4	21.8	16.6	19.4	-13.2	Subtract images
2003 to 2008						
Total Classes	Human-made	Hardwood	Herbaceous plants	Mud	Water	
66.10	0.4	5.1	9.9	.7	38.8	Water
10	0.34	1.7	0.2	.6	1.3	Mud
123.8	1	8.0	89.2	5.3	18.4	Herbaceous plants

1	4	46	29.	7	har
03.4		.3	2	6.4	.3
2	1	0.	0.3	0	Hu
.9	.3	4		.7	.2
0	7	61	12	6	Tot
	.04	.5	8.8	5.7	6
0	3	18	27.	1	Cla
	2.9	.2	3	9.6	8.1
0	2	11	12.	-	Su
	3.4	.8	6	13.2	23.8
2008 to 2019					
T	H	ha	He	l	V
otal	uman-	ardwood	rbaceous	ud	ater
Classes	made		pla		
			nts		
6	1	1.	3.9	3	Wa
6.2	6.4	1		.7	4.8
8	7	1.	0.5	1	Mu
.7	.0	3		.9	.3
1	1	4.	96.	1	He
48.1	3	4	3	8.4	6
					rbaceous
					pla
					nts
1	1	79	37.	3	har
39.6	4.1	.7	1	9.2	.3
					dwood
3	1	0.	0.2	0	Hu
.8	.9	9		.6	.21
					man-made

0	5	87	13	5	Tot
	2.4	.4	8	2.8	al
				5.6	Classes
0	3	28	37.	1	Clas
	2.9	.2	3	5.3	ss changes
				8.7	
0	2	22	16.	-	Su
	4.1	.8	6	23.2	btract
				13.8	images

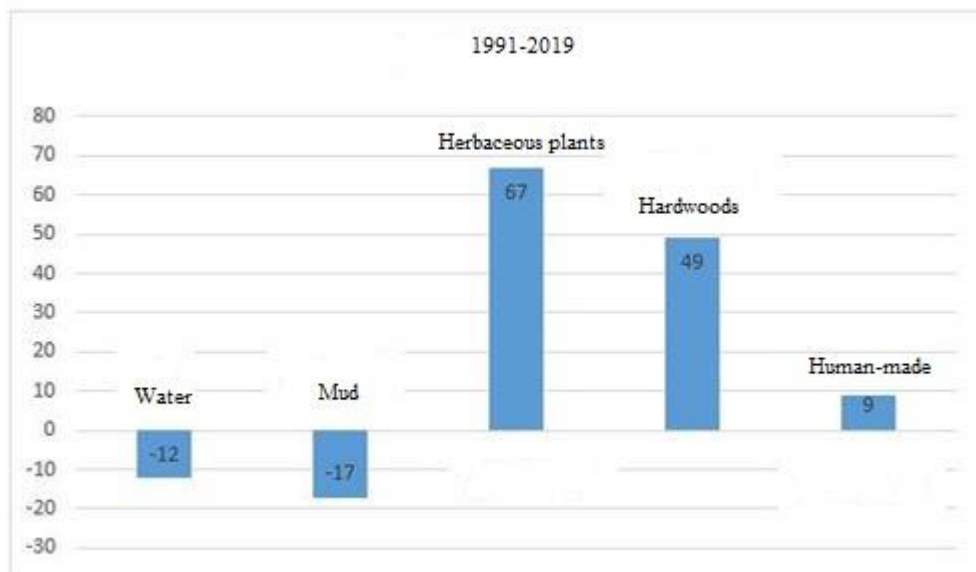


Chart 2: Changes in land use levels in the Anzali Wetland area from 1991 to 2019. Changes are expressed as percentage.

Table 4: Estimation of relative vegetation cover percentage of transects in Almagol, Ajgul and Alagol wetlands

Relative percentage	Coverage percent	Wetland index	Name
61	63	Non-wetland	Pruritus

19.9	20	Wetland	Atriplex lentiformis
2.9	3	Non- wetland	Salsola Rigida
10.2	10.5	Wetland	French Tama
13.5	38	Wetland	Tamarix ramosissima
13.5	38	Wetland	Limonium reniformis
24	63	Non- wetland	Halostachys belangeriana
0.8	85.5	Non- wetland	Helxine Soleirolii & Lichen
3.5	3	Non- wetland	Geraniacea
0	85	Non- wetland	Atriplex

Table 5: Estimation of relative vegetation cover percentage in transects in Anzali Wetland

Relative percentage	Coverage percentage	Wetland index	Name
41	47	Wetland	Phragmites australis
19.9	19	Wetland	Sparaganium
5.9	6	Non- wetland	Typha latifolia
10.2	10.5	Wetland	Scirpus cernuus

23.5	27	Wetland	Polygonum Capitatum
21.1	27	Wetland	Mentha aquatica
2.1	4	Wetland	Sagittaria trifolia
46	54	Wetland	Potamogeton crispus
28.8	36.5	Wetland	Butomus umbellatus
3.5	3	Wetland	nelumbo
12	47	Wetland	Field horsetail
11	12.12	Wetland	Utricularia
11.5	13.7	Wetland	Shalovin
21.9	28	Wetland	hydrocharis
47.7	56	Wetland	Salvia officinalis

Table 6: List of the genus & species of wintering water birds & waders in Almagol wetland, Ajigul and Alagol 2019.

Sa ndpiper	L arus	D uck	Co rmorent	P elican	P odiceps nigricollis	
1	3	1 0	1	0	0	A lagol
3	2	5	0	0	0	A lmagol
2	2	0	1	2	4	A jigul

Table 7: List of the genus & species of wintering water birds & waders in Anzali Wetland 2019

Status	Species	Genus
5	pelican <i>white</i>	Pelecanidae
1123	Dalmatian pelican	
953	phalacrocorax pygmeus	Phalacrocoracidae
3642	Phalacrocorax carbo	
23	Ardea cinerea	Ardeidae
2300	Anser anser	Podicipediformes
96	Cygnus cygnus	
3	Tadorna tadorna	
2472	Gadwall	
2533	Anas crecca	
7591	Anas platyrhynchos	
13	Northern shoveler	
481	Aythya ferina	
11	Aythya nyroca	
162	Tufted duck	
1592	Vanellus vanellus	
55	Tringa totanus	Scolopacidae
74	Gallinago gallinago	
37	Chlidonias hybridus	strenidae
23166	-	Total

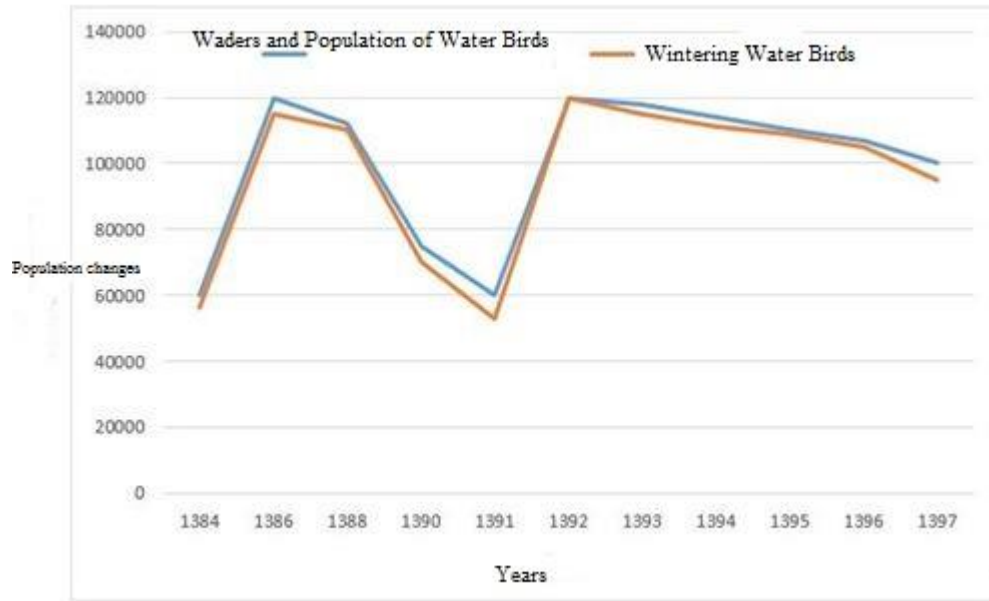


Chart 3: Population changes of wintering water birds & waders and population of water birds Anzali Wetland, Almagol, Alagol and Ajjol

Table 8: Species richness index, species diversity and species uniformity of migratory and aquatic migratory birds overwintering to Anzali, Almagol, Alagol and Ajjol wetlands.

he correl ation coeffi cient	ercent of varianc e	imons unifor mity	U niformity of pilo	imson Index	S hannon- Wiener	1 argalph	Gen us
.7	6.5	.52	.67	.6	.08	.12	Pel ecanidae
.74	2.4	.87	.89	.75	.62	.09	Pha lacrocoracid ae

.46	6.7	.26	0	.48	.8	.94	.68	Ard eidae
.39	6.7	.15	0	.45	.8	.35	.36	Pod icipediforme s
.86	5.7	.16	0	.39	.4	.15	.57	Sco lopacidae
.88	3.2	.38	0	.57	.7	.11	.59	lari dae
.67	4.2	.24	0	.46	.3	1	.35	stre nidae
.98	5.5	.2	0	.03	.09	0	.39	Cha radriidae
.67	5.6	.52	0	.67	.6	1	.61	Pod iceps nigricollis

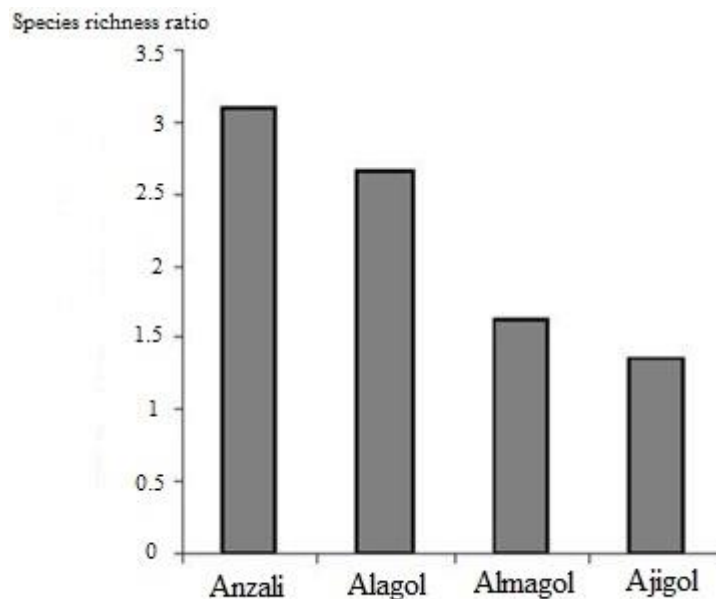


Chart 4: Species richness ratio of water birds to waders in the studied wetlands.

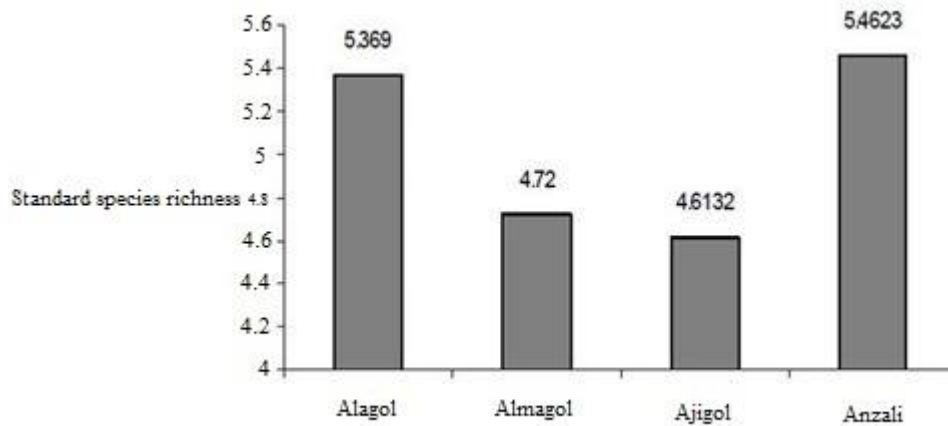


Chart 5: Standard species richness in the studied wetlands.

According to the Camargo species uniformity index, the highest uniformity species of water birds and waders in the studied wetlands belonged to Ajigol wetland (0.206) and according to the Simpson Species Uniformity Index, the highest amount of species uniformity was in the same wetland with 0.109.

Discussion

Activities such as incorrect water supply policies, barrier projects, road development, directing urban and industrial wastewater and industrial waste to wetlands and introducing non-native species have put nearly all of Iran's international wetlands on the brink of extinction (Hosseini Mousavi, 2012). In the last decade, climate change,

rainfall, human activities and mismanagement have reduced the water inside the wetlands and have led to seasonal or permanent drying of the wetlands. Understanding the process of change and understanding the evolution of ecosystems in general, and wetlands in particular, can be partially predictive of their future status if the current trend continues (Hosseini Mousavi, 2012). The use of remote sensing techniques is one of the most important and precise tools for performing these monitoring (Hosseini Mousavi, 2012). The results of the interpretation of satellite images in the years under study indicate that the area of the Anzali wetland was the highest in 1998 and the lowest in 1991. This is due to the outbreak of Caspian Sea water in 1998 and the droughts of the

time period close to 1991. On the other hand, all three wetlands of Alagol, Almagol and Ajigal have undergone extensive changes and their area has decreased from 2591.8 hectares to 906 hectares. Investigating the causes of these changes can be classified into two general categories of natural and human factors, such as: drought, dam construction, fish farming, irregular water harvesting for agriculture and canalization, and road construction (Hossein Jani, Ahmad Nejad and Mehdi Zadeh, 2016).

In Almagol, Alagol, and Ajlgol wetlands, vegetation distribution is narrower and changes in plant species occur on gradients from wetland to drought, at intervals of less than 30 m. The results of this study emphasize that Landsat images along with ground sampling provide relatively accurate maps which have been confirmed in other researches (Hossein Jani, Ahmad Nejad and Mehdi Zadeh, 2016). According to the results of this study, the vegetation margins of the adjacent wetlands of the adjacent are very limited, but in some parts especially in the east of the wetland, Tamarisk and reed are very scattered in which non-growing seasons

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are predominant. The results also indicate that due to the lack of legal compliance with wetlands and increasing agricultural and man-made land uses, the effects of wetland ecosystems have been neglected in recent years due to factors such as the entry of different types of wastewater, the conversion of parts of the wetland. They are exposed to arable land, sedimentation of incoming water sediments, thereby reducing their surface area as well as the indiscriminate growth of aquatic and non-native plants.

Birds are one of the most important indicators of wetland habitat suitability. Therefore, the study of the changes in the diversity and population fluctuations of aquatic birds in different years can be considered as a biological indicator of the health status or the presence of threats in wetland ecosystems (Riazi and Mirmandehi, 2008). Riazi and Mirmandehi (2008), analyzing Mid-Winter census statistics of migratory water birds in 2000-2005 in wetlands of three northern provinces of Iran, stated that Anzali wetland along with Gomishan wetland had the most ecological value among wetlands in

northern iran migratory aquaculture has overwintering.

Also Behroozirad (1999), during a study in a part of salekeh and esfand wetlands, they identified and categorized 59 species of aquatic and wader birds with monthly mean abundance of 5021 and 39 species and mean abundance of 2695, respectively. In 2007 to 2015, a total of 70 aquatic and wader bird species, including 37 aquatic and 33 wader species, were identified and censused. These birds belonged to 12 genera and ducks with 19 species had the highest number of species. The number of species of migratory aquatic and migratory waders has fluctuated during these years. The population of winter migratory aquatic birds has also fluctuated over the years in the Anzali Wetland, with the highest population of aquatic birds in winter 2015 and the lowest number in winter 2005 (101894) (Hossein Jani, Ahmad Nejad and Mehdi Zadeh, 2016). Aquatic birds had the highest number of migratory birds enumerated in Anzali wetland in all years compared to waders. In other words, an average of 94.75% of the winter migratory birds population belonged to aquatic birds during the 8

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years studied, which could be due to the specific morphological shape of these wetlands (12). The highest number of aquatic migratory birds belonged to the duckweed and on average 65.99% of the total migratory bird population belonged to this species, especially the ducks. Khutka, duckling, lush, and duckling were the most abundant among the migratory aquatic birds in the Anzali Wetland all year (Hossein Jani, Ahmad Nejad and Mehdi Zadeh, 2016). External studies of the diversity and abundance of aquatic birds include Elemberg 1994 studies in Finland and Swedish wetlands and Yang and Quan 2002 in China (Quan, Wen and Yang, 2002). Based on the results of this study, during the study period (2019), 19 species of aquatic and wader birds were observed and identified in Anzali wetland, which were more than Alagol, Almagol and Ajigol wetlands. The size and diversity of aquatic habitats play an important role in attracting aquatic birds and overwintering with regard to their feeding habits. Because habitat is a very good indicator of the nutritional status of different bird species and can greatly affect the population and diversity of birds. Waders are usually found in wet and shallow areas on the

margins of the wetlands so that they can easily access food and water around their margins and therefore have narrower habitats. Therefore, it can be concluded that the studied wetlands are more favorable for aquatic species. This is consistent with the 2008 results of Behroozirad in the southern margin of the Caspian Sea (Behroozirad, 1999). According to the island's biogeographic theory, and based on Brown and Dinsmore studies, the size of the wetland is the main determinant of species richness and abundance (Brown and Dinsmore, 1986). Therefore, given that Anzali wetland is much larger than other wetlands, its species richness is expected to be higher than other wetlands. However, according to the results of this study, it was shown that the density and diversity of aquatic and wader birds have decreased due to the decrease in the size of the studied wetlands and the changing use of the wetlands. The introduction of nutrients into the wetland and its very good thermal and humidity conditions have led to the rapid growth of plants in the wetland. In recent years, the influx of Azolla, straw and tiffany plants have caused a number of problems, including depletion of dissolved oxygen, blocking

the penetration of light spectra to the bottom of the wetland and threatening aquatic life as well as migratory birds.

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COMPARING THE PREDICTION ACCURACY OF LSTM AND ARIMA MODELS FOR TIME-SERIES WITH PERMANENT FLUCTUATION

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Abstract: In developing countries with an unstable economic system, permanent fluctuation in historical data is always a concern. Recognizing dependency and independency of variables are vague and proceeding a reliable forecast model is more complex than other countries. Although linearization of nonlinear multivariate economic time-series to predict, may give a result, the nature of data which shows irregularities in the economic system, should be ignored. New approaches of artificial neural network (ANN) help to make a prediction model with keeping data attributes. In this paper, we used the Tehran Stock Exchange (TSE) intraday data in 10 years to forecast the next 2 months. Long Short-Term Memory (LSTM) from ANN chooses and outputs compared with the autoregressive

integrated moving average (ARIMA) model. The results show, although, in long term prediction, the forecast accuracy of both models reduce, LSTM outperforms ARIMA, in terms of error of accuracy, significantly.

Keywords: Prediction Model, LSTM, ARIMA, Forecast Accuracy, Tehran Stock Exchange.

Introduction

The Stock market prediction itself is violent and high risk, due to equivocal and unforeseeable nature of it, as well as complicated financial indicators. It is affected by noise and many hidden factors. No one knows the exact time of bearish or bullish the market. The Forecast situation becomes more difficult when the exchange market

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reflects an economic system without stability, regulation and money discipline. Developing countries with permanent fluctuation in economic data are the first candidate. Developing countries involve a variety of fundamental concerns in economics such as poverty, the relations between state and market, the gap between rich and poor, population growth, structural change, international debt and finance and in some cases permanent sanctions. Somewhat because of this, economic data and time-series generated in these countries, volatile abruptly over time in response to political currents, in such a way that causes the major roots of changes to be hidden. (Mukherjee et al., 2013) In this situation, even if a research group wants to make a prediction model, in the process of converting related qualitative indexes into quantitative indexes, it is inevitable to keep all the time-series nature. Data carries all the economic, social and even political events that have happened through the time. Regarded to permanent fluctuations and unrecognized independent variables, we must make data fit for any regression or modeling. It means, differentiation comes to help and

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subsequently we ignore the core of data. We go just for making a statistical model which most of the time does not reflect the reality of the market. Thus; making a robust forecasting model for a stock market in developing countries given by unmodified data is a challenging issue.

Linear regression is one of the solutions for stock market prediction however, the idea works better for short terms. (Ariyo et al., 2014) Besides, as mentioned above, the linearization of nonlinear multivariate economic time-series to regress, may not give the best response.

Cutting-edge approaches in data analysis allow gaining better forecast models. With the emerge of neural networks, researchers went for assessing its accuracy of prediction versus linear forecasting models such as ARIMA. Results in most of the time talked about the benefits of non-linear solutions. (Lin and Yeh, 2009; Binner* et al., 2005) However, in some research, ARIMA (C.-C. Wang et al., 2011) and sometimes hybrid models (Hansen and Nelson, 2003) resulted better.

There is a wide spectrum of applications for Deep-learning models in which financial forecasting is one of

them. However, pre-request for using it, is big and clear data which again is an issue to be prepared. Although the idea of deep learning announced for more than two decades, with the help of developed hardware, its use is being increased.

In this paper, we chose Long Short-Term Memory (LSTM) as one of the methods of deep learning for forecasting on intraday stock price from Tehran (IRAN) exchange market as the representative of all factors of developing countries, plus permanent political issue, sanction and permanent rhetoric in international relations which reflects on the stock market. LSTM is supposed to train by daily opening price in 10 years and make a model to forecast the next 2 months after training data. Then the result compares with the ARIMA solution which is trained and calculated in the same data, program, and hardware.

The next section of this paper focuses on related work. Then, the methodology of LSTM (in comparison with RNN) and ARIMA will describe. After that, we will explain our experimental work and focus on our

results, and the last part goes to our conclusion.

1.1. LSTM

Our algorithm is implemented in python pursuing Keras (TensorFlow Back-End) and categorized in 3 parts with the details as below:

2. Related Work

Before explaining recent works, it is worth mentioning that interest of using LSTM for the past year, has surprisingly gone up and its accuracy in prediction is going to prove its power in almost every field of science. It took around two decades until this approach became global. Here is some related research to LSTM or ARIMA for stock forecasting.

(Long et al., 2019) offered a new model by the integration of convolutional and recurrent neurons called multi-filters neural network. Results show the proposed model outperforms LSTM and other machine learning alternatives. (Cao et al., 2019) reported a combined model of empirical mode decomposition and LSTM gave better prediction in one-step-ahead than

multi-layer perceptron, support vector machine and single LSTM. (K. Zhang et al., 2019) presented a new model of Generative Adversarial Network (GAN) with MLP as the discriminator and the LSTM as the generator for making a stock prediction model. The outcome showed proposed solution outperformed other alternatives in machine learning, significantly. (T. Kim and Kim, 2019) reported that candlestick was the most suitable chart for predicting with using a fusion CNN-LSTM model. The research shows, forecast error decreases by running a mix of temporal and image features of the same data in comparison with using them separately. Also, (Eapen et al., 2019) and before that (Zhou et al., 2018) presented a CNN-LSTM model can perform better result in terms of prediction accuracy. (H. Wang et al., 2019) reported an LSTM model for forecasting a stock market in which indexes come through analysis of text information. Results show, proposed approach decreases both MSE and MAE. (S.-S. Yu et al., 2019) extracted the characteristics of stock data with convolutional recurrent neural and then input the feature in LSTM. They finally got 3.449 for RMSE as the result of their

forecast model. (Sang and Di Pierro, 2019) as well, found using both neural network and traditional technical analysis, performs better than each of them, separately. (D. Kim and Baek, 2019) based on LSTM, offered a model for recognizing fluctuation named factor-augmented HAR. They believe; this approach could give a better result for stock prediction. (Chen and Ge, 2019) with proposing attention mechanism in LSTM forecasted Hong Kong stock and compared the result with single LSTM. Results show the ability of the approach, which offered in their paper. (Borovkova and Tsiamas, 2019) put forward a group of LSTMs (5544 networks) for stock forecasting which are evaluated by the weighting method and create 462 group model! Data for learning has come from 44 US stock markets. The result of testing shows, the group model outperforms all the alternatives for prediction, which are assessed in this paper. (Liang et al., 2019) came up with a method in signal denoising named MOCWT with a new approach for taking the noise of financial data out. Then, they used LSTM and based on the result and prediction accuracy became better. (Du et al., 2019)

used LSTM for apple stock forecast and reached absolute error of 0.155 and 0.033 for the univariate and multivariate input, respectively. (Karmiani et al., 2019; Pawar et al., 2019) compared traditional machine learning methods (SVM, RF, FFNN) with LSTM in terms of the power of prediction and architectures in their researches. (Hiew et al., 2019) put up an opinion index based on financial news with the BERT method (developed by Google) on three stock markets. Then, they choose VAR and LSTM for catching the probable nonlinearity of news effects on exchange return. LSTM at the end gave lower MSE in comparison with VAR. (Hushani, 2019) reported between ARIMA, VAR, LSTM, and NARX⁴, it is NARX which can give prediction with high accuracy in the short-term period but failed in a long period. Although VAR forms a good trend line (which is needed for trading), a profitable strategy should be a combination of ML and technical analysis. (Manurung et al., 2018) compared ARIMA and LSTM for prediction accuracy and found, 1-year training of the LSTM model (backed by

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their data), in comparison with increasing the time of training to 3 or 5, did not necessarily give the better result. In the best scenario, LSTM forecasted with 94% accuracy, while ARIMA reached 56%. (Karakoyun and Cibikdiken, 2018; McNally et al., 2018) compared LSTM and ARIMA for predicting Bitcoin. The first paper reported the accuracy of 52% and RMSE of 8% as the result of the ML approach. Then, they run the selected method in two different hardware (GPU and CPU) which as expected GPU (the newer tech) resulted better. The second one, reported MAPE of 11.86% for ARIMA and 1.46% for LSTM. Thus, both papers show LSTM can give better prediction than ARIMA with Bitcoin data. (Rebane et al., 2018) found seq2seq⁵ could give better bitcoin prediction versus ARIMA. (Huynh et al., 2017) proposed an extended version of LSTM and GRU called BGRU for exchange forecast. It used financial news for 7 years (Bloomberg (447,145 news) and Reuters (106,521 news)) and with stock data tried to forecast. The method in comparison with LSTM and GRU, was

⁴ Nonlinear autoregressive Exogenous

⁵ It is a kind of ML model in TensorFlow library.

effective and could improve the accuracy of prediction. (Selvin et al., 2017) applied a sliding window approach for daily closing price prediction by using LSTM, RNN, and CNN in their paper. (H. Li et al., 2018) as well, with the help of attention-based multi-input could improve the prediction of accuracy out of data in the research. (S. Yu and Li, 2018) found LSTM illustrated better results than GARCH to predict the stock volatility out of their data. (Skehin et al., 2018; Nagahisarchoghaei et al., 2018; Nagahi et al., 2018) presented a combined model of ARIMA, LSTM and wavelet methods to predict FAANG⁶, and based on the result, accuracy of prediction improved. (H. Y. Kim and Won, 2018) found a combined of LSTM and GARCH, gave the lowest error for accuracy in comparison with other models in their research. (Hiransha et al., 2018) compared the MLP, RNN, CNN, and LSTM in terms of accuracy in the forecast for national stock exchange of India and New York stock exchange. The models were trained for a company and CNN outperformed other models. While the model was trained with NSE

data, it could predict NYSE. It might have been due to the same inner dynamics in both markets. Then the result compared with the forecast model backed with ARIMA and again made a better answer. (Baughman et al., 2018) used LSTM for prediction of amazon stock and compared the result with ARIMA. They could reduce the error of training by 95%. (Shah et al., 2018; Minami, 2018) presented LSTM-RNN outperformed for making longer-term predictions. Minami proposed a sequential learning model with corporate behavioral event information and macroeconomic indices that use LTSM-RNN methods. (Naik and Mohan, 2019) as well found a combination of RNN and LSTM worked better than each of which, individually. However, (Pai and Lin, 2005) found a combination of forecasting models that work well individually, does not all the time produce the best results. (Nandakumar et al., 2018) reported for small stock price prediction, LSTM outperformed RNN. (Fischer and Krauss, 2018) found deep neural network, logistic regression classifier and random forest solutions do

⁶ Facebook, Amazon, Apple, Netflix, and Google.

not present the accuracy of prediction as well as LSTM. (Shao et al., 2017) used the K-means algorithm for clustering the data and then set LSTM for each cluster to predict. They repeated the training model after each prediction with the target of making the distance of the clustering center and predicted data, shorter. Their resulted shew, model had a more accurate prediction. (J. Li et al., 2017) combined LSTM with investor sentiment and market factors for making a stock prediction model. The proposed model gave 87.86% of accuracy. (Zhuge et al., 2017) put forward a combined model of emotional analysis model and LSTM for forecasting the open stock price. They first, used an emotion classifier back by naive Bayesian for analyzing the data. Then, combined the emotional data (the export of experiment) with actual data and gave it to LSTM for training. Their result shew prediction accuracy improved by their method. (Bao et al., 2017) believe that based on their data (coming from six markets), their combined model which was made of wavelet transforms and stacked autoencoders models in LSTM performed better accuracy in prediction. (Choi, 2018; G. P. Zhang, 2003) applied

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a hybrid model of ARIMA-LSTM and ARIMA-ANN respectively. Results in both works indicated hybrid is the way to make forecasting accuracy better. (X. Pang et al., 2018; X. W. Pang et al., 2018) both illustrated LSTM with an embedded layer that reached better accuracy of prediction. (Di Persio and Honchar, 2017) found LSTM in comparison with basic RNNs and Gated Recurrent Unit (GRU) gave better results. (Ariyo et al., 2014) found results of ARIMA for forecasting in the short-term is reliable.

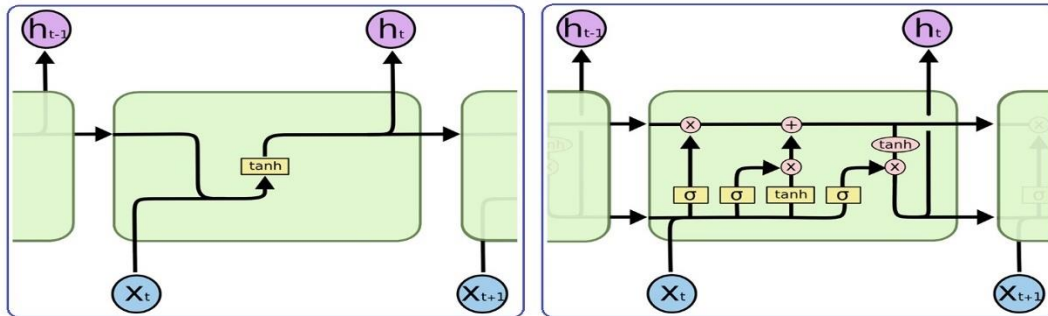
3. Methodology

3.1. Long Short-Term Memory

It is a type of deep learning approach with memory and capable of learning long-term dependencies and sequential data. A Cell as memory part and "regulators" (composed of input, output and foregate gate) are the common architecture of this network. LSTM is designed for applications where the input is an ordered sequence. It is very much like an RNN but with more complicated innards. The great thing about RNN is that it remembers everything. It has got very long-range

dependencies that can capture the entire

reuses the output from a previous step as



sequence, but that's also a downside! In LSTM we let RNN selectively choose whatever members and what it forgets. It effectively decides how much the network is going to carry data from previous time-step and how much is supposed to be used in current time-step. Like all neural networks, the node performs a calculation using the inputs and returns an output value. LSTM

an input for the next step, while in RNN, the output is used along with the next element as the inputs for the next step. A typical inner neuron of RNN and LSTM are as below:

Diagram 1: An inner neuron of an RNN (left) and LSTM (right) (Olah, 2015)

As Diagram.1 shows the RNN takes and combines the previous hidden state as input.1 with current time-step vector (X_t) as input.2. Then passes the result through some non-linearity (*tanh*) for squishing values between $[-1 \ 1]$ to regulate the network. Then it produces a new hidden state (h_t) and goes to the next time-step (X_{t+1}). By repeating the process, it may make a prediction model at the end of layers. (depends on what we want)

gates. Gates decide if data is relevant to keep or should be forgotten during training. All the gates σ have sigmoid (σ) activation to constitute smooth curves in the range 0 to 1 and the model remains differentiable. Data closer to 0, should be forgotten and near to 1, keeps to update cell state. Diagram.1 shows three symbols of sigma (σ) which are responsible for forgetting, input and output gate, respectively. Sigmoid either let information through or stops the information from going through and this decision depends on the input that it's getting. At first gate, it decides whether

LSTM has more components on the inside. This is built on the idea of

to remember the previous state based on a function of the previous hidden state (h_{t-1}) and the current vector input (x_t). The equation is as below. LSTM

compact equations with a forget gate, first presented in 1997. (Hochreiter and Schmidhuber, 1997)

$$f_t = \sigma(W_f[h_{t-1}; x_t] + b_f)$$

The other decision LSTM needs to make is how much it is going to contribute to its representation from the

current time step. The equations for that are as below:

$$i_t = \sigma(W_i[h_{t-1}; x_t] + b_i)$$

$$\tilde{C}_t = \tanh(W_c[h_{t-1}; x_t] + b_c)$$

This is again a function of both the hidden state (h_{t-1}) and current input (x_t), plus bias ($b_{i \text{ or } c}$) and then it passes through a non-linearity. There are two components to this step. The first one (i_t) says how much is it going to contribute and the second one (\tilde{C}_t) which is about

what you are going to contribute. Function (\tanh) distributes gradients. Hence prevents vanishing or exploding. Then, the next step goes to interpolation (like RNN) between the current state and the previous state.

$$C_t = f_t * C_{t-1} + \tilde{C}_t * i_t$$

f_t is about how much previous state is going to contribute and i_t is about how much the current contribution is going to contribute to the new hidden

state representation. The next equation is about output (o_t) in each time step and making a hidden state h_t which is a function of cell C_t , not h_{t-1} .

$$o_t = \sigma(W_o[h_{t-1}; x_t] + b_o)$$

$$h_t = \tanh(C_t) * o_t$$

An important fact about LSTM is that there is no need to concern about reaching a local optimal solution. The vanishing or fading gradient is a common problem occurs during ANN using gradient-based learning methods. This is accomplished by using a partial derivative of the error function to each parameter in each iteration of the training process, but gradient values (moving to the top of the grid) gradually become small enough that the weight changes are negligible. Because of that, the learning process gets slower, and in more severe cases, it stops the learning process. In feed-forward neural networks (MPL, CNN, ...) it happens because of many layers and in Recurrent Neural Networks, it is because of the steps. LSTM can learn context specific temporal dependence. It means units have memory for a short or a long-time period and neurons (within their pipeline) kept a context of memory to allow for tackling sequential and temporal data. It is done by the possibility of passing information from the previous cell without any change, instead of iteratively modification at each time-step or layer. Weights as well

are expected to converge to their optimal values. Thus, by adding three gates (input, output, forget) and \tilde{C}_t , this network solves the problem of disappearance of gradient and assists in controlling error during back-propagation.

3.2. ARIMA

An algorithm supported by the idea that time-series data in the past, can itself be used to predict in the future. The standardized methodology which is capable of dealing with non-stationary time-series was introduced first in 1970. (Box et al., 1970)

There are three steps in its methodology.

- (1) Recognizing the type of model.
- (2) Estimate parameters for optimizing.
- (3) Checking residual analysis.

At first, stationary time-series needs to be calculated for deciding the proper type of network. If data is non-stationary, we must differentiate it once or twice. Because variance, covariance

and mean need to be constant in time-series in this model.

An ARIMA model is when the time-series is differenced at least once

$$Y_t = \alpha + \beta_1 Y_{t-1} + \beta_2 Y_{t-2} + \dots + \beta_p Y_{t-p} + \varphi_1 \varepsilon_{t-1} + \varphi_2 \varepsilon_{t-2} + \dots + \varphi_q \varepsilon_{t-q}$$

As it shows, Y_t is made of constant + Linear combination of Y (up to p lags) + Linear Combination of Lagged forecast errors (up to q lags).

The equation shows with ARIMA (p,d,q) in which, “P” is the order

$$Y_t = \alpha + \beta_1 Y_{t-1} + \beta_2 Y_{t-2} + \dots + \beta_p Y_{t-p} + \varepsilon_t$$

As it shows, Y_t depends only on its lags. So, it is a function of the lags of itself.

“D” in ARIMA (p,d,q), demonstrates the minimum number of differencing applied to the data to make the series, stationary. ARIMA turns to

$$Y_t = \alpha + \varepsilon_t + \varphi_1 \varepsilon_{t-1} + \varphi_2 \varepsilon_{t-2} + \dots + \varphi_q \varepsilon_{t-q}$$

As it shows, Y_t depends only on the lagged forecast errors.

(to make it stationary) and AR and MA terms are combined. The general mathematical equation of ARIMA:

of the ‘Autoregressive’ (AR). It shows the number of lags to be used as a predictor. The mathematical equation of pure AR(p) is as follows:

ARMA, provided that the time-series is already stationary. ($d = 0$)

“Q” in the equation is the order of ‘Mean Average’ (MA). It shows the number of lagged forecast errors. The mathematical equation of pure MA(q) is as follows:

4. Experimental Work

The models in both ARIMA and LSTM are run by Python and the same hardware, to have an equal situation to judge. Diagram 2 shows train

data and Diagram 3, demonstrates the test data (60 days). Historical stock data is from Tehran Securities Exchange⁷.

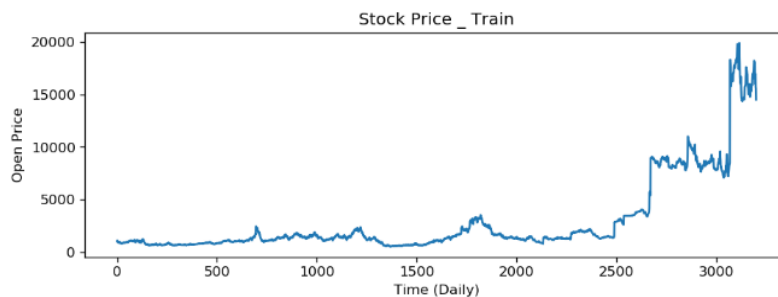


Diagram 2: Train data (day 1 – day 3200)

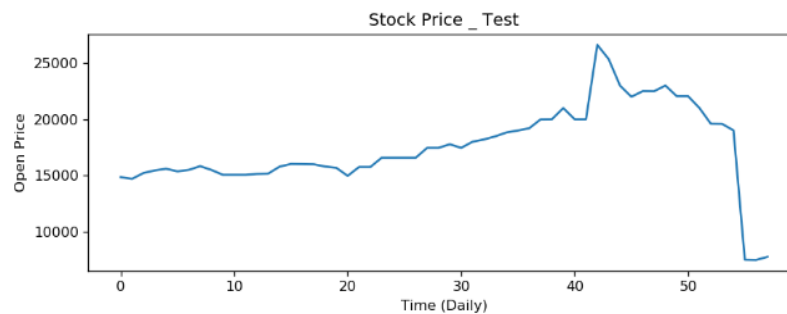


Diagram 3: Test data (day 3201 – 3259)

Diagrams show the fluctuation of data which should be predicted by models.

Our work is categorized into two parts with the below description.

4.1. ARIMA

4.1.1. Finding the order of D, AR, MA

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<http://www.tsetmc.com/Loader.aspx?ParTr ee=15131F>

Augmented Dickey-Fuller (ADF) is the test we used for finding non-stationary in our network. Since the null hypothesis in ADF is non-stationary, the p-value should be less than (0.05) to reject the H_0 and have stationary in time-series. If p-value > 0.05 we go ahead with finding the order of differencing, and If p-value > 0.05, as well as autocorrelations, are positive for 10 or more lags, series needs further differencing. In the case of being neutral for deciding between two orders of differencing, we should go with the order that gives us the least standard deviation. Time-series became stationary after 2 differentiation.

Provided that we are satisfied with stationarity condition, partial autocorrelation function plot (PACF) and autocorrelation function plot (ACF) run to find the model. PACF finds hidden information in the residual which can be modeled by the next lag (AR), while ACF defines how well the present value of the series is related to its past values. (MA)

The model made in this paper is ARIMA (1,2,1) which was supported

residuals plot that indicated there were no patterns.

4.1.2. Cross-validation and running model

Although cross-validation is an approach to avoid over/under-fitting, data is small enough to avoid overfitting.⁸ (Rashid et al., 2018) Now, we divide the data to assess the power of prediction in ARIMA. Graphs will be reported in the next part.

4.1.3. Data Processing

For any network, we should first import the libraries and data processing related to our work. Here we called NumPy, matplotlib, pyplot and panda are the libraries at first. Then we must scale down the data in the same range. This is called featuring scaling, and minmax scaler which is the tool to be called.

The next step goes to creating a data structure. This is probably the most important of creating a model, in which we find the best time steps. It is acquired by repetitive experiments and, 60 was the best result for this experiment. It

⁸ Thousands or hundred thousand of data are small data. Millions of data are called as large data.

means we want our network to have a memory of 60 characters and one output. We need to set our data in the form of dependency and independency. By choosing 60 as time steps, data Num.1 to data Num.60 makes the first output. Then, data Num.2 to data Num.61, exports second output and so on. After that, we must reshape data based on RNN.

4.1.4. Building Network

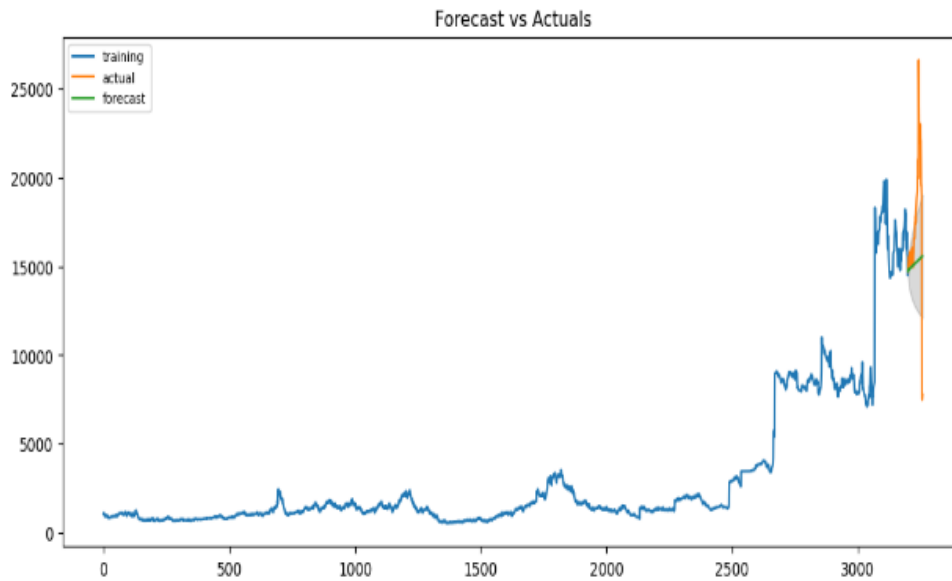
Now we need to call Sequential, LSTM, Dense and Dropout from Keras (backend by TensorFlow or PlaidML⁹). To begin with, we used a sequential layer and then defined LSTM with 50 neurons in each layer. Here we define the hidden layers of the network which is 2. Our dropout for each layer is 20% and the dense layer is just for our output in the last layer. Note that, since we just one output, the unit defines one. For compiling the network, which is the next step, we used “Adam” as an optimizer that works on non-stationary objectives and problems (Kingma and Ba, 2014) and “Mean_Squared_Error” for our loss.

The next step is fitting the model for the training set. Here we run the epochs (number of training times) and batch-size. The batch size explains total number of training that data used. we are not going to give all data to NN at once and instead of that, NN gets the data in several stages and smaller batches. The number of batches equals the number of iterations to complete training. Since 50 in batch-size of our model, the number of iterations for the entire data set is 44. Epoch represents the total number of times; a learning algorithm sees the complete dataset. “Since deep learning uses gradient descent to optimize model, it makes sense to pass the entire dataset through a single network multiple times to update the weights and thus obtaining a better and more accurate prediction model”. (Siarni-Namini and Namin, 2018)

4.1.5. Making the predictions and visualizing the results

Here was the last part of the model which goes to get the real and predicted stock price and visualizing the results.

⁹ If the hardware does not have Nvidia graphic card.



5. Experimental Results and Discussion

by ARIMA and LSTM are as below:

Figure 1: Forecast and Actual data in ARIMA (all data)

As you can see, by considering all the data in 10 years, what ARIMA estimates is not out of scope. Prediction in Figure.1 says the total path of fluctuation. It especially works we the prediction does not go more than 2

weeks. But in the long term, it fails in prediction. Figure.2 demonstrates the details of ARIMA prediction for 60 days and in this period (based on our data) it is not powerful enough to rely upon on.

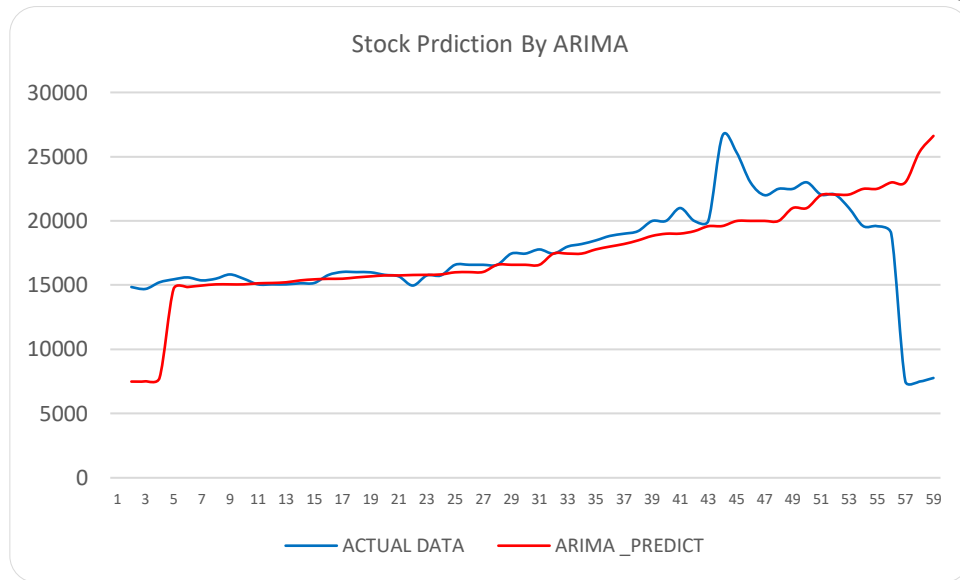


Figure 2: Forecast and Actual data in ARIMA (test data)

Although the prediction accuracy of ARIMA in 60 days equals 18%, by dividing it into three 20-day periods, the error of accuracy equals 9.32%, 3.84%, and 46.95%!

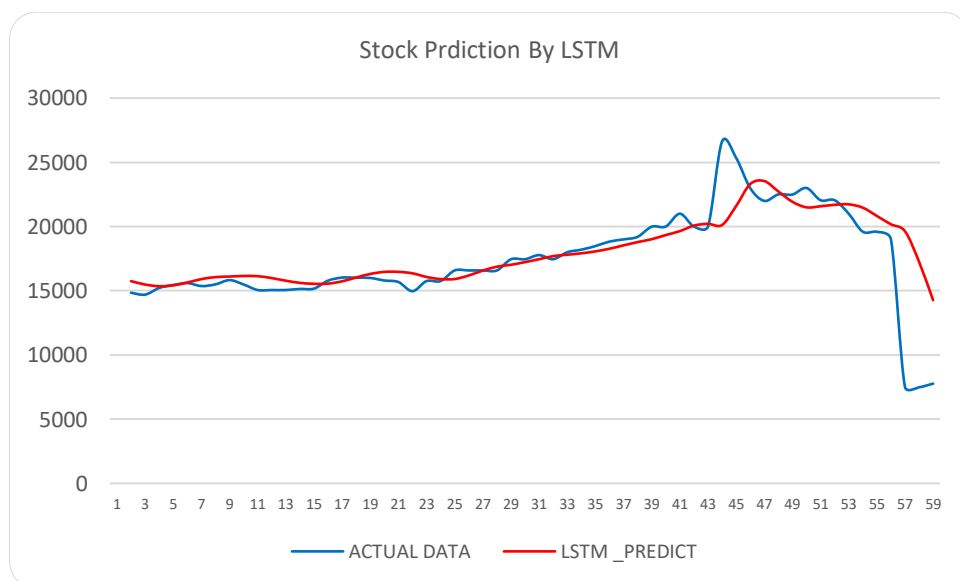


Figure 3: Forecast and Actual data in LSTM (test data)

In LSTM, divided periods for error of accuracy results 3.22%, 2.73% and 25.76% .

As figures 2 and 3 show, although at the beginning of the prediction period, ARIMA was able to

manage the trend, as time goes by, the error of forecast increases, while in LSTM (in comparison with ARIMA) we have a better model of prediction in long term.

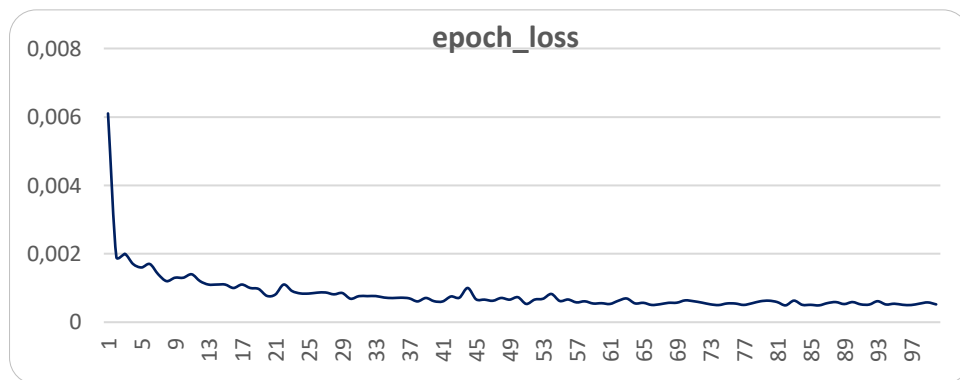


Figure 4: epochs in LSTM

Figure.4 demonstrates the trend of epoch loss in the network. Epochs may not be equal to the number of iterations. The number of best epochs to train a model is not clear. Loss should be decreasing with each epoch; however, it does not mean the higher number of epochs, the better result in loss! As we can see, loss after 25 epochs does not

decrease and that's why is the number of epochs we selected for this network, finally. In some research, epoch behavior on prediction reported random. (Siami-Namini and Namin, 2018)

Table below demonstrates the comparison between LSTM and ARIMA in terms of forecast accuracy.

	MAPE	MSE	MAD	TS
LSTM	%10.04	6,334,744	1,181	-22

ARIMA	%19.11	21,215,311	2,238	0
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Table 1: Forecast Accuracy

Formulas of methods in table 1, are as below:

$$MAPE \text{ (Mean Absolute Percentage Error)} = \frac{100\%}{n} \sum_{t=1}^n \left| \frac{A_t - F_t}{A_t} \right|$$

$$MSE \text{ (Mean Squared Error)} = \frac{1}{n} \sum_{t=1}^n (A_t - F_t)^2$$

$$MAD \text{ (Mean Absolute Deviation)} = \frac{1}{n} \sum_{t=1}^n |A_t - F_t|$$

$$TF \text{ (Tracking Signal)} = \frac{\sum_{t=1}^n (A_t - F_t)}{MAD}$$

Where A_t and F_t are actual and forecast value.

As it is clear, results in table 1 prove the previous results in this paper and LSTM outperform ARIMA in terms of accuracy of forecasting.

6. Improvements

In this paper, “intraday open price” data was used for predictions, while using other indexes (volume, start, end, etc.) in panel data may improve the performance of the models. Lastly, the

hybrid model of panel-var and LSTM or other sophisticated optimization techniques such as extrapolation or other metaheuristic algorithms could report interesting results.

7. Conclusion

Unstable economics system in some developing countries making robust prediction models difficult. With the help of new approaches in RNN, the likelihood of getting a better estimation (without ignoring the nature of data by

diff and linearization) turns up. In this paper, we applied LSTM for this target and made a forecast model for Tehran stock price. Then compared the accuracy and error of results with ARIMA model. The error of prediction for 20-day triple period in LSTM became 3.22%, 2.73%, and 25.76% while in ARIMA, it resulted 9.32%, 3.84%, and 46.95%! Reports show LSTM outperformed ARIMA in making predictions. Although in the short term both models work well, by increasing the time of prediction, the accuracy of prediction in both models decreases. As well, increasing the number of epochs in LSTM network, after 25, did not have any effect of prediction accuracy.

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DEVELOPMENT OF INFORMATIONAL AWARENESS AMONG STUDENTS UNDER THE CONDITIONS OF DIGITAL EDUCATION IMPLEMENTATION IN YAKUTIA

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Abstract: This study was aimed at determining the effectiveness and potential of pedagogical education to develop informational awareness among students under the conditions of educational digitalization in Yakutia, also known as the Republic of Sakha. The problem was investigated primarily through an analysis of the theoretical

viewpoints put forward by foreign and Russian researchers on issues regarding updates to education in the informational education space. The loss of moral and value orientations in society and the upbringing amid this backdrop of an entire generation of youth, who are currently becoming educators of a new rising generation, cause societal

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apprehension and highlight the need to find a solution. Correspondingly, this research probed into the effectiveness with which the following requirement is implemented in the chosen context: capitalizing on the potential of ethnic pedagogy in advancing the evolution of students' ability to discern and adequately assess the effects of informational environments on youth development. A pedagogical experiment was conducted at the M. K. Ammosov North-Eastern Federal University to examine initial concepts regarding the fulfillment of ethnic pedagogy's prospects for enhancing the educational value of academic activities in the university. More than 500 students from different colleges and faculties, as well as lecturers who are involved in extracurricular activities, took part in the experiment. The study treated updates in service of the potential of ethnic pedagogy to mold the young generation under the digitalization of the educational process in a regional university as scientific results. The practical significance of the study was established in consideration of the characteristics of media influence, Internet addiction, and

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psychophysiological stress and in accordance with the requirements of the newly instituted Federal State Educational Standard 3++ (FSES 3++). The obtained methodological and technological data on the development of informational awareness among students can be used in explorations into other areas of education.

Keywords: education, development, informational awareness, visualization, educational potential, educational information environment.

1. Introduction.

The need to update the principles of character education at the present era was induced by the cardinal changes in people and social communities that have occurred over the last relatively short period of time. These changes manifest themselves as alterations to society's system of values, which in turn, drive changes in methods of exerting educational influence and prevent the use of the educational frameworks of older generations in the upbringing of younger generations. The search and implementation of promising approaches to education are also

stimulated by the fact that modern society has become informational and virtual in nature, with the youth being more frequently preoccupied with the digital world than with real life (Ali, Alaa, and Wid, 2018).

Today, we can see the emergence of novel phenomena that were not known in the past. The social, cultural, and everyday environments that significantly affect the lifestyles and worldviews of modern individuals have also changed. As a consequence of these developments, existing traditional educational systems have become a serious obstacle to cultural and social transformations in Russian society, where new promising approaches to educating young people are needed (Vinokurova, 2017; Petrova, 2000; Volchik, Maslyukova, 2019).

The problematic field of conceptual approaches to education through modern pedagogy, particularly ethnic pedagogy, is extensive. All these approaches reflect a critical position in relation to traditional education, which, according to researchers, does not correspond to changed social conditions and new educational situations. Insufficient consideration of the ideas

that underlie the environmental approach is detrimental to pedagogical practice and its results—an assertion that has been repeatedly confirmed in recent decades throughout the entire Russian system of education. Education as a concrete historical phenomenon is closely related to the socioeconomic, political, and cultural conditions of society, as well as its ethnoconfessional and sociocultural features (Berezhnova, Nabok, and Scheglov, 2013).

In a broad social sense, upbringing is the function of society to prepare younger generations for life. This function is carried out by an entire social structure, which encompasses public institutions, organizations, the church, the media and culture, and families and schools (Gafurova, 2009). Therefore, comprehensively speaking, the “education of a modern person” in the framework of our study is understood as a familiarization of an individual with the modern information society; it involves the formation of the ability to recognize information problems and find solutions to these issues.

The Federal State Educational Standard of the third generation (FSES 3++) provides guidelines on the

development of universal educational actions, namely, the personal, regulatory, cognitive, and communicative. The main indicators of the achievement of personal results include the one's views; explain the meaning of one's assessments, motives, and goals to determine values in life; critically evaluate and adjust one's behavior; and independently detect and form social problems. In this regard, in a regional system of education under conditions of digitalization, one of the main pedagogical tasks of educational informatization is to take advantage of the educational potential of ethnic pedagogy.

Modern society lives in an era of information wars, where the informatization of education should act as an information and social filter. One of the essential activities of digital education is to educate a person who wants to know the truth in the face of multivariate information to enable him/her to make an informed decision on the basis of a thoughtful critical attitude toward any message, different sources of information, and their analysis (Radif, Mohammed, 2019).

2. Literature review.

The current time period, which is reflected in upbringing, features a change in the educational paradigm that offers a different content of education, different approaches to its subjects, a different right of the subjects, other relations between the subjects, a different position in the teacher-student activities. The origins of this educational paradigm lie in the innovative processes of upbringing and are based on the experience of "new schools" of the late 19th and early 20th centuries: the schools of "free education" (Lev Tolstoy in Yasnaya Polyana), "labor schools" (the Gorky colony and the commune of Dzerzhinsky directed by Anton Makarenko), "The Invigorating Life" (Shatsky), "House of a Free Child" (Montessori) and others (Piskunova, 2001).

The idea of environmental education in international pedagogy was realized in the experience of German so-called neighboring integrated schools (Nigermeier, Zimmer), French "parallel school" (Porsche, Ferra), American "schools without walls" (Walter, Watson, Hosken), schools of the "eco-

system” (Goodland) (Piskunov, 2001). In this paper, we strive to draw attention to the promotion of the potential of ethnic pedagogy in the process of education, which is increasingly mentioned by modern researchers in various fields of science. The use of the folk principles of education as a tendency in the development of modern mankind was especially pronounced in the second half of the 20th and in the beginning of the 21st centuries. At that time the formation of ethnic pedagogy was promoted by a lot of research papers. In particular, the indigenous scientist V. Afanasyev (Aldanskyi) from Yakutia published the book *Ethno-Pedagogy of the Non-Russian People of Siberia and the Far East* in 1979. The book deals with the educative role of ethnic pedagogy in the process of education, the moral, aesthetic, mental and physical foundations of the traditional education (Afanasyev, 1979).

For the first time the ethnic pedagogy as an independent field of scientific knowledge was considered in the monograph by G. Volkov, which was published in 1974. In his book *Ethno-Pedagogy* academician G. Volkov gives the following definition: “Ethno-

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pedagogy is a science of the empirical experience of ethnic groups in raising and educating children, of moral, ethical and aesthetic views on the traditional values of the family, clan, tribe, people, nation” (Volkov, 2002).

The problem of translation of the traditional ethnic culture becomes even more complicated with the intensification of the world processes (Panfilova, 2017; Lipets, 2014). Preservation of the cultural heritage, increasing the degree of its influence on the formation of the cultural foundation of modernity is the most important problem of education in modern conditions. The process of forming a modern mass-society, the process of modernization, does not contribute to the real preservation of the traditional cultural ethnic heritage; on the contrary, it may well cause humanity to lose its ethnic culture altogether (Xu, Hamamura, 2014; Zeng, Greenfield, 2015).

The human society at the present stage indeed is undergoing a protracted transition from the traditional type of society to the modern. This transition (modernization) is of dramatic nature—it entails personal and social

changes (Zambakari, 2018; Sun, Ryder, 2016). Traditional foundations are crumbling and the loss of traditions does not always lead to acquiring an innovative nature (Linetskyi, 2017; Gorokhov, 2015; Alampiev, 2018). There comes a general, “global,” universal order.

Digital inequality, the closed nature of society, primarily in a situation of scientific, and educational isolation, pose an urgent task that requires updating of the ethnocultural and ethnosocial functions of educational organizations to solve educational issues. Ethnic pedagogy, as a science that transitions to digital education, has various axiological directions.

The analysis of ethno-pedagogical theories and practices in the Russian educational system allows us to identify seven areas of ethnic pedagogy as a science: environmental, ethnocultural, sociocultural, physical, labor, creative, and spiritual education. Ethno-pedagogical practice as a science, as an educational discipline, and a technology of upbringing in accordance with its legitimization in the field of education, reveals immense creative

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potential in all areas of upbringing and creativity of life (Vinokurova, 2017).

The study is interested in the ideas that consider the ethnic aspects of the modern cultural process and are widely covered in the scientific literature. Particularly, the works that are dedicated to the study of the features of ethnic cultures and their interaction with each other (Kane, Jacobs, 2015). The authors of these works understand ethnic culture primarily as an ethnocultural identity, a basic anthropological need (Gerasimova, Gusenkova, 2017), a community of spiritual life, and a national self-awareness (Zykin, Tufanov, 2015). It is the totality of material and spiritual values created by ethnos and passed from generation to generation (Kshnyakin, 2016), that are inevitably transformed in the modern society (Ryazanov, 2017).

In modern conditions, updating the educational potential of ethnic pedagogy is successfully used as an invariant methodology by the national gymnasiums of Tatarstan, Bashkortostan, Chuvashia, and Sakha (Yakutia) (Vinokurova, Petrova, 2000; Baisheva, Semenova, Vinokurova, 2015). In the ethnolinguistic and cultural

models of national gymnasium education, the educational process is aimed at developing a person of national and Russian culture, who at the same time is a citizen of the world. Ethnodidactic teaching and upbringing methods are used to teach individual subjects as a technology of practice-oriented learning (Baisheva, Andreeva, Dedukina, Maksimova, Nikolaeva, Makarova, 2017).

The issues surrounding the development of a holistic spiritual and moral worldview and the recognition of the unity of cultures and nations are being updated. But the problem lies in the fact that, very often, the ideal of human behavior, an example of morality and integrity presented by the modern mass culture, including Western culture, is very different from an ideal based on the origins of the culture of our people. At the present stage of development in ethno-pedagogy, its field of study and basic concepts, such as “folk culture,” “traditional folk education,” “folk pedagogy,” and “ethnic education,” are defined. In his book *Ethno-Pedagogy*, Volkov (2002) warns that a negative example can have dire consequences,

especially if it is shown to a child who has not yet matured.

Indeed, the real spiritual life of Yakutia goes along an eclectic path and can be specifically described as “not quite traditional, but also not quite Western,” “semi-traditional and semi-Western,” “both traditional and Western at the same time,” and so on. This proves the fact that the presence of a national tradition in society is actually inevitable, especially in the upbringing of the younger generation based on ethnic pedagogy (Barakhsanov, Barakhsanova, Golokova, Kronnikov, 2017). In the process of modernization, tradition and modernity become more and more intertwined with each other and form something unified.

The essence of modernization lies in its compliance with the development trends of the modern world, but the successful movement of modernization lies not only in overcoming obsolete traditions, but also in the constructive use of traditional forms as additional incentives for renewal.

3. Materials and methods

The methodical review of the views of various researchers on the process of updating ethnic pedagogy in the informational education space was completed as part of this study. Such a methodological procedure is important because of the significance of folk pedagogy and the need to study ethnic. Studies on ethnic pedagogy contribute to some of the most important tasks of raising children: to teach the younger generation how to interact with society, to help them grow into spiritually and morally mature people who know and respect their historical roots.

Today, the aim of education is to raise a well-rounded and moral human being with a base of cultural values and appreciation for the uniqueness of the spiritual life of his/her people. Children develop respect for their own culture and the culture of other nations as well as a pro-active attitude through learning the cultural heritage of their people, the distinctiveness of their traditions.

The great importance of ethnic pedagogy in the system of Russian education in the context of FSES 3++ is expressed in “ensuring, maintaining, and developing the cultural diversity and linguistic heritage of the multinational

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people of the Russian Federation, mastering the spiritual values and culture of the multinational people of Russia ...” (FSES, 2018).

So, in connection with the personal qualities that should develop as a result of mastering the main educational program, the following requirements are presented:

1. Development of national self-awareness, the formation of values of the multinational Russian culture and humanistic value system (Baisheva et al., 2017);

2. In the new digital economy, a new model of pedagogical education should be built using traditional methods along with innovative, educational technologies and tools (Barakhsanova et al., 2017).

The study identified a number of important factors regarding the significance of informational on the retention and acceptance of information, understanding information’s place in the educational process. The study clarifies how the information and social component “work” as a pedagogical phenomenon in the ethno-pedagogical context of digital education implementation in the region. In our

opinion, the development of informational awareness can be the goal of the educational process, contributing to the successful retention of educational and behavioral content.

In total, more than 450 students participated in the study. Bachelor's degree holders as well as candidates for Master's degrees at the North-Eastern Federal University n.a. Ammosov took part in the student survey.

4. Results

An analysis of the psychological and pedagogical literature allowed us to conclude the following: under the conditions of informatization and globalization of education, personal awareness manifests itself in the ability to determine the emotions and thoughts of a person, which allows to determine a person's mood, to be at ease during a conversation, to understand and accept the talker, and also in the ability to

evaluate yourself and your actions from the side.

Informational awareness provides an understanding of how do you feel about the information technologies and how another person feels about them.

Informational awareness is an active, spiritual, mental and physical work, aimed at understanding the dependence of society and education on the information, the social problems of the information society, assessing and determining the significance of the ability to see positive and negative aspects of the influence that modern information technologies have in different life situations.

The signs of informational awareness and their manifestations underlie the definition of criteria and indicators of informational awareness (Table 1).

Table 1 – Criteria and indicators of informational awareness

Criteria	Indicators
The ability to see and assess informational phenomena	<ul style="list-style-type: none"> - Ability to pay attention and take interest in the information society, nature, world; - Ability to take interest in socially important informational problems;

	<ul style="list-style-type: none"> - Ability to analyze informational problems.
The ability to view information critically	<ul style="list-style-type: none"> - Ability to compare and evaluate different sources of information and points of view; - Ability to argue your point with references to reliable facts; - Ability to filter the incoming information on the base of your knowledge, value system and life experience.
The ability to determine your place in the information society	<ul style="list-style-type: none"> - Ability to be at ease during a conversation, to pay attention to the talker; - Ability to show initiative and independency in organization and realization of informational activity; - Ability to show mobility in the face of new terms and connection relations through networking technology.

The identified criteria and indicators made it possible to determine the relative levels of development of the students' informational awareness based

on the frequency of displayed indicators and the meaningful presentation of its signs: situational and stable-active.

Table 2 – The levels of informational awareness development

Level	Expression
Situational	<ul style="list-style-type: none"> - Lack of desire to participate in community affairs; - Lack of interest and attention to other people; - Expression of interest in informational phenomena only in certain situations.

Stable-active	<ul style="list-style-type: none"> - Expression of rationality, valuation activity; - Positive attitude towards and interest in the processes of information; - Ability to find a solution to information problems.
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In the course of studying informational awareness among students, we determined that it manifests itself in the ability to find and see social problems, to evaluate them, determine their significance for the society and for oneself, to see connections, relationships, to assess and make decisions and in the ability to easily find your bearings in different life situations.

To determine the level of development of informational awareness in relation to socially significant problems by means of ethnic pedagogy, we conducted a survey of 450 students studying at the Ammosov North-Eastern Federal University.

At the first stage of the study we conducted a survey to determine the level of professional and informational competence of students who are getting their Master's degree. The results show that 65% of students in their first and second years of study do not have work experience, which indicates that most students have no idea about the special

aspects of their future professional activities. 20% of the students have work experience up to 1 year and the smallest percentage of respondents have work experience from one to five years (15% of students).

The survey included questions about the improvement of their informational and professional competence. 82% of students think that the most important things are the ability to plan and organize their activities and the ability to make decisions. 53% of the Master's candidates think that effective work requires leadership skills and 18% of students find necessary the skills of delegation. In our opinion, this is due to the lack of managerial practice, where the distribution of functions, delegation skills, the ability to determine one's own leadership potential are necessary.

Communicative and personal competences were determined at the second stage of the study. While assessing communicative competencies, students pointed out persuasion skills

(87%), contact skills (74%), flexibility (71%). Only 51% of respondents think that teamwork and listening skills are necessary competencies of a successful manager in education. We believe that this is due to the lack of work experience in real teams and the insufficient development of communicative skills.

When assessing personal competencies, Master's students marked responsibility (93%), desire for self-improvement (68%), and resistance to stress (52%) as highly necessary competencies of managers in education. Only 35% of respondents considered creativity as an obligatory competency of an educator. Among the special competencies, students marked only the ability to apply knowledge in practice as a necessary competence of an educator (59%). Students found all other competences as optional. Perhaps this is due to lack of knowledge of the specific place of future employment and lack of practical experience.

When describing their strengths, Master's candidates pointed out sociability, creative approach to problem solving, high professional motivation, and the ability to plan and control their work, while the lack of

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practical work experience and inability to apply theory in practice were considered as weaknesses.

The students made the following proposals for improvement of professional competences and change in the educational process: increase the number of hours for internship, organize internships with the option of subsequent employment, increase the amount of practicum classes, reduce the amount of lecture classes, organize practicum classes with the aim to develop specific skills and competences. There were also suggestions to organize meetings with successful managers of educational institutions for experience exchange on a regular basis.

The third stage of the survey was meant to determine the level of informational awareness development of the students. The study was carried out using the questionnaire developed by the authors on the basis of the methodology developed by M. Rozhkov in *The Study of the Socialized Personality of Students*. The level of development of the ability to see and assess informational phenomena was determined using the test developed by N. Schurkova in *Reflection on Life Experience* and

through pedagogical observation. The level of development of the ability to view the information critically was determined using the questionnaire on knowledge of the facts of social reality, the methodology in *Analysis of Communicative Situation* and methods of text content analysis. The level of development of the ability to identify your place in the information society was determined by using the methodology of evaluating the level of students' education by G. Faizulina, the methodology of interpersonal relationship diagnostics by T. Lire, and through pedagogical observation and quality analysis.

The results of the educational experiment helped to draw attention to the following facts:

- The students are informationally aware of the social problems of the modern society; they are able to establish the reasons for such problems and suggest methods of their solution;

- Approximately 45% of the students take interest in information phenomena only in certain situations, their understanding of spiritual and moral norms is fragmental, their desire to

participate in community affairs is lacking;

- The students of today have knowledge of those social groups to which they belong, the knowledge of other social strata is scarce.

Assessment of the reliability of the research results revealed positive trends of the development of informational awareness among students. The idea of educating informational awareness in educational activities is based on a combination of the educational potential of ethnic pedagogy and methodological approaches to the informatization of education.

5. Discussion

Today the regional education system has entered a phase of significant transformations caused by the global digitalization of society. To be effective under the circumstances the pedagogical education has to change quickly, and to change at an even faster pace to be advanced. Previous educational models and methods of their implementation are becoming less effective, old methods of communication between participants of the educational process often do not

work, types of students' activities, models of obtaining and working with knowledge change.

Pedagogical universities have to develop a strategy for improvement under the conditions of dynamic digital modernization of the whole system of education. Due to the fact that the pedagogical education is the one that underlies all innovations, the progressive development of the Northern region of Russia directly depends on the effectiveness of the digitalization of this particular education.

The pedagogical education in Russia traditionally strives for advanced educational technologies and breakthrough educational strategies, but so far this is not being implemented on such a significant scale that we would like to observe. One of the main problems at the moment is the lack of qualified teaching staff that possesses the required competences in the field of digitalization of education with the consideration of ethnic factor.

To overcome this omission, regional pedagogical universities need to reform their training programs and the system of further education for already working teachers, which will be

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activating the educational potential of ethno-pedagogical tools in studying the influence of modern technologies on the development of the younger generation.

Undoubtedly, if the managers of the universities purposefully and systematically initiate teachers to study the tools of a digital teacher and integrate them into professional activities, strive to develop the innovative culture of the entire teaching team and the need to move forward in a coordinated manner, the universities under the authority of such managers would become leaders in development.

The most significant and interesting result is to change not only the educational technologies, but also the way of thinking and the culture of the teaching staff.

Let's highlight several key areas of updating the education of the younger generation in the context of the implementation of digital education in Yakutia:

1. It is necessary to understand that the student of today is involved in the digital world almost from birth. The study of his/her educational needs is a key aspect in changing pedagogical education in terms of digital education.

A student today chooses a university, where he/she gets the possibility to get a new knowledge in a timely, convenient, fast and easy manner, where he/she will also be shown how this new knowledge works. Consequently, the university needs all the tools and the ability to adapt to the rapidly changing culture of teaching and learning. A modern student is interested not just in the set of acquired knowledge, but in the process of interacting with the teacher on a dialogue basis, on the basis of development and mobility. A student is interested in the use of digital tools and technologies in education, which are relevant in his/her life.

2. It should be noted that digital education is based on the principle of open education and flexible integration. This allows the educational organization to find new non-standard breakthrough solutions in the development of its educational activities through integration with other educational partner organizations. Digital partnership is becoming an important factor in scaling an organization's reach. It allows educational organizations to conduct the teaching and learning process anywhere

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in Russia or within another country regardless of geography or attendance.

3. It is necessary to seek and introduce innovations to update education. Because of the digital technologies, modern education is undergoing a transition from a model of preliminary pedagogical planning to a model of constant pedagogical experimentation. In this regard, we believe that it is necessary to organize regional centers of digital educational innovations with regard to updating the educational potential of ethnic pedagogy.

With the help of digital technologies, regional pedagogical universities have a new field for competition outside of the market of their current educational services; they now have the opportunity to expand their audience by educating new students and attendees; they also can provide operational support to students almost around the clock as necessary, using e-teaching tools and online-education technologies.

The effectiveness of the education of informational awareness among students can be determined using the developed diagnostic tools, which are

implemented on the basis of selected criteria (see Table 1). These criteria help to monitor the dynamics of the informational awareness indicators, which in turn allows us to determine the level of development of the informational awareness and to adjust further educational work, accordingly.

The significance of the research results for practice is confirmed by the fact that new directions of students' socialization were developed and introduced in the context of the implementation of digital education at the regional pedagogical university through the education of information awareness in educational activities at the university on the base of the ethnic pedagogy of the Sakha people.

6. Conclusion

As a result of the study, it was revealed that updating the educational potential of ethno-pedagogy during the development of informational awareness among students gives reason to state that digital education as one of the most important areas in the education and upbringing system is a meaningful and strategically managed process. This circumstance is especially important to

consider for educational organizations that, when implementing digital education, do not pay due attention to updating educational potential and to the development of informational awareness among students.

The introduction of innovative digital culture in the educational process involves the transformation and adaptation of models and teaching technologies to the digital realities of life and learning, the widespread use of public knowledge about the impact of information technology on the upbringing and development of the younger generation, intensive and targeted preparation of the teachers for changes in their work, in their role in the educational process and in the equipment of their workplace.

Among other things the experiment included the analysis of regional practices and helped to identify the advantages that update the educational potential of ethnic pedagogy in the context of the implementation of digital education in Yakutia. The specific example of the development of informational awareness among students shows that the process of training new digital-format specialists requires

substantial, procedural and instrumental changes in the very processes of upbringing and educating.

The analysis of the literature shows that, despite its wide and diverse coverage, the subject of educating young people under the conditions of the transition to digital education in Yakutia in the context of the ethnic culture of a modernizing society is not sufficiently developed, and that fact had motivated the authors to conduct this study.

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DEVELOPMENT OF ETHNOCULTURAL COMPETENCE IN FUTURE PRIMARY SCHOOL TEACHERS

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Abstract: The article focuses on problems with ethnocultural competence as a component of the professional and pedagogical training provided by the **Pedagogical Institute at M.K. Ammosov North-Eastern Federal University** in the Republic of Sakha (Yakutia). The article identifies the

characteristics of ethnocultural competence development in future primary school teachers. The main research methods include an analysis of literary sources, a pedagogical experience summary, observations, a discussion, data recording, and ranking. Primary school teachers are key figures

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and spiritual heritage broadcasters in the educational process. The ethnocultural competence of an education professional is increasingly important due to the development of new forms of information transformation and an increasing demand in modern society. Moreover, ethnocultural competence is an integral professional and personal characteristic that determines the willingness and ability to pursue ethnocultural education, national culture introduction to primary school students, and the formation of respect for and a positive, tolerant attitude toward other nations' cultures. The term ethnoculture consists of the words "ethnos" and "culture," which are equally interdependent. Culture is a compound, historically developed system of material, spiritual, and social expressions of human activity. It reflects how humans understand reality through its content, morphology, and functions. One of the main objectives of culture is to promote a positive attitude toward the ethnocultural differences that influence human development and self-realization. Ethnocultural education contributes to interethnic relations, protection, and development. In addition, it reveals the

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characteristics and spiritual and moral values of ethnic groups and impacts interethnic and interfaith communication among students. In this research, an ethnocultural training model for future teachers and students' ethnocultural competence was developed and tested. In addition, the pedagogical conditions for the formation of the ethnocultural competence of future primary school teachers were identified, and university students' experiences with the formation of ethnocultural competence were classified and generalized.

Keywords: multicultural education, ethnocultural competence, students, professional training, primary school teacher.

1. Introduction.

Improvements in the Russian education system are causing global changes. As a result, multicultural education, which includes the interaction of different nationalities, cultures, traditions, and life values, is especially important. The purpose of multicultural education is the formation of a personality that has the ability to adapt to interethnic environments, develop

positive attitudes toward ethnic groups, and respect and understand cultural diversity. The “On Education in the Russian Federation” law states that the purpose of ethnocultural education is “to introduce the achievements of world and national culture to children; to study Russian and other nations’ history, traditions and customs” (On Education in the Russian Federation, 2016).

The Republic of Sakha (Yakutia) is an international community in which people value lasting friendships, positive neighborly relations, partnerships, and cooperation. Ethnic distinctness, identity, and readiness for a cultural dialogue are formed from an early age. Primary school teachers play an important role in the education of the young people in the republic. Therefore, special attention is paid to their training. Academic success, comprehensive development, and the mental and moral education of the children depend on the personal and professional qualities of their primary school teachers.

The Department of Primary Education within the **Pedagogical Institute** at M.K. Ammosov North-Eastern Federal University trains

primary school teachers. Professors within the department have developed academic courses and teaching internship programs, including ethnocultural content, for the following areas of training:

- 44.03.01-Pedagogical education, specialization primary education;
- 44.03.05-Pedagogical education, specialization primary education and tutoring in the basic underfilled (nomadic) school of the North;
- 03/03/05-Pedagogical education, specialization primary education and additional education;
- Master’s degree program in the pedagogical support of childhood in the North, area of training 04/04/01— Pedagogical education; specialization primary education.

The competence-based approach results in the need to consistently update and implement educational activities, requiring personal growth and professional competence. The *Federal State Educational Standard of Primary General Education* (FSES PGE) identifies the purposes of ethnocultural education in primary

school children as follows: “The standard is aimed at ensuring...the preservation and development in the cultural diversity and linguistic heritage of the multinational population of the Russian Federation, the right to learn the native language, the ability to obtain primary general education in the native language, to master the mental values and culture of the multinational people of Russia...” (FSES PGE, 2009).

Ethnocultural competence has ethnopedagogical and ethnopsychological components. The ethnopedagogical component includes knowledge in the field of folk pedagogy and the ability to implement the experience in a comprehensive educational process. The ethnopsychological component is reflected in the education and upbringing of children and accounts for their ethnic behavioral stereotypes and national identity.

The formation of ethnocultural competence in future teachers requires the study of ethnopedagogy and ethnopsychology, as well as the ability to apply these components to professional problems, self-development, self-education, and self-improvement in a

multicultural environment. Ethnocultural competence requires the following pedagogical conditions: educational process enrichment with ethnocultural content, the implementation of various training and internship programs; the use of educational technologies based on the ethnocultural experience; participation in republican, city, and university events, competitions, and conferences. Ethnocultural competence is a comprehensive educational process with meaningful, active, and effective components. Each of these components reflects the organizational and methodological support of the ethnocultural training of future teachers.

2. Literature review.

Future teacher training is based on professional standards that include specific knowledge and skill requirements. This research studied the works of foreign researchers who analyzed the professional educational standards (Bergsmann et al., 2015). Teacher training should create the pedagogical conditions in specific regions (Dmitrieva et al., 2019).

The authors of the article “Evaluating Teacher Effectiveness” point out that the evaluation of a teacher’s professional effectiveness should be based on students’ success (Teacher, Assessments, Measure, Teaching, 2010).

In their work “Soft Skills Integration in Teaching Professional Training: Novice Teachers’ Perspectives,” Malaysian researchers Ngang, Yunus, and Hashim (2015) highlight the necessity of the development of “soft skills,” namely, soft or flexible skills and personal characteristics. Nowadays, in the context of artificial intelligence development, these competencies are considered essential for successful interaction with children and colleagues. Examples of these skills are sociability, ability to solve pedagogical problems, teamwork, initiative, tolerance, and empathy (Neustroev et al., 2017).

The formation of ethnocultural competence is included in the structure of the general professional competence of a future teacher. Afanasyeva (2008) studies ethnocultural competence as an integral personal characteristic, reflected in the development of ideas and

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knowledge about native and non-native ethnic cultures, their place in domestic and world culture, understanding of ethnocultural values, readiness for the dialogue of cultures, and their comparison. It is introduced in knowledge, skills, competencies, and behavioral models in monoethnic and multiethnic environments.

Some foreign authors, after analyzing the problem of teachers’ employment, consider self-education as a condition for a professional career (Tynjälä, 2011). However, professional training at the university does not guarantee the quality of the pedagogical activity of a graduate. Personal characteristics are also significant. In this aspect, we are interested in the article “The Case for High Quality Teacher Preparation: What Makes a Teacher “Effective?” (National Council for Accreditation of Teacher Education, 2010). The authors of this work use the analysis of students’ competencies to compare the main links between the quality of training and the quality of work.

In the article “Strategic priorities for the modernization of the system of continuous pedagogical

education”, the researchers focus on future teachers training. They point out that it leads to a significant restructuring of the educational process, all the departments of universities, and university infrastructure. “First of all, it leads to the expansion of partnership, business relations of the university, active use of information technologies, and what is the most important, to the intensification of the educational process itself, as well the scientific research. In these conditions, pedagogical education is focused on the continuous development of the abilities and needs of the individual, providing each person with the opportunity to implement their own educational program, becomes particularly relevant” (Nikolaeva, Barakhsanova, and Golikov (2014).

The concept of “ethnoculture” was developed at the turn of the 20-21th centuries. It was widely used as a verbal abbreviation for the concept of “ethnic culture,” without having a precise definition. Ethnoculture is a combination of traditional values, attitudes, and behavioral characteristics that have ethnic specifics of the past and develop in the framework of historical sociodynamics. They constantly enrich

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culture of people’s self-realization with the ethnic specificity (Afanasyeva, 2008). Therefore, this term is used mainly in modern research.

Slastenin identifies the following tasks of public education: “to improve and systematize the empirical knowledge, to understand theoretical principles of ethnopedagogy; to clarify the goals, content, methods, means and techniques of younger generation teaching and public pedagogy in general; to development the ethnopedagogical consciousness” (Slastenin, 2002).

A great contribution to the development of ethnopedagogy was made by the famous Chuvash scientist Volkov. He was the first in pedagogical literature to use the term “ethnopedagogy”. His scientific works formed the basis for the concept of ethnopedagogy. In the context of his pedagogical work, Volkov develops a pedagogical axiom of the common pattern of education. The researcher points out that a child develops as a personality and harmoniously enters the culture, only being confident in kindness and love to him. This model of the educational process in ethnopedagogy becomes general and universal.

In domestic pedagogical studies published abroad over the past 5 years, ethnoculture is analysed as a culture of a particular ethnos and takes into account the peculiarities of regional ethnocultural upbringing and education, which is reflected in a certain ethnic identity of material and mental values, introduced in moral and ethical standards, lifestyle, clothing, housing, cuisine, social standards, etiquette, religion, language, folklore, taking into account the peculiarities of regional ethnocultural upbringing and education (Baisheva et al., n.d.).

Neustroev declares that “introducing students to their national ethnic culture may help them to become aware of themselves as persons and particles of their ethnic group. The revival and further development in the culture of any nation becomes the concern and goal of every family, every educational institution, and multinational state as a whole” (Neustroev et al., 2017).

In the article “Spiritual Dominance of the Sakha People Traditional Belief in the Personality Development of Children,” the authors identified ethno-pedagogical factors of

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the formation of spiritual and moral characteristics of the preschool child’s personality (Baisheva et al. 2017). Similarly, in “Ethnocultural Traditions as Sources of Maintenance of Spiritually Valuable Bases of Safety of the Person,” Baisheva et al. (2017) considered ethno-cultural traditions as a factor influencing the formation of the spiritual basis of a child’s personality.

In the monograph “Tutoring in the Primary Basic Underfilled and Nomadic School of the North,” Neustroev et al. (2017) revealed the concept of tutoring as an additional competence of a teacher in the Russian educational system. The researchers introduced the experience of the implementation of the bachelor’s program for specialization in primary education and tutoring for underfilled and nomadic schools in the Republic of Sakha, Yakutia (Neustroev et al. 2017).

Sayfutdiyarova (2012) used a survey conducted among primary school children of Russian and Tatar nationalities to study their perception of their own and other ethnic groups. The results revealed that almost all children of this age identified themselves with their nation. However, when comparing

themselves with fairy-tale characters representing their own and other ethnic groups, the children pointed out only the brightest, most noticeable details of these characters' appearance, and did not pay attention to the national peculiarities of their face and clothes. It should be noted that younger students already have some knowledge about the stereotypical appearance of a particular nationality and their culture.

3. Methods and materials.

The authors used the following methods: an analysis of literature, a study of pedagogical experience and educational and methodological documentation, testing, discussion, and data recording and ranking. Empirical methods were applied to identify and describe pedagogical conditions for the problem and solution created in North-Eastern Federal University. In addition, the educational and methodological documentation of bachelor's programs implemented at this institute, which are aimed at ethno-cultural training of students, are studied.

In the context of the research, the authors studied teachers' levels of competency based on their students'

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results in subjects having an ethno-cultural component and teachers' own ability to apply theoretical knowledge for pedagogical problems and solutions during their educational internship in primary school. For this purpose, the survey was conducted and developed by scientists of the Perm Regional Institute of Pedagogical Information Technologies, namely, by Doctor of Philosophy Yunina and Candidate of Technical Sciences Sevruk (Yunina, Sevruk, 2003). The questionnaire suggests sufficient number of points for evaluation of the professional competence level, namely: the performance of the teacher's duties; ethnocultural component of the teacher's professional competence; purposefulness of the lesson; humanization and humanitarization.

The study involved 68 students studying in the area of training of "Pedagogical education", specialization "Primary education". All respondents' answers were recorded and summarized by means of factor analysis according to qualitative criteria. Besides, they were turned into numerical indicators, ranked by frequency and interpreted according to the components significance.

primary school teachers consists of three basic components (Table 1).

4. Results.

The system of development of ethnocultural competence of future

Table 1 – The components of the development of ethnocultural competence of future primary school teachers

Components	Tasks	Content
Informative	To form ethnocultural knowledge as a component of professional competence of future primary school teachers	The curriculum for future primary school teachers includes such disciplines as: ethnocultural technologies in primary school, multicultural education of primary school children, and ethnic conflictology. Students obtain theoretical knowledge and practical skills in ethno-artistic and technological education of younger schoolchildren in the process of studying the following disciplines: applied and decorative art of Yakutia, applied and decorative art in primary school, aesthetic education in primary school.
Activity	To form skills and abilities to use theoretical knowledge in practice	Students' research activities on relevant issues of primary education. Participation in republican, all-Russian and international scientific and practical conferences, competitions, exhibitions of folk and decorative arts. Participation in student scientific workshops and elective courses.

		Ethnocultural component of the program-content of pedagogical internship in primary school.
Resultative	To develop professional and personal qualities, and pedagogical creativity	Participation in student academic competition, professional skill contests “Pedagogical Debut”, “Methodologist”, etc. Participation in student communities: pedagogical group “The Gift”, patriotic club “Motherland”, folklore, dance ensembles, etc. Career guidance work among students in Yakutsk schools and the Republic regions.

The content of the discipline ethnocultural technologies in primary school involves the study of the theoretical and practical foundations of the ethnocultural technologies implementation in primary schools in the context of the study of philosophical and psychological-pedagogical literature. The students reveal the essence and state of the ethnocultural technologies in the framework of theoretical and practice teaching in primary schools. Pedagogical conditions for the application of ethnocultural technologies in primary school are analyzed.

The content of the discipline multicultural education of primary schoolchildren is based on the principles of multiculturalism and multi-ethnicity,

the specifics of the formation of multicultural competence among younger schoolchildren, and the determination of organizational and pedagogical conditions for the formation of multicultural competence of younger schoolchildren.

In the context of primary school teachers training, the discipline ethnic conflictology forms knowledge about the subject, object, ethno political relations principles, the study of international communication issues, skills for successful solution of pedagogical problems in a multicultural educational space.

The content of the disciplines applied and decorative art of Yakutia, applied and decorative art in primary

school, aesthetic education in primary school includes the studying of the following issues: folk and decorative art in the system of cultural values, the methodology of introducing younger students to works of applied art and artistic traditions, world understanding, the worldview and artistic experience of the Sakha people, ornamental art, types of Yakut embroidery, patchwork plastic arts “kybyty tigii”, design features and traditional sewing technologies of the Yakut national costume, etc.

In the process of pedagogical internship, students conduct ethno-focused educational activities. Depending on the tasks of education, 4 types of ethno-focused forms of extracurricular work can be distinguished:

1. Socially-focused forms include roundtable discussions, planning sessions, meetings with historians, ethnographers, cultural and art figures, the representatives of national diasporas, etc.

2. Cognitive forms - local history and ethnographic excursions, participation in the events dedicated to the Day of the Mother Tongue and

Writing in the Republic of Sakha (Yakutia), Olonkho Day, etc.

3. Cultural and leisure activities: traditional holidays (“Ysyakh”), competitions in national sports and board games (“Khabylyk”, “Haamysk”), festivals, etc.

For the successful implementation of intercultural communication into pedagogical interaction, the following ethnocultural technologies are important to consider:

1. The cross-cultural method is the study of ethnic culture based on a comparison of general and specific concepts, similarities and differences, as well as the study of the common elements in ornaments, musical instruments, language, etc.

2. The project method includes the organization of student research activities to study the history, culture, and art of their own nation and other nations in Russia and the Republic.

3. The modeling presupposes the ethnocultural education of younger schoolchildren by introducing national customs and living into the lesson structure, by modeling some aspects of life and situations of inter-ethnic interaction, stage setting of

folk tales, making attributes according to the plots of fairy tales (models of dwellings, utensils, household items, etc.).

4. The method of games is the cognitive activity of younger students and their interest in ethnic culture through various national outdoor and board games.

Ethnocultural competencies formed in the process of all types of practices will allow students to master professional theoretical knowledge more effectively and start pedagogical activities confidently.

An important role in the development of the ethnocultural competence of future teachers is played by the participation in Republic-based, all-Russian, and international conferences, such as “Regional Aspects of Education Development in the North-East of Russia,” “Development of Ethnocultural Education of Indigenous Peoples of the Arctic: Traditions and Innovations,” “The Role of the Young Family in the Preservation and Development of the Mental and Cultural Heritage of the Peoples of the North,” etc.

5. Discussion.

1. The informative component of the ethnocultural training of future teachers is assessed according to the level of professional competencies formed as a result of studying the disciplines with an ethnocultural component (ethnocultural technologies in elementary school, multicultural education in primary school, ethnic conflictology, applied and decorative art of Yakutia, applied and decorative art in primary school, aesthetic education in primary school):

- The ability to develop and adjust the individual educational trajectory of students, and programs of ethnocultural and multicultural content including the ones with the native (Yakut, indigenous peoples of the North) language of study. The indicators of this competency are the abilities to develop and adjust the individual educational trajectory of students, substantiate opinion and judgment in the process of an individual educational trajectory development, taking into account the language of study, obtain skills to develop an educational trajectory taking into account the language of study,

including programs of ethnocultural and multicultural content;

- The ability to perceive the intercultural social diversity within the socio-historical, ethnic, and philosophical contexts. Indicators of achievement are the following: understanding of socially significant problems, phenomena and processes; obtaining a reasonable, respectful and tolerant attitude to the diversity of cultural forms of self-determination, historical heritage, and national cultural and religious traditions.

The authors introduce the following scale for assessing the formation of competency elements:

- High level: the content of the discipline is fully revealed, the student

demonstrates deep knowledge of the material, operates with special terms, and substantiates theoretical principles with examples from personal and other teachers' educational practice.

- Intermediate level: the content of the program material is not fully revealed, but there is a general understanding of the issue, the main categories are perceived, and there are some difficulties in specific terms defining.

- Low level: the content of the discipline is not revealed; the student cannot operate with terminology.

The results of assessing the level of the formation of competencies are introduced in Table 2.

Table 2. Levels of professional competencies formation as a result of studying the disciplines with an ethnocultural component

Level	High	%	Intermediate	%	Low	%
Experimental group	57 students	84	11 students	16	0	0

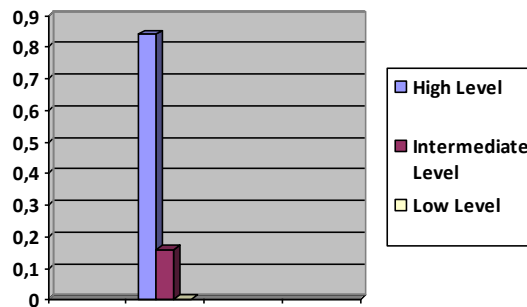


Diagram 1. Indicators of professional competencies formation as a result of studying the disciplines with an ethnocultural component

As is clear from the table and the diagram, 57 students showed a high level of professional competencies as a result of studying the disciplines with an ethnocultural component, which comprises 84%; 11 students showed an intermediate level that amounted to 16%.

In the framework of conducting tests, essays, and creative assignments, at seminars, lessons and educational activities during internships, students achieved the following results:

- Mastered the content of school subjects of the regional and ethnocultural component of the primary school curriculum, regional educational programs (teaching package) of primary general education, their educational and methodological support; ethno-cultural identity of the region, native language and culture, the culture of other indigenous peoples of the region; ethnic,

cultural, religious and socio-political characteristics of Russian society and the modern world; the foundations of tolerant intercultural interaction.

- Obtained the ability to apply historical, general scientific and philosophical knowledge for professional problem solving; substantiate and include objects of mental and material culture of indigenous peoples of the North-East of the Russian Federation;

- Applied modern methods and technologies to ensure the quality of the educational process in the educational institution; ways to assess the child's personal achievements and development of the individual routes for students; methods for determining and identifying individual psychological characteristics of students; technology and development methods, including specific methods of

national language and culture teaching; search methods of information sources and analysis in socio-historical, ethnic and philosophical discourses; scientific analysis skills of socially significant problems and phenomena; tolerant attitude of the variety of cultural forms of self-determination, and the historical heritage, cultural and religious traditions of nations and social groups.

2. The activity component of ethnocultural training of future teachers was evaluated according to the results of the survey (Yunina and Sevruck, 2003).

Matrix card 1. The characteristics of humanization and humanitarization.

The characteristics of humanization:

- 1) Uniqueness;
- 2) Activity;
- 3) Internal freedom;
- 4) Spirituality.

The characteristics of humanitarization of education:

- 5) Focus on development;
- 6) Dialogics;
- 7) Integration;
- 8) Existentiality;
- 9) Fundamental

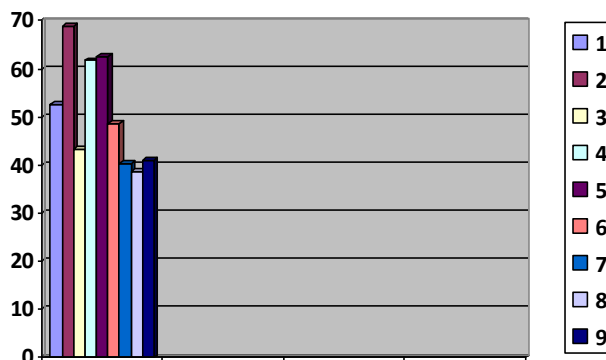


Diagram 2. Indicators of humanization and humanitarization level

Matrix card 2. Development focus, personal characteristics of future teachers:

- 1) Physical abilities;

- 2) Thinking;
- 3) Speech;
- 4) Conscious memory;
- 5) Effective consideration;

- | | |
|-------------------------------------|-------------------|
| 6) Perception channels; | 8) Behavior; |
| 7) Emotional and sensory qualities; | 9) Communication; |
| | 10) Creativity. |

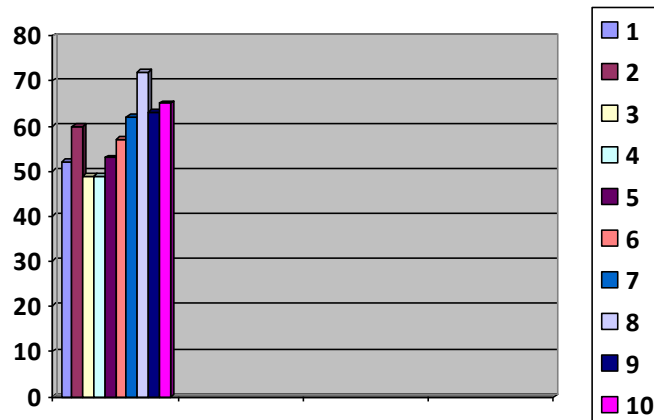


Diagram 3. Personal characteristics of future teachers

Matrix card 3. Ethnocultural component of professional competence:

- 1) Methods providing variability of educational space;
- 2) Elementary methods of pedagogical diagnostic;
- 3) Characteristics of the audience;
- 4) The development in students' cognitive and communicative culture;
- 5) Creating a comfortable microclimate in the educational process, preserving the contingent of students.



Diagram 3. Characteristics of professional competence

3. The resultative component of the formation of ethnocultural competence of future primary school teachers is assessed by the degree of students' participation in scientific and practical conferences, and academic competitions.

6. Conclusions.

The educational process of the pedagogical institution is focused on personality and competency. Its purpose is to prepare competitive teachers with great creative potential, high spiritual and moral qualities, modern pedagogical thinking, a new understanding of the school and the student.

The authors of the research came to the following conclusions:

- According to the theoretical analysis results, the essence of the concept of ethnocultural competence is revealed. The ethnocultural competence of future primary school teachers is an integrative personal characteristic with a high degree of theoretical, practical and personal readiness to implement the tasks of ethnocultural education of children in accordance with the national ideal of education and taking into account the ethnopsychological characteristics of their development;

- Pedagogical conditions for the formation of ethnocultural competence of future teachers are justified. They are introduced as a single educational process in the totality of sequential and interconnected components: targeted, meaningful and effective;

- The level of ethnocultural competence of future primary school teachers is determined by means of diagnostic tools.

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COMPONENTS OF MODERN ISLAMIC CIVILIZATION IN THE THOUGHT OF AYATOLLAH KHAMENEI

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Sirous Khandan³

Abstract: Islamic civilization has been in ups and downs and with the victory of the Islamic Revolution, the Islamic awareness in Iran reached its peak and the Islamic world moved to awareness. The Supreme Leader Ayatollah Khamenei has proposed a new "Islamic Modern Civilization" for the development of Islamic civilization. In this article, the features of modern Islamic civilization are reflected in his thoughts and by a descriptive-analytical method, questions about modern Islamic civilization have been answered from his point of view, including what the Islamic civilization is and what its main characteristics are. The centrality of Qur'an rules, faith, knowledge, ethics, constant endeavor and popular government are the characteristics of the modern Islamic civilization from his point of view. Based on the results of this

study, from Ayatollah Khamenei's perspective, the development and advancement of modern Islamic civilization requires collective effort and wisdom which arise in the shadow of ethics, work and effort, faith in God, rationality, academic ability, flourishing economy, the enjoyment of strong media and international relations.

Keywords: Islamic civilization, modern Islamic civilization, indicators, Ayatollah Khamenei

Introduction

Islamic civilization was formed with Prophet Mohammed's (PBUH) mission and his emigration to Medina. Muslims culminated this Islamic civilization based upon the teachings of Qur'an and the orders of the Prophet (PBUH) and the Imams (PBUH) until the

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fifth century AH. With the attacks of the Crusaders, the Mongols, the fall of Andalusia and the internal problems of the Islamic world, Islamic civilization decayed, but it flourished again during the Safavids, the Ottomans and the Gurkhanis of India. In the nineteenth century, colonialists attacked Muslims, and again Islamic civilization decayed. Islamic thinkers in Iran, Egypt, and other countries have proposed the idea of coming back to true Islam to confront Western civilization. Islamic awareness in Iran began from the Qajar era and culminated in the victory of the Islamic Revolution under the leadership of Imam Khomeini in 1978, causing Islamic awareness in the Arab world. Due to the importance of the history of Islamic civilization, especially the Islamic awareness that has been created in Muslim countries, today these types of researches are of particular importance. In recent years, numerous books and articles have been written about the retrieval of Islamic civilization, each containing issues of Islamic culture and civilization, but so far, articles about the orders of the Supreme Leader on the process of the expansion of modern Islamic civilization have not been

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written. Hence, the necessity is to write an article titled "Analysis of the features of modern Islamic civilization in the Ayatollah Khamenei's thought".

Statement of Problem design

Islamic civilization, which has been in ups and downs throughout history and has been paid attention by Islamic awareness in Muslim countries, is of a special place in the speeches of Ayatollah Khamenei. Therefore, it is necessary to analyze and investigate the characteristics of modern Islamic civilization in his supreme thoughts. The present article seeks to answer the position of the leader of the Islamic Revolution on the new Islamic civilization and the expression of its characteristics.

Research methodology

Researches on history and civilization are considered as descriptive-qualitative researches. In the present study, the methods of describing the data and analyzing the history using the sources and references and referring to the library and the Internet have been used. In historical researches, statistical analysis is usually not used. For this

reason, in the present study, the usual method in historical research, namely content analysis, has been used.

Background research

In sources related to the history of Islam, such as "Tabari's History," "Al-Kamel," "History of Ibn Khaldun," and so on, the achievements of Islamic civilization have been discussed sporadically. Many books have been written in this regard such as "History of Islamic Culture and Civilization" written by John Ahmadi, "Islamic Culture and Islamic Civilization" written by Velayati, etc. In some of the aforementioned books on Islamic awareness in Iran, from the point of view of political-religious figures such as Imam Khomeini (PBUH) there are many hints and directions, but according to systematic studies, an article, a thesis and a book about the features of modern Islamic civilization in the thought of Ayatollah Khamenei have not been written yet, hence, this study is of great importance.

Definition of concepts

The term **civilization** is the equivalent of society, culture (of a group

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of people or a particular place); highly developed social and economic structure. This term in English is derived from the Latin word *civis*, meaning a citizen and used to refer to features such as grace and virtue, which is an achievement of urbanization or for the advancement of individuals and communities living in cities (Sepehri, 2006: 35). Greeks, using the term civilization, considered the city as a set of institutions and social relations (Fawzi & Sanamzadeh, 2012: 9). In Persian culture, civilization has been defined as "urbanization, urban temperament, familiarity with the morality of people, social life; people's cooperation with each other in matters of life and providing for their own development and comfort" (Amid, Vol 1, 2010: 530). In other words, civilization in Arabic is derived from "civil", which means settling, and in English, today refers to the term civilization in the sense that it also means deployment, and in the social definition, it is urbanization (Velayati Vol. 1, 2005: 33).

Arabic cultures have the same idea about the term civilization (Hazereh) and consider the city as the opposite of village (Badiyeh). Hazereh is

equal to cities, villages and country lands, and it means staying there. The word Hazar and its derivatives are stated 25 times in Quran. All these derivatives are expressed in 16 Quran's surahs, meaning presence, existence, and talent. The word "Hazereh" and its derivatives are expressed in verses 163 of Surah al-A'raf, 158 of Baghareh, 18, and 19 of Tobeh, 9 of Rome, and 61 of Hood (Sepehri, 2006: 30). Medina is considered as "Dune Yadin" and its "m" is taken away (Isfahani, Vol. 1, 1415 AH: 663). Additionally, the author of the book, "Al-Tahaqi", refers to the word "Madan" from the Hebrew and Syriac words, and the term Medin and Medina is derived from the term "religion (Din)" meaning acceptance and humiliation against programs, laws and regulations (Mostafavi, J 11, 1981: 55).

The idiomatic definition of civilization: Ibn Khaldun has considered the components of civilization to be population, wealth, work, industry, knowledge, art, geography, urbanization, religion, and nervousness (Adami, 2008: 39). He regards habitation as one of the stages in the life of the community, which preliminary stage completes (Sepehri, 1996: 31). He states: "In the

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fact that the community of the human species is necessary and the wise men interpret this meaning so that a person has a civilized nature, that is to say, it is compulsory to form a society which in its term it is called civilization and the meaning of development is the same" (Ibn Khaldun, Vol. 1, 1992: 77). According to Ibn Khaldun, Urbanization and Bedouin complete each other, and Urbanization is the establishment of cities and towns and settlements, in which state, civilization, life issues, industries and knowledges, and amenities are created (Sepehri, 2006: 32).

According to Allameh Jafari, "civilization is to restore order and harmony in the relations of the human beings in a society that eliminates collisions and destructive interruptions and to place the race on the path of growth and perfection to its subordinate so that the social life of individuals and groups of that society leads to an incarnation and the production of their productive talents" (Ja'fari, vol. 6, 1995: 233). Lucas has considered culture and civilization as one, but considers the scope and time of culture to be more limited than civilization. "Culture and

civilization are the common way of life, thought and action of human beings" (Lucas, Vol. 1, 2005: 20). In the thought of Imam Khomeini, the concept of civilization has not been presented in terms of a definite definition, and various meanings are taken from it. He differentiated civilization from culture and used it separately, which showed a different meaning for these two concepts: "One nation's culture is at the head of civilization and culture must be a culture compatible with civilization." He views industrial and economic advances in the form of the development and establishment of institutions and the construction of new instruments as examples of civilization (Fawzi and Sanam Zadeh, 2012: 22). The definition that Imam Khomeini has expressed about civilization represents the material achievements of mankind for the continuation of life and development and progress. In this definition, culture, which includes most spiritual achievements of man, precedes civilization.

Indicator definition

Indicator means outburst, high, impressive, prominent, and an object whose amount determines something's

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nature (Amid, Vol 2: 2003: 1105). An indicator is a quantity which represents homogeneous variables and is a means for measuring and comparing phenomena that have a certain nature and property and can be used to examine changes made in certain variables over a period. Each civilization has characteristics. Stability in the urban system, the rule of the state, the creation of expertise, executive centers, fixed laws, economic centers, scientific institutions and the existence of a moral system are indicators of civilizations (John Ahmadi, 2009: 30-29).

From the beginning of the emergence of Islam, there have always been criteria and indicators for growth whose participation in Islamic civilization for all ages is necessary and the absence of any of these indicators can challenge the progress of Islamic civilization, including the centrality of the Qur'anic laws, reason, knowledge, ethics, effort in God's way, the rule of the people, the avoidance of ossification, the establishment of general welfare, the establishment of justice, the avoidance of the economy based on usury and multiplication, and so on. But in line with human progress, there are definitely

new criteria and indicators that, if Islamic civilization is to progress in the modern world, has to pay attention to them. Ayatollah Khamenei, with his own understanding and comprehension of time requirements, has always placed the needs for attention to emerging issues at the top of his agenda. One of them is the issue of modern Islamic civilization, which naturally requires the attention to new issues, including initiative and creativity, attention to modern media, art, cinema, improvement of international relations, and the issuance of appropriate jurisprudential sentences to the new human needs and so on. Therefore, we will examine these issues and his views about them.

Definition of Islamic civilization

Islamic civilization expresses all the political, cultural and economic aspects of society covering the existential dimensions of the individual and society (Qom Seminary Management, 2004: 113). Islamic civilization is a religious civilization whose components are based on Islam. Thus, Islamic civilization enjoys all the features of divine civilization within the framework of the Qur'anic teachings and

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relies on the tradition of the Prophet Mohammed (PBUH), and its components are religion, morality, Knowledge, justice, laws, regulations, religious principles, etc. (John Ahmadi, 2009: 52-51). According to Ibn Nabi, for the achievement of Islamic civilization, a set of moral and material conditions must be obtained. The elements of civilization in his view are "man, earth and time" (Babaei, 2011: 49-46). According to Zarin Kobb, "... the Islamic community was a cohesive society centered around the Qur'an ..." (Zarinkoub, 2005: 29).

Ayatollah Khamenei considers the Islamic civilization as a space in which human beings can grow spiritually and materially and reach the desirable ends that the Almighty God created for them. In this situation man will be loved, powerful, and willful and initiative and he can build the world of nature. Islamic civilization means this, and the goal and purpose of the Islamic Republic is this (His Speeches, 2005). In this definition, various dimensions of the material and spiritual culture and civilization of mankind have been raised, which leads to his evolution and the access to God.

In summing up the above ideas, the following points can be made:

1) Islamic civilization is based on the Qur'anic verses and established by the Prophet (PBUH).

2) Islamic civilization covers all spiritual and material dimensions of mankind in all places and times.

3) Since Islamic civilization relies on religious morality, it is dynamic.

In general, the meaning of Islamic civilization is all the achievements of Muslims in various dimensions of economic, cultural, religious, social, moral, material and spiritual, industry, inventions and discoveries that began from the age of the Prophet (PBUH), and with the expansion of the Islamic realm from China's western borders to Andalusia. Therefore, in summarizing the definitions of civilization concepts, it can be stated that the characteristics of civilization are different from the viewpoints of Islamic thinkers according to the intellectual principles and conditions of the environment. That is, a number of characteristics of civilization in any era based on changing environmental conditions have severity and weakness.

Indicators of Islamic Civilization in the Viewpoint of Ayatollah Khamenei

1 - General Indicators (Old)

In the Viewpoint of Ayatollah Khamenei about the characteristics of modern Islamic civilization, the enjoyment of human beings from all material and spiritual capacities that God has embedded in the universe and in their existence is very important in order to secure their happiness and excellence. The centrality of the laws of the Qur'an, faith, knowledge, ethics, freedom of movement, the rule of the people and advanced thought, ijihad and meeting the new human needs, avoiding ossification, as well as heresy, the establishment of welfare, the establishment of justice, getting rid of the economy based on usury, rebellion, multiplication, and defense of the oppressed of the universe are common features of Islamic civilization in the viewpoint of Ayatollah Khamenei and other Islamic scholars. He mentions initiative and creativity, attention to modern media, art, cinema, improvement of international relations, the issuance of jurisprudential sentences tailored to the new human needs as

indicators of modern Islamic civilization, which are capable of bringing the oppressive material worldview of the West to bliss (Speeches, 2013).

1.1) The centrality of the rules of the Quran

In the thought of Ayatollah Khamenei, Qur'an and its laws in Islamic civilization are of great importance. According to him, the formation of a modern Islamic civilization should be based on the "common principles of all Islamic religions" and not Shi'a in Iran. Obviously, the first and the highest common source among all Islamic sects is Holy Qur'an. He also considers the main reason for the hostility of enemies to Islamic Iran to be the central issue of the divine laws derived from Quran (Speeches 2011). The reason for the importance of the Holy Quran is its integrity, the comprehensiveness of its laws and its response to all human and social needs of mankind. Also, Imam Khomeini (PBUH) believes that the Qur'an's rules are based on the assumptions of the united community and modern Islamic civilization (Imam Khomeini, Sahifeh 10: 449).

1.2) Faith

The first goal of the prophets is to invite humans to monotheism and to believe in God. We raised a Messenger in every community (to tell them): "Serve Allah and shun the Evil One."³² Thereafter Allah guided some of them while others were overtaken by error.³³ Go about the earth, then, and observe what was the end of those who rejected the Messengers,³⁴ calling them liars (Nahl 16:36). The mission of Prophet Muhammed (PBUH) was also on the same path. During the 23 years of prophecy, he did not miss a moment of this ambition, and all the efforts, wars and sympathies were for this purpose, namely, God-oriented path and inviting to Allah Almighty. This issue is so important that it is the cornerstone of all advances in all civilizations

In the thought of Ayatollah Khamenei, in the first place, the need for modern Islamic civilization is due to faith. He believes that the separation of religion from politics is a manifestation of polytheism, and Muslims do not enter into true Islam until they believe in all aspects of Islam, where politics is also an important dimension. He states that the

main point in Islamic civilization is the belief in God and in the deep sense of pure monotheism, and believes that there is a fundamental point, and that is faith, and we have to set a goal to believe in it. He believes that without faith, progress in these sectors is not possible and work is not done correctly. Now what we believe in can be liberalism, capitalism, communism, fascism or pure monotheism. Finally, one should believe in one thing and follow this belief. The issue of faith is important. There must be belief in one principle, faith in the main harbor of belief; and such a belief must exist. Based on this faith, lifestyle will be chosen (Speeches 2012). Therefore, the most important indicator of modern society and modern civilization in the thought of the leader of the revolution is stepping into God's path and faith in the creator of human beings, which must be implemented at all levels of society, and the social, political, economic and cultural relations should be based on it.

1.3) Rationality/Wisdom

The supreme leader of the revolution emphasizes "rationality" as the most important basis of lifestyle in modern Islamic civilization. In the

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language of narratives, an hour of thinking about the beginning and end of life and religious beliefs, which is a kind of rationality, has been considered superior to many years of worship. God has invoked man in Qur'an for wisdom 300 times (Tabatabai, vol. 3, 1995: 57). Also, Imam Khomeini believed that man in general has three worlds and possesses three powers including the world of the hereafter, the world of the unseen and intellect, the world of purgatory and the world of imagination, the world of universe; therefore, according to him, man has three layers of reason, heart and appearance which the rational dimension needs perfection; the moral dimension needs to be cultivated; and the appearance dimension needs action, and the instructions of the prophets and divine messengers for reason brings perfection and for heart brings education and for the appearance, it is considered as an appropriate action (Imam Khomeini 1998). He believes in three levels for human rationality. A) "epistemic rationality"; b) "moral rationality;" c) "instrumental rationality" (Moinipur and Lakzai, 2012: 66-65). From Imam's point of view, the meaning of reason is documented by the noble

Hadith (Kelini, vol.1: 11) as the reason that can bring man to human values; therefore, from his point of view, a man might be a scientist, but has no reason and uses his knowledge to corrupt nations.

Principles, Foundations and Theoretical Framework of the Supreme Leader of the Revolution in the field of modern Islamic civilization is based on the intellectual principles of Imam Khomeini, and in some cases, flourish, expand and complete those principles. As the Supreme Leader in the ceremony of the first anniversary of Imam Khomeini stated: "Our way is the way that our great Imam has drawn" (Speeches 2011). The Supreme Leader has defined the rationality as one of the hallmarks of Islamic civilization, as states: "Rationality means extracting the power of human wisdom and putting it on the dominant human thoughts and actions. For the formation of the utopia and the united Islamic nation and the great Islamic civilization, we have to set the criterion of reason. The first step in this direction is to strengthen the intellect and wisdom in society. Rationality does not mean conservatism, neglect, and tolerance". He also believes that one of

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the great problems of Muslims is not to use divine wisdom, which caused material, spiritual, worldly, and afterlife damage, and disrupted the formation of the great community of the Islamic world (Speeches, 2/31/2009) . The supreme leader introduces the distortion of western clergy from rationality and wisdom in the pre-Renaissance period as the main cause of the emergence of a pervert Western civilization (Speeches 2004).

1.4) Knowledge

The mission of the Prophet Mohammed (PBUH) began with reading, and this made Islam different from other religions (Akbari, 2011: 20). Holy Quran in verse 9 of Surah al-Zumar has emphasized the supremacy of the scholars on those who do not have this value. In Sura al-Taha verse 114, "and say: "My Lord! Increase me in knowledge."(114)", the Prophet (PBUH) is commanded to seek the growth of his knowledge from the Divine Portal. In other verses of Qur'an, such as Baqarah / 280, Nahl / 95, Imran / 190, Anam / 11, Yunus / 5, Ankabout / 15, and so on, those not seeking knowledge and knowledge are constantly being blamed.

The above points indicate the importance of knowledge in the Qur'an. In Qur'an, knowledge and faith are on the same side: "And those who have been bestowed with knowledge and faith will say: "Indeed you have stayed according to the Decree of Allah, until the Day of Resurrection, so this is the Day of Resurrection, but you knew not" (Rome, 56). Prophet's repeated orders about the knowledge of Muslims are abundant, which has sometimes aroused the surprise of the scholars (Akbari, 2013: 20).

Narratives such as "If God want someone to be good fortune, He will bestow him the knowledge of religion" (Bokhari, Vol. 1, 1981: 28); "Angels spread their wings under the feet of those who seek knowledge" (Koleini, Vol. 1: 34); "The scientists are the heirs of the prophets," "Well asking is half the knowledge" (Harraey, 2008: 95); "Go to China to seek knowledge, then it is obligatory for all Muslims to study science" (Majlesi, Vol. 1, p. 96). and "The closest people to the levels of prophecy are scholars and scientists" (Faiz Kashani, 1982: 14-13), express the importance of science in Islam. The Prophet (peace be upon him) for

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releasing some prisoners who were captured in the Badr War and did not have enough money to free themselves, set a condition that if they taught ten Muslims they would be released from captivity. (Hassan Ibrahim Hassan, 2007: 454). The special focus of Islam on knowledge and the need for a proper understanding of Islamic teachings have led Muslims to develop knowledge and science and to expand the culture and progress of human civilization and as well as their education (Ghorbani, 1991: 65).

Hence, in the thought of the Supreme Leader of the Revolution, the scientific effort and the breaking of the boundaries of science, are the lights for the path of Islamic civilization. According to him, tomorrow is without dark science, and the road to the realization of Islamic civilization is a scientific effort. From the perspective of Ayatollah Khamenei, science is dominant and enhances the power of the society. He emphasizes to a large extent that science must be learned and it must be exported, and should not be only consumed. The methodology of producing science from his point of view is that of *ijtihad*, that is, to deduce from

the sources of religion and refer to the reason behind which there is revelation. In this case, the production of science and knowledge can be on the path to the growth and development of Islamic civilization. According to him, the enemy does not throw any effort to fail and decay this principle, and therefore, the enemy's tricks must be recognized. A very important point in his view of science is to break the boundaries of knowledge by Muslims. According to him, the ossification and dogmatism of the scientific findings of past or Western thinkers are two major limits to the realization of scientific development, and free-thinking is the way out of this pest (Speeches, 2000).

According to him, the value of science depends on spirituality, and science without spirituality lacks any value. Because science without spirituality is what Western civilization now faces. A civilization that was able to achieve great success with sophisticated scientific methods. But in terms of spirituality, it suffered the greatest damage. The emphasis of the Supreme Leader on science along with spirituality, is due to the fact that science brings power, and if this power is unlimited, it

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becomes a source of corruption and deceit. On the contrary, when spirituality manages science, it becomes a source of prosperity and serves the calm and security of the people. An example of the misuse of science is the US's inhuman use of high-tech nuclear technology in the murder of the innocent people of Hiroshima and Nagasaki (Speeches, 2006).

1.5) Ethics

Morality is meant to be the force and the inner nature of man, which can only be understood by the insight. Ethics is a science that introduces good and evil attributes and acts and arbitrary behaviors appropriate to them, and shows the way of studying the qualities of good deeds and performing good deeds and avoiding bad deeds and evil acts (Deylami and Azarbaijan, 2005: 16-15). Holy Qur'an regards ethical issues as one of the goals of the prophecy and considers human life in the ethical circle. Ethics is another important characteristic of modern Islamic civilization in the supreme leader's idea. He considers spirituality and morality as the same factor that one day, transformed Islam from a small community into a great

civilization, and this civilization has ruled the world for centuries, and today the world owes Islamic civilization. According to him, paying attention to God and paying attention to spirituality led to the development of such a civilization; otherwise, such a civilization would not have been sustained by material motives and efforts (Speeches 1996). The Leader of the Revolution considers the basic condition of building an advanced civilization with the fewest flaws as the spirituality based on the religion of Islam and believes that religious spirituality will be the basis for recognizing the talents and utilizing them appropriately and desirable progress in all aspects with the least damage (Speeches 2012).

As the foundations for the modernization of Islamic civilization, he believes that "Islam considers rationality, morality and law as the cornerstones of the right culture, and we must also seriously address these issues, otherwise the progress of Islam and the new Islamic civilization will not take shape" (Speeches 2012). For answering questions like "What role ethics play in the context of society and what ethics is and what role its existence play and its

relation to rationality, religion and science, he say: "Morality/ethics is a delicate weather in human society, and if it exists, humans can have a healthy life by breathing." Ethics, which, in his view, is the engineering and management of the second layer of human existence, is the subtle air, that is, human beings need the same amount of morality, neither water nor food (Speeches 2009). So it is in the shade of a healthy environment that civilization develops.

1-6) Effort

Undoubtedly, the foundation, development and expansion of civilizations can only be achieved in the light of the constant pursuit of human beings, and one of the hallmarks of civilizations is the endeavor of its people. In Islamic sources, this continuous effort has been considered greatly, and has been referred to as *Mojahedat* meaning great effort, which has a huge impact on the growth and sustainability of Islamic civilization. It has its own scales, which in any civilization do not match in history. This word has also been considered in the Quranic culture and has been ordered to do all kinds of activities in different parts of the world with great effort. As the

interpreters of the word in the verse "So obey not the disbelievers, but strive against them (by preaching) with the utmost endeavor, with it (Forghan 52) (Tabresi, 1981, 17, p. 26; Ibn Kathir, 1419, 6, p. 106; al-Vasi 1415, Vol. 10, p. 32; Tabataba'i, 1995, Vol. 14, p. 582). Accordingly, in the words of the Supreme Leader, it is a strategic term that, given its profound effects on the growth and durability of the modern Islamic civilization, has invited all to effort in all activities at various occasions. Referring to the verse, "As for those who strive hard in Us (Our Cause), We will surely guide them to Our Paths (i.e. Allah's Religion - Islamic Monotheism). And verily, Allah is with the Muhsinun (Al Ankarabout 69), He assert that in the event of having effort, the achievement of success and confirmation of the divine will be definitive.

In the view of Ayatollah Khamenei, this is very different from ordinary effort, and the main difference with the ordinary effort, based on the above verse, is the important point of sincerity (Speeches 2004, 2012). In the above verse, according to the words *in Us (Our Cause)*, and the emphasis on

"Our Paths," the promise of definitive success and Divine mercy has been given explicitly for all the efforts that are in the interest of divine pleasure. Therefore, according to Supreme Leader, effort is one of the cornerstones of the formation of Islamic civilization. He believe that effort should be used to achieve modern Islamic civilization. The Supreme Leader, introducing political, economic, and scientific jihad encouraging Muslims to have their best efforts. Therefore, it can be concluded that in his thought, effort in all fields promotes transcendental goals and does not retreat against the enemy. He said during a visit to the country's authorities on the day of Eid Fitr in 2011 that "Islam has the ability to bring humanity to prosperity, to complete it and to grow it materially and spiritually. These are the foundations of the Prophet - the foundation of faith, the basis of rationality, the basis of your freedom of movement, the basis of dignity - the main cornerstones of the Islamic society "(Supreme Leader, 2011, 2013).

1.7) Popular government

In the thought of the Supreme Leader, people have a great role in

Islamic civilization. He describes the characteristic features of Imam Khomeini's political school as a factor of importance for the people who were considered by Imam. In the political school of Imam and the Supreme Leader, human identity is both valuable and dignified, powerful and effective. The worthy result of dignity is that people's opinions must play a crucial role in managing the destiny of mankind and a community. Hence, democracy in the political school of the Imam, taken from the text of Islam, is a true democracy, unlike American democracy and others which are slogans, deception or seduction of the people's minds. People vote by the way of will and faithfully choose their way. The Supreme Leader of the Islamic Revolution considers the popularity of Imam Khomeini's government in a way that he puts the constitution law in in early stages of the revolution and believe that the people's vote is decisive, and this is due to their dignity given to them by the religion of the Almighty God. In the political school of Imam and the Supreme Leader, democracy has risen from the text of religion and from versus such as “and who (conduct) their affairs by mutual

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consultation, and who spend of what We have bestowed on them” (Al Shoura 38) and “He it is Who has supported you with His Help and with the believers” (Infal 62) (Speeches 2004)

1.8) The Avoidance of Ossification

An ossified person is someone who is not flexible in terms of innovation and transformation, and accepts ideas that are in line with his thinking and refuses to accept the thoughts of others (Morrowati, 2012: 159). Ossification is one of the serious obstacles and barriers to innovation and prosperity in modern Islamic civilization, which must be severely avoided, because we are witnessing changes every day in different areas of life. In the history of Islam, Khawarij were the first to suffer from extremism. Imam Ali (PBUH) said to them sharply: "I am trying to treat pain with you, while you have become pain without cure. I'm like somebody who has the thorn in his legs, and he has to pull the thorn from his feet with the help of another thorn, and yet he knows that the thorn will break in the first place "(Nahj al-Balagh, sermon 120). The danger of ossification and prejudice in modern Islamic civilization is a matter of great

concern to the ideas of Supreme Leader and is constantly emphasized on the production of thought and innovation in all areas.

He calls for two essential elements in the creation of Islamic civilization, as in other civilizations: one is the production of thought, another is the cultivation of man. The leader of the revolution, while supporting the Islamic-Iranian pattern, introduces its development with elements such as dare, courage, and a strong motive and in the meantime, thought is the main spirit of this movement. "In the design of the Islamic-Iranian model of development, emphasis must be placed on four areas of thought, science, spirituality and life, among which the subject of "thought" is more fundamental than the rest of the areas. Also, he talks about the superiority of Islamic thought as: "Islamic thought itself is like a deep sea; it is an ocean and anyone who has gone to the shore cannot claim to know the ocean. Anyone who drove near the beach or dropped a few yards in water at a point cannot say that the ocean is known. Deep investigation in this vast ocean and reaching its depths and discovering what everyone has to do are things that need to be done over time.

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The production of thought is possible at any time in accordance with the needs of that time from this vast ocean of education (Speeches 2000, 2012).

1.9) Establishment of General welfare

Among other features of Islamic civilization in the thought of Ayatollah Khamenei, the general welfare for Muslims is introduced in a fair method. He has paid attention to this important issue in his speeches and has recommended to the authorities of the country and Islamic rulers that they must work harder for the comfort and psychological safety of the people. Undoubtedly, the general welfare is of the devices and fields of the formation of civilizations, therefore, it is emphasized in the thought of the Supreme Leader, which has been given special attention in Islam, as well. He believes that the economic idea of Islam is specific and only is in Islam, and the general policy of the economy should be the creation of general welfare and social justice among each individual in society. Ayatollah Khamenei has expressed general ideas about explaining the policies of the resistance economy and has paid attention to them. In his opinion, "in fact,

the components of this series are a matter of creating dynamism in the country's economy and improving macro indicators, such as economic growth, national production, employment, inflation reduction, productivity increase, and general welfare ..."
(Speeches 1993, 2013).

1-10) The establishment of justice

Justice, which is one of the principles of religion, is another major feature of Islamic civilization. Holy Quran commands justice as: "O you who believe! Stand out firmly for justice" (Nisa, 135). Somewhere else, the goal of introducing prophets is justice as: "Indeed We have sent Our Messengers with clear proofs, and revealed with them the Scripture and the Balance (justice) that mankind may keep up justice" (Hadid, 25). In this verse, justice has been described for the whole people, which is itself a reason for the very presence of the justice soul in Islamic civilization. During history, one of the main causes of the decline of civilizations has been cruelty, which is the opposite of justice. Accordingly, in the thought of the Supreme Leader, the decline of civilizations is caused by

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deviations, and civilizations will be degenerating due to their weaknesses and deviations after they reach the peak, and now signs of this decline are visible in Western civilization so that science is without ethics, materiality is without spirituality, and religion and power are without justice. In another place, as the Supreme Leader states, social justice is mentioned as one of the most important lines in Imam's political school and believes that social justice and the filling of class divisions must be in all government programs, legislation, and implementation of law. He believes that if we say that we are a wealthy country, but wealth will be in the hands of a few and in the interests of a number of people, and many people will be poor, we will not create Imam's political school. To fill the gap between people and to eliminate discrimination in the use of various national resources among the classes of the people are the most important and most difficult responsibilities, and all planners, legislators, administrators and all those who work in different organizations should pay attention to these issues and consider them as the most important indicators of their movement. He

explains the resistance policies of social justice: "Of all these indicators to social justice. He believes: "The key and important indicator of social justice is more important than all of these indicators; that is, we do not accept and do not believe in the prosperity of the country without any social justice. Countries whose indicators are very good and desirable, and their economic growth is high; however, discrimination, class differences, and lack of justice in those countries are perceptible; but we do not see this in any way consistent with the will of Islam and the goals of the Islamic Republic. So one of our most important indicators is the social justice index. Those who are deprived of the economic progress of the country should be literally benefited "(Speeches 2000, 2004 and 2012).

1-11) Avoiding the economy based on usury and multiplicity

About nine hundred verses from Qur'an talks about the discussions and economic issues directly or indirectly. In Quran, the economic goals (such as economic justice, poverty eradication, etc.), the fundamentals of economics (the inexhaustibility of resources), the centrality of man in the interests of the

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world, the true ownership of God, the guarantee of everyone's earning, and the ultimate truth of the hereafter, the principles of economics (the moderation of co-operation, the association of the economy with divine and ethical values and neglect of usury, etc.) as well as economic theorizing (the effect of spiritual affairs in economic growth, etc.) have been discussed (Rezaei, 2011: 11). According to the verses of Holy Qur'an, the economy and the collection of wealth and specialty are not the goals, but the introductions to the great goal. " O you who believe! Verily, there are many of the (Jewish) rabbis and the (Christian) monks who devour the wealth of mankind in falsehood, and hinder (them) from the Way of Allah (i.e. Allah's Religion of Islamic Monotheism). And those who hoard up gold and silver [Al-Kanz: the money, the Zakat of which has not been paid], and spend it not in the Way of Allah, - announce unto them a painful torment"(Repent, 34). From the point of view of Quran, capital is a means of production and work. Therefore, it should not be stored as a treasure or a usury tool that inhibits economic growth.

O you who believe! Be afraid of Allah and give up what remains (due to you) from Riba (usury) (from now onward), if you are (really) believers. And if you do not do it, then take a notice of war from Allah and His Messenger but if you repent, you shall have your capital sums. Deal not unjustly (by asking more than your capital sums), and you shall not be dealt with unjustly (by receiving less than your capital sums). (Baghareh 278-9). The Supreme Leader is keen on discussing a healthy economy in modern Islamic civilization and heavily forbade a usury economy and based on that is a pitfall in economic growth and has consistently given commands to the department of justice to raise against usury and to track the implementation of healthy economy policies. The reason for paying close attention to the sources of the economy and the issues surrounding it is to the sources of Islam. According to the Supreme Leader, the two principles of the Islamic economy are: "Increasing national wealth", which the Islamic nation must be a wealthy country and advance its supreme goals internationally and the second principle is "fair distribution and removal of

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deprivation in the Islamic society" (Speeches 2006). The idea of resistance economy by the leader of the revolution and the tolerance by the Iranian people are the parameters of the expansion of modern Islamic civilization.

2- Novel Indicators of Islamic Civilization

The Supreme Leader, with his own understanding and thoughtfulness of the time requirements, has always placed the need for attention to new issues at the top of his programs. One of them is the issue of modern Islamic civilization, which naturally requires the attention to new issues, including initiative and creativity, attention to modern media, art, cinema, improvement of international relations, the issuance of appropriate jurisprudential sentences to the new human needs and so on. Therefore, we will examine these issues and the pertinent view of them.

2.1) Effort, Work and Creativity

Islam never sees work and effort apart from worship. In this thought, the active man is blessed by God, and those who are not working and

lazy will be rejected and cursed. Accordingly, the Supreme Leader has stated: "Work in the broad sense, physical labor, intellectual work, scientific work and management work, is in fact the axis of progress, movement and the continuous life of society. All of us must know this fact. If work does not exist, capital, materials and energy and information, will not be useful for humans. It is a work that, like a spirit empowers capital, energy, and raw materials and makes them consumable for human use. It's the worth of work. In Islam, work is worship and a value." Another important point in his speeches is the presence of collective work and effort that is not satisfactory in our country and has not been yet a part of our national traits and should be corrected. He encourages directors and authorities of the country to work on technology, industry, agriculture, and the production and reproduction of national wealth. In his perspective, working in the best manner is more important than above mentioned issues (Speeches, 1998, 2009, 2004). According to him, in the current economic world, modern Islamic civilization can only be achieved through

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the continuous work and creativity and innovation.

2.2) Modern media, art and cinema

Mosque at the beginning of Islam was considered as the most important mass media and place of publication of news and ideas, thus playing an important role in the expansion of Islamic civilization. After the Islamic civilization was confronted with recession, Western civilization achieved massive advances in the mass media industry. Nowadays, despite the advanced communication technologies that are often developed by Western civilization, spatial and temporal distance between societies is lost, and Western civilization seeks to institutionalize Western lifestyles and spread ugliness among other societies. Holy Qur'an has warned about the ugliness of civilization: "Verily, those who like that (the crime of) illegal sexual intercourse should be propagated among those who believe, they will have a painful torment in this world and in the Hereafter. And Allah knows and you know not." (Nour 19)" Hence, modern and powerful media are indispensable for confronting Western culture and

style, as well as for securing the values and foundations of Islam in modern Islamic civilization. For this reason, the Supreme Leader emphasizes the strengthening of modern media in modern Islamic civilizations and warns against the suppression of Western civilizations. For example, the term "soft war", in the Supreme Leader's view, indicates the massive invasion of Western civilization for the cultural transformation of Muslim countries and even other countries. He describes the widespread misuse of the West by means of art, especially performing arts and cinema: "Western politicians are seeking to tasting and promoting Western lifestyles in other societies using this method." He also discusses the importance of the film industry for the transfer of cultures, which Western civilization has recognized its importance, and is now implementing its intrinsic intentions to dominate other cultures, and based on expert knowledge and with the help of sociologists, psychologists and historians examine the weaknesses of nations, especially the Islamic nations. Also, by knowing the ways of mastering them, they order filmmakers to create certain films in

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which all officials and people should take care of their original culture and country (Speeches 2004).

2.3) Improving international relations

Communication between societies in the current world has become very complex and societies have inevitably relations with each other. The reason for this is that the world population and human needs have undergone fundamental changes. In the civilizations of the past due to population constraints and their needs, if the civilization was not related to any other civilization for any reason, it might not have been severely disrupted. Because the relationship of societies with each other was low and at a rate of trading. But in the current world, the situation has been reversed, and the extent to which societies have been interacting with each other has greatly increased, and many of the powers in that way influence other nations. For example, in the oil industry, which is a global issue, the interests of all countries are so entrenched that with the slightest incident in the world, the market fluctuates. Accordingly, in modern Islamic civilization, relations with other civilizations are required for

two reasons: the first issue is the needs of the people of the society, since in Islamic civilization there cannot be as much a product as needed, and through this relationship the need is met. But the second issue that should be considered through international relations is the issue of transferring theoretical foundations of Islam in order to provide a prelude to the emergence of the savior of the world.

The divine reserve that will advance the modern Islamic civilization to its highest level. The Supreme Leader emphasizes international intellectualism in modern Islamic civilization based on the intellectual and epistemological principles of Imam Khomeini. He refers to the universality of the political school of Imam Khomeini, who sought to export the independence and dignity of the Islamic Revolution to other countries. According to him, the type of issuing the message of the school of Islam by Imam to the human being is very different from that of the United States and others by force and use of atomic bombs. In the political school, Imam spreads his ideas and his new speech by explaining the space of the human mind. The Supreme Leader

considers the movements that have taken place in Palestine and other countries influenced by the message of the global revolution of the Islamic Revolution of Iran, which has been conceived by the founder of the revolution in the body of history. Therefore, the issue of Palestine in his thinking is not a personal issue between Palestine and Israel, but concerns all Muslims (Speeches 2004).

2.4) Issuing jurisprudential sentences related with the modern human needs

The religion of Islam has been introduced as the final religion (Al-Ahزاب, 40). It must address every new issue raised by modern Islamic civilization regarding human needs, and this goes back to the comprehensiveness of Islamic law. The Supreme Leader also emphasizes that in the seminaries, those who master the needed knowledge to meet the new needs should be taught. He says: "The day that there will be a hundred, five hundred, and thousands of clerical figures like Imam in our society and our country, you will see what great movement this community will bring." When there are hundreds of people in our society who have knowledge of religion and dominate the logic and rational

reasoning in philosophy and theology, and new philosophy and in the face of pseudo-hypocrites, you will see what great movement this community will bring. When using such a community, a collection of thousands of books, magazines and scientific articles are published across the world in different languages, you will see what kind of sun will shine from this point of the universe to all the intellectual space of the human world. (Speeches 2006).

Conclusion

Ayatollah Khamenei, in a general definition, recognizes the characteristics of Islamic civilization as enjoying human beings from all material and spiritual capacities that God has embedded in them in the natural world and in their existence in order to secure their happiness and excellence. Among the characteristics of Islamic civilization that Islamic scholars and historians have spoken about in Islamic history and Ayatollah Khamenei discussed in greater detail are: the focus of the Qur'anic laws, wisdom, knowledge, ethics, effort in the way of God, the popular government, avoidance of ossification, establishing general welfare, and avoiding the

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economy based on usury and multiplicity. However, the Supreme Leader with his great determination and understanding of time, introduces modern Islamic civilization with new components such as initiative and creativity, attention to modern media, art, cinema, improving international relations and issuing jurisprudential sentences tailored to new human needs so that Islamic civilization remains dynamic and competitive with West and modern world. He believes that the expansion of modern Islamic civilization requires a collective effort and wisdom that arise in the light of unity, discipline, work, effort, faith in God, creativity, rationality, scientific ability, and strong media.

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CONSTITUTIONAL COURT AS AN AUTHORITY FOR DISPUTE RESOLUTION

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Abstract: The article presents an analysis of the powers of the Republic of Serbia Constitutional Court to resolve competency and electoral disputes. The leading method in this study is the system analysis, which allows a comprehensive review of the system of measures and procedures aimed at implementing the dispute resolution function of the constitutional justice body of Serbia. Analyzing the evolution of the organizational process and the expansion of the practice of Serbian Constitutional Court, the author concluded that the modern constitutional legislation of the Republic of Serbia provided the judicial constitutional control body with sufficiently effective capabilities to resolve a wide range of legal disputes to protect the principles of the rule of law, constitutionality, legitimacy, and separation of powers, as

well as rights to regional autonomy and local governance.

Keywords: Constitutional control, constitutionality, legitimacy, dispute on competence, electoral disputes, constitutional proceedings.

1. Introduction

The European-type concept of constitutional justice has encountered nearly a hundred years of experience; it underwent several stages of reform during this period. However, to date, the implementation of the dispute resolution function is considered one of the most important areas of its activity.³ That doesn't happen by accident, the fact is that modern socio-political life is characterized by an abundance of conflicts related both to the process of forming the highest bodies of state power

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and to the delimitation of the competence of state bodies and other entities that exercise power. Besides, it is practically impossible to make such a detailed differentiation of the competence of state authorities to explicitly exclude periodically arising disputes on competence. Thus, the causes of disputes over competence in the activities of state bodies may vary. However, their solution lies in the plane of activity of a neutral body that is outside the traditional system of separation of powers, and which can consider a political conflict of competencies in the legal framework based on specially established legal procedures. That is why the constitutional courts of several European countries have the status of the fourth judicial control authority in the state,⁴ designed to balance the other three, ensuring the protection of basic constitutional values; the power to resolve disputes on competence is the most often used authority (after compliance assessment) by the body of constitutional supervision.

⁴ See: Leibo, Yu. Constitutional control in foreign countries: collective monograph / [Yu.I. Leibo et al]; Eds. E.Y. Pavlov, E. Kremyanskaya (In Russ.): Moscow: MGIMO, 2015: 246.

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Another important

manifestation of the implementation of the dispute resolution function by modern constitutional courts is the review of electoral disputes. Indeed, the existence of an institution of representative democracy is the most important sign of a modern state, which claims to be democratic. Therefore, it is difficult to imagine a modern state without a developed electoral system that ensures the participation of citizens in the exercise of power. Moreover, the level of democracy of the governmental system depends on its ability to reflect the will of citizens, implemented through suffrage. That is why the latter is guaranteed by the constitution as a basic political right, becoming an object of special protection from the constitutional justice bodies. This refers not only to the protection of suffrage and the resolution, respectively, of political disputes arising in the process of forming the highest state bodies, through the offices of the special powers of the constitutional courts to resolve electoral disputes.⁵

⁵ See: Tumanov V.A., Polovchenko K.A. Constitutional Bases of Judicial Power. Constitutional Law of Foreign Countries: Textbook (In Russ.) // Ed. by M.V. Baglai, Ju.I. Lejbo, L.M. Jentin. Moscow, INFRA-M, 2016:334.

As for the constitutional control body of modern Serbia, it should first be noted that Serbian Constitutional Court, being one of the oldest in Europe, was formed back in 1963 during the existence of socialist Yugoslavia and acted in full accordance with the socialist principles of organization of State: the unity of state power and the supremacy of parliament. According to Section 1 of the Law on the Constitutional Court of the Socialist Republic of Serbia of 1963, the Constitutional Court was an independent body of the Republic, protecting constitutionality and legitimacy based on the Constitution and within the framework of its constitutionally established rights and obligations. It can be stated with confidence that with the formation of the Constitutional Court in the Socialist Republic of Serbia in 1963, a fairly effective institution of judicial constitutional control was created that meets the goals and objectives facing the constitutional system of Serbia of that historical period.⁶

The 90s became a new stage in the development of constitutional justice in Serbia, which is related, first of all, to the departure from socialist principles in organizing the political and economic structure of the country. Thus, the very first post-socialist Constitution was adopted in Serbia in 1990. The main message of its adoption was the rejection of the socialist experiment, which lasted almost 50 years. The main constitutional beginning of the new Basic Law of 1990 was the principle of separation of powers, established along with the principle of political pluralism. As for the Constitutional Court itself, the 1990 Constitution regulated the status of the Constitutional Court of the Republic of Serbia in quite a new way; the Court was now an organ for protecting constitutionality and legitimacy in a state based on the rule of law.⁷ In accordance with Section 125 of the Serbian Basic Law of 1990, the Constitutional Court had, among others, the power to resolve disputes on competence, including

⁶ For details refer: Polovchenko, K.A. GENESIS OF THE INSTITUTE OF CONSTITUTIONAL JUSTICE IN THE REPUBLIC OF SERBIA: 1963-1974 / Economic problems and legal practice, 2017, №4:68.

⁷ Polovchenko, K.A. TRANSFORMATION OF THE INSTITUTE OF CONSTITUTIONAL JUSTICE IN SERBIA IN THE 90TH OF THE 20TH CENTURY // Economic problems and legal practice, 2017, № 5:76.

between courts and other bodies,⁸ also, during this period, the constitutional justice body of Serbia was first vested with the power to resolve electoral disputes.⁹

The new Constitution of Serbia of 2006 clearly defined the role and place of the Constitutional Court in the constitutional system of the state. Thus, according to article 166 of the current Basic Law of the Republic of Serbia, the Constitutional Court is an autonomous and independent state body that protects the constitutionality and legitimacy, as well as the rights and freedoms of individuals and minorities; the Courts decisions are final and binding.¹⁰ As can be seen, such a definition of the Constitutional Court has become more

voluminous compared to the one presented in the 1990 Constitution, it also reflects the role of the Constitutional Court as a public defender of not only constitutionality and legitimacy but human and minority rights and freedoms as well. Also, the creators of the 2006 Constitution established the basic rules governing the status of the Constitutional Court following the already established constitutional tradition in a special chapter named the ‘Constitutional Court’, thus separating it from the judicial system itself.¹¹ As a result, the Serbian doctrine designated the status of the Constitutional Court under the 2006 Constitution as the bearer of the ‘fourth’ constitutional and judicial power, authorized to ensure the functioning of

⁸ Thus, under the Law on Constitutional Court of the Socialist Republic of Serbia of 1963, competency disputes were to be resolved by the Constitutional Court including disputes between courts and republican bodies, as well as between courts and other public authorities acting in the territory of the Republic (Article 42). However, recognizing the supremacy of parliament and in the absence of a separation of powers, the competency disputes between the highest bodies of state power were out of the question. The Constitutional Court of the SRS also had the power to resolve disputes on the rights and obligations between socio-political associations in the territory of Serbia, if their resolution was not within the jurisdiction of other courts, i.e. the powers of

the Constitutional Court were complementary and subsidiary.

⁹ This is quite understandable, since during the implementation of the socialist constitutionality concept in the former SFRY, the Constitutional Court, in the conditions of a single-party system, simply could not deliver a judgment on electoral disputes.

¹⁰ Polovchenko, K.A. Constitutional control in the Republic of Serbia. Constitutional control in foreign countries: collective monograph (In Russ.) / Moscow: MGIMO-University, 2015: 234.

¹¹ Marković, R. Constitutional Court in the 2006 Constitution of the Republic of Serbia (In Serb.) / Belgrade University School of Law Publishing, 2–2007: 12.

the three initial branches of government within the constitutional framework.¹² The 2006 Constitution of Serbia provided for a wide range of disputes on powers, the resolution of which falls within the competence of the Constitutional Court;¹³ also, the power of the Constitutional Court to resolve electoral disputes was drastically modified. Thus, under the current constitutional legislation of Serbia, the function of resolving disputes of the Constitutional Court has become one of its main areas of expertise.

2. Methods

The object of the presented study is a complex of constitutional-legal relations arising during the implementation of the function of dispute resolution by the Constitutional Court. The research undertaken in the article was conducted using several general scientific and special methods of

cognition and research. The leading method in this study is a system analysis that allows a comprehensive review of the system of measures and procedures aimed at implementing the function for resolving disputes by the constitutional justice body of Serbia. Also, in the course of the research, the formal legal and comparative methods (especially involved for this study) were abundantly used in the analysis of the particular procedural issues related to the peculiarities of the exercise of the authority of the Constitutional Court on the resolution of legal disputes. Characterizing the overall function of the Constitutional Court on the resolution of disputes, proper attention should be paid to the fact that the basis of the competency disputes between the public authorities may vary, but their resolution is obliged to be assigned to the neutral arbitrator, positioned outside the traditional system of separation of

¹² According to Professor Marković, 'The Constitutional Court is a special constitutional body, which is not a court, although the name contains the word 'court'. Moreover, this body is called a 'court' because it exercises the functions of monitoring constitutionality, legitimacy, and human and minority rights protection based on a methodology, that is, rules and procedures similar to those applied by courts

of general and special jurisdiction'. See: Marković, R. Constitutional Court in the 2006 Constitution of the Republic of Serbia, Belgrade University School of Law Publishing, 2-2007: 14.

¹³ Polovchenko, K.A. Expanding competence of the Constitutional Court: the experience of Serbia / Gaps in Russian legislation, 2017, №4:92.

powers and capable of resolving a political dispute based on specially established legal procedures. Such a body, of course, is the current constitutional court. As for the resolution by the Constitutional Court of electoral disputes, in these types of proceedings the Court acts as an arbitrator between various political forces, while being the guarantor of the basic constitutional value - the democratic state structure. Thus, the powers of the Constitutional Court related to the implementation of the dispute resolution blend seamlessly into the competence of the constitutional control body; the author comes to the above conclusions in the course of this study.

3. Results and discussion

3.1. Constitutional court authority to resolve competence disputes

The modern theory of constitutional justice provides for a wide variety of competency disputes before constitutional courts, such disputes can be divided using various criteria. For example, if the differentiation is based

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on the position of the subject of the dispute regarding disputed competence, then competency disputes are divided into positive (when two or more authorities hold that they are authorized to decide on a specific issue) and negative competency disputes (when no one in the system of power does not accept responsibility for making decisions on a specific issue).

Depending on the nature of the relationship between the subjects of the competency dispute, such disputes are divided into vertical competency disputes, arising between holders of power of various hierarchical levels (primarily between the state and various political and territorial units established on its territory by the constitution¹⁴), and into horizontal disputes on competence, arising between holders of power of the same hierarchical level. In turn, horizontal competency disputes subordinated to constitutional courts are divided into disputes between the highest authorities, between state authorities of various federal subjects in federal states, and also between bodies of various administrative and territorial units,

¹⁴ When it comes to vertical disputes on competence, this is, first of all, referred to

federal disputes on competence between the federation and its subjects.

including autonomous and municipal entities.

The current Constitution of Serbia provides for the jurisdiction of the Constitutional Court of Serbia of practically all of the above types of competency disputes, except for disputes related to the federal structure of the state, due to the unitary nature of the Republic of Serbia.

Thus, according to paragraphs 1-4 of Part 2 of Article 167 of the Constitution of the Republic of Serbia, the competence of the Constitutional Court includes the resolution of disputes on competence between courts and other state bodies; disputes on competence between the bodies of the Republic and the authorities of the autonomous region or the bodies of local self-government units; disputes on competence between the authorities of the autonomous region and the bodies of the local government; and disputes on competence between bodies of various autonomous territories or various units of local self-government.

Consequently, the Constitutional Court of Serbia resolves the following vertical disputes on

competence: between republican (state) and regional bodies or local authorities (bodies of territorial units), as well as between regional bodies and local authorities in the autonomous region (clauses 2 and 3 of Part 2 of Article 167 of the Law on the Constitutional Court). As professor Simović has aptly noted, the presence of vertical disputes over competence indicates the existence of real decentralization in unitary Serbia, where conflict of authority can arise between central and local government bodies, and the Constitutional Court in this regard acts as a guarantor of territorial autonomy and local self-governance stipulated by the 2006 Constitution.¹⁵

In contrast to vertical, horizontal competency disputes arise between power holders of the same hierarchical level. These are, as a rule, disputes over competencies that arise between bodies representing three classical branches of government: legislative, executive and judicial. In this sense, the wording provided for in paragraph 1 of Part 2 of Article 167 of the Constitution of Serbia is an example

¹⁵ Vučić, Petrov, Simović. Constitutional courts in former Yugoslavian republics (In *Serb.*) / Belgrade, 2010:178

of an exception to this rule, since it provides that the Constitutional Court is authorized to resolve disputes on competence between courts and other state bodies. An adequate interpretation of this constitutional wording suggests that the Constitutional Court is not authorized to adjudicate on competency disputes unless one of the parties is a body representing the judiciary.

Thus, the 2006 Constitution unjustifiably narrowed the authority of the Serbian Constitutional Court to resolve horizontal competency disputes, since it excluded from the competence of the Constitutional Court disputes between the legislative and executive authorities, the unresolved conflict between which could well lead to a ‘malfunction’ of the state mechanism of Serbia. Moreover, given the double-headed structure of the Serbian executive branch, some potential conflicts within the executive branch itself (taking into account its specific structure), such as between the Government and the President of Serbia are left without a ‘conflict resolver’. According to professor Simović, in such situations, the

Constitutional Court would be the most suitable body to assume the role of a neutral and impartial arbitrator, able to find a legal solution to a political conflict.¹⁶

On the other hand, as can be clearly seen from the foregoing, the constitutional wording set forth in clause 1 (2) of section 167 of the Constitution of Serbia and providing for the power to resolve competency disputes between courts and other state bodies is very similar to the wording provided for in the Serbian constitutions of 1963, 1974 and 1990, representing the established constitutional tradition of limiting the competence of the Constitutional Court to resolve horizontal disputes between Serbian public authorities exclusively on those cases when one of the parties involved is a judicial authority. On a related note, professor Marković draws attention to the fact that another disadvantage of such a constitutional wording is that the competence of the Constitutional Court did not include the power to resolve competency disputes between the judicial authorities themselves.¹⁷

¹⁶ Vučić, Petrov, Simović. Constitutional courts in former Yugoslavian republics (In Serb.) / Belgrade, 2010:179.

¹⁷ Marković, R. Constitutional law (In Serb.) / Belgrade, 2014:554

Another variety of horizontal disputes resolved by the Constitutional Court of Serbia are competency disputes between bodies of various autonomous regions or local self-government units (clause 4 Part 2 of Article 167 of the Constitution), which also testifies to the freedom of horizontal connections between autonomies and territorial units in conditions of decentralization of state power in Serbia and the special role of the Constitutional Court in protecting territorial autonomy and local self-governance in Serbia.

When it comes to the legal regulation of proceedings for the resolution of disputes on competence, it reflects the specifics of this type of dispute under the jurisdiction of the Constitutional Court. Particular attention should be paid to the list of entities having the right to appeal to the Constitutional Court to resolve a dispute on competence. According to Part 2 of Article 68 of the Law on the Constitutional Court of Serbia, a request for resolution of a dispute on competence is to be filed by one or both bodies in a disputed relationship, as well as by a person whose right has become the basis for a dispute on competence. Thus, the

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scope of persons participating in the dispute, in addition to the very parties, also includes persons concerning whose right the corresponding dispute arose; the participation of such persons in the process of the legal argument is not conditional on the presence of the corresponding legal interest. The request for the resolution of a dispute on competence should contain the name of the body claiming or rejecting the competence and the reasons based on which this should be performed (Article 69 of the Law on the Constitutional Court).

The deadline for filing a request for resolution of a dispute on competence is indicated in Serbian law in a quite unusual way. Article 70 of the Law on the Constitutional Court provides that in case the authorities reject the competence, a request for resolution of a dispute on competence is filed within 15 days from the date the decision of the second body that recognized itself incompetent entered into force. Thus, the Serbian legislators limited themselves to setting a deadline for initiating proceedings on a negative competency dispute, while the Law on the Constitutional Court does not mention

anything about the deadline for initiating a positive competency dispute, which is undoubtedly a drawback of regulating proceedings on this kind of cases. At the same time, proceedings for the resolution of a dispute on competence shall be deemed initiated from the date of the appeal to the Constitutional Court. The deadline for the submission of objections by the participating authorities is eight days from the date of delivery (Article 72).

Regard is to be had to the fact that the proceedings on competency disputes in the Constitutional Court are the result of a dispute between public authorities or other holders of power over the competence of which of the bodies involved in the exercise of competence, so ambiguously defined by the Constitution. Given the nature of this category of constitutional disputes, the Constitutional Court, when reviewing a dispute on competence, is limited solely to resolving the dispute itself. Thus, the Serbian Constitutional Court in the course of proceedings in such cases determines exclusively the competent authority, without considering the issue on the merits of which a dispute over competence has arisen.

As provided for in the constitutional legislation of the socialist period, the current Law on the Constitutional Court provided that the Court has the right to adopt a decision on the suspension of proceedings in the bodies between which a dispute arose until the end of the proceedings for the resolution of a dispute on competence in the Constitutional Court (Article 73). When it comes to the order of entry into legal force of a decision on competency disputes of the Constitutional Court of Serbia, the Law on the Constitutional Court stipulated that a decision of the Constitutional Court enters into legal force from the date of delivery to bodies between which a dispute arose and, respectively, to a person whose right was disputed. As a matter of fact, the Serbian legislators only specified that with the adoption of a decision by the Constitutional Court, acts adopted by an incompetent body are canceled (Article 74 of the Law on the Constitutional Court).

Considering the practice of the Constitutional Court in resolving competency disputes, the experience of the constitutional control body in resolving vertical disputes over this issue

was quite extensive during the socialist period. However, at the present stage, the practice of the Serbian Constitutional Court in resolving vertical disputes is almost imperceptible in the total number of conducted trials. As for the practice of resolving horizontal disputes, in the early post-socialist period of the 90s of the 20th century, it was also very insignificant and, according to the Serbian researcher Irena Pejić, the reason for this was the unwillingness of the Constitutional Court to enter into conflict with political authorities.¹⁸ At present, although the authority of the Constitutional Court of Serbia is constitutionally limited exclusively to disputes, where one of the parties involved should be a judicial authority, nevertheless, this is the most widespread type of competency dispute in the Constitutional Court practice, in which, as a rule, courts and governing bodies are also bear a part. One of the most conceptually significant decisions in cases of this kind is the Decision of the Constitutional Court IU 175/99 on a dispute on competence, the parties to

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which were the opština municipal community court and the opština governing body.¹⁹

When it comes to the horizontal disputes over competencies between the legislative and executive branches of government, Serbian Constitutional Court practice went along the path of considering such disputes in the framework of the proceedings on normative control cases; this largely refers to the lack of legal confirmation of this power to the Constitutional Court of Serbia. Moreover, during the consideration of such cases, the Constitutional Court formulated several legal positions with the determination of the ‘functional boundaries’ of the branches of Serbian official authority, thereof making a significant contribution to the development of Serbian constitutionalism. These include the Decision of the Constitutional Court of Serbia IUp-153/2008 of 19.06.2012 recognizing the unconstitutionality of the act of the Government on the formation of the National Assembly. The position of the Constitutional Court was

¹⁸ Pejić, I. Constitutional Court and disputes on the separation of powers (In Serb.) / Journal of Criminology and Criminal Law.

The Academy of Criminalistic and Police Studies publishers, Belgrade, 2013

¹⁹ Official Gazette of the Republic of Serbia 84/02

stated as follows: ‘The principle of functional stability cannot be violated not only by normative decisions of the executive branch, but also by decisions of the legislators and, respectively, by laws adopted by the National Assembly of Serbia’. While declaring the decision of the Government on the formation of the National Assembly unconstitutional, the Constitutional Court of Serbia also specified: ‘This means that the Government is not entitled by interpreting its functional authorities or the functional authorities of other state bodies, primarily the President,²⁰ to violate the functional distinction established by the Constitution or constitutionally established limits of authority to vest oneself or another state body with powers not provided for by the

Constitution, and such functional powers cannot be considered immanent to the corresponding constitutional functions’.²¹

3.2. Constitutional court authority to resolve electoral disputes

First of all, it should be noted that the authority of the constitutional control body to resolve electoral disputes is known to several oldest European constitutional courts, which have extensive competence in protecting the fundamentals of the constitutional system, human rights, and freedoms.²² A special place among them is occupied by the Federal Constitutional Court of Germany, which, as an appeal instance, exercises control over the validity of elections.²³ Although the Serbian

²⁰ Polovchenko, K.A. DISTINGUISHING CHARACTERISTICS OF THE PRESIDENTIAL STATUS IN THE SYSTEM OF STATE GOVERNANCE OF SERBIA // Journal of Law and Administration, 2015:51.

²¹ It should be noted that in such cases the Constitutional Court of Serbia acts as a body with its own ‘constitutional field’ located at the intersection of law and politics. For details refer: Pejić, I. Constitutional Court and disputes on the separation of powers (In Serb.) / Journal of Criminology and Criminal Law. Belgrade, 2013

²² Polovchenko, K.A. Dissertation on ‘Constitutional Courts of Russia and Ukraine (comparative analysis)’ / Moscow,

2003:12; Vodyanickaya, E.A. Constitutional control in Austria / Constitutional control in foreign countries: collective monograph (In Russ.) [Yu.I. Leibo et al], Eds. E.Y. Pavlov, E. Kremyanskaya - MGIMO-University, 2015: 292

²³ Thus, the Federal Constitutional Court is considering appeals against the Bundestag decisions, filed as a result of verification of electoral integrity. ‘The purpose of such proceedings is to protect objective suffrage, which ensures the legitimate composition of the Bundestag.’ The right to appeal the decision of the Bundestag in the Federal Constitutional Court belongs to every deputy whose authority is disputed, as well as every voter whose protest was rejected by the

Constitutional Court is one of the oldest in Europe, its power to resolve electoral disputes appeared only with the adoption of the 1990 Constitution of Serbia. Generally, this is quite understandable, since, during the implementation of the concept of socialist constitutionality in the former SFRY, the Constitutional Court simply was not able to adjudicate on electoral disputes under conditions of a one-party system. In the fair opinion of professor Simović, the resolution of electoral disputes acquires its full meaning and significance only in conditions of political pluralism.²⁴

The 1990 Constitution of Serbia provided for the extremely narrow authority of the Constitutional Court to resolve electoral disputes. Thus, paragraph 1 of Part 1, Article 125 of the Constitution stipulated that the

Constitutional Court was authorized to make decisions on electoral disputes that were not within the competence of other courts or other state bodies. Moreover, the detailed regulation of the content of this authority should have been established by the Law, which was never adopted. The lack of detailed regulation has led to the fact that from 1990 to 2005 the Constitutional Court of Serbia adjudicated on electoral disputes only twice.²⁵ A number of experts in the field of constitutional justice of Serbia, including Bosa Nenadić, the President of the Constitutional Court of Serbia from 2007 to 2010, noted that in the absence of proper statutory regulation, the Constitutional Court of Serbia has lost the exercise of the authority to resolve electoral disputes, above all, due to the predominantly political nature of these

Bundestag, provided that the appeal is supported by at least one hundred voters, one faction or a minority of the Bundestag, comprising at least one-tenth of the German Parliament deputies. A complaint against the Bundestag decision may be filed within one month from the date of such a decision. At the same time, in the course of the preliminary proceedings, the Federal Constitutional Court has the right to verify the constitutionality of the provisions of the Bundestag Elections Law, if this is necessary to decide on the validity of the elections themselves. As noted by professor Yuri Leibo, 'complaints of this kind have never been successful, since the violations were

not so significant that their influence on the composition of the parliament could be ascertained.' For details refer: Leibo, Yu. Constitutional control in the Federal Republic of Germany / Constitutional control in foreign countries: collective monograph / [Yu.I. Leibo et al]; Eds. E.Y. Pavlov, E. Kremyanskaya (In Russ.) / Moscow, MGIMO-University, 2015:300

²⁴ Vučić, Petrov, Simović. Constitutional courts in former Yugoslavian republics (In Serb.) / Belgrade, 2010: 224

²⁵ Nenadić, B. Electoral Disputes Under the Jurisdiction of the Constitutional Court of Serbia. Constitutional Issues in Serbia / Niš, 2004.:279

disputes. Thus, in its definitions, the Constitutional Court gave a restrictive interpretation of its authority in respect of electoral disputes, in particular, excluding from its object violations that arise during the verification of a deputy's mandate. In particular, in its determinations of 1995 and 1997 (IU-275/95, IU-18/97), the Constitutional Court of Serbia drew attention to the fact that since the verification of the mandate is 'a part of the process of election of deputies', and 'courts of general jurisdiction decide in relation to such disputes', therefore disputes related to the mandate verification do not apply to electoral disputes provided for in paragraph 7 of Article 125 of the Constitution of Serbia of 1990. This led to the accusation of judges of the Constitutional Court of Serbia not having enough courage to protect the independence of the Constitutional Court from political pressure.²⁶

An analysis of the above definitions suggests that the 'self-restraint' of the Serbian Constitutional Court, on the contrary, was caused by the

desire to avoid participating in decision-making on purely political issues. Otherwise, it would lead to the politicization of its activities and would run counter to its status as an independent body, which excludes any participation of the Constitutional Court in the current political process. In all fairness, an attention also should be paid to the fact that several Serbian experts (supporters of judicial activism) were inclined to think that the model of the negative legislator designed by Hans Kelsen, has already outlived its time and that the Constitutional Court should go at the forefront of the liberal transformation of society, actively influencing the political process in the state.²⁷ No doubt, such an approach fundamentally changed the role and purpose of the Constitutional Court, unjustifiably transforming it from a guarantor of constitutional values into their creator, and thereby replacing the constitutional legislator.

At the same time, the unsatisfactory regulation of the scope and content of the authority of the

²⁶ Nenadić, B. Electoral Disputes Under the Jurisdiction of the Constitutional Court of Serbia. *Constitutional Issues in Serbia / Niš*, 2004: 267

²⁷ Violeta Beširević. 'Governing without judges': The politics of the Constitutional Court in Serbia. *I•CON* (2014). Vol. 12; No. 4: 979

Constitutional Court to resolve electoral disputes stimulated Serbian scientific thought to doctrinal development of this scientific and practical problem. As a result, Serbian constitutionalists attempted to develop a theoretical model of the electoral dispute that would provide effective and comprehensive protection of the electoral right.²⁸ The breadth of the controversy of Serbian constitutionalists on this topic is clearly evidenced by the issues they raised during scientific discussions, the content of which was generalized by professor Nenadić: 1) Can the disputes arising from the formation of any government bodies (legislative, executive and judicial), regardless of whether they were elected by direct election or by representative bodies, be attributed to electoral disputes; 2) Is the protection of electoral rights (within the framework of an electoral dispute) in the Constitutional Court limited in time, i.e. whether it refers exclusively to violations of electoral rights that arose during the electoral process, or the disputes that may become the subject of the protection

of electoral rights after the election (in the post-election and inter-election periods) should also be attributed to the electoral disputes; 3) Are electoral disputes aimed at protecting the full range of electoral rights, including those related to or directly derived from active and passive suffrage; 4) Does it follow from the Constitution that the law can provide for constitutional and judicial protection only for certain types, respectively, of the aspects of suffrage, making it dependent on the established procedure for exercising suffrage.²⁹

It is quite reasonable that the classical definition of an electoral dispute as a dispute arising from a violation of electoral law seems irrelevant in the presented study, since it includes, among other things, the protection of electoral rights through a constitutional complaint. And since the constitutional complaint is the exclusive remedy for all human rights guaranteed by the Constitution, professor Simović rightly draws attention to the fact that the resolution of electoral disputes by the Constitutional Court is a different,

²⁸ Vučić, Petrov, Simović. *Constitutional courts in former Yugoslavian republics (In Serb.)* / Belgrade, 2010:225

²⁹ Nenadić, B. *Electoral Disputes Under the Jurisdiction of the Constitutional Court of Serbia. Constitutional Issues in Serbia* / Niš, 2004: P. 281-282.

genuine, and basic mechanism for protecting electoral rights.³⁰ It goes without saying that disputes on the constitutionality (legitimacy) of normative acts governing the appointment, conduct and establishment of election results should be excluded from the definition of an electoral dispute to be considered by the Constitutional Court, since normative control differs from the authority for electoral disputes resolution (also being the basic authority of the Constitutional Court).³¹

Another important aspect related to the establishment of the scope of the Constitutional Court authority to resolve electoral disputes is the answer to the question of whether its powers should apply to all violations of the electoral law during the election process (from the ballot day until the mandate confirmation), or the power of the Constitutional Court is wider and extends including post-election rights. Thus, back in 1989, i.e. before the

adoption of the 1990 Constitution, professor Stojanović insisted that the Constitutional Court is obliged to resolve the issues of legitimacy of both the acquisition and the termination of a deputy mandate. According to academician's opinion, it is this approach that allows the most complete protection of suffrage, since otherwise 'post-election rights are excluded from the content of passive suffrage, as a result of which it remains without content'.³² Professor Pajvančić adheres to a similar opinion, pointing out that if actions aimed at unlawfully depriving the parliamentary mandate are not authorized, this will denote 'the possibility of subsequently changing the will of voters, and therefore violating not only the right of a deputy but also an active and passive suffrage of a large number of citizens'.³³

Furthermore, several Serbian constitutionalists called for expanding the competence of the Constitutional Court through 'disputes on violations

³⁰ Vučić, Petrov, Simović. *Constitutional courts in former Yugoslavian republics* (In Serb.) / Belgrade, 2010:225

³¹ Pajvančić, M. *Constitutional Court Decisions on Electoral Disputes* (In Serb) / *Legal life* 12/1996:339.

³² Stojanović, D. *Fundamental Rights: Human Rights and Freedoms in the*

Constitutions of European States (In Serb.) / Niš, 1989. P. 127.

³³ Pajvančić, M. 'The Protection of Civil Rights and Liberties'. *Proceedings of the Faculty of Law in Novi Sad* 1-3/1998-1999. P. 228.

committed in the process of election and dismissal of bodies and persons of the National Assembly in accordance with the Constitution'.³⁴ Thus, prof. dr Marijana Pajvančić also entitled to the opinion that disputes arising in the process of election by the National Assembly are to be considered as electoral and to be resolved in the Constitutional Court, 'since such disputes are not subject to consideration by courts of general jurisdiction'.³⁵ This approach is fully consistent with paragraph 3 of Part 1 of Article 9 of the Law on Administrative Disputes, which excludes acts that the National Assembly takes on matters referred to its powers directly by the Constitution from the protection exercised by the courts. The opposite opinion was expressed by professor Marković, pointing out that 'the suffrage of the National Assembly is not a human right, but the authority of

the very National Assembly'. Thus, disputes arising in the exercise of the electoral authority of the National Assembly cannot be classified as electoral disputes, resolved by the Constitutional Court in a special procedure, since this does not violate the citizens' suffrage in the sense of Article 52 of the Constitution.³⁶ Besides, the Serbian doctrine under the electoral dispute means a specific, individual dispute, which is raised as a result of a violation of a specific subjective constitutional right of citizens – suffrage.³⁷

Certain adjustments to the scope and content of the powers of the Constitutional Court to resolve electoral disputes were introduced by the new 2006 Constitution. Thus, under paragraph 5 of Part 2, Article 167 of the Constitution, the Constitutional Court only resolves those electoral disputes

³⁴ Nenadić, B. Electoral Disputes Under the Jurisdiction of the Constitutional Court of Serbia. *Constitutional Issues in Serbia* / Niš, 2004:283.

³⁵ Pajvančić, M. Slobodan Beljanski. *Constitutional law and organizational law on judicial courts (In Serb.)* / Belgrade, 2003: 65.

³⁶ This refers to Article 52 of the Constitution of Serbia of 2006: Every citizen of age and working ability of the Republic of Serbia shall have the right to vote and be

elected. Suffrage shall be universal and equal for all, the elections shall be free and direct and voting is carried out by secret ballot in person. Election right shall be protected by the law and in accordance with the law. See: Marković, R. *Constitutional Court in the 2006 Constitution of the Republic of Serbia*, P. 35.

³⁷ Đukić-Veljović Z., Vuković N. *Constitutional Legal Protection of Electoral Law (In Serb.)* / Archives of Legal and Social Sciences, 3-4/2006. P. 1398.

that are not assigned by law to the competence of the courts. Thus, although the powers of the Constitutional Court were expanded in comparison with the 1990 Constitution of Serbia, since then the Constitutional Court was authorized to resolve only those electoral disputes that were not within the competence of both the courts and other state bodies (clause 7 of Part 1 of Article 125), however, this Constitutional Court authority remains of subsidiary nature.

Drafting the 2007 Law on the Constitutional Court, the legislators took into account the development of the Serbian doctrine and extended the authority of the Constitutional Court to resolve electoral disputes to all stages of the electoral process, including the protection of suffrage at its last stage, which is the verification of mandates (Article 79 of the Law on the Constitutional Court). At the same time, detailing the scope and content of the powers of the Constitutional Court to resolve electoral disputes provided for in the Constitution of 2006, the Law on the Constitutional Court narrowed the content of electoral disputes to be

considered by the Constitutional Court, limiting it by only disputes arising from direct elections, respectively, from elections to which the electorate is involved.³⁸ According to the Constitution, Assembly deputies and the President of the Republic are elected by direct election from state bodies; Assembly members of the autonomous region are elected from the autonomous regional bodies; and opština municipal assembly deputies, as well as the opština chairman, are elected from local opština administrative bodies (in accordance with the Law on Local Self-Government of 2002).

Procedural issues of the judicial consideration by the Constitutional Court of electoral disputes are settled in the 2007 Law on the Constitutional Court of Serbia rather consistently. Thus, Article 75 of the Law on the Constitutional Court stipulates that a request for a decision on an election dispute, in respect of which the law does not provide for the jurisdiction of the courts, can be filed either by any voter, candidate for the presidency or, respectively, for deputy of the National

³⁸ Marković, R. Constitutional Court in the 2006 Constitution of the Republic of Serbia

(In Serb.) / Belgrade University School of Law Publishing, 2–2007: 35.

Assembly, representative body of the autonomous region, and local government unit, as well as the person nominating the candidate. Also, the Law provides requirements for the content of the request; the latter should include the grounds and evidence justifying the reason for the request for a decision on the election dispute. The Law contains a preventive deadline for submitting a request, which is 15 days starting from the date of completion of the contested election process (P. 1, 2, 3 of Article 75 of the Law on the Constitutional Court).

The Constitutional Court delivers one copy of the received request for a decision on an election dispute to the body responsible for holding the elections, in connection with whose activities the election dispute was opened so that the latter would submit a response and necessary acts and documentation within the prescribed time period (Art. 76 of the Law on the Constitutional Court).

Whether during the consideration of an election dispute in the Constitutional Court it will be proved that violations during the election process significantly affected the election results, the Constitutional Court

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of Serbia by its decision cancels the results of the entire election process or stage of this process, which should be indicated in the Court decision. In this case, the entire election process or its particular stages are repeated within ten days from the date of delivery of the decision of the Constitutional Court to the competent authority. The decision of the Constitutional Court on the cancellation of the results of the entire electoral process or its stages comes into force from the moment the decision of the Constitutional Court is delivered to the competent authority (Article 78).

The Serbian legislators decided to provide guarantees of protection in the Constitutional Court of the entire electoral process, also including protection against violations of its last stage, which is the verification of mandates. Thus, Part 1 of Article 79 of the Law on the Constitutional Court of Serbia provided that a complaint against a decision taken in regard to the verification of the mandate of a people's deputy can be submitted by a candidate or the person who has nominated this candidate for people's deputies, within 48 hours from the date of the decision. The body whose decision is appealed is

required to submit the necessary documents to the Constitutional Court within 24 hours after filing the complaint. The legislators ordered the Constitutional Court to make its decision within 72 hours of filing a complaint. Noteworthy is that the provisions of the Law governing the proceedings in the Constitutional Court for the resolution of electoral disputes are also applied as part of the proceedings for complaints regarding the verification of the mandate of a people's deputy (Article 79 of the Law on the Constitutional Court).

4. Conclusions

Reviewing the research conducted in the presented article and taking into account the current status of the Serbian Constitutional Court as the bearer of the 'fourth' constitutional judicial power, authorized to ensure the functioning of the three initial branches of government within the framework of the constitutional field, it could be stated with confidence that the function of disputes resolution of the Serbian constitutional justice body is absolutely rightfully and seamlessly represent one of the current main areas of its practical activity. Thus, the Constitution of 2006

and the Law on the Constitutional Court of 2007 endowed the Serbian constitutional justice body with broad opportunities to resolve both vertical and horizontal competency disputes to protect the principles of the rule of law, constitutionality, legitimacy, and separation of powers, as well as the right to a regional autonomy and local self-governance. However, some particular regulatory 'imperfections' somewhat limited the potential of these opportunities concerning disputes involving the highest state authorities representing the legislative and executive branches of government. As a result, the Constitutional Court was forced to use other powers, such as, in particular, normative control, to resolve disputes between the 'political' authorities. Nevertheless, when it comes to the powers of the Constitutional Court of Serbia to resolve electoral disputes, the new constitutional law has made significant changes to this Constitutional Court authority. Again, this authority, on the one hand, is still subsidiary, i.e. the Constitutional Court is authorized to proceed on constitutional disputes if there is no courts' jurisdiction over these cases, on the other hand, at present, this

power of the Constitutional Court guarantees the protection of electoral rights regarding the entire electoral process in the framework of the election of National Assembly deputies, the President of the Republic, the assembly of the autonomous region, opština municipal assembly, as well as the opština chairman. And yet, despite all the innovations in regulation, as before (under the 1990 Constitution), the exercise of the power of Serbian constitutional justice authority to resolve an electoral dispute is still a rare act. As a result, the electoral disputes remain imperceptible in the total volume of cases reviewed by the Constitutional Court of Serbia. But this is no longer the problem of deficiencies in the legislation on constitutional control of Serbia, but rather the passivity of the subjects of the electoral process, their reluctance and, perhaps, disbelief in the ability to defend their voting rights in the Constitutional Court. However, this is the subject of another scientific study.

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EFFECTS OF CURRENCY FLUCTUATION AND HERDING BEHAVIOR ON EMERGENCE OF BULL AND BEAR MARKETS IN TEHRAN STOCK EXCHANGE

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Abstract: This study analyzed the effects of currency fluctuations and herding behavior of investors on the emergence of bull and bear markets in 36 industries listed in the Tehran Stock Exchange. The Christie-Huang model (1995) and the Kalman filter were employed to evaluate herding behavior and currency shock, respectively, in order to detect the days on which these fluctuations acted as anomalous pulses. In addition, the logistic regression was utilized to analyze and predict bull and bear markets because the dependent variable was dichotomous. According to the results, herding behavior had no effects on the market trend and emergence of bull and bear markets; however, currency fluctuations showed very slight effects.

Keywords: currency fluctuation, herding behavior, bull market, bear market

Statement of the Problem

Considering the recent ever-increasing advances in financial markets, behavioral finance has attracted many researchers stating that personal and psychological characteristics affect financial decisions. It also states that various events and incidents affect financial markets in addition to the mass and emotional behavior of investors (Chiang Li, 2005).

Introduced into financial markets for a few decades, behavioral finance analyzes the behavior of investors and tries to identify and perceive their reactions accurately. Hence, it analyzes external and internal factors affecting the emergence of bull and bear markets and leading to people's herding behavior, resulting in their emotional processes of making sales and purchases.

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Currency fluctuations refer to the volatility of currency exchange rates, a situation that can also be called currency turbulence or currency crisis. In fact, it is an economic variable, closely related to financial markets and basically in line with inflation. The volatility of currency exchange rates affects the share price by changing the value of business assets. Currency fluctuation is not a new phenomenon in economy because many cases of this incident have occurred in both Iranian and global economies. The volatility of currency exchange rate has generally been in line with inflation and price rises, although it has not followed a steady and balanced trend because of sudden and unpredicted rises and reductions. Accordingly, many economists believe that what leaves negative effects on economy is not the increased currency exchange rate but sudden increases or decreases in currency exchange rate (Zareh H. & Rezaei Z., 2006).

In the behavioral finance paradigm, herding is considered a case of behavioral bias which can significantly affect the performance of capital markets. Recently, herding has dramatically emerged as one of the major

setbacks of capital markets, inasmuch as markets have been so deprived of analysis that there is no difference in what share is purchased and whether all shares and groups become simultaneously negative or positive. Herding behavior indicates a human's tendency to act like others. When a mass society performs a particular action or shows a particular reaction, it is subjectively difficult for other people to act in the opposite direction of the mass. In other words, herding behavior refers to the behavior shown by a group of people who act similarly. In fact, there is a correlated behavioral pattern among people (Chiang Li, 2005).

Herding behavior has also been defined as accepting high risks without having sufficient information, something that can be interpreted as the obvious intention of some investors to copy and follow the behavior of other investors. Herding behavior is the most public phenomenon known in financial markets within the framework of psychology. This phenomenon can provoke illogical reactions shown by investors (Izadinia, 2007).

Herding behavior is actually the emotional behavior of investors in

specific events. According to a market analysis, the investors of the Tehran Stock Exchange are no exception. Sales and purchasing lines are formed because of emotional and herding behavior shown by people who enter the market late because they are not willing to take risks. Intending to gain more profit, then they enter the market at the wrong time so as not to fall behind. Finally, they make hasty decisions to make sales or purchases with the most insufficient information (Yousefi, 2009).

Purchase-encouraging and sale-encouraging markets are colloquially described as bull and bear markets, respectively. In fact, they describe the general trend in the capital market. The emphatic assumption regarding the two terms bull market and bear market refers to how these two animals fight because a bull uses its horns to hit and throw up an enemy, whereas a bear uses its claws to hit and knock an enemy down to the ground (Nyberg, 2013).

In a study entitled *Market Emotions*, Blasco *et al.* (2012) used daily data to analyze the factors affecting herding behavior in the Spain Stock Exchange between 1997-2003. They

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realized that herding behavior was influenced by previous returns, investors' emotions and subjectivity, and their imitation tendency.

The goal of this study is to analyze the effects of currency fluctuations and herding behavior on the emergence of bull and bear markets in the Tehran Stock Exchange.

Research Methodology

This applied study employed the existing documents of the Tehran Stock Exchange to analyze the effects of currency fluctuations and herding behavior of investors on the emergence of bull and bear markets. The research data were monthly collected from the stock market database at www.tse.ir. In fact, the data pertaining to 2011-2015 were used as the research input. This was a prospective study based on objective data.

The Kalman filter – an algorithm using a series of measurements including errors over time to estimate the status of a dynamic system – was employed in Eviews to analyze monthly currency fluctuations in an effort to detect the months in which

these fluctuations acted as anomalous pulses.

Then the Christie-Huang model (1995) was utilized to determine

the herding behavior by calculating the cross-sectional standard deviation (CSSD) of returns in the Tehran Stock Exchange.

$$CSSD_t = \sqrt{\frac{\sum_{i=1}^{N_t} (R_{i,t} - R_{m,t})^2}{N_t - 1}}$$

N_t : the number of companies analyzed at t

$R_{i,t}$: returns of Company i at t

$R_{m,t}$: market return

Chang, Cheng and Khorana (2000) extended this method and used a

nonlinear model focusing on the cross-sectional absolute deviation (CSAD):

$$CSAD_t = \frac{1}{N_t} \sum_{i=1}^{N_t} |R_{i,t} - R_{m,t}|$$

The quality of being a bull or bear market is evaluated in the following way. P_t is the price of entering the market at t ($P_t < (>) P_{t-1}^+; i=1, \dots, L$; L is the magnitude of financial capacity). In this case, a rise occurs at t .

Given the identification of rises and reductions, the rise-to-reduction (or reduction-to-rise) periods are defined as bear (or bull) markets with $D_t=1$ ($D_t=0$), which is a binary variable (Nyberg, 2013).

Since the dependent variable was dichotomous, the binomial logistic

regression (binary) was employed to make predictions. Dichotomy means the occurrence of a random incident in two possible situations. In fact, the logistic regression predicts a probability ranging between 0 and 1. The regression coefficients of the logistic regression equation provide specific information on the chance of each specific case to join the zero group or the one group.

The following equation was employed to make estimations in Eviews 9:

$$Y = \alpha + \beta_1 X_1 + \beta_2 X_2 + e$$

Research Variables

Y: the dependent variable stating the quality of being a bull or bear market (in the form of a virtual variable)

X₁: herding behavior

X₂: currency fluctuation

e: error component

Data Analysis

The collected data were processed to lay the foundations for the analysis of the interplay between data to test the research hypotheses. The regression was estimated in Eviews 3, and then specific tests were conducted to analyze the hypotheses. Finally, the estimation results were taken into account to draw conclusions and interpret the research hypotheses.

Research Data

The necessary data included currency exchange rates, code 1 indicating bull markets, code 0 indicating bear markets, and data showing investors' herding behavior. These data were collected daily from the stock market database at www.tse.br, www.cbi.br, and other databases such as

www.estjt.ir and www.banksepah.ir.

The collected data, used as the research inputs, pertained to years 2014-2016. It was impossible to extract documented data pertaining to currency exchange rates before November 23, 2014, the date from which all the research data were collected for the necessity of historical conformity.

Regarding the data pertaining to bull and bear markets, the returns on market daily indices were calculated on specific dates once the closing prices of market indices were obtained. Then the moving average was obtained in a five-day span. According to the linear diagram of moving averages, the significant range was determined between -0.004 and +0.004 after performing several calculations and trial-and-error processes with different values. Then it was formulated by using the if function in Excel. Therefore, if the moving average of returns on the closing market index exceeds +0.004, then it is a bull market shown by 1; otherwise, if the moving average is below -0.004, then it is a bear market shown by 0.

The designated currency was the dollar. After extracting the currency exchange rate on the research dates in the market, the currency fluctuations were determined in Eviews 3 through the Kalman filter used as a very efficient turning method. There are basically two major advantages to the use of this filter. First, it helps monitor unobservable variables (trend and rotation) because it is used in the economic literature topics including logical expectations, missing

observations, the permanent consumption income theory, unobservable elements in business intervals, and the natural unemployment rate. Second, they can be estimated to observe them and see the trend diagram.

According to Figure (1), the trend of fluctuations was obtained through the Kalman filter after entering currency fluctuation variables. Then the diagram was drawn.

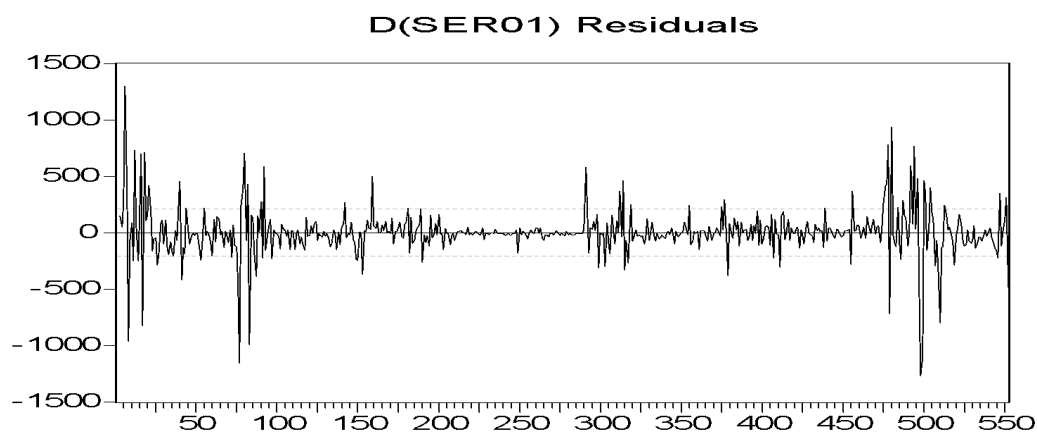
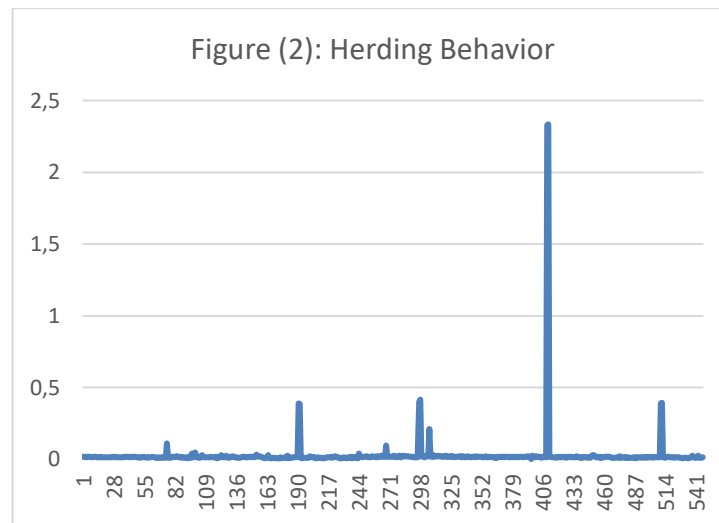


Figure (1). Currency Exchange Rate Fluctuations (Source: Eviews)

The third series of data pertained to herding behavior, determined through the Christie-Huang formula for 36 out of 39 industries listed in the Tehran Stock Exchange. For this purpose, the total indices of industries

were extracted for the designated dates. Then their daily returns were calculated and put into the Christie-Huang formula to determine the herding intensity, shown by Figure (2).

$$CSSD_t = \sqrt{\frac{\sum_{i=1}^{N_t} (R_{it} - R_{mt})^2}{N_t - 1}}$$



Estimation of Data and Interpretation of Results

To estimate the logit model, a work file was first created in Eviews to enter variables. Then the research data, including dependent and independent variables, were inserted into the file.

The final estimation included the variable, coefficient, standard error of regression coefficients (Std. Error), z-statistic, and relevant probability (Prob.) or the p-value. In addition, RE is the dependent variable pertaining to the

quality of being a bull or a bear market (shown by 1 or 0). The independent variables included HE (herding behavior) and SH (currency exchange rate fluctuations). If the p-value of a test is below 0.10, then it is significant.

The logistic regression was employed to make regression estimations with 1-5 interrupts in the significant range in order to test the research hypotheses. Figure (3) shows the market trend variables.

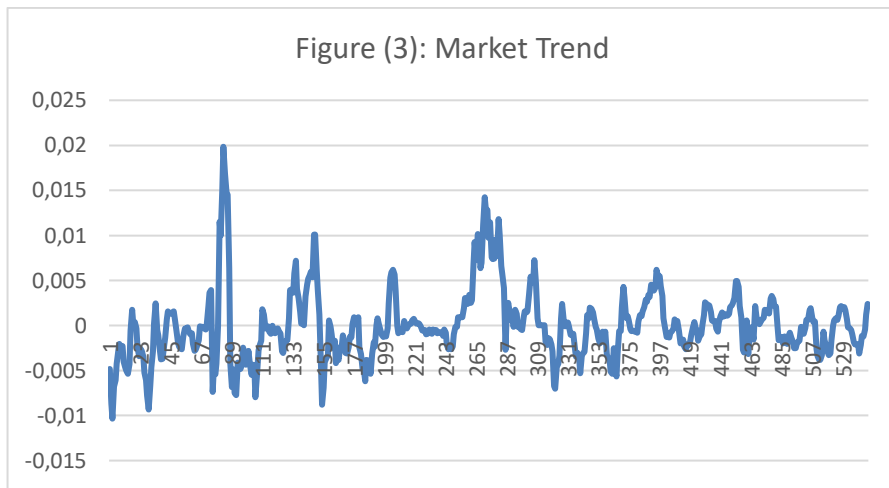


Table (1) shows an overview of the results of calculating estimations at different levels.

Table (1). An Overview of P-Values Pertaining to the Significant Probability

S	Range					
	rob	Prob(-1)	rob(-2)	Prob(-3)	Prob(-4)	rob(-5)
Significant Probability Range						
+		0	0	0.	0	0
0.001 , -	e	.28	.40	.28	.27	.27
0.001		0	0	0.	0	0
O	e(-)	.52	.36	.35	.38	.36
bs=360		.98	0	0	0.	0
D	h	.77	.74	.90	.87	.84
ep=0 204		0	0	0.	0	0
D	h(-)	.09	.62	.53	.64	.97
ep=1 156		0	0	0.	0	0
		.16	.19	.20	.20	.23
+		0	0	0.	0	0
0.002 , -	e	.44	.64	.45	.41	.40
0.002		0	0	0.	0	0
	e(-)	.70	.67	.36	.60	.40

O				0	0	0.	0	
bs=258	h	.53	.73	.75	43	.57	.53	
D				0	0	0.	0	
ep=0 148	h(-)		.65	.51	33	.51	.54	
D		.64		0	0	0.	0	
ep=1 110			.09	.16	35	.21	.17	
+				0	0	0.	0	
0.003 , -	He	.94	.72	0.45	49	.49	.49	
0.003				0	0	0.	0	
O	e(-)		.51	0.44	43	.99	.99	
bs=143		.72		0	0	0.	0	
D	Sh		.50	0.94	90	.76	.76	
ep=0 77				0	0	0.	0	
D	h(-)	.53	.23	0.29	60	.81	.82	
ep=1 66				0	0	0.	0	
	C		.69	0.14	22	.27	.28	
+				0	0	0.	0	
0.004 , -	He	.33	.27	.36	43	.34	0.35	
0.004				0	0	0.	0	
O	e(-)		.17	.26	35	.14	.16	
bs=119		.56		0	0	0.	0	
D	h		.50	.87	94	.68	.35	
ep=0 56				0	0	0.	0	
D	h(-)	.71	.06*	.08*	37	.12	.22	
ep=1 63				0	0	0.	0	
			.21	.38	46	.17	.20	
+				0	0	0.		
0.005 , -	He	.55	.47	.56	79	0.48	.57	
0.005				0	0	0.		
O	e(-)		.33	.42	11	0.04*	.06*	
bs=78		.43		0	0	0.		
D	Sh		.33	.42	14	0.18	.11	
ep=0 29				0	0	0.		
D	h(-)	.21	.22	.08*	14	0.14	.76	
ep=1 49				0	0	0.		
	C		.60	.75	25	0.11	.16	

Obs: number of observations;
dep: quality of being a bull or a bear market; he: herding behavior variable; (-)he: herding behavior variable with an interval; sh: currency fluctuations variable; (-)sh: currency fluctuations variable with an interval; c: constant coefficient; prob: probability (Source: Research Findings)

Since the test p-value is considered lower than 0.10 in Table (1), numbers with * are significant at the relevant intervals; however, the [-0.004, +0.004] is a more logical range because the number of observations decreased within [-0.005, +0.005]. With the regression estimation, coefficients were significant for currency fluctuations in 1-day and 2-day intervals.

The first research hypothesis is as follows:

Currency fluctuations affected the emergence of bull and bear markets (in a case study conducted on 36 industries listed in the Tehran Stock Exchange).

H₀: Currency fluctuations had no effects on the market trend.

H₁:

Currency fluctuations affected the market trend.

Given the significance level of these intervals (<10%), the null hypothesis was rejected; therefore, the test was significant. As a result, currency fluctuations affected the emergence of bull and bear markets.

The second research hypothesis is as follows:

The herding behavior of investors affected the emergence of bull and bear markets (in a case study conducted on 36 industries listed in the Tehran Stock Exchange).

H₀: Herding behavior had no effects on the market trend.

H₁:

Herding behavior affected the market trend.

Given the significance level of these intervals (<10%) than which the coefficients were greater, the test was not significant. Therefore, the hypothesis was not rejected, and herding behavior

had no effects on the emergence of bull
and bear markets.

Table 2. Regression Estimation:

Dependent Variable: RE

Method: ML - Binary Logit

Date: 09/05/17 Time: 10:08

Sample(adjusted): 1 454

Included observations: 119

Excluded observations: 335 after adjusting endpoints

Convergence achieved after 7 iterations

Covariance matrix computed using second derivatives

Variable	Coeffici ent	Std. Error	z- Statistic	Prob.
HE	12.5037	12.989	0.9626	0.3357
	8	39	15	
SH	-	0.0007	-	0.5684
	0.000415	27	0.570470	
C	-	0.2882	-	0.7178
	0.104154	37	0.361348	
Mean	0.52941	S.D. dependent var		0.5012
dependent var	2		45	
S.E. of	0.50272	Akaike info		1.4204
regression	3	criterion	36	
Sum	29.3167	Schwarz criterion		1.4904
squared resid	3		98	
Log	-	Hannan-Quinn		1.4488
likelihood	81.51593	criter.	86	
Restr. log	-	Avg. log likelihood		-
likelihood	82.27851		0.685008	

	LR statistic	1.52517	McFadden R-	442
(2 df)	4	squared	68	0.0092
(LR stat)	8	Probability	0.46645	
Obs with	56	Total obs	119	
Dep=0				
Obs with	63			
Dep=1				

Table 3. One-Day Interval Estimation

Dependent Variable: RE

Method: ML - Binary Logit

Sample(adjusted): 2 454

Included observations: 118

Excluded observations: 335 after adjusting endpoints

Convergence achieved after 8 iterations

Covariance matrix computed using second derivatives

Variable	Coefficient	Std. Error	z-Statistic	Prob.
HE	15.9507	14.559	1.0955	0.2733
HE(-1)	24.4792	18.231	1.3426	0.1794
SH	-0.000587	0.0008	-0.659827	0.5094

				443
SH(-1)	-	0.0009	-	0.0656
	0.001806	81	1.841212	
C	-	0.4407	-	0.2153
	0.546133	58	1.239078	
<hr/>				
Mean	0.53389	S.D. dependent var		0.5009
dependent var	8		77	
S.E. of regression	0.49445	Akaike info criterion		1.4032
	9		41	
Sum squared resid	27.6273	Schwarz criterion		1.5206
	0		42	
Log likelihood	-	Hannan-Quinn criter.		1.4509
	77.79119		09	
Restr. log likelihood	-	Avg. log likelihood		-
	81.51997		0.659247	
LR statistic (4 df)	7.45755	McFadden R-squared		0.0457
	6		41	
Probability (LR stat)	0.11359			
	6			
<hr/>				
Obs with Dep=0	55	Total obs		118
Obs with Dep=1	63			
<hr/>				

Table 4. Two-Day Interval Estimation

Dependent Variable: RE

Method: ML - Binary Logit

Date: 09/05/17 Time: 10:21

Sample(adjusted): 3 454

Included observations: 117

Excluded observations: 335 after adjusting endpoints

Convergence achieved after 8 iterations

Covariance matrix computed using second derivatives

Variable	Coefficient	Std. Error	z-Statistic	Prob.
HE	11.8555	13.141	0.9021	0.3670
HE(-2)	15.5862	13.964	1.1161	0.2644
SH	-	0.0008	-	0.8749
SH(-2)	-	0.0008	-	0.0843
C	-	0.3887	-	0.3866
Mean	0.53846	S.D. dependent var		0.5006
dependent var	2		63	
S.E. of regression	0.49788	Akaike info criterion		1.4161
Sum squared resid	4		86	
Log likelihood	27.7634	Schwarz criterion		1.5342
Restr. log likelihood	9		28	
LR statistic (4 df)	-	Hannan-Quinn criter.		1.4641
	77.84690		10	
	-	Avg. log likelihood		-
	80.75172		0.665358	
	5.80965	McFadden R-squared		0.0359
	6		72	

Probability	0.21382		
(LR stat)	1		
Obs with	54	Total obs	117
Dep=0			
Obs with	63		
Dep=1			

Then the final model was estimated at the designated intervals with respect to the significance of p-values.

Table 5. Final Model

Dependent Variable: RE

Method: ML - Binary Logit

Date: 09/06/17 Time: 13:52

Sample(adjusted): 3 454

Included observations: 117

Excluded observations: 335 after adjusting endpoints

Convergence achieved after 8 iterations

Covariance matrix computed using second derivatives

Variable	Coefficient	Std. Error	z-Statistic	Prob.
HE	16.1316	15.059	1.0711	0.2841
0		59	84	
SH	-	0.0009	-	0.6223
	0.000455	24	0.492562	
SH(-1)	-	0.0009	-	0.1033
	0.001623	96	1.628906	

				446
SH(-2)	-	0.0008	-	0.0736
	0.001541	61	1.789054	
C	-	0.3190	-	0.7114
	0.118054	96	0.369965	
Mean	0.53846	S.D. dependent var		0.5006
dependent var	2		63	
S.E. of regression	0.49557	Akaike info criterion		1.4078
	5		46	
Sum squared resid	27.5066	Schwarz criterion		1.5258
	4		88	
Log likelihood	-	Hannan-Quinn criter.		1.4557
	77.35899		69	
Restr. log likelihood	-	Avg. log likelihood		-
	80.75172		0.661188	
LR statistic (4 df)	6.78546	McFadden R-squared		0.0420
	1		14	
Probability (LR stat)	0.14766			
	9			
Obs with Dep=0	54	Total obs		117
Obs with Dep=1	63			

Since prob=0.07 of the two-day interrupt, pertaining to currency fluctuations, is smaller than 0.10 in comparison with prob=0.10 of the one-day interval, it is more significant; thus, H_0 is rejected. In other words, the coefficient is statistically valid. In this estimation, the Mc Fadden R-squared

statistic indicates %4.2 of goodness of fit in the model regression and explanatory power. Regarding the logistic regression model, it is similar to R^2 in the ordinary regression. In fact, it ranges between 0 and 1 and measures the goodness of fit. The closer this index to 1, the more the

model matches reality, and the higher the goodness of fit, and vice versa.

The total regression significance was analyzed at the %90 confidence level along with the accuracy of model explicitness with the LR statistic. Finally, two independent variables were employed in two

significant ranges for the dependent variable with five interrupts after testing different combinations to delete the herding behavior variable from the model.

After selecting the optimal model, the coefficients were presented:

Table 6. Model Coefficients

Pro b	Z- Statistic	Std Error.	Coeffici ent	Varia ble
0.28 41	1.071 184	15.05 959	16.1316 0	HE
0.62 23	- 0.492562	0.000 924	- 0.000455	SH
0.10 33	- 1.628906	0.000 996	- 0.001623	-1)SH (
0.07 36	- 1.789054	0.000 861	- 0.001541	-2)SH (
0.71 14	- 0.369965	0.319 096	- 0.118054	C

(Source: Research Findings)

The final analysis of variables indicates that currency fluctuations had slightly negative effects on the

emergence of bull and bear markets; however, the herding behavior had no effects on the market trend.

Table 7. Final Effects of Variables

R1=he	6.09855882998
R2=sh	-0.000172005729714
(-1)R3=sh	-0.00091347795352
(-2)R4=sh	-0.000582546850796
R5=c	-0.0446305279158

(Source: Research Findings)

Analyzing the Results of Testing the First Hypothesis

The first sub-hypothesis: Currency fluctuations affected the emergence of bull and bear markets (in a case study conducted on 36 industries listed in the Tehran Stock Exchange).

At the significance level ranging from 0.005 ⁺ to 0.001 ⁺, the tested hypothesis for the prob values of research findings indicated that one-day and two-day intervals were significant at the %90 confidence level. Therefore, the null hypothesis was rejected, something which indicated that currency fluctuations affected the emergence of bull and bear markets.

Analyzing the Results of Testing the Second Hypothesis

The second sub-hypothesis: The herding behavior of investors affected the emergence of bull and bear

markets (in a case study conducted on 36 industries listed in the Tehran Stock Exchange).

At the significance level ranging from 0.005 ⁺ to 0.001 ⁺, the tested hypothesis for the prob values of research findings indicated that one-to-five-day intervals were not significant at the %90 confidence level. Therefore, the null hypothesis was not rejected, something which indicated that the herding behavior had no effects on the emergence of bull and bear markets.

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VALUE ENGINEERING IN CULTURAL HERITAGE

Arash Zia-Abadi¹

Abstract: The diversity of damaging and destructive factors in ancient sites highlights the importance of discussing the conservation interventions. Therefore, the value is expressed in line with physical health, and taking into account the integrity and conservation of the intrinsic identity of each monument based on its originality in interaction with the environment. Therefore, focusing on value-based planning and technical review of the project, attempts have been made to explain and eliminate the ambiguity in the similarity of these two, and to create incentives for the application of value engineering by professionals at all levels of planning. This study attempts to study the meaning of value based on the reading of components and its semantic subsections in the field of conservation, and recognize the factors that influence the change of value perspective in the communities, in fundamental-theoretical method and based on the descriptive nature.

Keywords: Ancient, Conservation of Historical Monuments, Originality, Value, Value Engineering

Introduction

In this paper, a list of the risks and challenges that ancient places are faced with, is presented, and it examines the causes and consequences of these hazards and proposes to preserve and reduce their destructive effects, with an analytical approach from the point of view of engineering value.

It is clear that the risks associated with the survival of these monuments are made up of a wide range of resources related to the development of modern societies. However, conservation efforts show that assessing the causes of the destruction of monuments and responding to these threats, is the only way to minimize the effects of these various factors.

International Council on Monuments and Sites (ICOMOS) has focused on in-danger monuments in a document entitled "Heritage in Danger";

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the dangers introduced include a range of natural factors related to development, including pollution and mass tourism. In addition, the report focuses on identifying the threats associated with industrialization and related constraints.

There are different philosophies and ideas for protecting ancient sites. In addition, in some cases, the development of tourism and the importance of economic aspects can be some significant factors. It should be noted that there are no separate factors to maintain a place, and people believe that conservation should be considered in different ways. Threats can be easily introduced. However, we should consider the patterns of destruction that affect the ancient sites. The concept of risk can examine this measurement scale and, in some recent evaluations, it has addressed cultural heritage conditions.

1. The Destructive Effect of the Development on Ancient Monuments:

Development is undoubtedly one of the main causes of harm to the monuments, which destroys the cultural perspectives and destroys thousands of unregistered cultural places. In many cases, the reduction of ancient heritage may be inevitable by adding this

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component to existing domains or planning strategies. Unfortunately, in many cases, this does not happen due to the weakness of cultural heritage integration in the economic and social spaces. In existing places, the lack of adequate planning scales may quickly lead to irreversible and even destructive effects.

2. Impact of Pollution and Processes of Industrial Development:

The separation of industrial development from pollution is impossible. In developing countries, the effects of pollution have a very tangible impact on the pollution of ancient spaces due to the lack of planning and the lack of sufficient diminishing tools.

3. Tourism and Spatial Conservation:

Such activities carry a wide range of harms, or even partially, the destruction of various aspects of the monuments. Occasionally, tourism is accompanied by the lack of anticipation and utilization of the necessary facilities in ancient places, which severely damages these places. Similarly, a prohibited place or similar items may create incentives to people for visits that

often creates the behaviors close to destruction.

4. The Effect of War On Cultural Heritage:

Destruction can take place on the other community symbols in a systematic way during military wars, which seeks to deny the right of a community to its lands. This is the case for the destruction of mosques in Bosnia and the progression of the famous Bosnian problems in Mustafa or the attacks on mosques in Sinai in Israel and Palestine.

5. The Issue of Plunder:

The plunder is caused by the much demand for ancient issues in international antique markets. The view that foreigners are trying to find gold is common among many countries, and unfortunately the usual response to this case is to dig places to find valuable items by archaeologists.

6. Archeological Excavations, A Damaging Factor:

In many cases, drilling projects do not address the conservation of existing structures and, as a result, a series of prohibited places are created where archaeological evidence is lost there, due to the erosion and

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uncontrolled depreciation of these sites. Unfortunately, archaeologists do not always believe that they are responsible to preserve these places.

7. Damage Caused by Inappropriate Actions:

Conservation, although often done for positive purposes, but non-skilled and untrained personnel, the use of old methodologies or incompatible materials, and the change in appearance due to unauthorized restoration as repairing, in many cases, give rise to discussions on the threats of historical monuments.

The most of the reconstruction is irreversible, although they do not improve the understanding of the place and the building, and it is even possible to distort it historically. Contrary to extreme measures of rebuilding, the lack of maintenance is the main reason for many failures in many monuments.

8. Management and Legislative Defects as Factors of Monuments Deaths:

Non-transparent definitions of the ancient position of buildings that are considered as the personal property, unknown ownership of protected areas, as well as poor act of cultural heritage in

urban and developmental plans are some of the defects, in addition the lack of training, penalties and appropriate incentives to improve the efficiency of personnel in organizations responsible for maintaining and restoration of buildings.

The Value of Engineering Position in Conservation:

In the conservation of monuments, threats can be classified into two categories, those that have heinous and sudden effects and those that have gradual effects. It also identifies the importance of conservation of buildings and emphasizes the importance of training, management, awareness raising, maintenance and essential programs as special measures to reduce the effects of degradation of these phenomena; at the same time, a process should be considered based on the identification of values and the scientific researches, and the aesthetic range should be determined. Therefore, the first step is towards a mechanical perspective, and the second basic step is the individual recognition, which reflects the way these values affect the resources.

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access to the hardest part of development is the conceptual framework of the heritage conservation management program, which seeks the value and benefit as the main components of programs critical to the current conditions and long-term conservation of monuments.

In expressing the physical conditions of heritage artifacts, buildings, etc., four components of message, phenomenon, past, and value should be considered effective (Mojabi, 2010). In the content of management plans in which protective projects are developed, cultural significance should be emphasized.

The value-based debate opens up our eyes to the other issues and opens up the possibility of using intercultural experiences and different disciplines in terms of decisions and practices. The discussion of values is necessary because these questions have an optimal response, and a solution to the problem of values gives us an analytical instrument and a functional and research process in the subject.

Values in Conservation:

Value is multifaceted and there are two main modes of conservation for nominal value.

The first and foremost issue is that value is in relation to the ethical principles and aspects.

Second, the value points to the characteristics of the components and objects, which deals with the values and characteristics of places, buildings, artifacts, and perspectives. Below are the wide features of economic topics and different symbolic fields as well as the definition of their values.

- A building or a heritage site has several types of values, and has different characteristics that promotes motivation in these places and provokes the resilience of spatial values.

- In most sectors, heritage values are not inherent, but are changeable subject related to content, including items such as age, size, and different factors.

- In a general statement, the value changes from a society to another one (Hojat, 2001), and the way of the expression of these values is largely dependent on the individual's perspective.

Different prisms have been presented in relation to values, and in general values usually require constant aspects, while they also have important information, and we believe that these values are often a combination of different subjects and wide-ranging evaluations and assumptions.

In order to support the topic of cultural heritage values, it is better to provide a typology as a common reference point. Most cultural heritage sites have scales, and the following are some of the most important ones. In addition, no typology and terminology can accurately explain the values of each place.

Historical and Artistic Values:

It simply provides a physical connection to the past, and this heritage can be presented for different historical values (For example, the church of Rome).

Civil or Social Values:

Represents the way in which different parts of a social group live and work together in a community and interact with each other and create different conditions for civil society (for

example, the Central Plaza in Guanajuato, Mexico).

Religious or Spiritual Values:

Heritage has a spiritual value related to the beliefs or activities of a religious group.

Symbolic or Identity Values:

Expresses the capacity of a monument to stimulate or maintain group identity or the other social relationships that are caused by a relationship with a monument.

Research Values:

Heritage sites, especially ancient places, are full of information and works of the past. Information that is unique to them, and has a potential and real value for research, education and knowledge creation.

Natural Values:

The natural value of the heritage seems to be related to its role in the ecology of a particular natural society. In addition to social values (a heritage site may be a function of natural resources, green spaces and open spaces or parts of the watershed).

Economic Values:

Economic values form a powerful and distinct part of the heritage values. Each heritage site has a set of economic values that require investment for these values and leads to economic benefits.

Some of these advantages can be traded in markets and it is possible to express them on a price basis. Economic values are often used to describe other types of values in terms of price variation, and this is a probabilistic hypothesis.

Conservation of Values' Form and Conservation Decision:

Conservation is a complex and often contradictory process that requires the identification of different issues. The decisions about the conservation are defining of cultural content and social trends, and of the political and economic forces that are constantly changing (Talebian, 2005). Social groups are present in different places and times, and include the different roles and issues in terms of material heritage, and therefore it is possible to change them based on the past and the future. Conservation in this

case is not just about the storage of past physical remains. It relates to the expression of things in our relationship to ourselves and to the present and future generations. What matters to us is what values exist in our area and why we should focus on these different groups. Since the social perspectives and beliefs can change during the time, therefore there are expectations of changing the meanings and values based on the cultural heritage. As mentioned above, understanding the conservation of historical and cultural monuments will be directly related to the understanding of the components that affect the value, and the best way to choose protective practices based on the understanding of value (Moradi, 2011); the material heritage has a value related to the past issues, and studies on the conservation of ancient sites strongly emphasize the shape and transformation of cultural heritage values. Choosing the right location for drilling, how long it takes for surveys, to determine the methods and levels of team intervention, and protecting the location and range of access to the various subjects are crucial issues in determining the ways of

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expression of different values, which plays an important role in ancient places.

Changes in Conservation Area:

The area of conservation has made significant advances in various aspects over the past 20 years, in particular, in general approaches. This is especially true about the architectural conservation and historical and archaeological sites. Through comprehensive planning for managing cultural sources and the use of interdisciplinary and integrated approaches, one can express the constituent environments and examine changing conditions in contemporary society.

An important factor in protecting the evolutionary attitude has been the "cultural significance". According to 1964 Charter, the study of the issue of cultural significance and the consideration of historical and beautiful values in the content of a site, should be given priority. However, by the early 1980s, the evaluation of cultural values and significance as a separate part of the conservation process in policy documents had not been carefully considered. Both charters in Burra and

the Secretariat of the United States Standards focused on this issue, providing a variety of documents and explaining the subject from the different perspectives. As a practical matter, the use of integrated planning methods has been safeguarded in an effort to integrate more effective decision-making processes that have evolved by Australian ICOMOS at the US National Park Service, Canada Park, the English Heritage section, and many other governments and non-governmental organizations (NGOs).

Applying these holistic approaches will have an impact on management plans and preserve the vital tools for the ongoing conservation process. Ultimately, important issue for management plans is that it should be derived from value and be developed through a series of interdisciplinary and segregated processes. This collaborative planning process can be a major long-term factor in protecting the program itself. Conservation is often accompanied by some problems, and the contradiction that exists here is that we have not yet created a general scientific body for informing the implementation of integrated and value-centered

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planning processes and still do not differentiate the sufficient experiences of program processes to create a scientific process.

Integration of Values with Conservation Planning Activities:

The current climate of globalization, technological advances and political contradictions and social mobility, along with the expansion of participatory democracies and market economies, have made it possible for cultures and societies to rapidly change. None of these processes are new in general, however their integration has created a totally different environment of social relationships, which was formerly the dominant area of conservation. These social variable conditions lead us to strategic action to ensure that heritage conservation can be responsive to cultural values and related conditions and create a sustainable process.

J. O. Brien believes that the question "What does this component do?" must be answered for each function with two words (a noun and a verb), 1976 (Brien, J.O.).

The Process of Valuation and Value Is Also a Verb:

Material heritage conservation is a visible function in all cultures and is a function of social sections and factors involved in human and social development. An important factor in this regard is the pursuit of different conservation of cultural heritage aspects, which sometimes has a strong impact on the various subjects.

The inheritance of ancient civilization, as an array of artifacts and arranged with lasting and inherent narrative power, ancient sites have an inherent potential for providing historical information among other things. This long-standing, durable, potential for global knowledge and knowledge of the gradual evolution of human beings and society speaks of the global quality of cultural heritage that cannot always be linked to a specific field.

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potentialspeaksto inform our understanding of the gradual evolution of man and societywith the global quality of cultural heritage that cannot always be linked to a specific field.

The concept of values here has expanded in almost in a static state, as a characteristic of a place that can be fairly described and measured.

Who Does the Valuation?

In general, in the most cases, the answer is that beneficiaries, individuals, groups and institutions do so, with the interest and desire for legacy results and conservation issues.Values are not intended for them. Rather, they are more likely to evaluate and interpret the goal. Therefore, processes that shape legacy values, that is, the processes that shape these beliefs, are important not only in terms of rationalization but also from theothers issues' point of view.

Nevertheless, there is an essential link between the interpretation and the attribution and detail of the values and desires and interest of the various beneficiaries. Therefore, it is important to know who the beneficiaries are. Traditionally, political agents and investors are the most influential beneficiaries.In terms of the concepts of

the words equality and social equality, the beneficiaries should be those whose voices are political, and their decisions are usually soft and silent. (Poor, minority groups without freedom and exploitation). In addition, beneficiary groups may exceed the range of people around that location, or it may include people who have already been living near places but have recently moved away. Focusing on the beneficiaries will open up the broader scope of participation in the conservation. As a result, pursuing more guarantees for larger partnerships, in certain ways, is the important for the conservation designers and site managers.

The ultimate goal is to provide a meaningful and balanced representation of the heritage values that, as done by foreign people, by in-land people in the decision making and planning process.

Evaluating and Balancing Values:

The analysis and the value engineering is a well-organized approach with the goal of determination of the exact cost. (Miles, 1961). The relationship between location, values, and beneficiaries' proportions confronts

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the professionals with two distinct challenges in planning and management, evaluating the values and balancing the values.

In the most cases, cultural significance returns to a narrow range of heritages, rather than cultures. Importance, stabilizes the meaning of a place more in line with its specialized evaluation, while the most people agree that the meaning of a place is usually somewhat interconnected and always changing. We believe that a dialogue about heritage values can act as an international dialect for many beneficiaries of heritage conservation. Another important challenge for the conservation plan is to find ways to unite in-land partnership with foreign individuals who specialize in discipline more than heritage conservation.

Principles of Values' Evaluation:

How are the different values prioritized, priced commercially, and balanced when making decisions and doing plans?

Balancing values, in fact, alongside providing heritage monitoring, is the primary objective of conservation schemes. If we want to do something to

determine, balance, and manage the conservation of values and the use of an access done and completed, what will be our guide? This hard question arises at two levels: First, valuing the values is not easily measured. They are used in different terms (dollars, historical significance, beauty, symbolic and symbolic power, etc.).

Ultimately, any particular equilibrium is decided on the political basis, not as an optimal solution. There is an imaginary suggestion to and acceptable thought to guide the work of professionals and decision-makers in balancing between different beneficiaries and values.

In environmental conservation, there is a balance between economic, ecological, and immaterial values and aesthetic of the natural environment, tolerance and acceptance, but this feature is used in its conceptual terms to practice heritage conservation. The principles of acceptability can be used as a useful guide to enhancing the social and long-term benefits of heritage conservation, while conservation-making-decision and management processes. According to David Trosby (2002), heritage acceptable conservation should be based on:

- Promotion of intergenerational rights: taking into account the needs of the next generation, an imagination of equity in the distribution of profits and costs, and extensive participation in the process of conservation schemes.

- Maintaining and sustaining the diversity and variety: Aligning and parallel with the concept of biodiversity in the realm of the environment, measuring and designating cultural diversity is also essential for cultural health, and individual decisions, in the event of an increase or decrease in cultural diversity.

- Producing tangible and intangible benefits: Identifying and achieving the economic and cultural benefits, and consuming or not consuming the benefits of heritage conservation.

- The use of scarce and limited resources wisely and strategically: It is used in financial, human and environmental aspects.

- Resistance by preventive principles: recognizing that some acts are irreversible. This principle shows that they can be achieved with extreme caution.

- Detection of Internal Affiliation: the heritage is the part of a system that relates to the community and the environment. It is not a different territory and area. Therefore, consideration should be given to conservation in the light of many heritage values and the search for the fulfillment and completion of heritage in other social activities (including development, education, etc.).

- Conservation prevalence: Providing and safeguarding some appropriate and committed safeguards for the prevalence of cultural conditions without such proportions, conservation and support is not possible. Educational methods, in its broadest sense, can clarify the consistency of conservation in contemporary society.

Conclusion

In this study, we expanded the belief that discussing the values in a protective context is important and even necessary. The foundation of the discussion of values in conservation resonates with the challenges posed by comprehensible conservation initiatives in social and political processes, with a technical problem to solve. Ultimately,

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we can preserve the heritage for the values that are attributed to it, not because of it itself. Values consisted of an international dialect to understand the different interests, and beneficiaries who come to the certain places. The framework of values, such as those discussed here, provides a realistic picture of the beneficiaries' interests and begins to operate a basis for balancing and comparing them. The best designs and decisions are those that keep and protect the values for a long time and for as many beneficiaries as possible. An objective framework for the functional and pragmatic goal of determining content for decision making and conservation design is achieved by:

1. Confirming and framing different situations in a perceptual and mutually understandable framework.

2. Helping to clarify and define interactions in cases where conservation methods promote some values and not promote the others.

Using a value framework in conservation schemes enables the professionals and decision makers to better understand the following:

- Decisions are better understood in the content of who cares, who values and why.

- Suggests that there is no simple, technical, objective or reasonable method for deciding which heritage is protected and maintained and how it is not.

- Represents a way to enable and enable discussions about the situations, interests and values.

- This space provides a framework for unprofessional people to collaborate with professionals and experts in a variety of fields for interrelated concepts.

- Ultimately, the explanation of a more acceptable model than a protective plan is the goal. A value-based designed process is a model for acceptable conservation that makes it meaningful and reasonable to many beneficiaries in order to make wider, more focused, realistic, more flexible, and in general more intrusive participation.

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THE TRAUMATIC CONFRONTATION WITH IDEOLOGY AND THE REAL IN E.L.DOCTOROW'S "WELCOME TO HARD TIMES": A ŽIŽEKIAN STUDY

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Abstract: Social reality in its essence is political, and any exploration of it needs a political performance. Concerning the issue, literature, by and large, has gained a political function through history. It has been an efficient political device to represent the role and the impact of ideology on the way of living and identity of people. E. L. Doctorow's novels in general, and his *Welcome To Hard Times* in particular approve of the author's interest in the ideological constitution of American society and the inevitable confrontation of the people with the intrusion of the Real [a Žižekian term] and the regressive work of ideology. In the light of Žižekian perception of the word, ideology is a form of socio-political philosophy in which practical elements are as prominent and decisive as theoretical

ones. To him, ideology is a set of ideas licensing social actions and allocating subjects predetermined Symbolic Orders within the context of elusive reality. It gives them a social mandate, and a specific identity to deal with the worldly affairs. However, in Doctorow's *Welcome to Hard Times* we come to a community of figures, marginal though, who take a rebellion action against ideology to alter the given identity employing their [personal] acts. The present study aims at exploring this reformative attempt on part of the people involved in ideological restrictions.

Keywords: The Real, Symbolic Order, Ideology, Subject, Social reality

Introduction

Edgar Lawrence Doctorow (1931-2015, New York City) is one of the most accomplished and eminent

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authors of the 20th century. He has written eight novels (*Welcome to Hard Times* the first one in the sequence) all the result of his vast amount of westerns he read after his military service. His works are particularly admirable for their synthesis of fiction and history.

No need to say, applying psychoanalytic study on E.L. Doctorow's novels bears benefit since it reveals the unconscious aspect of utterance out through the analysis of characters, relations, and situations. Mostly, psychoanalysts work on the matter of identity and the way of its construction in their studies of one's character. They state that constructionism asserts the process of understanding oneself, others, and reality which are presented in the contextual network of Doctorow's novels, especially in *Welcome to Hard Times*. Such a view supports the idea that human beings if not constructing new things, but are transforming reality. Though sounds noticeable, this idea misses the crucial point that the depiction of the world we read of in the novel is the representative of a real ideological system in which distinct discourses are involved. So testing a methodology that covers the psychological and political

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elements all together seems essential. Concerning the point, the present study is to apply Slavio Žižek's dynamic and complex theories. It intends to offer a comprehensive approach that helps the readers to perceive how ideological factors and Psychological responses are decisive in the identity formation of man. Moreover, the notion and the functionality of ideology in Doctorow's novel, *Welcome to Hard Times* will be examined to reveal first the mechanism of dominant ideology on [the] characters' way of behaving and then the practicable act they do against such ideological dictates.

As John D. Jost states: "ideology is the most elusive concept in the whole of social science" (2009, 308). Jost's words imply the fact that 'ideology' in its essential ambiguity signifies different meanings. In this regard, Ryan states that ideology is "a body of ideas that licenses, enables, and directs social action" (2010, 40). It also applies to "mistaken cognition that prevents people from seeing reality" as it is (41). In other sense, ideology appears as a set of "ruling ideas forced into a position of centrality by ruling social groups" to reinforce their power (44-5).

Žižekian concept of ideology

ŽIŽEK's contribution in defining 'ideology' is derived from Marx's slogan "they do not know it, but they are doing it" (1995, 28). Here, the point is a kind of simplicity or ignorance of the reality in which we live. On the one hand there is reality, but on the other hand is our distorted understanding of it. In this sense, ideology is that distortion, that twisting of our perception of reality that we follow every day though we know sufficiently of its incorrectness. As Žižek states, following the German theorist Peter Sloterdijk (b. 1947), "we are cynical subjects" (quoted in Myers, 65).

As cynical subjects well enough, we know that what is presented of reality is not correct, yet we welcome that falsehood and do not reject it. Modifying Marx's formula for ideology, Sloterdijk proposes a cynical variation of it — "they know very well what they are doing, but still, they are doing it" (29). For Žižek, trying an act, that one that continues in spite of knowing its falsity, constitutes "the ideological illusion" (67). The ideological mystification, as Žižek argues, does not lie in the 'knowing' but in 'the doing'; it lies on

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the side of misperceiving the reality of its actual situation.

Ideology, put it differently, primarily is related to the 'doing' rather than the 'knowing'. In fact, the illusion or distorted perception of reality is indexed in the situation, and it is the very illusion that structures ideology. Žižek's elaboration on Sloterdijk's formula reads in this way: "They know that, in their activity, they are following an illusion, but still, they are doing it" (67). In other words, we are ideologies in practice.

Perhaps the most innovative contribution of Žižek in the formulation of ideology is this very implicit assertion that our beliefs or convictions are not what we feel/think but instead what we do. Put it another way, our most intimate/internal sensation is just *materialized* in our social activity. This materialization of activities is, argues Žižek, the same to how Tibetan prayer needs work:

You write a prayer on a paper, put the rolled paper into a wheel, and turn it automatically, without thinking. In this way, the wheel itself is praying for me, instead of me- or more precisely, I myself am, praying through the medium of the wheel. The

beauty of it all is that in my psychological inferiority I can think about whatever I want, I can yield to the most dirty and obscene fantasies, and it does not matter, because-to use a good old Stalinist expression-whatever I am thinking, objectively I am praying (1995, 31-2).

Ideology and the Matter of Subjectivity in Doctorow's *Welcome to Hard Times*

Back to Doctorow's novel, in *Welcome to Hard Times*, we read of the conductive dictates of the prominent discourse of the American ideology which sets in motion the moping mass of people who come to West searching a so-called better life which is basically codified under the name of the American dream.

When I came West with the wagon, I was a young man with expectations of something, I don't know what. I tar-painted my name on a big rock by Missouri trailside. But in time, my expectations wore away with the weather, like my name had from that rock, and I learned it was enough to stay alive (WHT 6). The people, forming a spectrum of different nationalities (English, Chinese, Russian), sexes, and

racess, are all in a rush to practice the doctrinal rituals of Capitalism; of course, in the shadow of the illusory liberalism. A community of emigrants imagine themselves as free individuals on the way to look for a trade in the vast vacant of harsh West. For instance, such an attempt is to be done even though it turns to be frustrating to Zar and his stock in trade, the whores.

So what shall I do know? All morning I search for a trail to mining camp! You did not tell me there was none; you said nothing. And now I have women who should be on their back, and they are on neck. Four days have I lost! (45)

Staying with Žižek, by subscribing to the rituals of the ideology in action; that is, to go after wealth and treasure, the quester in West believe in 'no' thing before knowing what they do, and in this way, they convert to its doctrinal principles. What happens in continuation is that they follow to respond to and support all the ideological state apparatuses; first to set up towns here and there and then they run business, banks, bars, families and whatsoever. The illusion of what the citizens are engaged in and the disillusionment of the very illusion that

they believe before believing, as Žižek asserts, are comprehensibly reflected in Blue's words, while he is talking about himself and Mr. Maple.

I couldn't understand his feelings. A man doesn't go West for nothing. He'd been traveling four or five weeks, by train, by steamer, by stage, thinking all the while to find his brother when he got there. And probably to make life (76).

I kept thinking; I was traveling to no purpose. What good was this to that woman and that boy? What could I hope to do for them? Only a fool would call anywhere in this land a place and everywhere else a journey to it (66).

Like the other novels, in *Welcome to Hard Times* besides picturing the submissiveness of the people to the current socio-political discourse, Doctorow leaves room for the marginal figures to practice their defiance against the centralized ideology the big Other or, in terms of Žižekian psychoanalyses, as a gesture of reviving their subjectivity. One of these marginal characters, interestingly of the female sex, is a woman by the name of Molly who nearly from the beginning up until the end of the novel manages to take actions to reject the dominant Symbolic

Order. To pinpoint her personality, as a distinct individual, it needs to see what subjectivity/self means to Žižek.

Žižek's *The Ticklish Subject* begins with his assertion that "a spectre is haunting Western academic..., the spectre of the Cartesian subject" (Žižek, 1999, 1). Against the post-structuralist perception of subject, as Derrida puts it, "merely a function of language" (1973, 145) a symbolic machine which is destined to speak the discourse of the big Other, Žižek's reading of the *Cogito* is more matched with Descartes's method. In Žižek's terminology, we can transform from beings immersed in nature (objectivity) to beings supported by culture (subjectivity). For Žižek, the connecting chain between these two poles is the Cartesian doubt. His definition of the doubt reads: "a withdrawal into self" (Myers, 2003, 36). As Žižek states, this total withdrawal is one of madness, representing the madness of Hegel's 'night of the world':

This night, the inner of the nature, that existed here_pure self_in phantasmagorical representations, is night all around it, in which here shoots a bloody head_ there another writes ghastly apparition, suddenly here before

it, and just so disappears. One catches sight of this night when one looks human beings in the eye_ into a night that becomes awful (quoted in Žižek, 1998, 258).

Another way put, it is only when the world is experienced as a loss or absolute negativity that it becomes necessary to constitute a symbolic universe. Drawing on Žižekian *Cogito*, the subject is not a substantial I but a void, an empty point of negativity and emptiness that makes the transition from objectivity to subjectivity.

Within the circular shape of the novel, beginning with and ending in fight and destruction, everything and everyone is understood based on the role he/she takes in the Symbolic Order of the forming society. Everything in its symbolic function seems to be in harmony and coherence with the chain of signification. The course of events goes on peacefully up until the traumatic event happens: the premature, unexpected arrival of the Bad Man from Bodie that suddenly breaks through the town.

Given that our knowledge of the world is mediated by language, that we never know anything directly, just through [the] symbols, then the Real is

any aspect of life which is left unknown, which escapes and “resists symbolization” (Myers, 2003, 25). Lacan understands the Real as ‘absolute beings’ or ‘being-in-itself’. As such, the Real is opposed to the imaginary and the symbolic, since it is “beyond the realm of appearance and images”; it is

“an indivisible brute materiality that exists prior to the symbolization” (Homer, 2005, 82). The other point concerning the Real is that, whatever it is, it is associated with the concept of trauma. For Lacan, trauma is Real insofar as “it remains unsymbolizable and is a permanent dislocation at the very heart of the subject.

As aforementioned, the coming of the Bad Man is considered, concerning the notion of Real, as a traumatic presence to all dwellers in Hard Times, especially to Molly who pictures one of the victimized subjects. Through the narrative, Doctorow expresses some unsymbolizable features of the Real/Bad Man.

[Blue] I guess Florence had never seen, a man so big (WHT 2).

Jack Millay told me later he followed the boy across the street to fill Fee in on the details—little Jimmy might

not have made it clear that the customer was a Bad Man from Bodie (3).

The Bad Man was celebrating the new day riding bareback and forth from one end of the street to the other (9).

The Bad Man drank Avery's liquor like water and every time he poured for us too.

He was a younger man than I expected, and he had the eyes of a crazy horse. Right then my hand began to move, and I meant for it to go for my gun. But it went instead for the glass on the bar; I felt at that moment that I wanted to please him, I was almost glad to drink (17).

[Molly] Oh, sure! Christ that Bad Man's the only man in town! (75)

From a different angle, the Real/big Other appears to be the fullness of things that the Symbolic Order goes to work on, chopping it up to pieces, yet it remains there; the Real is left over when the Symbolic has finished. In other words, the Real/big Other comes after the symbolization. Likewise the ignored presence of the Bad Man, either before or after the establishment of civility in *Hard Times*, can be regarded as the unsymbolized ever-presence of the Real on part of the subjects/ the citizens. The

frequency of the Bad Man's visits to town and his annihilating roaming the West mirror up his indivisible precedency and his traumatic effect. In fact, whatever happens, it occurs within the ever-lasting presence/intrusion of the Bad Man.

The psychological trauma refers to the events, like the train crashes, that affect and disturb the people either involved in or present or watching the disasters. The most common form of such trauma is either physical or sexual abuse. In *Welcome To Hard Times*, the Bad Man's unwanted presence is along with both physical and sexual violence. It includes not only men but women, not only one individual but all townspeople. As a psychical event that disturbs the smooth running of the Symbolic signification, trauma "arises from the confrontation between an external stimulus", name it a stranger who receives no name, no land, no thing, and "the subject's inability to understand and master these excitations" (Homer, 2005, 83).

"You're alright, Molly", I said

But when she walked up to the doors, the stiletto slipped out of her sleeve and clattered on the porch. I

kicked it aside before the Bad Man might see it and I pushed Molly through the doors and stepped in behind. Then I saw what made her drop the knife, Florence bent over

the upstairs railing, bare, with her arms dangling and her red hair falling down between them (WHT 16).

Drawing from Homer's exploration of the Real as "a kind of ubiquitous undifferentiated mass from which we as individual subjects must distinguish ourselves through the process of symbolization" (Homer, 83), getting away from it through reforming a new Symbolic identification seems essential to [the] reformation of one's subjectivity or self.

Keeping a gap between the Real and the Symbolic, for Žižek, enables the subject to experience the crucial transition from a state of nature/object to that of culture/ subjectivity. The indispensable inclusion of the Bad Man as a microcosmic representative of the ruling ideology, something that precedes thought and language, works as a driving force pushing the characters either to a submissive obedient Symbolic role or toward a reformative subjectivization. Molly is one of the rarities who decides to take an intermediate state in her

relation with the big Other/Bad Man. She undertakes the Hegelian madness, 'night of the world'. Molly introduces herself as a missing link, or a "vanishing mediator" (Myers, 37) between the two states. She tries [the] transition first by escaping from the Real, to be able to construct a substitute for it to redefine her 'identity'. Her madness depicts a precondition for her sanity as a civilized subject. From the very beginning, she manages to get free, stand away, or even be spiteful to the Bad Man. Molly's paradoxical antagonistic yearning for the Bad Man is understood as her distinct stratagem to redefine her 'subjectivity' with the Real.

It was a celebration. Avery, Jack Millay and I stood at the bar while the man poured for us. Molly sat at one of the tables staring up at Flo with her Knuckles in her mouth. She sat looking away from him. (WHT 17)

"Blue"! Molly screamed. She was trying to put tables and chairs between them and

the Bad Man was laughing and tossing the furniture aside. Molly was struggling and pulling, or I'm sure he would have killed me (18).

In this reading, the self is what Žižek defines as "the center of narrative

gravity (1998, 261), what fills in the void of the subject, and while the subject stays unchanging, the self is open to constant revision.

The non-restrictive joyful ruins the Bad Man brings about if we see him as the voice of the unbeknown ideology, is regarded as the return of the superego. In the permissive society wherein he satisfied his needs and desires, a society continually responding and even inviting to sexual enjoyment, it cannot be right anymore to consider sexual pleasure as something being prohibited. According to Žižek, in this social context, “sensual gratification has been elevated to the status of an official ideology” (Myers, 2003, 53). Put it another way, all people are expected to indulge themselves in enjoyment; they are required to live less and less with law and more and more with superego.

Being located, argues Lacan, in the Symbolic Order, the superego keeps a close but ambiguous relation to the law. As the law is founded upon “the prohibition of incest” (Lacan, 1992 [1986], 67) that which it seeks to exclude, the desire to break and transgress the law is the very precondition for the existence of the law itself. “The superego is the imperative of

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jouissance—Enjoy!” (Lacan, 1998 [1975], 3). It is both the law/oedipal father and its agent of destruction/the primal father. These two fathers are involved in the novel. While Blue takes the role of the public law, which is suppressive in its work, the father who transmits the code of law to his people even his child— Jimmy, the Bad Man pictures the primal father, the figure of the absolute father who aggregates to himself the women and wealth by excluding his sons or rivals. He is the dark side of the law that in his nature is cruel and licentious. As Žižek puts, he emerges at the point where the law fails, and at this point of failure, the law is compelled “to search for support in an illegal enjoyment” (1994, 54).

[Blue] I said trying to control my voice.

What do you say to working in Isaac’s store? It will be good for you. You’re going to work regular hours. You’re going to learn reading and writing. You’re going to grow up proper with this town and the day will come (WHT 162).

I pulled him [Jimmy] down. I took hold of his shoulders and held him down on the rocks. “What kind of mama’s boy are you! Listen to me: I said

the day is coming when no man from Bodie will ride in, but he will wither and dry up to dust. You hear me? I'm going to see you grow up with your mind, I'm going to see you settle just like this town, you are going to be a proper man and not some saddle fool wandering around with his grudge.

Jimmy listens to me" (162).

In relation to what mentioned above, while the law is the renunciation of enjoyment reflected in telling what we cannot do, the superego commands us to enjoy what we can do. Staying with Žižek, the superego "marks a point at which permitted enjoyment, freedom-to-enjoy, is reversed into an obligation to 'enjoy' " (Žižek, 1991, 237). And when enjoyment becomes obligatory, it is no longer fun. Doctorow's novel pictures the same idea having the Bad Man get through the town killing, drinking, and having sex, quite disrespecting the common law which is newly established. In this interpretation, the Bad Man is the caricatured representative of disturbing radical exercise of the ordered official pleasure. The way he treats his desire for pleasure hypnotizes so many other people to do the same, that is,

they follow him as a model.

Now "enjoyment is not an immediate,

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spontaneous state but is sustained by the superego imperative" (Žižek, 1997, 173). Nearly every man is compelled to adopt a miniaturized version of the Bad Man; that is, he/ she has to follow the same ideological belief from which no escape is thinkable.

And with all that misery in such small space, I thought for one second to get up and get out of there and ride away fast. But I could no more do that than Fee and Flo and the others could get up from their graves— the Bad Man had fixed us all in the spot, and he had fixed me by leaving me alive (WHT 30).

The other impact of the superego to 'enjoy!' is to make its subjects indifferent and unable to enjoy what they are forced to do. Apparent evidence of such neutrality is perceptible in Molly. Being a professional whore, making a living with prostituting herself to the tradition of the saloon and the bar-goers, after the compulsory sex with the Bad Man, she not only becomes for a while indifferent to the profession but feels disgusting it also.

I stepped inside to see if Molly was awake. Slits and speckles of light lay across the floor, and one strip of light fell on her open eyes. She looked bad. Her face was so thin I could see how the

bones and blue veins went under her skin. The food beside her was untouched. I didn't know what I should say to her. I didn't know what she would say to me (WHT 33).

But I looked at her and saw what a sweet smile it was, full of hate, and I felt as if I had been swiped to the ground by the paw of a big cat (34).

The woman in John Bear's shack was no longer Molly; what had happened in Avery's saloon could never be undone (34).

"Don't you touch me?" Molly screamed. "Whores! Keep away from me!"(41)

To the dismay of the Bad Man, and the freedom he propagates, Molly adopts a transgressing attitude towards life which is manifested in her sobriety, aloofness and pride about Blue, and she takes a sadomasochistic position to the Bad Man as the only way left to pleasure under the injunctions of the superego.

Molly, all streaked with tears and dirt, looked up at Jimmy as if seeing him for the first time.

I was wishing she could look at me that way (43).

It was to plague me for a long time that I couldn't tell what she would answer, or I might find a moment's

favor in her eyes. She didn't say anything till I began to wonder if she'd heard me (60).

Within the elemental feature of the Real/big Other, resisting symbolization, sets the notion of its disintegration. What Žižek means is that the big Other has always been dead in the sense that it never existed in the first place as a material thing. For Žižek, all it ever was is just symbolic or fictional order, another way put, we are all "engaged in a minimum of idealization, disavowing the brute fact of the Real in favor of another symbolic world behind it" (Myers, 50). As human beings, we have to engage in the loop of symbolization and help it move on to forget the abyss of the Real though factually we know that it is nothing more than a kind of fib or lie. If there is a loophole to get rid of the ceaseless course of symbolization, it is through an 'act'.

An 'act' signifies, in Žižekian terminology, the re-birth of the subject. It means a perfect rejection of the present Symbolic Order and mandate/role assumed by the subject. As Žižek states:

The act differs from an active intervention /action. In that it radically transforms its bearer/ agent: the act is not

simply something I ‘accomplish’_ after and act, I am literally ‘not the same as before’. In this sense, the subject undergoes the act (passes through it) rather than accomplishes it: in it, the subject is annihilated and subsequently reborn (or not), i.e., the act involves a kind of temporary eclipse, aphanisis of the subject (2000, 44).

Accordingly, it is attempting madness to withdraw from the world, risking not only any possible return but any other point to back to. Therefore, ‘act’ is putting oneself in danger to commit a Symbolic suicide.

The inconsolable death-wish Molly wishes on the Bad Man on the one hand, and on the other hand, Blue's unrequited love, loving Molly due to her enigmatic way of behavior that through the course of events makes a submissive man of him draws them both, Molly and Blue, toward their suicidal act at the end of the novel.

That was the idea I –Blue– held on to like my life, it moved me to action, it was a clear simple thought and I took it over from Jenks, becoming the fool he'd been, lifting the fool's hat from his dead body to fit on myself, becoming Molly's final fool, as I am now (WHT 197-98).

After shooting the Bad Man down and clubbing him to be insensible, Blue carries him home half dead, drops him on the table. Then both Molly and Blue fulfill their own gesture of avenge on the Bad Man, the man of their dream. Molly, quite excited, jabs him, the great insulter with her stiletto as a way of retaliating his insults till she grabs him in arms to initiate a unity. Blue, on his part, shoots them, Molly and the Bad Man, dead to be no more eclipsed with their Symbolic mandate. Though Molly and Blue's gestures are different in form, the effect is identical since it helps them both to reinvent a new symbolic identification with the Real / the Bad Man. Molly steps toward a negating union in her symbolic embrace with the Bad Man, to be killed and so protect the dignity of her own ‘self’ as a ‘woman’ within the existing Symbolic (of patriarchy) and the mandate of the corresponding ideology. Blue's final hysteric gesture, to shoot the Bad Man, aligns with killing off Molly, the one who is the dearest and most wanting to him; this action, in one sense, enables Blue both to massacre the rival and the woman he holds the dearest. This act, as Žižek argues, "far from amounting to a case of impotent aggressivity turned against oneself,

rather changes the co-ordinates of the situation in which the subject finds himself (2000, 150). In one sense, by doing the murder, Blue escapes from the engulfment of the Other, name it either the Bad Man, his rival, or his dearest loved one, Molly.

"All right, Molly? Is it alright now? Is this what you wanted?" But she didn't hear me. She stood as far away as she could and watched me drop him on the table. (WHT 203) Back she jumped and then forward into another place, and he [the Bad Man] tried to writhe away from the point. "Eh?" says Moly. "Eh?" as if to say remember me? Remember your Molly? "Eh?" does this make you remember, or this, or this! –almost dancing with the grace of retribution (204).

It was the moment Turner's arms had closed around Molly as if in an embrace. My hand was over the Muzzle of the gun, but the blast killed them both (205).

Conclusion

If the order of the Real considered, in Žižekian psychoanalysis, as those areas of life which cannot be known, and if the Symbolic, as Lacan

claims, in its function "introduces a cut into the Real" (Myers, 2003, 25), the terms are initially bound with each other. The counterbalance of this intimacy as much as concerned to the notion of [the] subject means the disappearance of [the] subject. Put it differently, the lack of discrepancy between what everything is and what everything means equates the end of the signifying chain. E. L. Doctorow's novel, *Welcome to Hard Times*, depicts this fundamental mutual bound in the context of the relationship between the involved characters and domineering discourses. The interconnection of the discourses, the voice of ideology with its marginal subjects, reflects the Žižekian contention that what makes us human or more precisely, the thing that makes us 'subject' is the very signifying chain and the decision we make in regard to our mutual relation with the Real or its effects named ideology. Monitoring the destiny of the people in *Hard Times* who defined themselves in their connection to the Real as automaton, unthinkable obeying subjects to the doctrinal rituals of the Symbolic Order, it is evident that it brought them to nothing except the vanishing of the 'self'. The leading cause of this premature death/ extinction from

social interaction is their complete submission to the Symbolic, and ignoring the ever intrusion of what lies out of it, the Real. The ever-presence of the Real, represented by traumatic intrusion of the Bad Man, makes some people, few if not all, to decide on their reaction against it. The point is deciding how to cope with this unwanted, but the undeniable presence of the Bad Man they find the occasion of being reappeared as a subject. This reflects Žižek's perception of subject, that "it exists at the interface or on the borders between the Symbolic and the Real" (29).

Adapting the formulas of both Marx and Sloterdijk, on the concept of ideology, Žižek sums up the cynical attitude as "they know very well what they are doing, following an illusion, but they are doing it" (Žižek, 1995, p.29). In this sense, our belief in ideology is staged in advance of our acknowledging that belief in belief machines. Therefore, as we think we have assumed a position of truth from which to denounce the lie of ideology, we find ourselves back in a doctrinal ideology again mainly because truth belongs to the Real that always remains unsymbolized. Moreover, ideology in its effects conceals the failed symbolization of the antagonism of class

struggle in the Real. Accordingly, Molly's deep-seated sense of hatred and her intention to stand away from Blue, a man who is perceived as the man of family or the so-called Mayer in the novel, manifests her knowledge on the illusory guise of reality in the form of a peaceful, coherent and integrated society. Such a society for certain is imposed on every man by means of Žižekian belief machines whether named state, family or whatsoever in *Welcome To Hard Times*.

Žižek's solution to get loose of neutrality of our being and the blinding impact of the dominant ideology is to be able to subject it to critique. To him, the problem with contemporary politics is that it is non-political, that it considers the present capitalist structure of society as natural. Staying with Žižek's idea, the first step to reconstruct the reality/Symbolic Order is to critique the naturalness of the present state, an attempt which associates reinvention of one's subjectivity with [in] ideology. If we behold the first compulsory confrontation of Molly with the Bad Man that ends in her bodily and physical belittlement, as her recognition unveiling the beguiling function of the ideology which hides the failure of the current

Symbolic Order, her second deliberate approach to the Bad man (who symbolizes both the unbeknown, unsymbolizable Real, and the spectre of ideology) can be interpreted as her individual attempt to keep the project of ideological critique alive. Put it differently, it is a gesture on part of Molly to take a passage through a political suicidal act to reject what there is – capitalism – to open up a space in which her subject is more entrapped in their paranoid fears and servility pleasures.

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USE OF THE TRANSFORMATIONAL LEADERSHIP MODEL IN POLICE MANAGEMENT

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Abstract: The law enforcement system, like other governmental structures, is a very conservative mechanism showing no tendency towards swift changes in the style, methods and techniques of their work, as well as leadership and management style. Despite the fact that the police reform in Russia has already been going for more than four years since its launch, the Russian law enforcement services and their work still remain the object of incessant critique both from policing practitioners and theorists. In this study, we provide a review and description of the

'cooperative' system of police leadership and management which has been adopted in Germany and some other EU countries. Not always perceived unanimously, this model allows an organisation to keep off authoritarian tendencies in leadership when both the responsibility for and performance of a function/role falls entirely on the same person who is a boss or executive of some level. Based on a review of recent policing studies in Europe, we have attempted to bring out both negative and positive aspects of the different models of leadership and management in the law

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enforcement. The goal of our description is to outline - for the Russian reader - leadership practices adopted in the German police, along with offering a critical enquiry into the styles and methods of police management in today's context. Today, both in Europe and Russia, prevailing is the traditional authoritarian system of management and leadership in police forces, which in our view does not fit well with the current requirements and needs of our ever changing and globalizing society; at the same time, policing research offer practically no international studies and only exhibit very segmentary, incomplete works on this issue. At the same time, we have evidence (and offer it below) that police leadership practitioners are beginning to think more favourably of transformational, transactional and cooperative methods of directing their organisations, which definitely goes beyond any traditional perceptions of what the authoritarian leadership model in police should be. We believe that the present study will be of

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use for practical leaders (managers) in the police forces of Russia and, possibly, other CIS or post-Soviet states where the tradition of 'soviet' leadership style has not been fully overcome yet.

Keywords: police, personnel management, police leadership, transactional leadership, authoritarian leadership, new challenges and threats.

Introduction.

The currently prevailing model of leadership in the German police has grown out of practical experience and, to date, remains insufficiently explored⁵. This model - the so called "creative leadership system" (Kooperatives Führungssystem, KFS) - is prescribed today as mandatory by German police rules and regulations; it has been a dominating form of management in German police forces - at least more or less so since 1982. Its early theoretical foundations were laid by Wunderer and Grunwald⁶ and later expanded by Altmann and Berndt.⁷

⁵ Weibler, J. and Thielmann, G. *Polizeiliche Führungslehre: Begründung — Gestaltung — Perspektive*, Deutsche Polizeiliteratur, Hilden. 2014.

⁶ Wunderer, R. and Grunwald, W. *Führungslehre Band 2: Kooperative*

Führung, De Gruyter, Berlin, New York. 1980.

⁷ Altmann, R. and Berndt, G. *Grundriss der Führungslehre: Grundlagen kooperativer Führung*, 5th edn, Schmidt-Römhild, Lübeck. 1992.

Methods.

For this study we used the methods of chronological content analysis and a comparative study of law; we looked into papers by European colleagues on such problems as the nature of police work, its innovations, reforms and mechanisms in different countries over the last two decades and earlier. The review is based on publications from British, German, Spanish and Italian journals from the years 1980 - 2014.

Results.

The cooperative system of leadership relies on the three principles, as follows:

- the idea of a positive personality
- trust
- connection

and on the following six components of the so called ideal leadership:

- **Delegation:** Police leaders must delegate their goals and tasks (depending on rank) to an appropriate level of execution for their satisfactory fulfilment, whereas the charge of and

responsibility for the conduct of the work remains fully on the management.

- **Participation:** This component of the cooperative system of management describes consultancy offered by followers and their subsequent taking part in goal setting.

- **Transparency:** This component relates to actions of a police leader who must be open to communication and can rely on his/her subordinates in respect of organizational problem solution and goal achievement.

- **Representation:** This point is important for all members of a police organisation; however, it is the leaders who have to perform their duties in the most effective and conspicuous way through engaging in group work and providing role models for their followers.

- **Control:** This constituent of the cooperative system of leadership is often considered to be the most controversial one; on the other hand, this demonstration of power encompasses the leader's responsibility for securing that all adopted organizational goals are achievable and achieved, by any lawful means at hand.

- And at last, **efficiency**

measurement: The cooperative system of leadership and management fosters reliable and valid assessments of the work performance of each and every officer in the police organisation.

Once the principles and components referred to above are learned by police leaders, then their leadership style will tend to promote and nurture team work and self-organisation of the subordinates (unlike in the authoritarian model), and create a climate of trust, which cumulatively should inspire and motivate police officers for a conscientious work and good outcomes.

The cooperative system is deemed appropriate for police leaders' style all over Germany; it has been already widely adopted and praised.

The six elements described above can be easily taught to police leaders with satisfactory outcomes, which is obviously a great advantage if we are to think about training new, future leaders. This is what accounts for Germany's nationwide success of the model.⁸

Difficulties are first encountered when we consider the theoretical framework of the system, because practically no international studies of 'one-dimensional' understanding of this German model can be found in literature. The uncritical, dogmatic perception of the cooperative leadership system widespread today can potentially - to a certain degree at least - hinder the process of integrating in it new practical results and experience of leadership and management.⁹ At the same time, this model is so authoritative and influential in the day-to-day work of the German police that, as it appears sometimes, it should be integrated in the policing theory that has been developed and expanded for the last three decades; this model has to become the object of incessant and close attention of all those in the police studies.

The whole matter now depends on transformational leadership.

Discussion.

What should the actions of a police leader be like to be successful and

⁸ Weibler, J. and Thielmann, G. Das Kooperative Führungssystem der Polizei im Jahre 2010 — Bisherige Entwicklung und Reformbedarf// Polizei & Wissenschaft,

2010, No 1, pp. 57-65.

⁹ Barthel, C. Kluge Führung kann man lernen//Die Polizei, 2012, Vol. 103, No 5, pp. 127-135.

efficient, to ensure support for him/her from followers, to solve problems and at the same time delegate some of his/her duties to the team members?

The answers the 'cooperative model' can offer lie within the six components described above. They have been worked on and improved through many years of practice in the German police forces.

Let us now consider the two of many possible leadership styles: transactional and transformational leaderships.

Transactional leadership can achieve success in certain 'strict' situations, which means that relationship between leaders and subordinates is based on the "take-and-give" principle and on interaction where no personal interest or self-gain is assumed to have play. We can specify here the methods by which use a transactional leader can influence and direct his/her followers.

The leader who leads his/her subordinates to obtaining conditional preferences, makes it clear what the desired goals and benefits from their achievement are, and what has to be done

or undertaken to achieve this.

The transactional leader who favours the active 'management-by-exception' style would control the work of his/her subordinates but intervene only when their actions may pose a threat to themselves or to the attainment of the goals and tasks that have been set for them, a threat potentially affecting the whole organisation and its work.

Transformational leadership is the style of management where the leader creates his/her own vision of leadership and organisation through inspiration, who highlights the inherent motivation in followers and praises their correct decisions and sound acts; all this enhances organisational integrity, follower engagement in teamwork and commitment to their oath.

Perhaps, the whole spectrum of the mentioned leadership styles can be measured by only four indicators:¹⁰

1. Idealised influence. A charismatic leader who openly communicates his/her values and views, insists on the collective, team-like nature of task achievement and accepts all ethical consequences of appropriate

¹⁰ Avolio, B.J. and Bass, B.M. Individual consideration viewed at multiple levels of analysis: A multi-level framework for

examining the diffusion of transformational leadership // *The Leadership Quarterly*, 1995, Vol. 6, No 2, pp. 199-218.

outcomes.

2. Appropriate follower motivation. Appealing both to individual and organisational goals is what leads to increased efforts of all the personnel of the organisation.¹¹

3. Intellectual stimulation is what is achieved by making clear the connection between reason underlying a decision that has been made and the fostering of creating thinking in followers.

4. Individual consideration. It is when a leader not only train his/her followers but also consults and supports them. In this case the leader aims for finding new training/education opportunities by considering appropriate needs of a subordinate, focusing him/her on career progress and possibly continuous promotion in ranks and posts, and on other real perspectives of the near future.

Thus, we can now sum up certain interim results and findings of our study.

Although the 'fathers' of

management theory have been always very cautious about and did not openly denounce the transactional model, nevertheless, transformational leadership is seen as a better, more efficient and therefore more widely recommended style and method of directing followers.

Worth noting here is also the issue of police's adjustment to the phenomenon of transition from the public to the private sector.

In their critique of transformational leadership, British researchers Carrie and Lockett are very sceptical about prevalence of the transformational model claiming that it was developed for private companies, not for public sector.¹² They believe that bureaucracy and its policies regulating the work of public servants is what comes into direct conflict with the principle of liberty of action to be given to and initiative displayed by each and every employee: from CO to the last subordinate.

Some characteristics of

¹¹ Bass, B.M. From transactional to transformational leadership: Learning to share the vision *Organizational Dynamics*// 1990, Vol. 18, No 3, pp. 19-31.

¹² Currie, G. and Lockett, A. A critique of

transformational leadership: Moral, professional and contingent dimensions of leadership within public services organizations//*Human Relations*, 2007, Vol. 60, No 2, pp. 341-370.

bureaucracy - such as rigid hierarchy and lack of communication on equal terms between levels - can impose additional restraints on antecedents that are necessary for the emergence of transformational leadership in public services.¹³ In the latter case, despite the presence of a transformational leader, the path towards the most effective management and, consequently, to its satisfactory implementation for good outcomes, is obstructed if not blocked completely.

It should be noted here that to ignore extensive policing research on this issue would be unwise, and speaking more generally, the public services sector would gain much through simply looking more closely at modern leadership models. The police force environment is seen as a special subject

in the public sector. Historically, it includes paramilitary structures¹⁴ and is of a manifestly bureaucratic nature.¹⁵ Organisational culture in the law enforcement, within the authoritarian model, requires blind obedience on the part on subordinates, involves direct superior-subordinate relations and promotes team work.¹⁶ Consequently, police culture "pays a lot of attention to the structural aspect of police forces and 'nurtures' especially forceful and assertive leaders.¹⁷ Yet, this cultural orientation has been largely questioned in the last decades, which is a recent general tendency in the law enforcement community. Historically established methods and styles of management can jeopardize and even undermine new approaches to the idea of leadership and to novel management instruments

¹³ Wright, B.E. and Pandey, S.K. Transformational Leadership in the Public Sector: Does Structure Matter? // *Journal of Public Administration Research and Theory*, 2009, Vol. 20, No 1, pp. 75-89.

¹⁴ ¹⁴ Bruns, G.H. and Shuman, I.G. «Police Managers» Perception of Organizational Leadership Styles// *Public Personnel Management*, 1988, Vol. 17, No 2, pp. 145-157.

¹⁵ ¹⁵ Coleman, T.G. Managing strategic knowledge in policing: Do police leaders have sufficient knowledge about organizational performance to make informed strategic decisions? // *Police*

Practice and Research, 2008, Vol. 9, No 4, pp. 307-322.

¹⁶ Vera, A. and Koelling, K. Street Cop Culture and the Aging Police Force Understanding the Interplay between Demographic Change, Organizational Culture, Leadership and Police Officers Performance // *European Journal of Policing Studies*, 2013, Vol. 1, No 1, pp. 64-88.

¹⁷ Barth-Farkas, F. and Vera, A. Power and transformational leadership in public organizations // *International Journal of Leadership in Public Services*, 2014, Vol. 10, No 4, p.224.

including such as strategic necessity (in management), etc., which are to be adopted by the police force to be able to ensure effective upkeep of public order in our cities. In contrast, the transformational management model may now become necessary for all police organisations and, potentially, be able to assume the burden of decision making in respect of all the ever changing roles and tasks of the police.

A transition from transactional to transformational police leadership style has already occurred in many a European country.

For instance, surveys of Norwegian police leaders demonstrated, back in 2012, their shift from the transactional to interpersonal (transformational) model of management in most of the cases.¹⁸

Whereas police officers' empowerment is the factor that should become a prevalent everyday practice in police organisations, the traditional 'police culture' we touched upon above

remains one of the key stumbling blocks on the way to changing the nature of leadership and management in the law enforcement.¹⁹ In today's dynamic environment, effective police leadership is becoming extreme necessity, and its adaptive skills and capabilities are definitely of paramount significance for any leadership style. Transformational leadership is regarded by European policing theorists and practitioners as the style of police management particularly well fit for the times of change.²⁰

Today, in a law enforcement organisation, its leaders have to bring into balance the roles of direction and leadership depending on what each specific situation and context requires.

German police officers are the witnesses of how, in certain situations and contexts, these six components talked of above have taken root (although sometimes in a slightly indistinct form), which secures necessary flexibility for the style of leadership and management.²¹

¹⁸ Gottschalk, P. and Glomseth, R. Attitudes of police managers to different leadership roles in their jobs: An empirical study in Norway // *Journal of Leadership Studies*, 2012, Vol. 6, No 1, pp. 23-29.

¹⁹ Butterfield, R., Edwards, C. and Woodall, J. The new public management and the UK Police Service // *Public Management*

Review, 2004, Vol. 6, No 3, p. 399.

²⁰ Silvestri, M. «Doing» Police Leadership: Enter the «New Smart Macho»// *Policing and Society*, 2007, Vol. 17, No 1, pp. 38-58.

²¹ Weibler, J. and Thielmann, G. *Polizeiliche Führungslehre: Begründung — Gestaltung — Perspektive*// *Deutsche Polizeiliteratur*, Hilden, 2014.

Nevertheless, a relation between 'cooperative (transformational) leadership', on the one hand, and transactional leadership, on the other, remains bleary and indeterminate, especially in what concerns application of these two models to everyday police work.

Conclusion.

All in all, German law enforcement leaders tend to stick to a style of leadership which is, in itself, the result of a merger of the transactional and transformation models, in accordance with theoretical and practical recommendations. With this, "the police organisation persists in its holding on to the good old authoritarian style, which characterises it as a relatively conservative structure, rather than a transformational one".²²

Besides, European colleagues have established that in some countries, for instance, in Spain, the positive and active styles of police leader behaviour, such as transactional and

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transformational leadership, are found more often in high-ranking officers.²³

We do have grounds to say, without practically any doubt, that the cooperative model adopted in the German police has influenced significantly the leadership style of most of its high officers. The six dimensions of the leadership style described in this study, naturally enough, do not fully coincide with the main principles and elements of the cooperative model of management; still, they no doubt reflect in themselves its key notions and characteristics.

Contemplating the objective reality, we see that in practice the behaviours of police leaders do not strictly correspond to theorized models and rules, but are more often made subject to the requirements of specific situations and challenges of everyday policing routine. In this connection, it comes as no surprise that any analysis of policing practice will demonstrate to us that the transformational, transactional, cooperative and other styles of

²² Densten, I.L. Senior Australian law enforcement leadership under examination, *Policing //An International Journal of Police Strategies & Management* 1999, Vol. 22, No 1, pp. 45-57.

²³ Álvarez, O., Lila, M., Tomás, I. and Castillo, I. Transformational leadership in the local police in Spain: a leader-follower distance approach// *The Spanish Journal of Psychology*, 2014, Vol. 17, p. E42.

leadership are merging into some sort of combination, which is only naturally in this context.

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THE POSITION OF JUDICIAL OVERSIGHT OF JUDICIAL INDEPENDENCE IN CONTEMPORARY LEGAL SYSTEMS

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Abstract: In the political systems of nations, independence from the political pressure exerted by government officials and legislators guarantees the impartiality of judges. Thus, the power of judges to review public law and to violate the constitution by them acts as a fundamental obstacle to the possible abuse of power by the state. This power requires the courts to be independent and able to make their decisions based on the law. Administrative and institutional independence of the judiciary has never been a matter of purpose and has not been an inherent matter, but has been a means of securing the independence of the judge. Because the mere organizational and organizational independence of the judiciary is as valid as the independence of the legislature and the executive. The emphasis,

therefore, on judicial independence in this sense must, to some extent, be that the balance of power is maintained. Just as judges in the United States and England are elected by political bodies such as the President and the Senate, there must be a way for the judiciary to maintain the balance of power, which is nothing but judicial oversight.

Keyword: Judicial independence, separation of powers, judicial oversight

Introduction

Judicial autonomy is when judges are judged solely on the basis of their legal standards and the guidance of their conscience without any outside or internal influence. The judge should not be afraid of any obstacles and should not be deterred by fear of dismissal,

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degradation, and change of employment and position. Judicial autonomy has a general meaning and is the same for all officials, so judicial independence from the executive, the representatives of the judiciary, the judiciary and law enforcement must be protected, and no individual or authority should be a judge.

For years, there has been talk of absolute or relative separation of powers. Since human history has been accompanied by the abuse of state power by its rulers, people have sought to limit the authority of their rulers to prevent the use of power by suppressing the rule of law, since freedom is suppressed. And democracy is not only about the participation of the people in the exercise of sovereignty, but also about the need for people to be protected from the oppression of the rulers and to preserve their lives, property and honor in the light of proper law enforcement. An institutional prediction called "judicial oversight" is evidence of the importance of this issue.

Speech One: Power Separation.

In the Book of Laws, Plato designated separate groups for the rule of law and for the protection of law, the

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affairs of the city and the administration of justice. Aristotle also states in the book of politics that each government has three powers: the first power is a delegation whose task is to discuss the public interest, the second power is about the rulers and the extent of their jurisdiction and manner of election, and the third power. It also includes the proceedings. This explanation continued until Montesquieu in the eighteenth century clearly divided his powers into the fourth, sixth and seventh chapters of his book, *The Spirit of the Laws*, and outlined the duties of each branch, linking each to the other. He also argues that in order for power not to be abused, power organizations must be regulated so that power stops power.

In the relative separation of powers, sometimes referred to as co-operation or association of powers, different governmental forces are linked together by legal and political arrangements and, in the course of this distinction, chart the whole of national sovereignty.

The "anti-federalists" believed that in the absolute separation of powers, no branch should exercise more than the triple functions of

government, and the powers of the powers should be clearly separated. In contrast, proponents of the theory of relative separation of powers considered separation of powers and functions impossible and undesirable. These scholars, including the Federalists or the founders of the US Constitution, found it more appropriate to direct the three-pronged power relations known as the "Monitoring and Balance" system. In such a system, the relations of power are regulated in such a way that, despite the more or less clear separation of duties and powers, each force has the means of controlling and moderating the other. Proponents of this system, in fact, differentiate between the concept of "surveillance" and "interference".

To get to the core of the issue, we first discuss whether judicial independence is structural autonomy or is it independent of the judge's personality?

Speech Two: Institutional Independence of the Judiciary or Independence of the Judge

The judge should be independent in the handling and issuing of judgments, appeals, appeals, resolving

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hostilities, resolving hostilities, finding and prosecuting offenders, and punishing offenders and enforcing regulations. Because the heavy task of judging is left to him. So it must have the independence and immunity to carry out this mission without fear, fear, and submission to threats and embarrassment, and the exercise of power and reasoning.

In rule-of-law systems, independent and experienced judges are the basis of a constitutional, fair, impartial and guaranteed constitutional court system known as the judiciary. This independence does not mean that judges can make decisions based on personal preferences, but they are free to make decisions according to the law.

On the other hand, in some systems, such as Kamen Low, the President's political influence on the choice of judicial candidate is to undermine the power of the judiciary, and in the United States based on a system of supervision and balance between political powers, the idea of power seizure by power. And there is widespread judicial oversight of US courts over the functioning of the executive branch. This makes the issue

of ensuring judicial independence with judicial oversight more sensitive.

Paragraph 1: The concept of judicial control

Judicial control generally means the control of the legislature, and the exercise of executive power, such as by-laws and bylaws, by the independent judiciary. What matters is the identification, recognition, and work of the "supreme law" or "supreme law" as well as the supreme law-based judicial control of the US legal system. But what is worth noting in the discussion of the concept of judicial control is the emphasis on the concept of judicial control as a concept, a theory, and a means of bringing the practices and approvals of state powers into 'superior law'. The term "judicial control" is more commonly used in connection with "judicial control of laws". The explanation is that judicial control should not be confused with other types of control, such as administrative control, parliamentary control, and political control.

On the other hand, it should be borne in mind that judicial control has different functions in different systems.

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In the United Kingdom, for example, the jurisdiction of the courts for annulment of unlawful acts of the executive branch has been recognized as "constitution" without reference to a text or document. In the UK, issues such as the "legality of government appointments" are being investigated by independent judges. In this country, as in many CIS countries, such disputes are handled in ordinary courts. Although many lawsuits must be brought before special courts (administrative courts), these courts, in turn, are under the control of ordinary courts. That is, "the jurisdiction of the courts to control the conformity of ordinary law and the decisions of the executive branch with the constitution."

In the United Kingdom, judicial control is referred to as "the control of administrative action by the courts on the basis of whether the action is within the jurisdiction of a local authority or a minister." In this sense, judicial control is "a matter of administrative law rather than of fundamental rights".

Judicial control here means the judicial oversight of the approvals of government forces in terms of their compliance with the constitution. This

special task has been entrusted to special courts in the German Roman Empire under the name of the Constitutional Court.

Paragraph 2: Territory and Principles of Judicial Control

One of the controversial issues regarding judicial control, territory or scope of this type of control over the exercise of governmental powers. However, this issue is related to other issues such as the power relations and the quality of the exercise of the principle of separation of powers. The main criticism is the principle of judicial control, control, and possibly revocation of legislative approvals and consequently its undemocratic. The question is, in fact, how to justify judicial control when it undermines democratic legislative goals?

Opposition to the principle that the principle of judicial control is democratic, the courts must be democratically accountable, respectful of their laws and avoid judicial review of the views of legislators or members of the executive branch of the judiciary.

In contrast, advocates of the democratic nature of judicial control

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emphasize the "weakness of the democratic process" as well as "the dangers of relying solely on parliament to effectively defend civil liberties." One of the main arguments presented is that being elected by parliamentarians does not mean total representation of public opinion. On the other hand, it is not always possible to expect the democratically elected people to act loyally. If there was such assurance, there would be no democratic justification for judicial control. But since some elected officials have always said they are trying to legitimize some selfish and biased acts in the name of the people, the judiciary plays an important role in the democratic system.

The second argument for judicial control is the use of "principles". In Durkin's view, judicial control of the law can be justified as "an effective procedure for defending fundamental rights." In his view, "democracy does not insist on the judges having the last word, but it does not insist that the last word not be with them."

In this way, democracy can be assured while recognizing the jurisdiction of the courts for the judicial guarantee of fundamental rights and

freedoms. On the other hand, one cannot rely solely on the recognition of mere rights and freedoms in the constitution, its constitutional application to the procedures adopted by the state forces, as well as the guarantee of fundamental rights and freedoms, as the constitutional principles are not "self-explanatory"; Meaning that the constitution does not disclose its principles, ambiguities, and inadequacies, but requires another interpretative reference. Nor are the rights enshrined in the Basic Law "self-determining", so recognizing their scope and scope of law and the scope of rights are controversial issues that require competent authority to determine their position in disputed positions and that of the independent judiciary. Is.

Paragraph 3: Models of Judicial Oversight

There are two types of segmentation of judicial oversight models that we will discuss in a variety of different legal systems:

1) Judicial Oversight Models Based on Structure Criteria

According to the structural criteria, what is the basis of the separation is the

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dependence and position of the institutional structure that oversees it. Thus, according to the systems in the legal system, two main models and one sub-model can be identified, the two main models being the French model and the Engels model. The German model can also be considered as a sub-model.

A) French or intramural model

In the French model, government control is exercised by a body within the body itself. As such, neither the legislature nor the judiciary can nullify or respond to the acts of the executive branch. The French interpretation of the principle of separation of powers is based on the assumption that the main meaning of separation of powers is the non-interference of the judiciary in the affairs of the executive branch.

B) English model or decentralized model

This model, which is followed in most English-speaking countries, is exactly the opposite of the French model. The Communo Law model is a decentralized model in which courts can hear administrative decisions. The intellectual basis of this model is to be found in the judicial history of

England. Kamen Law's judicial approach is based on the existence of powerful, independent courts, and its entire legal system is more than legally obliged and independent of the judiciary and judges.

(C) German model or integrated model

The German model can be seen as a combination of both French and English. In this model, administrative courts are formed within the judiciary, but their structure is completely separate from that of ordinary courts. Judicial oversight in Germany, Japan, etc. is based on this model. This model has somehow tried to exploit some of the benefits of both systems. Examples include:

It is generally said that an English judge, because he is not an administrative person himself, cannot understand the sensitivities of the office and therefore will not be able to issue a correct opinion in the administrative case. However, the office does not personally deal with the lawsuit itself. As such, one of the basic principles of procedural justice that no one can judge is their own lawsuit. In the German model, this principle has been tried to be complied with, and therefore the

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administrative courts have been governed by the judiciary.

2) Separation of jurisdictional models based on jurisdiction

By jurisdiction, judicial oversight patterns can be divided into two general Anglo-Saxon and Roman-German categories. The basis of the separation can be called the scope of supervision. In the Anglo-Saxon paradigm, due to the overwhelming focus of the court's focus, judges are of great importance and dignity. On the other hand, according to traditional and dominant thinking in this country, the king is equal to the other in legal rules. Therefore, lawsuits against the king and his agents are handled in the courts by rules that apply to the public. Accordingly, in English-speaking countries that generally use Communal-style judicial oversight, the courts that deal with the public are the same courts that deal with the government.

As a second feature, in the Commonwealth countries, judicial oversight authorities also have the power to exercise oversight over the laws of parliament. Thus, in most of the Commonwealth countries, the courts of

the judiciary can both hear lawsuits against the executive branch and lawsuits that are contrary to the constitution. In the United States, for example, the court may refuse to enforce a law that is contrary to the constitution, which is "unconstitutional."

Contrary to what is happening in the Communist system, in the Roman-German system, neither the judiciary nor the executive authorities can overturn the laws adopted by parliament. In fact, from this point of view, overseeing the exercise of office is very different in content and structure from overseeing the legitimacy of laws. Usually, in these countries, a political entity called the Constitutional Court generally decides on this issue. In France, for example, the Constitutional Council and in Iran the Guardian Council deal with this.

One point that can be made in response to the claim that the judiciary is undemocratic is that democracy does not simply mean majority rule, but socio-political military democracy in which the system recognizes and builds fundamental human rights and governance and Provides their assurance work. In this sense of democracy,

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independent judges guarantee the protection of human rights and freedoms and the undeniable principles of democracy and do not seek to preserve the will, the temporality and the emotions of the majority or the desires and goals of the dominant political parties.

Speech Three: Maintaining the Independence of the Judiciary with Judicial Oversight

Government oversight and performance has a very short history. Compared to the hundreds of thousands of years of political power, it is only in recent centuries that signs of such concepts as rule of law, accountable government and government oversight can be seen. The foregoing concepts emerged only when there was a profound change in some issues. The path through which the slave became a citizen should be a turning point in the history of judicial oversight.

Hobbes, Body, Locke, and Montesquieu, philosophers of the Enlightenment, each presented their own plan of separation of powers. Although different models were offered by these individuals, the basic principle and main

purpose of all these models was to confront power by power.

The breakdown of absolute power into smaller powers that were confronted, in part, was able to reduce the sharpness of the pre-existing natural and state differences between the state and the citizen. With the relative shift of this divide, as it was said, the three branches of government were confronted. By conferring the intrinsic competence of each of these three powers, they were obliged not to exceed their limits. The central axis of this distinction was Montesquieu's law, thus separating the three powers. The authority that enacted the law; the authority that enforced the law, and ultimately the authority that oversaw the implementation of the law.

The first example of the monitoring of government actions can be seen in France and in the history of the State Council. The reason for the above oversight is to ensure that the government does not act in violation of the laws of the parliament in order to undermine the rights of citizens.

In any case, the first experiences of overseeing the conduct of government should be found in the

Communist system and in the United Kingdom. The same system gave the authority to the independent judges to deal with both administrative and private cases equally with the government and the public. In the Communist system, there has long been no distinction between private and public law. Daisy, the greatest British lawyer, argued that there should be no distinction between government and people rights.

According to Kelly, it was for the first time in France in the 1760s that a group of Enlightenment writers who were known as "physiocrats" and focused their attention on economics claimed that judges had to go before law enforcement. Ensure their true conformity with the "laws of the natural law of the social system" and "justice". The concept of "supervision and balance" was first spoken in England in the seventeenth century. Harrington in 1656 believed that the rule of law required a real balance between the powers that be able to control one another. John Locke is also the first theoretician to point out that the constitution is based on a system of monitoring and balance.

Conclusion

Judicial control is the main mechanism of government restraint exercised by independent judges in the powerful judiciary. In most countries, despite the prevalence of diverse political and legal systems, judicial control over legislative approvals and executive decisions and regulations has been accepted. The importance of judicial control in democratic systems is the product of the thinking that holds the courts at the core of the rule of law. Courts are seen as an institution that should play a role in balancing the efficiency and speed of executive power and the need to defend citizenship against arbitrary rule, thereby demonstrating their independence in the proceedings.

The above belief is based on a series of assumptions upon which the entire Communal Law system is based. The authority of the judiciary can be one of these assumptions. The power of the judiciary in this country is the result of its political history. While the French judges were blocking the way for administrative reform in that country, the English judges of the parliament of that country formed a coalition against the Shah as a symbol of the power that was

later called the executive branch, which led to a "glorious revolution". This record of cooperation was enough to establish the position of English judges as national champions. While the history of the French magistrates had turned them into thugs who had to be ousted by the revolutionaries.

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THE DIRECTIONS OF FORMATION OF MORAL QUALITIES IN THE REQUIREMENTS OF MODERN ERA

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Abstract. The article has been investigated the dynamics and different aspects of moral qualities of student youth. This article is focused on the research of moral qualities in various investigations, and psychological mechanism of formation of moral qualities is explained. In the result of the research, it is determined that the formation of the values bears relative character, as well as it could go in the direction of positive and negative with the effect of situative factors. It became clear to us from this study, adequate self assessment of requirements create conditions to the positive strengthening of moral qualities. As well as, the attitude of students to the teaching, non-standard approach of moral qualities to the situation could play specific role in the progress of moral qualities.

Keywords: modern era, values, teaching, student, moral, personality, self-assessment, society.

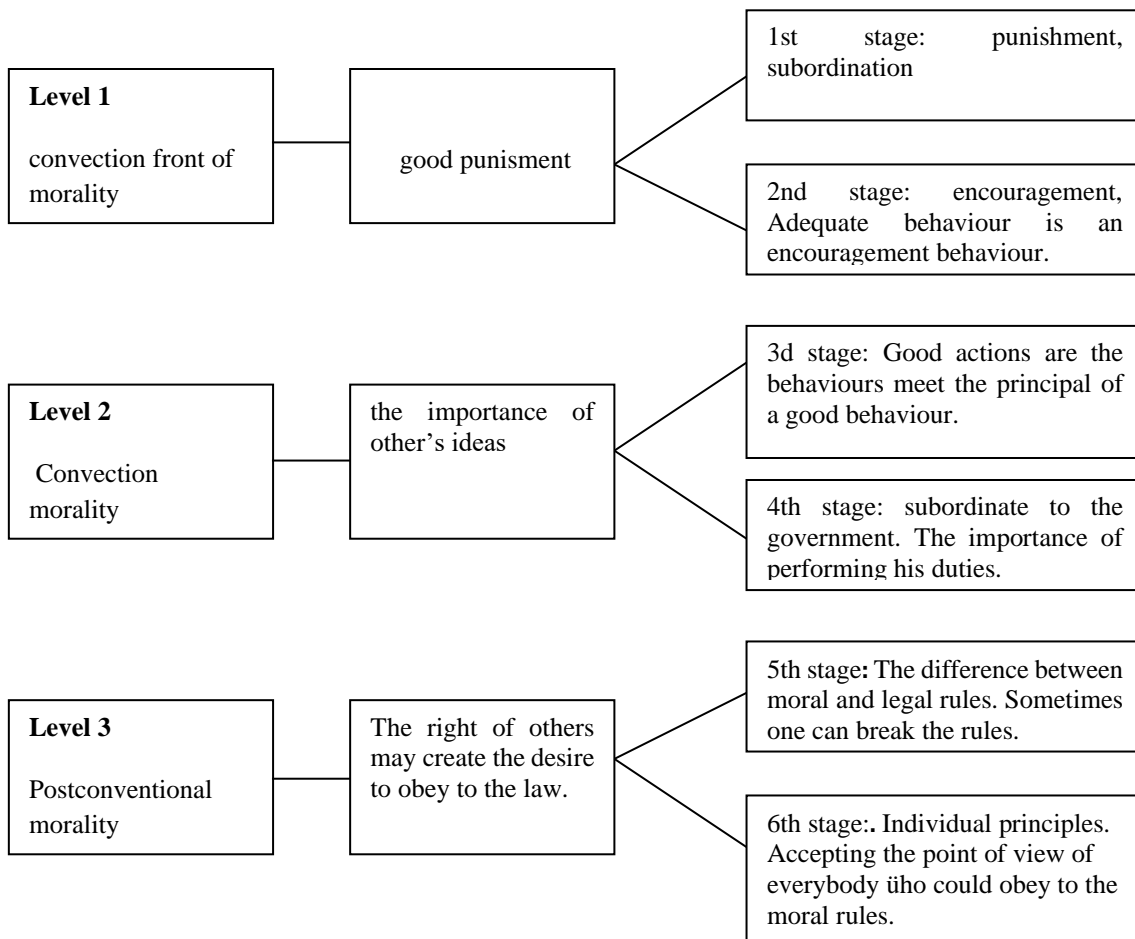
Introduction:

It should be noted that the formation of moral qualities is one of the indicators of psychological status of the personality and stipulates its formation. The appearance of moral qualities in youth, its formation, most of all, is depending on what level of the existence normative rules, standards in society of youth. Today the young should be formed as character who could cope with honor of the most important issues to be settled. These social, economical, national and moral changes first of all, require defining of the main point of activity areas, the way of thinking, the circle of knowledge and interest. Because the modern level of our development highlights the national consciousness, national belief, a sense of

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dignity. The increase of the interest of learning the system of moral qualities of the young comes from this necessity. Of course, youth plays important place by the their nature in the public structure of

society .Nowadays focusing on the positive the direction of the system of moral values becomes a necessary requirement in the young who are the driving force in public life of the society.



Picture1. Moral-ethic progress(according to Kohlberg)

American psychologist who researches the moral qualities notes that that it has passed 6 stages. (L.Kohlberg 1963). Kolberg thinks that the first stage

is the period of hearing and being aware of the punishment. Children directly demonstrate subordination characteristics in these stages. Here the

basics of spiritual developments begin from the imaginations about moral qualities. We think that the formation of the conceptions of badness and goodness at children are the main attributes of their moral values. As you can see Kolberg approaches to these issues from another aspect.(graphic 2)

In the second stage children understand that the moral principles are not the same moral principles for everybody.

In the third stage teenagers understand that true behaviour form promises them some of the reward. In the fourth stage Kolberg identifies the moral development with the ethic development. Surely, we couldn't agree with Kolberg's thoughts. It is necessary to make attention to some of the issues while analysing Kolberg's theory.

Besides Kolberg, the outstanding psychologist C.Piace also tried to learn this issue in his writing. Piace's theory reminds us Kolber's theory for the content and methodology. Piace thinks that 1st one is a partnership stage and the second one is transitional stage. The matter he has noted in the following is reflected as other He believes that moral development appears

on the basis of ethic judgments and go through on stages. In his opinion, teenagers with 11-12 aged make other kind of judgments about morality and spirituality on comparison of the older teenagers. (J.Piaget, 1932). This issue was described completely different in the theory of Kolberg as we mentioned earlier. He thinks that little children understand the moral rules as a law. They believe that the moral rules were made by either their parents or the God and it's impossible to change them. Teenagers value more real the moral qualities comparison with the elders. Piace's theory was devoted to the moral development reflects the other details on itself.

The conceptions relating to the moral development we noted ahead haven't been greeted unconditionally by everybody. Because there would have specific lacks in these researches. The outstanding researcher H.Gilligan who tries to clear this issue shows that the moral development theory of Kolberg really doesn't reflect the completely differential differences of sex differences. He believes that Kolberg made the classified stages from the interview with the boys and this

conception reflects two directions apparently on itself. (Gilligan, 1977) It is known that moral qualities in men is directly related to norms, rules and abstract principles. Formal justice principle acts in ideal role here. Individual doesn't go far from the situation in the difficult situations and corresponding to its theoretical relationships and the principle considering fair he attempts to find a moral solution. In his opinion these conceptions as mentioned above doesn't reflect women's outlook and their relationships for some questions in itself. He believes that the opinions about spirituality has not been made on norms and rules but interpersonal relationships and care and ethics of difficulties. Their ideal is not a formal justice but generalized life image. Therefore, the issue of spirituality in women is depend on which aspect they approach the issue and above all it has been characterized with the real-changing relationships. Especially due to this gender difference men and women fall into various stages in Kolberg scale. In case of women place in the focus of interpersonal conception, basically they fall into the third stage, but men place in the fourth and fifth stages

which describes more abstract conception of social forming. As we see, there are a lot of right comments in research of this conception. Gilligan tries to show the orientation of moral development in women. He believes that the imaginations of women about care and claim welded from the real life situations. He had opinion and profile inquiries with women who get into difficult situations. The results of these inquiries demonstrate that the moral orientation of women in conventional and conventional frontal stage is based on the post conventional mentality model. Women like to speak about the private interests that more important for them in conventional frontal stage. Their position in the conventional level is introduced as a person who depends on the society completely and a careful mother, the feeling of motherhood. They formalised their private ideas emerging from the human relationships in the post conventional stage. (Gilligan 1983) Another researcher Uolker who made discussions with women notes that the most disturbing aspect in moral development for them is the issues of responsibility and selfishness. The emphasis relating to the first aspect is

directed to the personality of the human and the responsibility feeling in front of others in the second stage. We could see it clearly in the following example. A woman named Kler writes: The life has no meaning when the person is alone, it's just like a voice of one hand, you should love somebody, you should separate from them. In some cases, it reminds the love of human to his right hand. It is one part of yours".

If we analyze these issues broadly, we could decide that the formations directions of moral development differ in woman and men in terms of the concept. As you can see men tries to explain the spirituality concept from the irrational position and women explain it on the basis of the position between themselves and others. Due to the surveys conducted by The outstanding researcher Vernerin two clear lines of moral development draws attention. The first line manifests more to the justice and logic, the second one manifests in relation of concerns. Let's summarize what we say, we can conclude that the formation of the moral development is not defined only with ethnic, national and individual characters, but also differs in respect of

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the concept this issue differs from the ground of gender differences.

The experience shows that the upbringing of intellect has been preferred in comparing to the moral upbringing in modern condition. In result, moral corrosion emerges in society. The number of researchers who valued the role of archetypes in the progress of the moral formation wasn't a little. Z.Freud archetype explains as a universal form combines the emotional element significantly in itself. He notes that it creates the images relating to some opportunities of simple life. For Z.Freud, the archetypes penetrate to one another and differentiate. Myths, dream and culture examples and etc. Embracing the archetypic material in itself is the best expression of our knowledges about archetypes. All of them accompanies the human during the moral development. Therefore, K.Yung, S.Khill, T.Lindset, J.Kelly and other researchers emphasised the opinion of taking a certain role of archetypes in moral development. The famous scientist K.Yung thinks that new born child is not a tabula rasa. As well he gets older, congenital inclinations determining his behaviour directions find its

position.(K.Yung 1920) He called these inclinations as archetypes. Saying about archetypes, they are understood as the extremely complicated relations that find their position directly in human consciousness, and images, desires, behavioral forms which transmitted from generation to generation. In K.Yung's opinion, archetypes show our attitude, masculinity and femininity to the animal demands, the people we communicated and to ourselves, social situation we live.

The mechanism of the moral development is formalized as self-confirmation in Masloun's writings. In his opinion the way of revealing of the potential opportunities of an individual goes through the self-realization. He notes that owning the traditional values of person depends on the paying his important demands. Later the author notes that an individual refers more to his own feelings during falling under the influence of moral values systematically. Experiencing of new, appearing of new goals helps him to find his own way. In this moment the responsibility sense from moral qualities is formulated on him. An individual formulates more responsibility in himself avoiding to play comedy for protecting his image and

getting rid of the sphere of influence. Selfrespecting feeling goes well in return of these actions. Most importantly, all of them formulates him as a human who cares of them and thinks about others as a creative personality. And this shouldn't happen without owning the moral values. So, individual achieves to self-realization –the last stage of his moral development.(A.Maslou,1970)

The main goal in the research is determining the characters in students.

Research aim

The theory of this research was grounded that the formulation of moral qualities in the student youth, their upbringing in the family and school depend on the organizing form of training-upbringing and the system of values importantly.

Research Methods.

The methodology of L.Kolberg and self-valuation test of Rozenberg has been used for measuring the moral qualities in the students' youth. The analysis of the quality and quantity has been used for checking the theory.

200 hundred students were participated in the research.

The research was performed on the students of Baku State University. The participants of the research were 50% of women and 50% men.

Discussion

The results of the methodologies performed on the Kolberg's methodology with 17-19 aged

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students was described in three criterions. It became clear form here that the question of good learners "Theft is illegal. How do you think is it false in respect of morality?" the 52% consided it true action, 28% considered it false, but the 30% noted that it depends on the situation. The number of learners who considered it false behaviour in respect of morality was 53% about answering this question in learners of low marks.

How do you value the behavior in spirituality?

Table 1.

The situation in education. How do you value the behavior in respect of morality?						TOTAL
*Gender Cross tabulation						
17-19 aged			Depending on the situation	False	true	
	Girl	Studies well	4	9	3	16
		Studies well	5	5	7	17
		Studies excellent	3	5	9	17
	Boy	Studies badly	3	10	3	16

		Studies well	4	5	8	17
		Studies excellent	3	5	9	17

The analysis with 17-19 aged students of Kolberg methodology show that the true valuation of the action in respect of spirituality depends on the outlook, intellectual level and sphere of knowledge of students. So, 52% of girls,

and 565 of boys consider true in spirituality the abovementioned question. The certain differences between the boys and girls of studying badly.

Table 2. How do you value the action by spiritually?

The situation in education. How do you value the action in spiritually?						TOTAL	
*Gender Cross tabulation							
20-22 aged	Girl		Depending on the situation	False	true		
			Studies well	4	10	2	16
			Studies well		7	8	17
	Studies excellent	1	6	10	17		
	Boy	Studies badly	4	9	3	16	
		Studies well	3	6	8	17	

		Studies excellent	1	5	11	17
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The results of the research with 20-22 aged students conducted by Kolberg methodology show that justifying to some actions in spirituality as getting older demonstrates itself sharply. It becomes clear from the analysis of the research the number of girls who considered true the action in spirituality was 40%. This number in boys was higher with 44%. This shows that the valuation of moral actions and justifying them according to the age goes on the increasing line. In contrary to this, as the age gets older the valuation of the actions depending on the situation goes on decreasing line. For example, if this number at 17-19 ages is 24% and 20%, it is 14% and 16% in 20-22 ages. This shows that the character of the attitude to the training determines the direction of moral development in some cases. Because most of the excellent students prefers the spiritual actions which considered beneficial for the society mostly expressing the attitude to others. Preferring the qualities that expressing their individuality mostly of bad learner

students proves that choosing true upbringing principles and creating training motives are necessary.

The character to the training of the attitude has great importance in direction of self-confirmation of students in terms of realising the intended goal. So, in the situation of valuing separately of spiritual actions boy students had higher indexes than girls. This fact shows that as the age gets older spiritual improvement process formulates in concrete direction. If the causes of the valuation of spiritual actions were stipulated with different factors in previous age periods, the students coordinated the idea of being false of other spiritual actions with concrete causes in later age periods.

The results of the research with 20-22 aged students conducted by Kolberg methodology showed that being true or false of the action depending on the situation was valued by the 4% of excellent learners from boys, 1% of good learners and 12% of bad learners. As we

can see bad learners of boy students identified directly the aspects of their personalities of false actions. We can conclude that spiritual improvement process goes through two levels: either differentiation or the identification way. Additional conversations with the students show that there is a great role of the group the young studies. Such kind

of actions wins the first place mostly in the groups with excellent students, so those actions correspondence to the position the same group. Here we should note the great importance of standards and models. Because the rules of actions which are the true spiritually for some could be considered false spiritually for others.

Table 3. The situation in education* How do you value the action by spiritually?

How do you value the action in spiritually?						TOTAL
			Depending on the situation	False	true	
The situation in education	Girl	Studies badly	26	46	24	96
		Studies well	24	28	50	102
Total		Studies excellent	13	26	63	102
	Boy		63	100	137	300

Table 4. The index of Kolberg methodology in students

The situation in education. How do you value the action in spiritually?	TOTAL
*Gender Cross tabulation	

Age	Gender		Depending on the situation	False	true	
17-19 ages	Girl	Studies badly	4	9	3	16
		Studies well	5	5	7	17
		Studies excellent	3	5	9	17
	Total		12	19	19	50
	Boy	Studies badly	3	10	3	16
		Studies well	4	5	8	17
		Studies excellent	3	5	8	17
	Total		10	20	20	50
	The situation in education	Studies badly	7	19	6	32
		Studies well	9	10	15	34
		Studies excellent	6	10	18	34
	total		22	39	39	100
	The situation in education	Studies badly	4	10	2	16
		Studies well	2	7	8	17
		Studies excellent	1	6	10	17
total						
total						

20-22ages	Boy	total		7	23	20	50
		The situation in education	Studies badly	4	9	5	16
			Studies well	3	6	8	17
			Studies excellant	1	5	11	17
		Total		8	20	22	50
Total	The situation in education	Studies badly	8	19	5	32	
		Studies well	5	13	16	34	
		Studies excellent	2	11	21	34	
		Total	15	43	42	100	
	Girl	The situation in the education	Studies badly	6	4	6	16
Studies well			5	3	9	17	
Studies excellent			3	2	12	17	
Total		14	9	27	50		
23-25 ages		Boy	The situation in education	Studies badly	5	4	7
	Studies well			5	2	10	17
	Studies excellent			2	3	12	17
	Total		12	9	29	50	

Total	The situation in education	Studies badly	11	8	13	32
		Studies well	10	5	19	34
		Studies excellent	5	5	24	34
	Total		26	18	56	100

In young students with 18-25 aged, the self valuation test of Rosenberg was carried out in the purpose of determining the issues of depending on the main factors of spiritual development and making out the certain correlation between them. If we explain the received results, truly defining the moral qualities and specifying their boundaries in the age periods and groups appropriate to the standard of self valuation is adequate.

One issue especially reflected here that the development dynamics of self valuation in girls goes on the increasing line and the valuation of moral qualities goes on the decreasing line as the age increases. Contrary in boys the development dynamics of self valuation in girls goes on the decreasing line and the valuation of moral qualities goes on the increasing line as the age increases. As well, the certain relations

between the ability to determine truly the moral qualities of good and bad learner students and their self-valuation were found out.

Conclusions

We could come to this conclusion from the general analysis that what level of students' imaginations about themselves and their attitude to the same imaginations take great role in the formation of the moral qualities. It means that acting from the demands of the social situation and the imaginations about their personality the students values the actions separately being true or false in spiritually.

In our opinion the above mentioned shouldn't be overlooked, and give opportunities to adequate attitude to themselves in training and upbringing process. Generalizing the results received from the Kolberg's method, we could

conclude that the development of moral qualities in young students shows itself in three directions. These are the followings: 1. Dynamic level 2. Situative level 3. Regular level. In the first level, the valuation of the spiritual actions doesn't differentiate in the ground of gender differences, the change for age, especially the attitude to the training. This level shows itself continuously in young students. In most cases the youngs from this age the disportion between considering true and false of different moral actions is very little.. The comment inquiries later conducted showed that the cause of this is related to not understanding adequately in necessary level of moral qualities in the same age period. But in addition to that we should note one issue that this shows itself not only in 17-19 aged students but also in other age periods. But this level shows itself a little at 20-22, 23-25 ages.. And this is related to going towards to stabilization of attitude to the moral qualities.

The second level is situative level. This level shows itself distinctly at 20-22 aged students. And it should be explained with the age characteristics of young students. Non-formalizing of

selectivity of attitude to the separate incidents, as well as the non-understanding of the last purpose doesn't allow the creation of regular attitude to these qualities in absolute sense of them.

The third level is regular level and the attitude to moral qualities in this level doesn't change though the various presentations. Namely keeping at different places during the assignment with various questionnaires, inquiries of the same qualities shows that the imaginations about the moral qualities of young students with 23-25 ages is unchangeable and the imaginations of what is good or bad had strengthened. It's already impossible the distortion of some elements that strengthened in earlier age periods.

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THE ELEMENTS OF TRADITION AND MODERNISM IN NINETEENTH CENTURY AZERBAIJANI LITERATURE: EAST - WEST THOUGHT AND RELIGIOUS-MYTHOLOGICAL MOTIVES

Aytan Hajiyeva¹

Abstract: The literary orientation based on common principles is determined on the same cultural, ethical and aesthetic traditions, the same outlook, philosophy of life, related principles of creativity and the unified social, cultural and historical environment. Public and political views also usually act as a powerful driving force. The nineteenth century literature is one of the stages distinguished with ideological and aesthetic achievements of the Azerbaijani literary culture which has rich history. Emerging as a reflection of new historical conditions, this literature attracts attention as an original and peculiar phenomenon because of its literary and poetic qualities. Literature that reflects the world through literary paints depending on the angle of view, approach, ethno-cultural thinking, is also of interest as the product of its formation

era and environment. As fiction or poetic literature reflects life, it is important to understand the reflection of the social, socio-historical processes, to “catch the pulse” of life, and to address worldwide problems that are relevant for all periods. The writer's social life, social activities, and communication circle sometimes play a decisive role in issues such as being more aware of problems and finding ways to solve them. Azerbaijani literature which has historically been at different stages of development, has not only gained new qualities, but also has been able to preserve the existing tradition, influenced by different literary trends and different socio-cultural processes.

Keywords: the nineteenth century literature, modernism, east-west outlook,

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religious-mythological motives in literature, tradition.

Introduction.

Presence of milestones in the history of literature, which are qualitatively different from other periods can be explained by the vivid manifestation of national culture, on the one hand, and the philosophical ideas on the other, and their influence on the literary process. At such moments, the literature deals with national-moral values, philosophical and mystical images based on the convergence of real, life-centered imaginations around a single, whole idea and acts as a factor of revolutionizing thought and consideration of the people. Sources that influence the formation of literature can be distinguished as spiritual and material. Along with the moral factor that reflects the spirit of the people, socio-cultural and social events also influence the literary process and serve as a material source that has a special role in shaping its direction. Observations show that the poetic quality of literature samples is inversely proportional to the development of

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society - the literature of periods when public and social problems are deeper differs with higher rates of development and quality. In the nineteenth century, Azerbaijani literature had entered to the new phase based on three main sources. Although the classical literary heritage was the main source at this time, the weight of Western literature and philosophical ideas, as well as new thoughts, were significant. Since the 19th century Azerbaijan literary environment is characterized by different perspectives and directions, this period draws attention to both religious-didactic and enlightenment-realistic as well as secular themes.

Modernism, which emerged as a tendency to move away from classical genres in the late 19th century draws attention as a period of formation of new views and tendencies in the literature. As a consequence of the development of poetic thinking, modernism has manifested itself in the form of a new concept of perception of the world. Instead of presenting a ready model to the reader, modernist literature advocated for adherence to reality. It is specially in this period that we see the contradiction in the Azerbaijani

literature: at a time when there were a new trend and a commitment to tradition, one of the interesting points was presentation of traditional topics which were enriched with new ideas.

Development.

Description of research.

In each period of development, literature develops on its columns based on its predecessor, it is noteworthy that the emergence of new thoughts and ideas has revealed different directions and new trends, thus it also shows itself as a manifestation of different milestones in the history of literature. As one of the most important stages in the history of Azerbaijani literature, the literary and cultural environment of the nineteenth century distinguished by the socio-political, socio-economic situation in the history of the Azerbaijani people as the basis for the development of poetic thinking of the twentieth century, the rich moral heritage of the past formed the basis of the literature of this period. Taking advantage of the combination of national literary thought, and ideological tendencies presented by Oriental literature traditions and European poetic thought, 19th-century literature enriched

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with topics and ideological-aesthetic significance characterized by the existence of a literary process with a different development tendency.

The works and activities of the representatives of the 19th-century Azerbaijani literary environment are characterized by a number of peculiarities, as well as the observation of trends and ideas that are of particular interest in Azerbaijani literature at that time. The nineteenth century was remembered in the history of literature of the different nations as a stage based on the “Sufi ethics of the rational philosophy of Eastern peripatetism and the mystical paints associated with religious outlook.” (Amirkhanov P. 1993, pg.21-22). This period of pursuit of conflicting tendencies is of interest in the history of literature as well as in the emergence of distinct ideas and philosophical views and styles, relations and attitudes, and a new look at cultural heritage. Writing in his works that the nineteenth-century literature is fundamentally different from other periods because of its peculiarities, R. Karimov noted that: “... Literature of this period comes in both oral and written forms, enriched with new

subjects, ideas and poetic mastery skills, poets prefer the description and praise of the moral and spiritual world, the inner world of man, brings to the literature issues of vital importance to society, seek to instill in people a sense of moral purity, humanism, respect to plodder and for hard work, hatred for dishonesty, and protesting social injustice. (Karimov R. 2009., pg.21). R. Karimov emphasizes that these master poets have made a valuable contribution to the development of our literature by creating masterpieces with new spirit that meet the demands of the time and the environment. (Karimov R. 2009., pg.21). The classical tradition mentioned by the author mainly implies traces and effects of the Eastern poetic heritage. Literary relations have historically been diverse and characteristic, and are driven by socio-political and economic reasons. As with the deep-rooted East-West relations, the reasons for its differentiation are also diverse and versatile. Although the cause and nature of these influences in different historical periods differ, in general, it is noteworthy that this process has universal legitimacy in world literature. In some cases, the impact is purely on live communication,

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intensification of trade relations, or military intervention, but any gaps in the society, moral needs appear to be the main cause. In addressing one of the eternal subjects on contrasting issues such as “life and death”, “spirit and body”, “man and nature, the environment”, the crisis that has arisen in the resolution of controversial issues and the philosophical evaluation of man has led to the search for solutions in a different “world” and in a cultural environment with a different system of values. Orientalism as a literary tendency in Western literature has often manifested the Orient as a metaphor in many cases far from the East, admiration without recognition, its shortcomings, and the disadvantages encountered in society, compared to the idealized, imaginary Oriental image, using the Oriental image as a metaphor. One of the main subjects of Eastern mythology which draws attention is the way of the resolving chaos of life and the way to achieve harmony are reflected as eternal goals in the literature. This literature sometimes acted as a world of harmony and beauty where the man escaped from the surrounded troublesome and complex events. But the connection and

influence, of course, were not one-sided. In this regard, N. Konrad writes: "...not only Western literature has played a major role in the history of Eastern literature, but also, Eastern literature has also contributed to the development of European literature." (Konrad N.I. 1972, pg.302). It is undeniable that the emergence of new expressions and different styles in European literature is influenced by Eastern literature which acts as an interesting source of plot. Even the influence of Oriental literature on the vocabulary of European languages is related to these relations. Usually when East and West are compared, the East is associated with spirit, emotion, mysticism, and the West is associated with matter and rationality. The expression "the West is able to live, the East is able to die" reflects centuries-old traditions, attitudes towards the moral values of many aspects.

Research Aim.

The aim of the research is to identify and analyze elements of tradition and modernism in the nineteenth-century Azerbaijani literature based on East - West thoughts and religious-mythological motives.

Research Methods.

The methodological basis of the work is the historical principle in the approach to literary personality and facts. The research used systematic research and historical-comparative methods, the main theoretical and methodological practices and provisions on which modern literary criticism is based. The outcomes and scientific results obtained are based on the theoretical and methodological views of various scholars based on literary and scientific sources.

In the modern era, research with the choice of research directions, which consists of the synthesis of different methods, is more justified. Different theoretical and methodological approaches were used during the study, and the presented problems were investigated in the context of modern theories. The research using the descriptive, historical-comparative method was analyzed using the capabilities of modern scientific-theoretical methods, and the diachronic and synchronous aspects of the problem approach were chosen as a basis which

contributed to the new outcomes and results.

Discussions.

In the East – West world, the image was known as “... a unique,... exotic, introducing the reader to a literature full of fantastic adventures.” The East is presented as a cradle of religious and mystical ideas, especially of Sufism, with rich poetic traditions in the history of world literature. In general, the world literature has acquired plots to propagate many moral qualities in the form of a "mold" from the treasure of the Oriental culture. The formation of oriental motives has led to the emergence of a number of emotional expressions and images. The best examples among them are the free, passionate and struggling spirit, the will, the inner confidence and the struggle. These features, in which special ideals were promoted, came from ancient Eastern legends and fairy tales, as well as from poetry. Characteristic features such as a system of metaphors, elegant, exquisite images have resulted in the formation of a special lyrical plot that, regardless of what literature it is, reflects the bright Eastern color. As in many poetic motives

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and images, the mythology was largely the source of Eastern images. In general Oriental literature traditions, in addition to reflecting the characteristic of the Oriental color, it also attracted attention in terms of the weight of characters and symbols belonging to the Oriental literature. The particular use of symbols may be considered as one of the factors that characterize the influence of the East in the literature of this period. The “beauty standard” of the image-symbol system as the reflection of oriental traditions is remembered in the literature of this period with the description of special features: “the round face, the small mouth, the black hair, forelock, the waist, the tall and the straight figure.”

The symbols of the Eastern coloration are flower-ningtangle, candle-butterfly, many symbols such as the use of various flower and tree names, desert, minaret, singer of azan, using special landscape lyric, traditional sorrow image, etc. it is possible to point out classic elements which widely used in the works and masterpieces of the nineteenth-century Azerbaijani poets. Oriental motives are the presence of an element of the Oriental system, which has become a stable, sustainable form

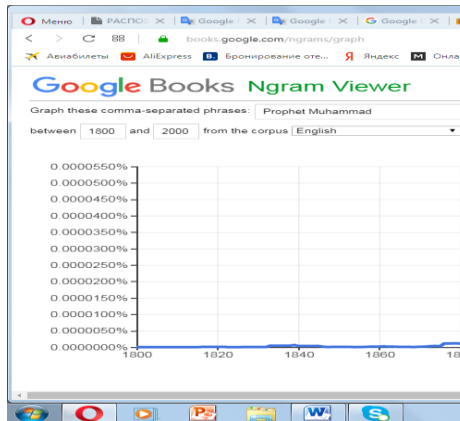
and content component of the literary text. Oriental image is an image of Oriental poetry that is able to preserve the Oriental culture and values in any text or context. The desert - as a symbol creates a special Eastern color and the image of Eastern thought. This symbol has several meanings in the Oriental literature: It was used to portray the heroic desperation, the great sacrifices made for love, and the cruelty of the conquerors against man.

The nineteenth-century Azerbaijani poets have also expressed their concern to the legacy of the phenomenon - Ascension day reflected in the first verse of the 7th Sura of the Quran, which has many aspects and is intersected with folklore. "A bit before the Prophet Muhammad's emigration, it was intended to be carried out from Mecca to Beit al-Fitr on the 27th of the month of Rajab, and then ascend to seventh level of the heaven and finally to the presence of the Almighty Allah" (Gasimova A. 1994, pg.9) ascension, in other words, the ascension to the heaven is a manifestation of greatness, desires born from greatness. The word ascension, which means "ladder" itself, also means to rise to heaven. Belief in the

ladder motives that God uses to lift the dead human spirit from the material world to the presence of God, has been widely spread in such places as Greece, Italy, East Africa as noted by D.D. Fraser. (Fraser. D. D. 1989, pg.270).

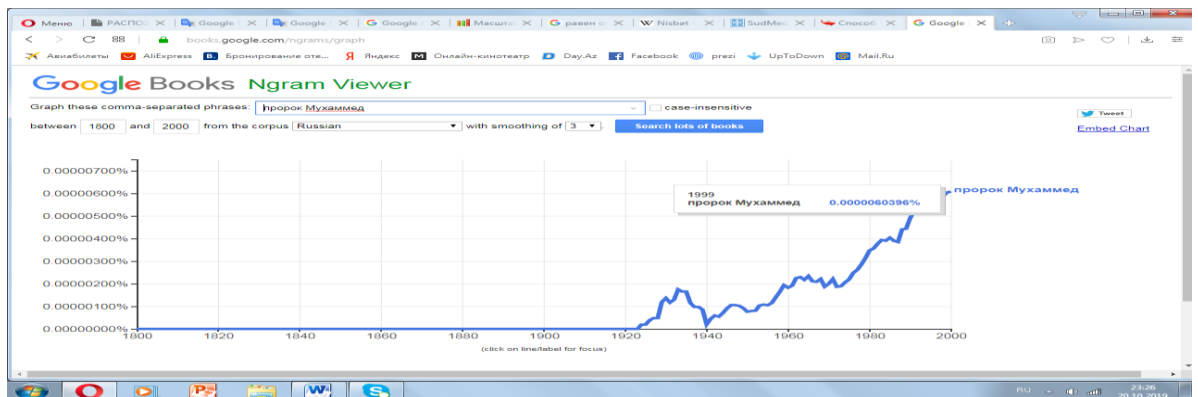
Generally, it is because of the perfection of the Prophet Muhammad, as the highest, holiest, chosen one who enlightened by truth, it is quite natural for lovers of God who seek to complement their originality to seek the similarity between their own lover and the Prophet. Representatives of the XIX century Azerbaijani literary environment have spoken more about the ascension of the Prophet Muhammad as a result of their religious-mystical, moral-spiritual searches with the mission of reaching to the final destination - the truth.

The National Corps available in different languages, allows you to track the usage of any words or phrases in a specific time interval through different programs. Let's look through the dynamics of usage of the Prophet Muhammad's name in English literature over the past two centuries:



As you can see, the highest rate belongs to the year of 1999.

If we look at these dynamics in Russian language literature, we can see an approximately same result:



Despite the fact that there are some differences, this index actually reflects the dynamics of this personality's performance in Western literature.

Some examples of the story about the prophet Moses which has been referred as poetic character in the works of Azerbaijani word masters (poets) is particularly interesting. Throughout the history of religions, Prophet Moses, who is indirectly known as the "Kalimullah" because of his indirect speech with

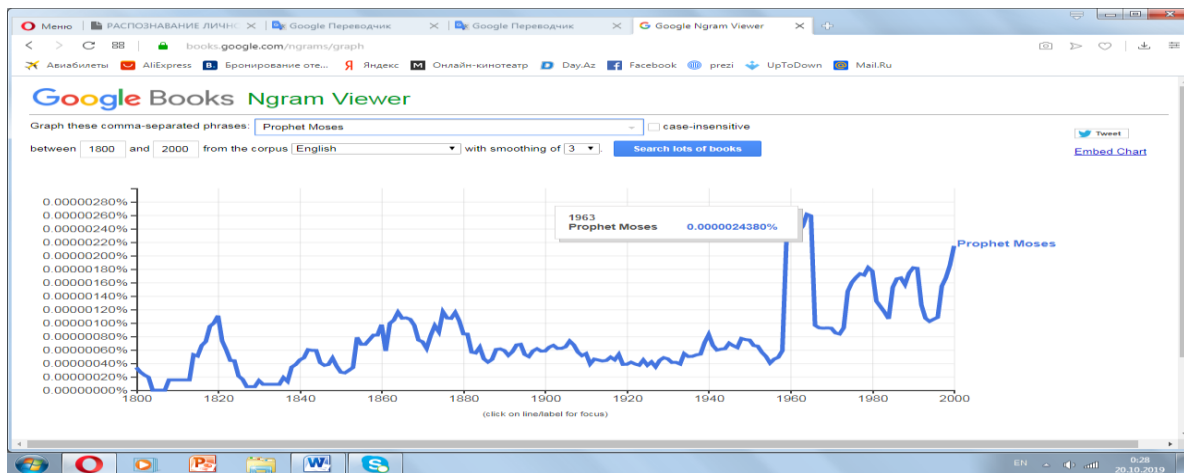
Allah, his story of endurance for a lonely life is rich with folklore elements. Thus, the narration related to the birth of the Prophet can be characterized as an analogy of the Eastern mythical plot. The story of the birth of a child, who will harm the ruler and his dynasty, and the fairy-tale stories of his unsuccessful attempt to kill him, are typical of the vast majority of ancient nations. The legends of Musa (according to the Bible, Moses) are echoed by the life histories of

national heroes in Asia, Greece, and even Japan. According Jewish story in order to prevent the fall of the Egyptian state, Pharaoh ordered the killing of newborn Jewish boys because of that Moses' mother hid him for three months (some studies suggest that Moses' secretiveness for three months was linked to his beauty) (Bible and biographical dictionary. 2000, pg.516) after that putting him in the basket on the Nile river valley and his salvation and adoption by an Egyptian ruler's daughter (according to some sources, Pharaoh's wife (Ustaosmanogly Movlana Mahmud, 2000, pg.738)), or Babylon story about life of Akkad king Sargon who was thrown into the river in a cane basket made by his mother but then rescued, or an Indian epic that tells the dramatic life of a protagonist who has to live the same fate (In the Mahabharata it is said that the daughter of the ruler had to throw her son, who was born from the God of Sun, into a river in a basket made from willow sticks but because of the fate, this child has been saved and become a successful shooter). Or it reminds the story about great Iranian ruler Cyrus. And the connection between the aforementioned legends and the

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motives of the water is not accidental and is related to ancient beliefs. Thus, in Fraser's words, for the purpose of checking the legal birth of children born from supernatural causes, throwing them into water is reflected in the traditions of many nations. If, according to the story of the Romans, Romul's and Rem's virgin mother gave birth to them from the God of Mars, according to the Indian story, a daughter of the ruler gave birth to his son with the cherish of the God of Sun, however, the Biblical narration makes no doubt about the legal birth of Moses. Even since Moses was born from a close relative relations, it was suggested that his mother throw him into water not because of political but personal matters. Many researchers consider that the Babylonian stories are older than the Jewish version, stories related to Moses dating from the ninth to the fifth centuries BC belongs to Babylon, however, others (V.V. Struve, G.Gunkelya, S.Ricci) expressed the idea about the connection of struggle with wizard and methods of punishment with Egyptian literary examples and was influenced by it. (Koschnelson I.S. 1965, pg.41-43). However, the fact that these plots and topics have common points

gives rise to the idea that one of them does not come from the influence of another, but it uses the traditions of oral folk literature (folklore). Azerbaijani artists have used an episode from the parts of the Prophet Moses' stories as one of the means of expression on developing the plot line of the story in order to enrich the sources they use. Their works reflect most of the great features (giving to Moses the ability to perform miracles, the splitting of Mount Tur from divine manifestation due to his desire to see Almighty God) about many stories related to the Prophet Moses.

moment by the handstick of Moses, but it waited for the man to walk on it with certainty. Generally, the handstick described in the Bible which is heirloom of Adam, draws attention to its charm and magic. According to the rabbinic literature, Moses also tamed the lions at the entrance of the palace with his handstick (Flavius I. 2000, pg.154). By the way, it is important to note that the handstick played an important role in the religious views of Fulbers who were cattlemen. It has its own weight in the symbolic system of communication that forms the mythical model of the world.



A. Asi, to express the groan of her broken heart, a faithful representative of her lover's troubles and tears, it resembles the waters of the seas that is divided into two parts by the handstick of Moses. According to Jewish stories, the sea was not divided into two parts at that

The oath to the handstick by shepherd Fulbers indicates the handstick was magical in their religious views. (Zubko G.V. 1990, pg.207). The transformation of the handstick into a snake or a dragon can be described as the equivalent of the story about the wizard in the Egyptian

papyrus, Uba-Oper, transforming the wax into crocodile in order to punish his treacherous wife. (Koscnelson I.S. 1965, pg.44).

presented by English and Russian sources:

Let's look through the dynamics of usage of Moses' name



One of the religious mythological characters that has been in the colorful and literary form of various nations' written and oral literature for hundreds of years is Jesus Christ, the savior of mankind, who preaches the idea of love for God. The creation of new religious training by the immortal personality who had unusual features, making miracles, being the saviour of mankind, sacrificing himself for the forgiveness of the sins by mankind, made him for being described in many monuments not as an ordinary human

being, but as a Supreme Being who was kneaded from the Holy Spirit and gave a rise to legends and stories about him.

Christian and Muslim religious sources highlighted many aspects of Jesus' life and activities as one of the God's messengers on earth. According to religious literature, the angel first told his mother that this holy man who worked tirelessly calling people to believe in God, would be born. Both the Bible and the Quran contain information about Jesus' birth in Nazareth in ancient Jewish land. The motive about the Jesus' birth

by mother Mary, who is portrayed as a positive character in the holy book of Islam, is in line with Christian traditions. However, there are some authors in the ancient literature who misrepresent the idea and claim that he was given birth by immoral woman in a Jewish village without any precarious argument. (According to Tselsin, this woman, who was pregnant from a soldier named Panthera, had to give birth to Jesus secretly because she was disgraced). (Kublanov M.M. 1964, pg.143). Although the “New Testament” does not describe Jesus' childhood, the mentioned literature described in details the subject of the death and resurrection of the self-sacrificer for religion. (Sventsitskaya I.S. 1965, pg.116). However, the Holy Quran does not mention anything about the death of the successor of the Prophet Moses. The motives of the son of God about making birds from clay and giving life to them, by showing to people various miracles and drawing them away from wrong path, are also reflected in religious literature. One of the interesting points mentioned in these sources is the knowledge about Jesus Christ's ascension to the peak of Mount Favor to pray to the Creator, with his enthusiasts

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gathered under his banner, bearing witness to his prophecy. According to Matthew's gospel, which speaks about Jesus' ecstasy condition when apostles become witnesses of the extraordinary conditions such as his face was shining like the sun, clothes are shining around. (Scure E. 1914, pg. 390).

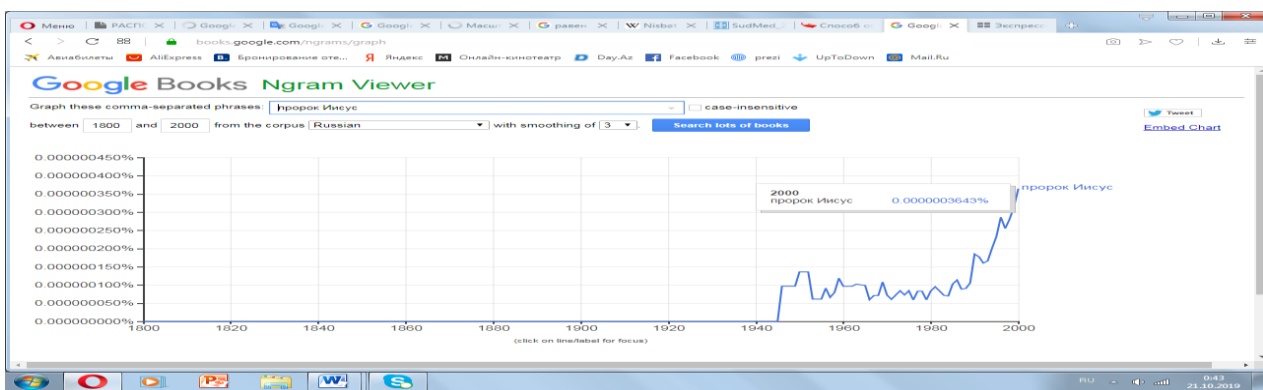
One of the factors that led to the extraordinary nature of Jesus Christ was his ability to perform miracles, as many researchers (The Israeli philosopher Foma speaks about his miracles from the age of five to twelve (Sventsitskaya I.S. 1965, pg.117)) have noted. Thus, because the Prophet characterized illness as a punishment for human sin or a nightmare of evil spirits, he concludes that the best healer is not a doctor but a holy man who has supernatural power. One of his methods of healing was the enchantment and sending away of evil spirits – especially their chief representative of Satan, with the superior qualities of human such as inner beauty and virginity. (Renan E. 1991, pg.190).

Nineteenth-century Azerbaijani artists spoke about the ascension of Jesus' spirit to the heaven, in other words, about his angelic character. We read about it in religious sources: “Allah

İsanı qaldırıb ona mələklərdən və nurdan libas geydirdi. “God raised Jesus up and dressed him up with clothes from angels and light. Jesus' eating and drinking delight were stopped. He, together with the angels began to fly around the

Throne of God” (Gasimova A. 2001 , pg.155).

Let's look through the dynamics of usage Jesus' name in Russian literature:



It is interesting to note that during the war and in recent times there has been a great activity in the literature regarding the dynamics of usage of this concept.

Conclusions.

Therefore, along with examples of socio-political and ethical content, East-West literature also plays an important role in the works and activities of the representatives of the Azerbaijani literary environment, which has exceptional services in the qualitative development and updating of nineteenth-

century Azerbaijani literature.

The study of religious and mythological characters in the works of Azerbaijani word masters has led us to the conclusion that these writers are the successors of classical literature which is rich in religious symbols for many centuries and also successors of Fuzuli line who is considered the leading figure of this literature, they have benefited greatly from the mentioned symbolic expressions. In the development of Azerbaijani literature which develops on its national roots, along with the national-literary traditions, the role of

using and benefitting from the progressive ideas of the literature of other nations is undeniable.

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THE DEVELOPMENT OF LINGUOCULTURAL SKILLS AMONG FUTURE RUSSIAN LANGUAGE TEACHERS OUTLINED IN UNIVERSITY EDUCATIONAL PROGRAMS

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Abstract: The issue of developing linguocultural competence among future Russian language teachers is relevant in the context of multicultural educational space, considering that this competence is the most important and professionally significant personal quality. The development of linguocultural competence ensures student's readiness to implement the ideas of the

culturological approach in the process of education, his/her readiness to teach the Russian language in the context of Russian culture and the dialogue of cultures. The purpose of the study is to illuminate the methodological experience in the application of modern methods and technologies in the system of higher education. The aim of such methods and technologies is to help the

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future Russian language teacher develop linguocultural competence during the course of studying the culture-oriented methodological subject *Intercultural Communication in the Russian Language Lessons*, which is included in the educational bachelor's degree program 44.03.05 *Pedagogical Education (with two specializations)* at the North-Eastern Federal University n.a. Ammosov. To achieve this goal, the following tasks are performed: study of the theoretical foundations of culture-oriented linguistic methodology; analysis of the concepts, methods, and technology of developing linguocultural competence in the course of studying languages; definition of the methods and technologies of developing linguocultural competence of future Russian language teachers applied in the course of *Intercultural Communication in the Russian Language Lessons*. These tasks are performed through a set of theoretical and empirical methods, including: analysis of scientific and methodical literature, study and analysis of educational standards and programs, lesson observation, analysis and evaluation of the products of students' learning activities; description of

pedagogical experience. The study was conducted under the guidance of the Department of Russian Language and Literature Teaching Methodology at the Philology Faculty of the North-Eastern Federal University n.a. Ammosov. The introduction of the course of *Intercultural Communication in the Russian Language Lessons* shows that the development of linguocultural competence among students is facilitated by the application of the principle of science and the connection of theory and practice, the principle of intersubject communications and the integrative approach, the principle of competency and the activity approach, and correlations between learning and research activities. Effective methods of developing the linguocultural competence among future Russian language teachers are: problem lectures (binary and interactive); imitative learning technologies; project technologies (individual and group projects); and research methods.

Keywords: learning methods and technologies, cultural competence, sociocultural competence, linguocultural

competence, methods of learning the Russian language.

Introduction

Today, in the context of multicultural educational space, competences related to intercultural interaction and spiritual and moral education of students on the basis of essential national values are of paramount importance for a future teacher (Federal State Educational Standard for Higher Education, 2018). A university graduate should be ready to implement the culturological approach in the educational process, which assumes that education is based on the nature and values of a culture. For this, any future teacher needs to possess excellent knowledge of their subject area, the basics of psychodidactics and multicultural education. Future teacher must also know how to apply innovative teaching technologies and be willing to develop them (Order of the Ministry of Labor of the Russian Federation, 2014). In this regard, special requirements are imposed on the level of professional training of the social science teacher, the Russian language teacher in particular,

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since language learning provides ample opportunity for conscious effort in developing culturological, sociocultural, and linguocultural competencies. In the professional standard of the teacher, where his/her labor functions and actions are specified, as well as the knowledge and skills necessary for their fulfillment, it is stated that the Russian language teacher must be familiar with the methods and techniques of teaching the Russian language (as a foreign language as well), to work continuously with students' families and the local community on the development of speech culture and to give ethical and aesthetic assessment of linguistic manifestations in everyday life (online language, subculture language, media language, offensive language). The teacher should be well-versed in the promising directions of linguistic science development, which affect the theory and practice of teaching the Russian language (Order of the Ministry of Labor of the Russian Federation, 2014).

Development of modern linguistic methodology is greatly influenced by the achievements in linguistic science in the fields of

intercultural communication, linguoculturology, and cognitive linguistics, for which an integrative approach to language learning is common (language-thought-culture). Thus, linguistic methodology actively works out questions related to the cultural, sociocultural, and linguocultural competencies of students as well as the innovative methods and technologies to develop these competencies while teaching a native or non-native foreign language.

In this context, what is relevant is a further understanding of the practical aspects of training future Russian language teachers for professional activity in a multicultural educational environment, to develop cultural, sociocultural, and linguocultural competencies among students.

Goals

The purpose of the study is to illuminate the methodological experience in applying modern methods and technologies in the system of higher education. The aim of such methods and technologies is to help the future Russian language teacher develop linguocultural competence while studying the culture-

oriented methodological subject, *Intercultural Communication in the Russian Language Lessons*, which is included in the educational bachelor's degree program 44.03.05 *Pedagogical Education (with two specializations)*.

To achieve this purpose, the following tasks are performed: studying the theoretical foundations of culture-oriented linguistic methodology; analyzing the concept, methods, and technology of developing linguocultural competence while studying languages; and defining methods and technologies of developing future Russian language teachers' linguocultural competence, all of which is applied in the course, *Intercultural Communication in the Russian Language Lessons*.

Literature review

In recent decades, linguistic methodology has been intensively developing the culturological approach, common in modern science as a whole. The review of literary sources shows that the culturological approach to the process of teaching the Russian language originated from a philosophical doctrine on the relationship between language and culture. This idea was widespread in

linguistics and caused the formation of new branches: ethnic linguistics (Sapir, 2002; Tolstoi, 2013; Whorf, 1960), the theory of intercultural communication (Hall, 1985; Ter-Minasova, 2000), cognitive linguistics (Lakoff & Johnson, 1980; Popova & Sternin, 2007; Stepanov, 1997; Wierzbicka, 1984), and cultural linguistics (Shaklein, 2012; Vorobyov, 2008).

The key theoretical provisions in the works of these researchers formed the basis of linguistic and methodological concepts of the interrelated study of language and culture. Currently, Russian linguistic methodology has developed the concepts of teaching foreign language using a culture-oriented linguistic approach (Vereschagin & Kostomarov, 2005), a sociocultural approach (Miloslavskaya, 2001; Safonova 2014), and a linguocultural approach (Furmanova, 1994; Vorobyov, 2008), culturological concepts of teaching the Russian language (Bystrova, 2001; Khodyakova, 2012), linguocultural concepts of teaching the Russian language (Levushkina, 2014; Mishatina 2010; Sayakhova, 2010), and linguocultural

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concepts of teaching native (non-Russian) language (Samsitova, 2010).

The constant interest in the issues in the culturological approach to education is evidenced by the numerous recent publications on various aspects of these problems: the social, sociolinguistic, and psycholinguistic aspects of multicultural education (Banks & Banks, 2013; Gabdulchakov, 2014; Nikolayeva & Barakhsanova, 2016; Shishova, 2014), the development of the value system among students in a multicultural educational environment (Fahrutdinova & Solovyova, 2014; Valeeva & Rybakova, 2014), and training future teachers to implement the culturological approach (Astashova, Bondyрева, & Zhuk, 2019; Nikiforova & Ignatiev, 2016). The works of Hymes (1985), as well as those of Lustig and Koester (2015), Zimnyaya (2010), and others are also of interest and play an important role. The ways of developing communicative, intercultural, and linguocultural competencies are described in the works of Celce-Murcia (2007), Strohmeier, Gradinger and Wagner (2017), Rommal and Byram (2017), Olesova and Borisova (2016), Dmitriyeva and Nikiforova (2016),

Olesova, Pribylykh and Lotova (2018), and others.

These studies indicate the complexity and multidimensionality of the problem of developing the linguocultural competence among future Russian language teachers and indicate the need to consider a number of factors in this process.

Materials and methods

In the course of the study, a set of theoretical and empirical methods was used: the analysis of scientific and methodological literature, the study and analysis of educational standards and programs, curriculum development, pedagogical observance, the analysis and evaluation of the students' class activities, and the description of pedagogical experience.

The study was conducted under the guidance of the Department of the Russian Language and Literature Teaching Methodology at the Philology Faculty of the North-Eastern Federal University n.a. Ammosov. This department is responsible for the bachelor's training program 44.03.05 *Pedagogical Education with Two Specializations* (Russian Language and

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Literature and Russian and Foreign (English) Languages). This educational program includes a culture-oriented course of study, developed by the authors, called *Intercultural Communication in the Russian Language Lessons*. This study is taught in sixth and seventh terms and aims to educate future Russian language teachers for professional activity in a multicultural educational environment to develop cultural, sociocultural, and linguocultural competencies among children while studying the Russian language.

Results and discussion

The concept of a “cultureological approach” is widely used in pedagogical literature and is interpreted ambiguously. In our opinion, a good definition of the cultureological approach was given by Krylova (2000): “... a set of pedagogical techniques that provides for an analysis of any sphere of social and mental life (including education) through the prism of the core cultural concepts, such as culture, cultural patterns, norms and values, state and style of life, cultural activities and interests, etc.”

In the methodology of the Russian language, the culturological approach is associated with the formation of cultural competence. It involves background knowledge (knowledge of the real cultural facts), awareness of the national specifics of the linguistic picture of the world and language as a cultural phenomenon, possession of the national cultural components of the language, speech etiquette, non-verbal means of communication (Sayakhova, 2010). The structure of cultural competence identifies from two (Sayakhova, 2010) to ten components (Novikova, 2007), among which researchers name linguistic and cultural competence.

Linguocultural competence includes three components:

1. Knowledge component – linguocultural knowledge;
2. Activity component – linguocultural competences as an ability to creatively use knowledge and corresponding skills;
3. Worldview component – personal qualities, ability to perceive facts and cultural phenomena.

Linguocultural competence is identified as a complex of systematically

organized knowledge about the culture embodied in the national language and readiness for a value-based interpretation of the language knowledge in the dialogue of cultures as the foundation for the formation of a stable worldview value system of a person (Mishatina, 2010).

Linguocultural competence is the most important and professionally significant quality of the Russian language teacher, since the study of this subject in school should ensure awareness of the Russian language as the spiritual, moral and cultural value of the Russian people; awareness of the national identity of the Russian language, understanding of the culture of interethnic communication (Bystrova, 2001). Needless to say, only with linguistic and cultural competence can the teacher solve the problems of developing students' cultural competence, teach the Russian language in the context of Russian culture and in the dialogue of cultures.

The purpose of linguistic and methodological disciplines is to develop linguocultural competence among future teachers of the Russian language. The academicians of the Philology Faculty of

the North-Eastern Federal University n.a. Ammosov have developed a culture-oriented methodological subject *Intercultural Communication in the Russian Language Lessons*, which is included in the educational bachelor's degree program 44.03.05 *Pedagogical Education with Two Specializations* (Russian Language and Literature, Russian and Foreign (English) Languages). The subject with workload of 4 units (216 hours) is taught in sixth and seventh terms. The midterm assessment is held in the form of pass/fail exam in sixth term and in the form of examination in seventh term.

The course of *Intercultural Communication in the Russian Language Lessons* aims to educate future Russian language teachers for professional activity in a multicultural educational environment to develop cultural, sociocultural, and linguocultural competencies among children while studying the Russian language. After finishing the course, students should have a notion about the manifestations of intercultural and interlanguage interference, be able to choose ways to overcome it and develop

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cultural, sociocultural, and
linguocultural competencies.

The main principles of the course are the principle of science and the connection of theory and practice, the principle of intersubject communications and the integrative approach, the principle of competency and the activity approach, the principle of correlations between learning and research activities. At lectures and in practical lessons, interdisciplinary connections are established with disciplines such as *Modern Russian Language, Comparative Lexicology, Comparative Typology of Russian and Yakut Languages, Competency-Based Approach to Teaching the Russian language*, and others. During the course of the study binary and interactive types of lectures are being practiced. Imitation training technologies, project technologies (individual and group projects), and research method are mainly used in practical classes and during self-study.

During the execution of a project *Vocabulary Entry for a Curricular Concept Dictionary*, students have to work with:

1. Different types of traditional linguistic dictionaries; thesauruses, word-building dictionaries and others.

2. Different types of linguistic dictionaries: cultural dictionaries; definition dictionaries with cultural and historical data; functional and cognitive dictionaries; culture-oriented linguistic dictionaries (of thematic lexicon, phraseology and aphorisms, somatic language, speaking etiquette); linguocultural dictionaries (of thematic lexicon, concepts, idioms).

Students are supposed to analyze and compare structural and substantive features of vocabulary entries in concept dictionaries, and to choose a form of presentation of a concept word in their vocabulary entry.

Example 1, by Sayakhova (2010):

1. Header unit.
2. Etymological reference (may not be included).

3. Culturological description: function of the unit – mythological image, folklore character, stereotype image, means of characterization (of a human, item or situation), existence of

the unit in folklore and/or biblical discourse.

4. Linguistic (lexical) meaning, short definition.

5. Synonyms.

6. Antonyms.

7. Word-building.

8. Idioms.

9. Epithets.

10. Aphorisms, proverbs, sayings.

11. Examples of the word use in literature and publications.

12. Associations.

Example 2, by Kazhigalieva (2009):

1. Header unit.

2. Etymological reference

3. Linguocultural meaning:

- linguistic (lexical) meaning, short definition;

- culturological

description: function of the unit – mythological image, folklore character, stereotype image, means of characterization (of a human, item or situation), existence of the unit in folklore and/or biblical discourse.

4. Illustrative material:

- idioms;

- paroemias;
- proverbial expressions and aphorisms;

5. Associations.

6. Intercultural discrepancies.

The method for writing a vocabulary entry in a curricular linguocultural dictionary includes the following stages:

- association experiment with at least 50 participants (incentive: concept word);

- statistical analysis of the data received;

- making an association dictionary that captures the association area of the concept word;

- identification of the lexical meaning and etymological connections of the concept word (with the use of definition, word-building dictionaries, thesauruses, and others);

- selection of proverbs, sayings, and idioms that use the concept word;

- selection of examples of the concept word's use in literature (prosaic and poetic);

- secondary selection and analysis of material for the vocabulary entry.

In the curriculum of *Intercultural Communication in the Russian Language Lessons*, a special place is given to the study of culture-oriented methods and technologies of working with text in the Russian language lessons. Cultural texts are used as didactic material for this component of the curriculum. These texts are “filled with special content, which enables students in the Russian language lessons to familiarize themselves with certain aspects of the people’s culture and values that contribute to the formation of a positive attitude towards cultural values” (Novikova, 2005).

During the course of study, students will become familiar with the method of culturological text analysis (Sayakhova, 2010), the method of linguocultural text analysis (Khodyakova, 2012), the method of concept text analysis (Mishatina, 2010), and the method of linguocultural text characterization (Levushkina, 2014).

The method of culturological text analysis “allows a student to see text in the integrity of its linguistic, speech

and cultural characteristics,” and it is a “complex, integrative, and, to some extent, universal method, built into the system of methods: language analysis – text analysis – linguocultural text analysis” (Levushkina, 2014).

As a technological process, the method of linguocultural text analysis includes several stages and the techniques, which are defined by this method, a sequence of different types of textual activity of students:

- prediction stage: an attempt to guess the content of the text judging by the title;

- receptive stage: perception of the text during first reading, emotional response, comprehension of the surface-level content.

- analytical and synthetical stage: complex text analysis (structural and substantive, speech, linguostylistic, and content analysis of the text, elements of the culturological analysis and others) and synthesis of the information acquired during analysis;

- interpretation, sense-making stage: interpretation of the meaning of the text, formulation of one’s own perception of the meaning of the text and author’s viewpoint;

- reflective, assessment stage: expression of one’s own opinion on the meaning of the text and author’s viewpoint;

- productive and creative stage: essay in the genre of linguocultural text characterization (Levushkina, 2014).

When students master the methodology for conducting a lesson on linguistic and cultural text analysis, it implies that they have also acquired knowledge of the algorithm of the emotional text analysis, analysis at different levels of language (phonetic, lexical, morphemic, morphological, syntactic, text), the algorithms for cultural and value analysis of the text and author’s viewpoint expressed in the text. For example, the culturological text analysis includes the following steps:

- description of the associations evoked by the text;

- detection and interpretation of the ethno-connotative words, explanation of their function in the text;

- detection of the text aspects for culturological commenting; culturological commenting and definition of its significance for clarification of the meaning of the text;

- detection of the main images of the text and analysis of these words as concepts; generalization of the data received in the course of analysis and expression of one's own feelings about the text as a work of culture.

During the course of *Intercultural Communication in the Russian Language Lessons*, practical application of the linguocultural method of text analysis is implemented through project and imitation learning technologies. Students are asked to carry out a group project on planning a lesson of linguocultural text analysis. Groups of students (usually 4-5 people) choose a text for analysis (folklore text – proverb, riddles; literary text – prosaic, poetic; description text, narration text, reflection text) and present their methodical project in practical lessons. During the presentation one of students in the group acts as a teacher and the rest – as students.

After finishing the course of *Intercultural Communication in the Russian Language Lessons*, students often use the subjects that were covered in the curriculum as materials for term papers, graduation theses or in-depth studies as part of a research work. The

results of the presentation of students' research projects at international events indicate their success: *Complex and Thematic Russian Language Lessons as a Factor of Cultural Competence Development Among Students*, an article by Tarabukina (laureate of the competition organized as part of the 17th International Research-to-Practice Conference *Academic Community of the Students of 21st Century: Social Sciences* (Novosibirsk, 2014)); *Project Method as Means of Developing Cultural Competence among Bilingual Students During the Process of Learning the Russian Language*, a presentation by Baisheva (laureate of the competition organized as part of the International Research-to-Practice Conference *Philological Sciences in 21st Century* (Yakutsk, 2019)); *Feminine Beauty in Russian and Yakut Classics, A Concept*, a presentation by Gavrilieva (laureate of the International Student Festival of Russian and Turkic Literature (Kazan, 2018)); and others.

At the end of the course of *Intercultural Communication in the Russian Language Lessons* students participate in a survey that indicates the level at which they understand the

importance of the tasks that the Russian language teachers face: spiritual and moral education of children in the Russian language classes, development of cultural, sociocultural and linguocultural competence among children, understanding the need for professional self-development and improvement of methodological and linguocultural competencies in order to achieve the effectiveness of teaching the Russian language in the context of Russian culture and in the dialogue of cultures.

Conclusion

The culturological approach as one of the main areas of modern scientific knowledge determines the concept and paradigm of Russian education. Modern society poses a challenge for higher education to train teachers who are ready to effectively perform pedagogical tasks in educating, developing, and raising a spiritual and moral person, and in implementing the ideas of the culturological approach in the educational process.

Responding to these needs of society, the content of higher education is being improved: new culture-oriented educational disciplines are being

introduced into the educational process. The aim of these disciplines is to develop the competencies necessary for successful professional work of future teachers in a multicultural educational space.

A culture-oriented methodological subject *Intercultural Communication in the Russian Language Lessons* was incorporated in the educational program of Philology Faculty at the North-Eastern Federal University n.a. Ammosov. The aim of the subject is to train a future Russian language teacher for professional activity in a multicultural educational environment to develop cultural, sociocultural, and linguocultural competencies among children while studying the Russian language. The subject has proved its effectiveness.

During the study of the subject, development of the linguocultural competence among students is facilitated by the application of the principle of science and the connection of theory and practice, the principle of intersubject communications and the integrative approach, the principle of competency and the activity approach, and correlations between learning and

research activities; by conducting problem lectures (binary, interactive), using imitative learning and project technologies, and research methods.

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STUDY OF THE RELATIONSHIP BETWEEN OVERINVESTMENT, LEVERAGE, AND LIQUIDITY IN COMPANIES LISTED IN TEHRAN STOCK EXCHANGE

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Abstract: This study was conducted aimed at examining the effect of companies' liquidity and leverage on their overinvestment. Surplus liquidity can affect the financial behavior of companies and accompany them in generating overinvestment in projects. Likewise, the increase in capital of the companies can play a significant role in increasing their leverage. This study sought to answer two main questions: 1) what effect does companies' leverage have on overinvestment in projects, and 2) what effect does companies' liquidity have on the relationship between leverage and overinvestment? In this causal-comparative study, the analysis was performed on the basis of panel data and multiple linear regression. Data from 118 companies was collected during 2013-2017. Data analysis and hypothesis

testing were performed using EXEL and EVIEWS software. According to the findings, there was a significant relationship between companies' liquidity and leverage with overinvestment. In addition, the results indicated that companies' liquidity had no effect on the relationship between leverage and overinvestment.

Keywords: the companies' liquidity, leverage, overinvestment, financing.

1. Introduction

The availability of financial resources affects the companies' capital. A review of the literature suggests that when companies' financial conditions are favorable, their capital increases (Almeida, 2012). This can create problems for companies, as high

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liquidity in addition to increasing investment in companies can cause overinvestment. Overinvestment in companies is a matter between shareholders and managers of companies (Officer, 2012). Based on the free cash flow theory, excess cash flow in companies can cause managers to invest in projects with negative net present value (NPV) and increase the resources under their control to receive more rewards (Bates, 2005). Liu et al. (2018) showed that when capital is readily available and financial costs are low, the problem of overinvestment in companies occurs. Among the factors affecting sustainable economic growth and development, effective investment can be mentioned. In order to invest in different projects, an entity must consider the extent or amount of investment due to the resource constraint. This is done through methods for projects evaluation, including net present value. According to this method, an investment is made in one or more projects when their net present value is positive. So undertaking projects with negative NPV results in overinvestment, and neglecting projects with positive NPV leads to underinvestment that will

lead to non-optimal investment (Verdi, 2006). This is because managers must optimally invest in projects that create value for the company. That is, projects with positive NPV must be accepted and those with negative NPV must be rejected (Young et al., 2008).

2. Literature Review

This study was conducted aimed at examining the effect of companies' liquidity and leverage on their overinvestment. Over the past two decades, the financial decisions of companies have changed depending on different factors, and countries have sought to provide better conditions for corporate investment through deregulation so that they have more financial and liquidity to create their own investment projects. This study sought to answer two main questions: 1) what effect does companies' leverage have on overinvestment in projects, and 2) what effect does companies' liquidity have on the relationship between leverage and overinvestment? Surplus liquidity can affect the financial behavior of companies and accompany them in generating overinvestment in projects (Justiniano, et al., 2015). Likewise, the

increase in capital of the companies can play a significant role in increasing their leverage (Leary, 2009).

Leary (2009) suggests that leverage ratios play an important role for shareholders in investment decisions and that decisions on leverage can positively affect the companies' liquidity. This has been confirmed in most conducted studies (Zeitun et al., 2017). Myers (1997) analyzed the impact of factors caused by debt on the optimal investment strategy of shareholders and managers. He said that with the increase in debt, shareholder-manager coalition incentives to control the company would decrease for investment in opportunities with positive NPV, as the benefits of such investment is transferred to creditors rather than shareholders. So companies with higher leverage - compared to those with lower leverage - will have less opportunity to grow. The leverage contains a warning indicating managers' information on investment opportunities. Capital structure theories suggest that managers of companies having proper growth opportunities should choose less leverage because they will not be able to use the advantages of their investment opportunities if they

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increase their levels of external debt. The result is a negative relationship between future growth and leverage, because managers of companies with high growth opportunities will choose the low leverage. Such results can be found in regressions that control the growth opportunities (Noravesh et al., 2014).

Given the above, this study sought to answer two main questions: 1) what effect does companies' leverage have on overinvestment in projects, and 2) what effect does companies' liquidity have on the relationship between leverage and overinvestment?

The following are some of the related internal and external studies:

In their study, Lopez et al. (2018) examined the relationship between overinvestment, leverage, and liquidity of companies. They selected 12,400 companies from 25 EU countries during 2003-2014. According to the results, there was a positive relationship between leverage and overinvestment in companies. In the case of surplus liquidity of companies, the effect of leverage on overinvestment was confirmed.

Omutla et al. (2017) studied the effect of leverage on investment

efficiency in emerging markets. The results indicated that there was a significant positive relationship between leverage and investment inefficiency. So it can be concluded that the increase (decrease) in the leverage on the one hand will lead to increase (decrease) in the investment inefficiency and on the other hand will decrease (increase) the investment efficiency.

Dehghan Manshadi et al. (2017) conducted a study titled "The effect of Leverage and Liquidity on Earnings and Capital Management in Selected Commercial Banks in Tehran Securities Exchange". In this study, the researcher investigated the effect of leverage and liquidity on earnings and capital management in selected commercial banks listed on the Tehran Stock Exchange by analyzing data on 11 selected banks during 2010 to 2015. The results of data analysis were provided in three sections. In the first section, it was found that leverage had a significant reverse effect on earnings and capital management. In the second section, it was stated that there was no significant relationship between liquidity and earnings and capital management. In the third section, the authors found that

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international sanctions on the Iranian financial system had no significant effect on the earnings and capital management behavior of the banks listed on the Tehran Stock Exchange.

Taherabadi et al. (2016) conducted a descriptive-applied study titled "Investigating the Impact of Investment Intensity on Leverage in Companies Listed in Tehran Stock Exchange" using content analysis method. This study was conducted to investigate the Impact of investment intensity on leverage in companies listed in Tehran Stock Exchange. Data were collected using library resources and online articles. Findings indicated that investment intensity had a significant impact on leverage. The results of the study were consistent with the idea that companies invest in non-profitable projects with negative NPV as the debt (leverage) increases, which reduces the value of the company.

3. The Study Hypotheses and Model

According to the theoretical framework, the following hypotheses were developed:

1. There is a significant relationship between leverage and overinvestment.

2. There is a significant relationship between liquidity and overinvestment.

3. Liquidity affects the relationship between leverage and overinvestment.

In this study, the following conceptual model was used to calculate management ability based on the study by Andrew et al. (2017):

$$OWERI_{it} = \alpha_0 + \beta_1 LEV_{it} + \beta_2 (LEV_{it} * LIQ_{it}) + \beta_3 LIQ_{it} + \beta_4 FCF_{it} + \beta_5 SIZE_{it} + \beta_6 ROA_{it} + \beta_7 AGE_{it} + \varepsilon$$

Where:

OWERI: Overinvestment

LEV: Leverage

LIQ: Liquidity

FCF: Free Cash Flow

SIZE: Size of company

ROA: Return on assets

AGE: Age of company

4. Methodology

This was a correlational-descriptive study. The correlational study measures the relationship between two or more variables. This study seeks to expand the theoretical literature on the

management ability and investment efficiency. It has a causal-comparative method of reasoning. In this study, panel data were used to analyze the data collected.

5. Operational Definition of Variables

Overinvestment:

In this study, the following equation was used to calculate overinvestment (Chen et al., 2017):

$$Invest_{it} = \beta_0 + \beta_1 SaleGrowth_{it-1} + \varepsilon_{it}$$

Where:

Invest: Total investment of the company i in the year t.

Sale Growth: Sales changes rate

ε_{it} : Model residuals

If the model residuals are positive, this indicates overinvestment.

Leverage:

It is the debt to assets ratio and, as one of the control variables, is calculated as follows: The total debt of the company is calculated in a financial period and then divided by the total assets of the company.

Liquidity:

It is the net cash inflow and outflow of the company.

Size of the company:

In this study, natural logarithms of end-of-period assets of each company were used to calculate size of the company.

Return on assets:

It is the ratio of net profit to total assets of the company.

Age of company:

It was the date of establishment of the company until 2017.

6. Data Analysis

The population and sample

The statistical population of the study consisted of companies listed in Tehran Stock Exchange. The sample was

selected from the following companies by applying the following criteria:

1. Companies listed in the Tehran Stock Exchange by the end of 2012
2. The availability of the company's financial information for the years 2013 to 2017
3. Fiscal year ending March to increase comparability
4. Not belonging to a particular group including investment companies, financial intermediaries, banks and leasing companies

The following table shows how to select companies:

520	All companies listed in Tehran Stock Exchange until 19.03.2017
(44)	Companies listed in Tehran Stock Exchange after 2012
(124)	Companies suspended or excluded from the Tehran Stock Exchange during the study period
(92)	Companies whose fiscal year did not end on March 29 or those that changed their fiscal year
(18)	Financial intermediaries (investment, holding and leasing companies, and banks) ³
(89)	Companies whose shares were not actively traded on the Tehran Stock Exchange during the study period

³. Insurance companies were excluded after applying the first, second and third criteria.

<u>(51)</u>	Companies whose data was insufficient to obtain some variables
<u>118</u>	The whole testable sample considering the criteria

Descriptive Statistics:

Rahavard Novin software and corporate financial statements were used to produce Table 2. The values of the other variables are also given in Table 2.

In this study, descriptive statistics were statistical indices including mean, standard deviation, maximum, minimum and median. They were in accordance with Table 4-1 for the variables:

Table 2: Descriptive statistics of variables

Age of company	Return on assets	Size of company	Free cash flow	Liquidity	Average	Investment	Description
AGE	ROA	SIZE	CF	LIQ	EV	WRI	
3	0	6	0			0	Mean
3.21	.12	.11	.13	.12	.61	.04	
3	0	6	0			0	Median
6.00	.10	.05	.03	.00	.59	.05	
6	0	8	7			1	Maximum
2.00	.67	.32	.83	.50	.77	1.44	
8	-	4	0			-	Minimum
.00	0.81	.79	.00	0.30	.07	39.87	
1	0	0	0			2	Standard deviation
5.70	.17	.55	.48	.22	.25	.18	
-	-	1	1			-	Kurtosis
0.14	0.18	.13	2.16	.35	.21	13.07	

As can be seen in Table 4-1, the mean overinvestment was 0.04 and the mean leverage was 0.61. According to the table, the mean liquidity, the liquidity to fixed assets ratio, was 0.12 and the mean free cash flow was 0.13. Other variables are given in Table 4-1.

Testing hypotheses:

In the following table, the hypotheses were tested according to the study model:

Table 3. Testing hypotheses

$OWERI_{it} = \alpha_0 + \beta_1 LEV_{it} + \beta_2 (LEV_{it} * LIQ_{it}) + \beta_3 LIQ_{it} + \beta_4 FCF_{it} + \beta_5 SIZE_{it} + \beta_6 ROA_{it} + \beta_7 AGE_{it} + \varepsilon$					
P-value.	T-statistic	Standard deviation	Coefficient	Variable	
0.28	-1.09	1.20	-1.31	Constant coefficient	C
0.02	2.27	0.48	1.09	Leverage	LEV
0.39	0.87	0.00	0.00	Leverage * Liquidity	LEV*LIQ
0.00	2.87	0.00	0.02	Liquidity	LIQ
0.63	0.48	0.20	0.10	Free cash flow	FCF
0.02	3.16	0.19	0.03	Size	SIZE

0.00	3.12	0.74	2.31	Re turn on assets	566 R OA
0.01	2.65	0.01	0.20	Ag e	A GE
Model statistics					
P -value.	F	Durbin- Watson	Adj. R-squared	R- squared	
0.0000	11.23	2.22	0.51	0.52	

The results of model estimation indicated that the P-value was 0.0000 and the F-value was 11.23. So with a confidence of 95% it can be said that the model was significant. The value of Watson camera statistic was 2.22, so the assumption of the correlation between residuals is rejected. In addition, the adjusted coefficient of determination of the model was 51%, indicating that the independent and the control variables explained for 51% of the dependent variable.

5. Findings

The first hypothesis:

The first hypothesis was tested, after validation of the model. P-value of the leverage for companies listed in the

Tehran Stock Exchange was 0.02. Since this value was less than 05, the first hypothesis, i.e. there is a significant relationship between leverage and overinvestment, was confirmed. Thus, the leverage of companies increases, their overinvestment increases. The constant coefficient value for the leverage was 1.09 and positive, indicating that there was a direct relationship between leverage and overinvestment.

The second hypothesis:

In the second hypothesis, the relationship between liquidity and overinvestment of companies was investigated. The p-value of liquidity for the companies listed in the Tehran Stock Exchange was 0.00. Since this value was

lower than 05, the second hypothesis, i.e. there is a significant relationship between liquidity and overinvestment, was confirmed. The constant coefficient value for the liquidity was 0.02 and positive, indicating that there was a direct relationship between liquidity and overinvestment.

The third hypothesis:

The third hypothesis was tested, after validation of the model. According to the model, the p-value of the leverage * liquidity for the companies listed on the Tehran Stock Exchange was 0.39. Since this value was greater than 05, the third hypothesis, i.e. liquidity affects the relationship between leverage and overinvestment, was rejected.

6. Conclusion

The Results of Testing the First Hypothesis

In the first hypothesis, it was investigated whether the liquidity of the company can moderate the relationship between leverage and overinvestment. This hypothesis was developed on the basis that leverage ratios play an important role for shareholders in

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investment decisions and that decisions on leverage can positively affect the companies' liquidity. This has been confirmed in most conducted studies. The availability of financial resources affect the companies' capital. A review of the literature suggests that when companies' financial conditions are favorable, their capital increases. This can create problems for companies, as high liquidity in addition to increasing investment in companies can cause overinvestment. Overinvestment in companies is a matter between shareholders and managers of companies. According to the results of this study, there was a significant relationship between leverage and overinvestment. Since its constant coefficient was positive, with an increase in the leverage of companies, their overinvestment increased.

In comparing this study with other domestic ones, the study by Taherabadi et al. (2016) can be noted. They conducted a study titled "Investigating the Impact of Investment Intensity on Leverage in Companies Listed in Tehran Stock Exchange". The results indicated that there was a significant relationship between leverage

and overinvestment which were consistent with those of this study. In addition, in external studies, Lopez et al. (2018) examined the relationship between overinvestment, leverage, and liquidity of companies. The results suggested that there was a positive relationship between leverage and overinvestment, which were in line with those of this study.

The Results of Testing the Second Hypothesis

In the second hypothesis, it was investigated whether there was a significant relationship between liquidity and overinvestment. This hypothesis was developed on the basis that increasing the cash flow of companies can increase their overinvestment. Surplus liquidity can affect the financial behavior of companies and accompany them in generating overinvestment in projects. High liquidity in addition to increasing investment in companies can cause overinvestment. When capital is readily available and financial costs are low, the problem of overinvestment in companies occurs. Some managers may behave opportunistically due to the company's high liquidity. This can result in

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overinvestment and reduce the efficiency of the company's projects. So in this study, it was assumed that surplus liquidity could lead to overinvestment. According to the results, the liquidity of the companies listed in Tehran Stock Exchange was 0.00. This was less than 0.05, so the second hypothesis, i.e. there is a significant relationship between liquidity and overinvestment, was confirmed. The constant coefficient value for liquidity was 0.02. and positive, indicating that there was a direct relationship between liquidity and overinvestment, and with the increase in cash flow, overinvestment also increased.

In comparing this study with other domestic ones, the study by Noravesh et al. (2014) can be noted. They conducted a study titled "The Impact of Leverage on Firm Investments in Tehran Stock Exchange". According to the results, there was a significant relationship between liquidity and overinvestment, which were consistent with those of this study. In addition, in external studies, Lopez et al. (2018) examined the relationship between overinvestment, leverage, and liquidity of companies. The results suggested that

there was a positive relationship between cash flow and overinvestment, which were in line with those of this study.

The Results of Testing the Third Hypothesis

In the third hypothesis, it was investigated whether liquidity could moderate the relationship between leverage and overinvestment. This hypothesis was developed on the basis that leverage ratios play an important role for shareholders in investment decisions and that decisions on leverage can positively affect the companies' liquidity. This has been confirmed in most conducted studies. The availability of financial resources affect the companies' capital. A review of the literature suggests that when companies' financial conditions are favorable, their capital increases. This can create problems for companies, as high liquidity in addition to increasing investment in companies can cause overinvestment. Overinvestment in companies is a matter between shareholders and managers of companies. Based on the free cash flow theory, excess cash flow in companies can cause managers to invest in projects

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with negative NPV and increase the resources under their control to receive more rewards. Researchers state the problem of overinvestment in companies arises when capital is readily available and financial costs are low. Based on the results of the study, it could be found that liquidity could not have a significant effect on the relationship between leverage and overinvestment of companies.

In comparing this study with other ones, the study by Lopez et al. (2018) can be mentioned. They examined the relationship between overinvestment, leverage, and liquidity of companies. The results suggested cash flow could have a significant positive effect on leverage and overinvestment.

7. Recommendations

Based on the hypotheses tested in the previous section, this section provides the following general conclusions:

Following the confirmation of first hypothesis, i.e. there is a significant relationship between leverage and overinvestment, the following recommendations are made:

1. Companies listed in the Tehran Stock Exchange are recommended to adjust their finance management as well as their debt ratios in order to avoid overinvestment in projects so that they can improve investment efficiency.

2. Shareholders are recommended to consider investment efficiency of companies in their fundamental analysis because companies with overinvestment efficiency have higher profitability in investment projects.

Given the confirmation of the second hypothesis, i.e. there is a significant relationship between liquidity and overinvestment, the following recommendations are made:

1. Companies with cash inflow and outflow management are recommended to plan in a way that will not cause excess cash flow, as the excess cash flow of companies increases, the likelihood of overinvestment in projects increases.

2. Shareholders are recommended to invest more in companies that have a good liquidity management by examining the companies' cash flows in their analyzes

because proper liquidity can lead to efficiency of investment in projects.

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THE CHARACTERISTICS OF USING POSSIBILITIES OF DIFFERENT KINDS OF REITERATIONS, POETIC ADDRESS AND POETIC INQUIRIES IN NABATI CREATIVITY

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Abstract: The characteristics of using possibilities of different kinds of reiterations, poetic address and poetic inquiries in his creativity were investigated, the researches dedicated on Nabati poetry in the dissertation are made out. This article describes that though we come across the concrete dissections in Nabati creativity, the poetics of the poet wasn't investigated in the completed form in terms of the main parameters.

Nevertheless accomplishing such an investigation world help to identify the parameters stipulated the distinctiveness of the poet's literary heritage. The investigation showed that voice reiteration takes an important place in the reiterations system of Nabati diwan(selected poems of a poet) . Poet achieves to exaggerate the aesthetic affect of literary quote thanks to following each other during the verse,

couplets of phoneme even the whole poetics piece. Nonetheless Nabati is one of the poets that used with great competence of expressive possibilities of literary addresses. The research showed that literary recital means are in the effect and mutual coherence on the basis of complicated mechanism in the poems of Nabati and creates the whole poetic system. There is a serious necessity to the comprehensive research of this poetic system.

Introduction

In an exemplary piece of work "Fuzuli creativity" monograph in the area of learning the poetics of the classics of Azerbaijani literature the outstanding academic and author Mir Jalal wrote: We see the mass case of Fuzuli feeble imitation in poems world after XVI century. All of these poets, certainly, didn't understand Fuzuli's

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creativity at the same level, and all of them weren't the same level. The minority part of them describes their original characteristics in their writings in Fuzuli style, spirit and they succeeded. Our outstanding classical poets like Vagif, Bahar, Zakir, Nabati, Seyid Azim are the craftsmen who owes special style, their own voice, breathe and shows authenticity in their ghazals. (Mir Jalal, 1994).

It is not coincidence to mention Seyid Abulgassim Nabati the dissimilar person of XIX century of Azerbaijan literature between the poets who have detached poetic style and created after genius Fuzuli. The researchers of the literary heritage of the poet put forward the ideas that confirms this thesis and continues to develop it. For example, Abalfaz Huseyni especially noted this aspect in the introduction which he has written it to the academic cadaver of Nabati's writings. Knowing the Arabic, Persian, and Turkish into their quickness the poet has read the classics and felt, loved them but didn't not imitate and repeat them. He got training from masters, but the subject from his environment and time. The context of ghazal, ode, quatrain and

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other writings of Nabati is completely new and related to the daily matters and his life. Even as a innovator, Nabati especially brought the original characteristics that had never been used before to the ghazal genre. (Nabati, 1968)

It is completely fundamental to name Nabati as "innovator" for Scientist, and scientific statue confirmed by the whole spirit and texture of the poet's creativity. Indeed, though he was influenced by the representatives like Nasimi and Fuzuli of our native literature, Saib Tabrizi, Hafiz Shirazi and Jalaladdin Rumi of classical Persian poetry, how much he benefited centuries' traditions of ashug poem, the literary heritage of Nasimi is new and unparalleled for his poetics and expression style. Although the traditional impression of characters 'system at first sight he created within the frame of strict laws exactly identified of the genre of ashug poem and classical poetry, the creativity of poet owns detached, specific rhythm and pathos altogether.

Although we come across that kind of exact observations and certain concrete dissections, unfortunately it

should be noted that the poetry of poet wasn't investigated in completed form in terms of the main parameters, whereas implementation of such kind of research should allow identifying the factors which stipulating the originality of his literary heritage of the poet. This is something to consider separately that all elements of poetics system, small elements seeming insignificantly at first sight take part at the requiring stylistic dissimilarity and originality. Emphasizing it is not unreasonable. So, as usual in the investigations relating to poetics of our classic poets, the main attention was given to poetic figures, means of poetic expressions and metaphors, the second place is set off for rhythm and harmony matters playing the main role in the formation of individual style, or they have been forgotten completely. This attitude for medieval century literature directed to the creation of new variants of traditional motive performing as invariant of creative initiative is probably acceptable. But Nabati is a representative of new era literature and a participant of "the formation process of new literature differing from both the oral literature, and written literature in quality,

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organically combining and approaching of oral folklore and classical literature".(Gorkhmaz Hazioghlu, 2006). That process was accompanied with "dynamic progress of normative-individual, prevailing gradually standardization of individuality "(Gorkhmaz Hazioghlu, 2006). In the situation of continuing the traditional genres, the individuality of author is trying to express itself not in the petrified components of poetic system but in the weak elements resistance and he succeeded in it. These characteristics are accompanied with all its brilliancy in Nabati poetry and our goal is to explain the main manifestation of it.

Research Methods

The characteristics of using possibilities of different kinds of reiterations, poetic address and poetic inquiries in the research were investigated, and used from analytical dissection and dissection methods, dissection of activity products in this base. Standing on the basis of Modern literary criticism it is referred to the general theoretical ideas, thesis in the research.

Development

In Nabati creativity along with the several aspects, different kinds of reiteration are not only the main characteristics of poetic system, but are at the level of the dominance of literary style of the poet. [Kiseleva L.F., 1982] . We can say certainly that we couldn't come across the second master who uses the semantic and rhythmic possibilities of reiterations like him between the modernists, predecessors and followers of the poet. By the way, let's say that literary reiteration (especially voice retraction, alliteration) was one of the main characteristics of ancient Turkish poetry.[Steblevva I.V. 1965].

The same aspect is observed in the epopee of "Kitabi-Dada-Gorgud"(Kamil Valiyev, 1981) . And this allows saying that giving the main role to the reiterations of poetic forming of the text (it shouldn't be doubt that this aspect is the result of conscious activity of the poet), Nabati has continued and developed both the national literary traditions , and tried to benefit from the semantic-stylistic possibilities of native language in the maximum way. It is one the main reasons of being reputational, popularity between not only in the

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literary spheres, but great masses and of addressing continuously to the writing of poet by folk musicians (ashug) and khanandas.

Let's interpret the reiterations in Nizami diwan on the basis of repeating of grammatical form and constructions, words and voices.

Voice reiteration takes a great role in reiterations system of Nizami's diwan. The poet succeeds in increasing the aesthetic effectiveness of literary quote with the help of following each other during the whole poetics piece and couple, verse, phonemes (firstly consonant sights). In this meaning it couldn't be looked only as a "tinsel" of the reiterations of phonemes in the poetics text. Voice reiteration is in an organic relationship with the semantics of the poem and stimulates the creation of different associations in the brain of the reader, thus, it allows aesthetic enjoying maximally from the literary word. In other word, phonological formation of the text makes directly sense"[Lotman Y.M., 1996] Let's see the examples from Nabati's diwan.

poem
Eşq odun doğru imiş,
gizlëmək olmaz, billah

Alışıb öz-özünə, düşdü
sözüm dastanə [Nəbati,
1968].

Yaxud:

Alışı şəm kimi, odlaş
pərvanə kimi

Can verər yarə, Nəbati kimi,
biar olmaz [Nəbati, 1968].

Və ya:

Your love on fire was true, it
couldn't be hidden, I swear
to God.

My word has flamed, fall
into the epopee(legend)...

Or

It ignited like a candle,
become inflamed like fire

He gave his soul to his lover
like Nabati and

He wouldn't be without a
lover..

Or

Yar yolunda verdim başı,

Yastıq etdim qara daşı.

Döndü billah, gözüm yaşı

Şətti-Bağdadə, Bağdadə

I was at my last grasp for my
lover

I made a pillow of grave
stone.

My tear has turned, I swear
to God

We see the repetition of “sh”
sound, but the semantic function of this
reiteration in every verse takes a
detached character. In the first example
“sh” voice is focused on creating the
connection directly related to “love on
fire, ignite” units besides and “love on

fire has fallen down”, although the basic
connection of “fall down” verb is related
to “epopee”.(fall into the epopee)

In the second example “sh”
sound which was used 3 times serves to
create the effect of “burn with desire”,
apparently it is achieved to revive of
physical process with the help of voice.
The third example has completely
different tincture. “Sh” phoneme is not
“fire” and considered to awaken “water”
notion. “sh” voice in the first two verses
prepare the ground to the “arrival” (tear)
of the third and main concept, semantic
row closes with the word of “shatt” (tea),
attentive sensible reader could hear the
murmur of the water. We think that,
these samples are enough to inform that
Nabati has used the voice reiteration how
skilfully.

Word reiteration prevails in
Nabati diwan in terms of the quantity or
the manifestation forms. The simplest
form of word reiteration serving to
persisting on any idea, emphasizing of
definite point, strengthening the meaning
is starting with the same word:

Gəhi bir gül ayağında düşüb
məstanə xab etmək,

Gəhi saqi ayağında şərabi-
xoşgüvar istər

Sometimes he fall into the feet
of lover

And sometimes wine waiter
wants pleasant a glass of wine

In the beginning of every verse
“gahi”(sometimes) describes different
situations of the hero and gives a chance
to the comparison of them. The
homonym word of “foot”(ayag)(“foot”
in the first one, and “the glass” in the first
one) strengthening this comparison .The
poet has used from this method in his
“goshmas”. In some cases repeated
words takes all space of the couplet.

Allah, Allah, bu qədü qamətə
əhsən, əhsən!

Güli-həmradı bu, ya çöhreyi-
gülün, gülün

Oh God, Oh God, well done,
well done to this fine figure

Her face is like a flower’s color,
like a flower’s color

The reiteration of grammatical
form and constructions in Nabati diwan
is performing as important means of
rhythmic formation of the text and
create conditions of etched on the
memory of the poem and focusing on the
main words and phrases of reader. One

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of the grammatical forms used richly by
Nabati is the same model construction of
postpositional attributive group. Those
constructions allows understanding
easily, dividing into syntagmas selected
clearly of poetic saying. For example,
let’s have a look o the following verses
from the ghazal with radif “request(arz)”
of the poet.

Gərđiři-çərxi-fələk olmasa
kamımca gər,
Dərđi-dilim eylərəm řahi-
Xorasanə ərz.
Mətləi-řəmsi-züha, məzhəri-
nuri-hüda
Fəxri-dili-Mürtəza,
mənbəyi-ürfanə ərz

If I couldnt live enjoyable in
this period
I will say my pain to
Khorasan shah
Matlai-shamsi –zuha,
mazhari-nuri-huda
Fakhri-dili-Murtaza,
manbayi-urfana arz.

Post positional attributive group
with two compounds and three
compound replacing each other in these
verses are the main speech units. Nabati
used efficiently the grammatical
possibilities of native language for the
same purpose.

Özü göyçək, sözü řirin,
dəhəni qonçeyi-tər

Zülfü ənbər, boyu ərər, gözü
fəttan gəldi.
Qaşları qövsi-qüzeh, kipriyi
ox, incəmiyan
Xalı filfil, ləbi mül, arizi
taban gəldi [Nəbati, 1968].

She is beautiful, her words are
sweet and lips are fresh like a flower bud

Her hair is valuable material,
height is long, her eyes are amazing

Her brows are like a
rainbow, lash is like an arrow, graceful

Her birthmark is like a black
pepper..

Specific imagination of literary
reiterations in Nabati creativity is rhyme
reiteration. Speaking about Rhyme
reiteration, using of the same word as
rhyme in different verses and considered
the reiteration of rhyme in the end of the
couplets. We should note that this
method is specially peculiar aspect to
Nabati creativity, no poet benefited from
this method in this scale neither before
nor after it. Moreover he attracts
attention with different kinds of
imagination.

Tutdum genə xoş həngilə
meyxanəni, meyxanəni.

Saqi, amandır, durma ver
peymanəni, peymanəni

We had a pleasant wine party,
wine party

Wine waiter, don't stand, give
the glass, glass

It is repeated completely with
“matla” as in ghazal. At this time the
poet uses both the lexical reiteration and
repeated rhyme takes over the function
of any kind of radif in poetics text.

In many cases the poet repeats
the last words of the verses that not have
been used the rhymes, besides rhymes
and this proportion which expected
during the whole ghazal gives a special
rhythm to the poem. If the word rhyme is
the component of post positional
attributive group combination, the poet
uses only the second part of it during the
reiteration. It is interesting that Nabati
uses widely from this method in his
writings in the forms of ashug poem,
especially in garayli. Let's note this fact,
it has been used rhyme reiteration in the
couplet endings of 50% of the poems in
this genre, namely in four of 8 garayli
entered to the 1968th edition of the
writing of the poet.

Of course, the above-mentioned
doesn't cover semantic-methodical and
rhythmo-melodic functions and all the
imagination forms of literary reiterations

in Nabati diwan, but we think that these are enough for understanding how much the richness of arsenal of rhythmic formation of the text in Nabati poetry.

Discussions

Using of literary khitab and queries Nabati poetry is related to directly to the character of lyrical hero. So, the lyrical hero of the poet sometimes steals away and doesn't communicate with anybody and listen to the voice of his heart, talk to himself, and express to people stating to public in different forms the results of self-analysis and self-consciousness and introspection. In other words, the hero of the poet is in the dialogue permanently with himself and others. This dialogue performs as a conditioning factor the richly use of literary khitabs.-the important feature in Nabati creation.

Nabati is one of the poets who using skilfully of expressive possibilities of literary khitabs. We could come across the less samples the literary khitabs which have not been used in his diwan. Even some poems were formed on the literary khitab in the whole. We come across the literary khitabs "hey zephyr", "my God" "hey faithless",

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"drink server" , "hey shux", "hey my eye", "hey flower", "hey nightingale", "Hey Ali" and etc. The poet turns it to the address objective even the abstract notions with khitabs like "hey love", so that takes interest as a fact describes the scale and scope of the dialogue. The rough addresses like "say, donkey", "hey donkey" take interest as a usage of these folk sayings came across in Nabati's creation. [Nabati, 1968]

The poet, by the way has used the extended kind which considering the most impressive form and saying with high intonation of literary khitabs. In most cases, literary khitab is in the scope of the whole verse and provides reaching the highest level of expressiveness of the text.

In classical East poetics the role of the literary khitabs in the poetics text haven't been taken notice and emphasized its quality typical to Quran style. Khitab in Quran is used in the purpose of leave a strong impression for listener..For example, "Hey righteous persons", "hey prophet" and etc.[Mahira Guliyeva].Functional and stylistic possibilities of literary khitabs have been analyzed in pathological letter in Medieval century , their different kinds

have been determined. The most interesting from these kinds is literary method named “abstractive-khitabi”. Saying “abstractive-khitabi, it is considered that khitab belongs to the stranger seemingly and internally to himself. Nabati has benefited repeatedly as a stylistic method increasing the emotional effectiveness from this kind of literary khitab.[Nabati, 1968]

As a rule, this kind of khitabs using in the “magta” verses of ghazals is the indicator of the ability looking at himself from outside of lyrical hero, in other word, not only with outside, and in the dialogue with himself and being in possibility.

This dialogue logically stipulates richly using of literary inquiry of other rhetorical figure in Nabati’s writings. Literary inquiries manifesting in highly-quality semantic and functional shades, strengthening the emotionality of poetics speech and attracting attention of the reader in Nabati’s poets.

As literary khitab in Classical Eastern poetry-study, the connection between literary inquiry and “ilahi kalam” “Gurani Karim” is concentrated, the usage of this method by poets was appreciated and its kinds of” question-

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answer” and “istifham” were determined. In the first one, the poet asks a question in one verse or couplet, and answers it in another one, sometimes the poet asks the question to himself, and answers himself. [Musulmanokulov R, 1989] Nabati has used this kind of literary inquiry slightly. However Nabati give a place to the rhetoric inquiries which make them an active participant of poetic communication more than poetic inquiries created on “I said- he said “construction plus adjusting the reader to this mood, expressing the emotions and excitement of lyrical hero, this complies with the figure named” istifham” of Eastern poetics.

Rhetorical inquires are considered the beneficial method of an emotional reaction, and this is explaining with the existence of two special context plans in the same figure. So, here is a “question” from one side and from the other side there is a “reply” which expresses confirmation and denial. Both plans are activated at the same time during using of rhetorical question. Nabati knows well these characterises of rhetoric question sometimes he doesn’t avoid to ask “questions” without any

answer in some couplets inside the ghazal.

Sometimes rhetorical inquiries include the literary khitab that this gives a chance assuming high intensity of literary effectiveness of the text.

And this shows that rhetoric-stylistic figures and literary expression methods in Nabati's poems are in the mutual connections and on the basis of complicated mechanism and creates the whole system. So, dissection of the separate levels of literary system of poet's creativity carry conditional character. The uniqueness of Nabati poetics is provided owing to the unity of different description-methods .

Back to the use of the methodical possibilities of grammatical forms, literary khitab and inquiries providing the intonation diversity, rhythmic reiterations based on language stixias from metaphors and assimilations are the typical feature to the development inclinations of the latest period. Nabati is master who leaves behind not only modernists but also his followers.

Conclusion.

Summarizing the given information we can conclude that

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Nabati's diwan doesn't cover imagination forms of literary reiteration, semantic-methodical and rhythmo-melodic functions, but we think that in one hand it's enough to understand the causes of adjusting easily of the music of poet's poems and in other hand the richness of the arsenal of rhythmic formation of the text in Nabati poetry.

Nabati could seal individually to the tashbehs which he benefited richly in his creativity as the other components of allegory system. Literary imagination methods carry concrete function and subjective-cognitive, descriptive reflects the main parameters of aesthetic attitude of the poet in to reality, and creates a clear imagination about the directions and scale of literary mastery of him. Back to the use of the methodical possibilities of grammatical forms, literary khitab and inquiries providing the intonation diversity, rhythmic reiterations based on language stixias from metaphors and assimilations is the typical feature to the development inclinations of the latest period. In this meaning, we could say that as a whole Nabati's poems takes place not only in series of unique

samples of Azerbaijan library but also the world's poetry.

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STRUCTURAL PROBLEMS IN THE ENLIGHTENMENT PROGRAMS OF AZERBAIJANI TELEVISION

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Abstract: The article analyzes the various problems of fabula-plot-composition-language and styling, which are the main elements of the structure that ensure the excellence of enlightenment teleprograms and the purpose of the enlightenment programs and the requirements given to it in modern times are brought to the spotlight. Analyzing the content of programs broadcast on various channels of Azerbaijani television, the mechanisms of organization and creation of programs from the audience and professional context are highlighted. The article draws attention to the purpose of developing educational programs and what needs to be done in order to implement this service, and clarifies the ideological and policy orientation of television education activities and programs. It is concluded that, as in all areas of the Mass media, the social impact of a television product produced

on television as a result of its creative activity can lead to the achievement of social goals.

Keywords: Azerbaijani television, enlightenment programs, structural problems, fabula-plot-composition-language

Introduction

In modern times, television is a system of social relations that allows you to "come to every home" with the help of advertising of certain goods, propaganda of social-political movements and political parties, familiarization with cinematographic products is performed and affecting people's minds through various styled programs. An overview of various television shows and commercials leaves a deep impression on people's minds, unwittingly guides their personality, and makes them a subject of social networks.

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Various programs broadcast on television provide a participatory effect and easy access to information that plays a key role in shaping the public consciousness, forming a standard benchmark for the creation of behavioral elements. It should be borne in mind that although the information transmitted through television has many benefits, in many cases the high speed of transmission of broadcast and information, as well as the excess of information, content, and low pleasure, cause information stress in people and slow the psychological processes. It is also a social-pedagogical function that determines the important place of television in socio-political life and shapes the outlook of the audience and society as a whole. In democratic societies, this function promotes the state by instilling a sense of patriotism and statehood in the nation.

Of course, there are a lot of broadcast on Azerbaijani television aimed at promoting patriotism and developing patriotism in young people. These broadcasts strive to create ethical behaviors by drawing practical examples of content, focusing on the lives and activities of the heroes. We can say that

such qualities are formed in Azerbaijani youth. Thus, the heroism shown by Mubariz Ibrahimov, Ramil Safarov and others is a great example for Azerbaijani youth. But one important point should not be ignored is that television does not always seek to develop patriotic consciousness. In many cases, the separate scenes are not the feelings of patriotism, but the elements of aggression, self-indulgence, and weakness.

It is interesting that the rating of television programs, which often repeats violence and immoral behavior and scenes, creates emotional resonance. Such broadcasts can lead to deviant behaviors and reinforcement of violent tendencies in some audiences, especially young people, which may be the basis for semi-adaptation a particular young person in the social community. For example, they often advertise supernatural abilities on television screens - people with great power and energy, which make them ideal for the imagination of teenagers and young people. There is a mismatch between the real "Me" of your teenager and the ideal "Me". As a result, young people who are unable to self-exert themselves are going

to inadequate way. Such selected characters "heroes" often influence the minds of young people, and their behavior and actions are similar to those of the "hero". This aspect, of course, does not only strengthen the public consciousness, but also contributes to its degradation. In addition to this, the structural problems in the enlightenment programs reflected in the function of the television show that the solution of this is very relevant in the modern era.

Research methods

The survey utilized survey techniques to analyze the audience's feedback, as well as analysis of activity products, surveillance of television programs and analytical analysis. The research relates to the general ideas and provisions of modern journalism and the organization of television programs.

Development

Research [Grabe, M. E., Lang, A., Zhou, S., and Bolls, P. 1998] has shown that the main function of the socio-pedagogical function of television is to create a clear impression on the audience by analyzing important events. Because not every spectator is able to

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understand the real picture of political processes and existing social problems, analyze and understand the causes of the events. At this time, television, taking on this role, seeks to educate the audience and make the right decision by showing expert solutions to the problems in various fields. At the same time, a full-fledged impression on the subject under discussion and the establishment of a dialogue between different positions and ideas by thinkers to reflect the truth without distortions will contribute to the preservation of democratic principles. In this regard, Brosius (1989) shows that "abstract information about scientific discovery or the environment is acquired on average for a year or more. The political campaign in the media will produce for about 3-4 weeks. It only takes a few days for people to be aware of an emergency" [Brosius, 1989]. In another research, similar results were obtained, with medicine, sports news, as well as emergency weather information, that is, news closer to people's lives is better understood than politics or economics news." [Grabe, M. E., Lang, A., Zhou, S., and Bolls, P. 1998].

The power of influence that television has on each channel,

broadcaster and speaker puts a heavy responsibility on it. On the basis of this responsibility lies the values that ensure the integrity of the state and its indefatigability, away from personal interests and subjective ideas. “If a journalist wants to win and convince the audience, he or she should analyze and understand the values and psychology of the audience, as well as public opinion” [Усвоение. Психология, 1990]. The proper implementation of the integrated function of television is based on the promotion of human values and television programs within their own borders, without dividing people into groups and layers.

It should be noted that the formation of a new generation, formed by the influence of national television broadcasts, adopting the alien values and taking it as the main criterion laid the foundation. While respect for international values and the formation of multicultural thinking is a positive thing, it is dangerous to stay away from national roots, national values and ideas. This means that national TV channels also have great responsibility. One of the main challenges is the development of competition-based programs and

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programs that allow viewers to watch more local channels. The channels in the Azerbaijani television space differ in this respect from the specifics of the television in other countries.

When we look at history, we see that the democratization of our independence following the restoration of our independence necessitated the development of programs that would play a role in ensuring freedom of expression and diversity in AzTV and later in the new television channels. However, as early as the 90s of the XX century, it was clear that the quality of analytics programs was poor. This required a certain amount of time and overcome obstacles. This period can also be called the preparation phase. But the cultivation of new-minded, new-idea and thoughtful journalists, the formation of interest and trust in analytical broadcasts, and the study of international experience could have contributed to the emergence and love of such broadcasts. The availability of various analytical programs on the neighbouring channels has made the Azerbaijani audience want to watch the same programs on their native TV channels. Thus, today's

television landscape began forming slowly.

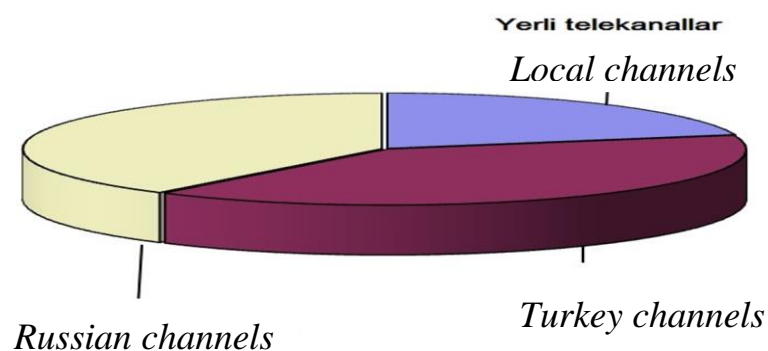
In modern times television has great ideological power. The fact that any politician can present to the audience the desired form is an example of that power. This "image" can be both positive and negative. The desire of the candidate to bring the election platform to the public from the notice boards in private places is just a fancy. The TV can do it in the best way possible. It can gain the audience's opinion and voter confidence by presenting its ideas in live debates and in air time. It should be borne in mind that for every spectator, along with the electoral platform of a politician, his / her position in the society, family, work, and outlook are of interest. A candidate can express himself perfectly through

telecommunications. Proper diction, fluent conversation and sincerity that builds confidence. Politicians who are well aware of the power of television, which has come to the fore in the media for its influence on society, have to make it a part of their lives and activities. This process is still going on very naturally.

Discussion

Most of the recipients that surveyed in May 2017 with the question "Which channels - local, Turkey or Russia - are you watching more?" said they preferred to watch foreign channels. 20.2% of them regularly watch local channels, 40.0% of them regularly watch Turkish channels, and 39.8%

of them regularly watch Russian news broadcasters:



As you can see, the results of the survey are not so heartwarming. Most are looking at Turkish and Russian

channels. It should be noted that the survey was conducted among hundreds of people from different age groups and

social groups. It is true that certain searches are being conducted to increase the popularity of national TV channels. As an example, we can mention the bringing of famous television projects to Azerbaijan. In order to increase the rating, this method, which has been used by private television channels for a long time, was also used by Azerbaijan TV. Here, “The Voice Azerbaijan” (“The Voice”) music competition, which broadcasted from 2015, can be considered a major step in this direction. The audience had the opportunity to look at the Azerbaijani version of “The Voice” music competition that held in more than 50 countries around the world. Although technical work - lighting, space, auditorium in the studio was in a regular manner, performance, evaluation, or rather, the form of communication did not meet the conditions. If we say more accurately, the audience did not see the sincerity they had been dreaming about. The appeal of the contestants to the works of more foreigners, especially European composers, was met with criticism. Questionable prosecutions have been made in social networks. Although this

fault was eliminated in later sections, the loss of the audience was a reality.

In a competitive environment, the attempt not to share the “Azad Azerbaijan” channel’s audiences with foreign channels can also be called a successful step. But just a step. The Azerbaijani version of the entertaining TV program “Ben bilmem eshim bilir”, followed by the Azerbaijan audience on Channel D, also was only technically successful.

As noted by Academician Ramiz Mehdiyev in his article “The ether of Azerbaijan: problems and duties”, “one of the most disturbing and most discussed issues in the community is the increase in the volume of low-quality entertainment and show-business characteristic programs on television channels” [Mehdiyev, 2009]. The main reason for this is that material interest is ahead of the goal of producing high quality broadcast and TV products. One of the reasons why so many broadcasts are highlighted by frivolous, banal, gaudy design, structural fragmentation, is also due to the lack of professional staff on television. Although the article has been published for quite some time, the current view is identical. ATV’s

Former President Vugar Garadaghli's response to such criticisms raised at different times is also interesting: "Those who laugh at TV channels, in fact, laugh at the whole society. It is like laughing at yourself in the mirror. Because TVs are the product of society. As how we have been, we will seem so. Therefore, it is wrong approach to imagine TVs aside of society. If you talk with allusion while discussing the TVs, it means that, you should also discuss with the same allusion and irony what is happening our roads, our press, our surroundings, and so on.. That is, it is not right to separate TVs from society and review it in a way that is taken out of other processes. We are just in sight. That is the objective reason for ironic attitude to TVs." [Vugar Garadaghli, 2014]. Unfortunately, while there is no national television that can reach an entire audience at the telechannel today, there are very few national TV programs that are partly watchable, albeit on a "black background". Thus, it is not surprising that today the Azerbaijani audience is watching more foreign TVs than local TV channels.

In the Netherlands, one of the most developed countries in Western

Europe, the situation is exactly the opposite. Here, satellite TV is approached in the context of national security. Therefore, in this country, it is important to pay great attention to the preparation of broadcasts and the fulfillment of social orders, which will attract the interest of local audiences, provide them with pleasure and meet the information needs. Today, 90% of audience in the Netherlands are watching local television programs. In Azerbaijan, the situation was different. The lack of quality broadcasts that emphasize structural integrity, appeal to the audience's interest, and the direction of Azerbaijani audience to other countries' TV channels with propaganda mechanisms make it necessary to take more serious steps in this regard.

One of the most important conditions for the socio-pedagogical function of television is to ensure that people are active in the process of controlling the government. Informing the TV audience of President's various visits and meetings, decrees and orders signed by President, discussions in the Parliament, adopted bills, and as a whole, the activities of the judicial branch are conducive to the provision of

public control over television. This is one of the key factors in ensuring transparency in democratic societies. Thus, television can act as a bridge between the people and the government. In this work, television talk shows play an important role in the implementation of the socio-pedagogical function. Such programs, in which the thoughts of the audience are organized by expert opinion, serve to provide full information on the subject under discussion and to convey the truth. All this differentiates talk shows from other analytical programs and takes one step further.

Analytical programs that have attracted the audience's interest in television also play an important role in the broadcast's ether policy. Participation of experts, professionals in these broadcasts, which discuss the issues that are of concern to the public, participate in discussions, exchange views and thus create a realistic view and present them with a publicist approach, both seriously impresses the show's effects and serves as a social and pedagogical function, and reaffirms the importance of analytical publishing on television. Approach to the topic, interpretation, proper discussion,

moderation require professionalism. Gaining the sympathy and confidence of the audience, capturing attention with their objectivity, with both their literacy and on-screen images of speakers serve to politic educate the society. The audience's confidence to the announcer also means that they rely on the channel.

Screen resolution of analytics programs is also an important issue. Here, the work of the producer, the presence of suitable space or decoration, the harmony of light and color, the right *rakus*, as well as the co-determination of the personnel by the producer and the operator, reveal the technical and creative team's skills as a whole. Like any television product, analytics programs also help to shape the aesthetic taste of the audience. It is clear from this point that analytical broadcasts, analytical publications, are of great importance as an integral part of social and pedagogical function.

Television, on the one hand, follows the audience (to meet its interests), and on the other hand is constantly moving forward (again, according to the demands of the audience). It is very difficult, but it is the best way to reach the hearts of the

audience. TV channels are trying to connect the audience to gain the love of the audience and get a high rating. One of the most important prerequisites here is the correct approach to the principles of data transmission, perception and keeping in memory of information. The ability of the audience to understand what is happening without thinking too much and losing time and the perception of information creates a relationship between television and the audience. On the contrary, it causes psychological barriers and hurdles.

Perception, which is purely a psycho-physiological process, plays a crucial role in influencing screen work. Therefore, special attention should be paid to the fact of perception when communicating with the audience. "Perception is a process that depends on different components of human consciousness (general outlook, level of generalization of public opinion, etc.). Here general preparation of the audience, reaction to events, provided information, etc. like these factors play an important role. Therefore, special attention is given to issues relating the perceptions, including individual perceptions, when

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studying an auditorium [Bayramov, Alizadeh, 1986].

There are also laws for the comprehension and keeping in memory of mass information in the process of perception. Adopting the information is effective when in the program, a journalist is able to put the audience in the forefront of the story by highlighting interesting facts and explaining the purpose and essence of the story in an interesting way. In this case, the audience can see his or her "representative" in the face of television or a particular announcer and can keep in memory the events well. This method of creativity also, in principle, serves the popularity of broadcasting and remain in the audience's memory for a long time. Therefore, every television organization needs to pay particular attention to the complex psychosocial perception, and should also to take into account all these nuances during programming, as well as enhancing their creative efforts to better understand their programs, remaining in the memory for a long time, and activating the audience's attention. For this, the television journalist's front office must have many effective tools. It can't be forget that accurate

programming is the success of every TV channel and is the main of program policy. Therefore, each TV channel should design a program that suits itself and its audience, and in this case, it should not be influenced by any external experience or examples of external programs.

The creative success of television depends on the professionalism of the editor and director. There are several methods and options available in modern programming. Works on sequential, genre due to the age-adjusted audience, programming, it works with the theory of grouping of the projects under watch. This program politics, which is offered by some foreign experts, is not intended for large, all over the country and abroad nationwide TVs. This method can be applied to low-budget TVs for regional and cable television. The audience should be offered a colourful program every day. Just "catching" the audience with 3-4 entertaining broadcasts using only "prime-time" and grouping of the weekend program is not the way out. It is the responsibility of the editor and director to make the television channel he or she works harder to be watchable. They have two goals:

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counterprogramming and grouping of programs in the "prime-time".

Both methods are popular in Azerbaijani television. Because today's programming of TV channels, scheduling schedules is more important than what the audience says and shows when it comes to rating schedules. Because today's programming of TV channels, scheduling schedules are based on what the rating tables say and show, rather than what the audience's interest and the desire of them. When determining the row of broadcasts, the hours of watchable and un-watchable are taken into account. The competition between the channels is also for this hour. The main goal is to earn more revenue by collecting more viewers. This competition, in turn, encourages broadcasters to produce more affordable programs and more expensive projects from abroad that attracting the audience.

The emergence of every new broadcast on television is an event. Because it is connected with the world of interest of hundreds of thousands of viewers. However, it must be admitted that, in some cases, our contemporaries do not see themselves as themselves in these programs. Both the author's script,

the director's and the operator's work deprive him of his personal qualities, frame all his activities in a template, and sometimes even simplify his thinking. This tendency is more evident in youth television discussions. It seems that the participants of the program do not always represent the audience they are addressing.

While television operates as a nationwide tribunal, it is not appropriate to consider broadcasting planning and program content as the only area of activity of separate editorial offices, programs and directives, among other creative problems. The regular presence of well-known professionals, prominent scholars, literary and art figures, and the general public with their practical suggestions and advice can only be of benefit. Providing such participation further enhances the content and form of programs, and minimizes the audience's discretion in certain programs. Providing such participation further increases with the content and form completeness of programs, and this minimizes the audience's discretion in separately broadcasts.

The purpose of enlightenment programs is to inform, warn, teach,

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analyze and persuade. When doing this process, first of all, you need to be objective. The main thing in enlightenment programs is to arouse the interest of the audience. This is the purpose of the viewers of such programs; to gain the respect of their peers, improve their personal and professional qualities or experience, gain new information and skills. When designing enlightenment programs, it is important to first determine what purpose will be served and what needs to be done to implement it.

The enlightenment activities of television should be linked to the challenges facing society at the particular time, the problems of people at that moment, and provide the audience with a way out of the difficult situation. It is known that in the early 1990s, the economic situation in Azerbaijan was very difficult. Professor Nasir Ahmadli, speaking at the time of the television's enlightenment mission, wrote in an article published on February 14, 1995 in the "Azadlig" newspaper: "AzTV should be responsible for providing the people who have been exposed to the Soviet propaganda for decades, with the latest knowledge, to assist in creating and

developing viable, economical and political systems in our country, which has taken fragile steps towards independence. It should educate and inform the citizens of the country in such a way that let our compatriots are able to live in today's difficult times, at a painful, contradictory transition to market relations, at least to the minimum.” [Ahmadli, 1994, 1995].

The focus of enlightenment programs is to give preference to trusted and influential presenters who have the right and clear speech, which will gain the trust of the audience. The TV also provides entertainment programs to enhance your interest in education. Such topics as literature, painting, sculpture, music, cinema, dance, and intellectual games can form the basis of cultural programs. Properly chosen in time music adds colour to the program, while improper music distracts the audience. The timing and rhythm of music programs should be designed in such a way that it does not bother the audience. At the end of the broadcast, playing some of the favourite and well-known tracks will keep the audience for watching the program till the end. As society continues to change, such broadcasts are

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indispensable for keeping pace. The purpose of this type of programs is to bring cultural values to the public and to promote world cultures. Community development is possible through such programs. [Mammadli J., 1999]. According to media experts, not only private, but even state-funded TV channels have very few educational programs and journalistic investigations. Professor Jahangir Mammadli believes that the enlightenment programs shown on local TV channels partially meet modern requirements. “There is little enlightenment activity, and the lack of enthusiasm for the current programs is due to their low level of professionalism. Journalist investigations on ANS channel are almost daily in the news program. There is derivative news from the main news: the "ich" news, the rectangle, and so on. The names of these programs can be attributed to the fact that they are a joke, but most are both journalistic and enlightenment activities. Sometimes they think that enlightenment means a lesson in a program, but it's not. There is also enlightenment in ordinary information. For example, the destruction of a wedding house in Tel Aviv and Injury of people means that

they have to be careful about the construction of wedding houses in Azerbaijan. Sometimes it is said that people are criminalizing the fact that there is a criminal record on air. It is not like that. They should look at the screen and see the condemnation of the community that man does not kill his father.” [Nurlan Agha, 2015].

“At a time when cultural and educational institutions have weakened their jobs and lost their focus in public life, the effective use of television, its mass, scope and influence in the work of raising awareness of its viewers and enhancing their cultural and intellectual level appear as a public demand. An important factor here is the simultaneous impact of TV on the audience, shaping its taste and outlook, which is beyond the reach of other cultural and educational institutions. Enlightenment of the audience for a democratic society remains a key and important area for television. The idea that “Television can educate or vice versa” not only demonstrates the real power and potential of television, but also demonstrates the importance of the social mission that it undertakes to society.” [Freylex, 2002].

Although there are screenshots that serve cultural awareness of audiences on Azerbaijani television and commercial channels, most of them are not selected for their creative excellence and innovative searches. “Azerbaijan's Khanate” TV project (author Mehriban Alakbarzade) of Space TV, films by Lider TV's “Azerbaijan” editorial, ANS's “Prisoners and Secrets” (author Gulshan Aliyeva), “The Land of Fire” (directed by Nazim Rza), produced by “Azerbaijantelefilm”, the films from the “Red Line” series of “SOY”, “Fatehlerin divani”, “Anxiety” (director Ramiz Hasanoghlu) TV shows produced in “Sabah” YB of AzTV can be viewed on the modern television screen as screenshots promoting the country's history, cultural heritage, and social and political awareness.

Conclusion

With a satellite antenna capable of watching world-wide processes and creative searches, viewers will want to see similar-sized screenshots on country channels after experiencing the creative power of high-end programs, television programs and films. In the postmodernist epic, the viewer does not need to prove

that his approach to old-fashioned style and form has not had the same effect as the unsuccessful step of spreading films and broadcasts in ways that are out of order for his or her enlightenment. Only the artistic excellence of television, the main language of the television, can give the audience an idea of the type of audiovisual art that is created by using modern techniques and technologies, allowing it to convey the main idea in art. Regardless of which idea carries the burden, the screen work can only produce the desired effect when it is artistic. While television operates as a nationwide tribunal, it is not appropriate to consider broadcasting planning and program content as the only area of activity of separate editorial offices, programs and directives, among other creative problems. The regular presence of well-known professionals, prominent scholars, literary and art figures, and the general public with their practical suggestions and advice can only be of benefit. Providing this presence further enhances the content and form of programs, minimizing the audience's right to separate broadcasts. By summarizing the information, we can conclude that one of the most important

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prerequisites for the excellence of enlightenment teleprograms is the need to know and master the subtleties of fabula-plot-composition-language and style, which are key elements of the structure.

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PUBLIC ADMINISTRATION AND LEGAL REGULATION
EFFECTIVENESS IN THE FIELD OF HEALTH CARE IN THE
CONTEXT OF SUSTAINABLE DEVELOPMENT

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Abstract: The purpose of the article is the study of health capital as the basis for the formation of human capital. The authors consider health capital as a new factor in economic growth in modern conditions. It is concluded that there is a high risk of a shortage of health capital due to high mortality, low fertility, and low life expectancy. There is also a shortage of investment in health care. The regional features of the development of the health capital of Ukraine in

modern conditions are analyzed. The existence of regional differences in the formation of health capital is proved. The inconsistency of regional and national interests regarding the strategy of state regional policy is revealed. It is concluded that regional priorities should be such as to save and increase the health capital of health. The results of an integrated assessment made it possible to form a ranking of regions by indicators of health capital. The approaches

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proposed by the authors to ranking the regions make it possible to develop programs of priority measures to implement the strategic goal of healthcare. It is an increase in the quality and accessibility of medical care, drug provision, ensuring the sanitary and epidemiological safety of the country, and the prevention of infectious diseases among the population.

Keywords: human capital, health capital, regional development, health capital index.

Introduction

Current economic reforms in Ukraine show the importance of human capital as the most valuable resource and basis for the development of high-tech industries. Much research has been done on education capital asset as an important factor in the formation of human capital. However, health capital asset, as an integral and essential part of human capital, is another main focus for scientists. The formation and development of human health capital is a key priority in strategic development. It allows increasing the competitiveness of the economy in the globalized

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environment (Gubanova et al., 2019; Koval, Mikhno, 2019; Koval, Mikhno, Hajduga, Gaska, 2019). Unfortunately, the existing health capital of the Ukrainian regions is rapidly devaluing, which is reflected in a high level of natural depopulation and the decrease in life expectancy. The armed conflict in eastern Ukraine and the temporary occupation of the Autonomous Republic of Crimea adds complexity to the situation in the country. The key to effective functioning of the Ukrainian society in general and modernization of the regional economy is the sound management of regional socio-economic development including development of health capital asset.

Literature review

Theoretical basis of this work includes a significant contribution to the development of the provisions of the theory of human capital. Grossman (1972) proved the need for a demand model for health. Separated the concepts of human capital and health capital. Boarini, Mira d'Ercole, Liu (2012) are studied the phenomenon of eliminating diseases and epidemics on the general health of the population. Lorentzen,

McMillan, Wacziarg (2008) studied the impact of health and mortality on economic growth. Grishnova, Brintseva (2015) is studied to the issues of human capital, including formation in the sphere of health. Koval, Popova etc. (2019) devoted her scientific articles to the problems of human development, ecodiagnostic and health (Koval et al., 2019b).

The studies are characterized the content of the economic category "human capital", analyzed its structure and condition, and identified its role, in particular, health as the most important indicator of the quality of human development. The scientists developed detailed recommendations for the development of health care system of Ukraine, improving demographic situation and social policy of the country.

Materials and methods

The authors propose medic approaches to the analysis of regional differences in the capital of public health. The authors use an integrated indicator, the index of development of health capital. It includes demographic, economic, social, environmental, territorial components and tourism

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(Koval et al., 2019a). The calculation is based on official data of the State Statistics Committee of Ukraine. A special element of the methodological approach is the formation of a ranking of regions, which reflects the asymmetry of the development of capital of public health. The results of this ranking are the basis for the development of programs for the implementation of the health care reform strategy, taking into account regional characteristics.

The purpose of the article is to study health capital asset in the system of human capital; to find out the role of health capital in the transformation economy; to identify the factors that influence its formation and development, and to assess health capital of Ukraine in the regional context.

Results

Starting from the 1990s, Ukraine gradually moves towards building an innovative economy, the key resource of which is intelligence, knowledge, skills, competences, creativity, that is, human capital. The formation of human capital is driven by investment (Bodnar, Mirkovich, Koval, 2019). Investment in education and

health are of utmost importance (Kvitka et al., 2019). Thus, there are two main components in human capital: education and health.

In our opinion, health capital is the basis for the formation and development of human capital. Without taking care of health, one cannot realize his or her potential in economic and other spheres of human activity (Fender, 2013).

The concept of "health capital" has not been fully studied in the Ukrainian economic literature. Basically, scientists view it as a component of human capital. However, according to the American economist and scientist Michael Grossman, health capital and human capital should be considered separately, because the skills to earn more and the opportunity to use these skills over time are different things. The amount of knowledge an individual possesses influences his or her performance, while the individual's health determines the total amount of time he or she can spend to earn income. This reserve is the capital of health (Grossman, 1972).

By health capital, we mean the investment in a person. The investment

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is needed to support and improve his/her health, performance, mobility and productivity. At the same time, health is both a consumer demand and an investment asset through which a person earns income. Investing in health capital involves costs on disease prevention, health care, dietary nutrition, and improved living conditions.

On the one hand, increasing life expectancy means extending the period of active work during which a person earns income and invests in his capital. On the other hand, public health losses, which are expressed in terms of morbidity, disability, and mortality, lead to significant economic losses.

In Ukraine, the health care system is seen as a cost sector that creates a burden on the budget and is generally loss-making for the country, as it does not produce products and is funded mainly at the expense of the state budget. Dynamics of the expenditures level of the consolidated budget of Ukraine on health care (in% of GDP) in the period of 2013-2018 is characterized by the tendency to decrease from 4.2 to 3.26%, which shows the passivity of the state in stimulating development of health capital. Instead, in the sphere of

health insurance during 2013-2018 there was an increase in the amount of net insurance premiums for health insurance (continuous health insurance) and for insurance of medical expenses from 1.72 to 4.34 billion UAH, that is by 2.5 times (Fig. 1). This indicates an increase of the

Ukrainians in the trust in insurance companies and understanding of the importance of investing in health capital. At the same time, it should be noted that health insurance in Ukraine is now in its development stage, so its impact on healthcare financing is insignificant.

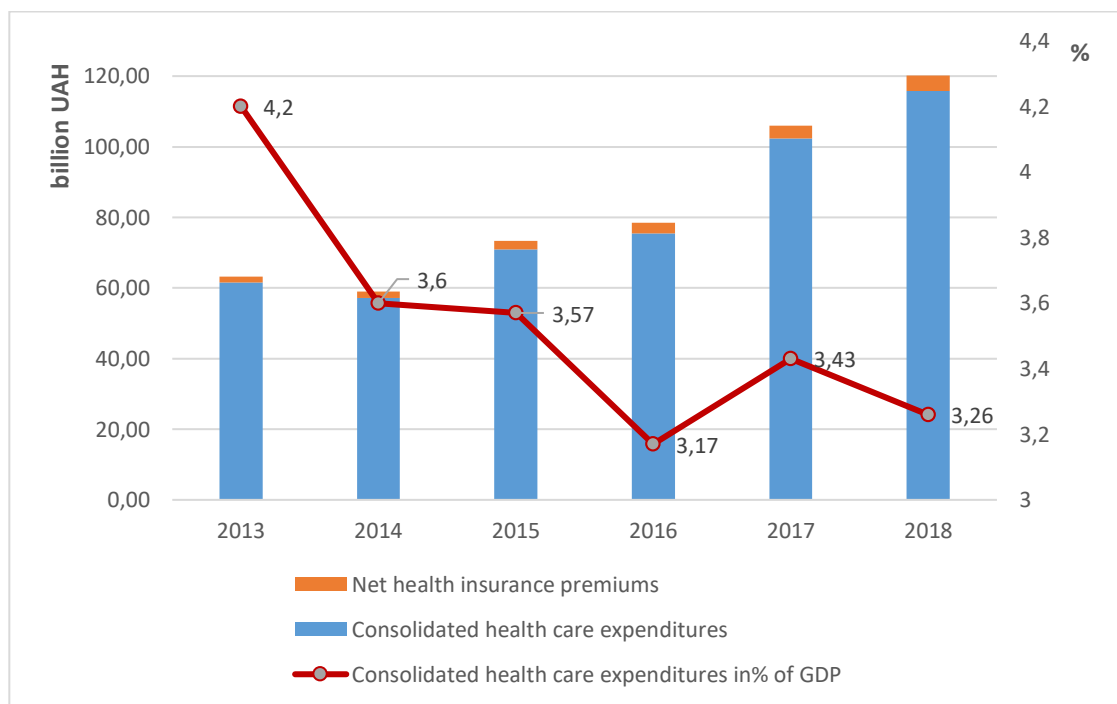


Fig. 1. Dynamics of budget expenditures on health care and net premiums from health insurance services in Ukraine (2013-2018).

Obviously, there is a problem of capital accumulation in Ukraine, and an increase in health care costs is necessary to accelerate economic growth.

This conclusion is particularly confirmed by the dynamics of Ukraine's rating positions among other countries of

the world, which shows a downward nature. So, in the world prosperity index-2019 Ukraine took 96th place out of 167 (Prosperity Rating, 2019). Experts emphasize that education and living conditions remain strong in Ukraine, but human capital, security and social

protection (Borychenko et al., 2019), public administration (Bukanov et al., 2019) and state healthcare are weak.

Therefore, it is fair to point out that the reforms carried out by the government of our country, particularly in the medical sphere, do not lead to improvement of life of citizens. Although life expectancy in Ukraine has increased somewhat over the last ten years, it is still the lowest in Europe (for comparison: the average life expectancy at birth in 2017 in Ukraine was 72 years; in the EU countries – 81.3) (State Statistics Service of Ukraine, 2019).

In the meantime, investing in health provides a regular flow of workforce in production. Bad health, morbidity and disability lead to work incapacity. The lower the number of illnesses, the higher the level of health of the population and the return on investment in health care. Health capital formation encompasses not only macro- but also meso-, microeconomic levels as well as individual level. In our view, it is precisely the regional factor that is of great importance for Ukraine in view of the significant asymmetry in the level of

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social and economic development. Health capital is the source for the formation of human capital at meso-economic level. It stimulates social and economic development and innovation activity in the region and, therefore, increases its competitiveness and investment attractiveness (Koval, Slobodianiuk, Yankovyi, 2018). At the same time, health of population is shaped by the socio-economic, environmental, natural and climatic conditions of the region, which explains the need to study the specific characteristics of the territories concerning health capital.

While considering and assessing the differences in the state of health capital of the population of the regions of Ukraine, we form a set of indicators that, in our opinion, directly influence the formation and development of health capital. The indicators include: population morbidity, disability, mortality, birth rate, average life expectancy, household expenditures on health care, the level of environmental pollution in the region (Table 1).

Table 1. Indicators for calculating Health Capital Development Index

	Indicators	Indicator performance
K1	Population morbidity	Number of first reported cases of illness per 100,000 population of the region
K2	Disability	The ratio of the number of people with disabilities to the residential population of the region
K3	Birth rate	Total birth rate
K4	Mortality	Total mortality rate
K5	Life expectancy	Average life expectancy at birth, years
K6	Health care costs	The share of household expenditures on health care in the structure of total household expenditures, %
K7	Environmental pollution	Emissions of pollutants into the air, t/km ²

Compiled by the authors

As there is no comprehensive scale of benchmark values of health capital indicators today, in order to ensure comparability and the ability to aggregate health capital development indicators, we will normalize them using the linear scaling method. The

calculation of stimulus indicators (growth of which has a positive impact on health capital: birth rate, life expectancy at birth, household expenditures on health care) will be computed with the formula:

$$N_{sk_i} = \frac{\text{factual value } k_i - \text{minimum value } k_i}{\text{maximum value } k_i - \text{minimum value } k_i} , \quad (1)$$

where k_i is a partial indicator of the development of health capital of a region; N_{ski} is a standardized indicator of health capital development in a region.

And the disincentive indicators (increasing the value of which indicates the deterioration of health capital of the population: morbidity, disability, mortality, environmental pollution) will be normalized by the formula:

$$N_{dk_i} = \frac{\text{maximum value } k_i - \text{factual value } k_i}{\text{maximum value } k_i - \text{minimum value } k_i} \quad (2)$$

Calculation of the integral index of health capital development on the basis of standardized values of partial indexes assumes weighting of each indicator which has been included in the sample. We will proceed under

the principle of equal priority of all indicators selected for the calculation and compute Health Capital Index (HCI) as the arithmetic mean of partial indices:

$$HCI = \frac{1}{7} \times (\sum Nk_i) \quad (3)$$

The results of calculations of the integral indicators of health capital of

Ukraine in the regions are shown in Table 2.

Table 2. Grouping regions of Ukraine by health capital indicators

Region	K1	K2	K3	K4	K5	K6	K7	HCI	Ran k
Vinnitsia	0,672	0,486 1	0,301 9	0,444 4	0,664 1	0,470 6	0,902	0,5630 1	12
Volyn	0,570 7	0,486 1	0,830 2	0,728 4	0,358 8	0,147 1	1	0,5887 5	8
Dnepropetro vsk	0	0,932 1	0,245 3	0,345 7	0,096 7	0,411 8	0,455 3	0,3552 7	23
Zhytomyr	0,697	0,311 8	0,415 1	0,321	0	1	0,997 1	0,5345 7	15
Zakarpattia	0,838 8	0,825 8	0,849 1	0,851 9	0,231 6	0	1	0,6567 4	4
Zaporizhia	0,846 6	0,773 5	0,169 8	0,345 7	0,262 1	0,882 4	0,824 2	0,5863 2	9

Ivano-Frankivsk	0,120 8	0,545 3	0,509 4	0,790 1	0,913 5	0,5	0,550 4	0,5613 5	13
Kyiv	0,325 8	0,639 4	0,415 1	0,345 7	0,056	0,617 6	0,925 1	0,4749 5	20
Kirovohrad	0,698 6	0,766 6	0,169 8	0,345 7	0,190 8	0,5	0,994 2	0,5236 7	16
Lviv	0,335 6	0,430 3	0,509 4	0,753 1	0,834 6	0,235 3	0,867 4	0,5665 2	11
Mykolaiv	0,636 2	0,827 5	0,283	0,493 8	0,249 4	0,176 5	0,994 2	0,5229 4	17
Odesa	0,577 4	0,714 3	0,603 8	0,617 3	0,229	0,088 2	0,976 9	0,5438 4	14
Poltava	0,958 2	0,656 8	0,132 1	0,284	0,427 5	0,588 2	0,956 8	0,5719 4	10
Rivne	0,383 3	0,77	0,943 4	0,814 8	0,458	0,411 8	0,994 2	0,6822 1	3
Sumy	1	0,890 2	0	0,333 3	0,554 7	0,823 5	0,982 7	0,6549 1	5
Ternopil	0,569 3	0,716	0,301 9	0,592 6	0,842 2	0,970 6	0,988 5	0,7115 8	2
Kharkiv	0,630 8	0,806 6	0,150 9	0,395 1	0,335 9	0,264 7	0,968 3	0,5074 7	18
Kherson	0,972 5	1	0,415 1	0,444 4	0,109 4	0,294 1	0,997 1	0,6046 5	7
Khmelnytskyi	0,703 7	0	0,358 5	0,444 4	0,559 8	0,294 1	0,976 9	0,4767 7	19
Cherkasy	0,670 9	0,142 9	0,113 2	0,308 6	0,432 6	0,411 8	0,928	0,4297 2	21
Chernivtsi	0,713 8	0,804 9	0,584 9	0,827 2	0,954 2	0,529 4	1	0,7734 8	1

Chernihiv	0,456 6	0,489 5	0,056 6	0 0	0,109 4	0,411 8	0,982 7	0,3580 8	22
Kyiv city	0,091 7	0,916 4	1 1	1 1	1 1	0,294 1	0 0	0,6146	6

Excluding Donetsk and Luhansk regions

The data in Table 2 allow identifying the top three regions in terms of HCI. They are Chernivtsi, Ternopil and Rivne regions. They are characterized by low morbidity rates, high birth rates, high life expectancy rates, and low environmental pollution. The worst indicators of health capital are observed in Dnipropetrovsk, Chernihiv and Cherkasy regions. The regions outsiders are characterized by high morbidity rates, low birth rates and high mortality rates, especially in Chernihiv region. High level of environmental pollution is observed in Dnipropetrovsk and Cherkasy regions.

The data reveal some specific features regarding the state of health capital by regional differentiation.

Thus, we have considered health capital in the regions of Ukraine and determined that health is a significant element of human capital, since it depends directly on its level how well and fully a person can work, make

income for himself and his family, the employer and the state. Therefore, healthcare costs are a profitable investment with a long-term and ever-increasing return.

The ranking of the regions of Ukraine by major indicators of health capital confirms the asymmetry of the development of the health capital of the population in the regional context. For the industrial regions of Ukraine - Dnipropetrovsk, Cherkasy, Kyiv, Kharkiv regions - health capital indicators have low values and identify adverse health status of the population.

Particularly difficult is the situation in Dnipropetrovsk, Chernihiv and Cherkasy regions. Here the high morbidity of the population, high mortality, low fertility.

The best indicators of health capital in the Western regions of Ukraine are Chernivtsi, Ternopil, Rivne. There is low morbidity, low pollution of territories, high life expectancy.

The authors' ranking of the regions allows the development of programs of priority measures for the implementation of the strategy of development of capital of health of the population of Ukraine. The regional analysis has shown that measures to promote health capital development at the state level should be geared to the specificity of the regions regarding the formation and use of preconditions for the development of health capital.

The priority tasks for quality reproduction of capital of health of the population of Ukraine in general should be the following:

1. Increasing public funding for health care, in particular, to address the critical physical and moral deterioration of medical equipment and equipment available in our country's healthcare facilities. Thus, at the end of 2017, the total wear and tear on fixed assets of medical institutions was 45.6% (55.1% overall in Ukraine). It is no secret that in hospitals there are often no necessary medicines, even for emergency medical care.

The problem of increased migration of health care workers, first of all, due to low wages (yes, wages in

health care and social assistance at the end of 2019 amounted to UAH 8505, which is 69%) from the average wage in the economy). Studies show that, after the reform, salaries have increased slightly from doctors and have remained at a minimal level for nurses. At the same time, the workload has increased several times, as most doctors do not own a computer and all the work on the maintenance of electronic declarations has to be done by junior medical staff.

It is the insufficiency of state funds allocated to the industry that causes a decrease in the volume of free medical services, "delaying" the overhaul of the facilities of medical establishments, equipment upgrades, and relatively low salaries of medical personnel.

2. Employing voluntary health insurance at the expense of the employer (today the Ukrainian health financing system can only attract 1% of households' expenditures in the form of voluntary risk insurance, and no more than 6% of Ukrainians cover personal insurance programs in Ukraine). In the meantime, health insurance has significant benefits for both the employer (reducing costs associated

with disability of employees; maintaining the solvency of employees; improving the image of the manager in the team) and for the employee (access to quality health services at an affordable price with individual needs).

3. Active promotion of healthy lifestyles. Alcohol, drug and tobacco consumption should be combated, as an alternative is to show tobacco and anti-alcohol commercials. Such measures should increase the attractiveness of healthy lifestyles and explain to the population the link between today's investment in health capital and its future improvement. International experience shows that public health is significantly influenced by public policies aimed at shaping a healthy lifestyle strategy. Namely, the values and priorities associated with disease prevention, regular medical check-ups, a culture of good nutrition, and abandonment of bad habits.

4. The need to refine the concept of eHealth eHealth development in order to build an effective healthcare model in Ukraine through digital transformation.

The digital transformation of the healthcare system must be actively

610 supported at the state level. Main directions of development of digital technologies in medicine: means of control of physiological parameters of the person; personalized approach in diagnostics; blockchain technologies for the development of preventive medicine. It is also important for the new model to function in parallel with the traditional one to minimize the risks of introducing new medical technologies and products.

It should be emphasized that the telemedicine system, as a field of new technologies, is widely used all over the world. Most often - in cardiology, ultrasound, mammology and surgery. The system gives you the opportunity to consult your doctor online for video and audio. And it helps to save not only time but also money: the cost of taking online is less expensive than an in-person consultation.

But along with the benefits, there are also some risks to the introduction of digital technology in medicine. For example, shared databases, accessible to large numbers of people, create the conditions for invasion of privacy. The authorities should convince patients that their data, including those relating to sensitive areas

such as reproductive health, are securely protected. Therefore, it is necessary to train physicians in digital skills, including the ability to adapt to infrastructure instability. It is necessary to adopt a program that has clearly defined measures, timelines and executors. All this must be reflected in the regulatory field of our state.

Conclusions

In this study regional features were studied such parameters of human capital as: physical health of the population, investments in healthcare and the environment. Possibilities of practical application of the results of the proposed approach to the assessment of health capital lie in the orientation of social policy of the state to eliminate the effects of certain threats to the destruction of health capital in certain regions of the country.

Obviously, today there is a problem of low accumulation of health capital in Ukraine. The solution to this problem is to develop a well-thought-out long-term strategy to ensure high quality of life and health of the population of Ukraine and to apply it in practice. Today, unfortunately, there is no

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national strategy for human capital development in Ukraine. A key challenge for Ukraine in the sphere of health care is to create and develop a strategy, policy and regulatory framework in the sphere. All participants need to understand a strong industry building policy for investments and sustainable development. It is necessary to develop civil society institutions, which will ensure effective control of the society over the authorities.

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PROBLEMS OF DIFFERENTIATION OF SOCIO-ECONOMIC DEVELOPMENT IN THE GLOBAL ECONOMY

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Abstract: This paper considers the differentiation of the development level of some countries of the world using different models of socio-economic development. The study consisted of several stages and was based on data published on the official websites of the World Economic Forum, the World Bank, and the International Monetary Fund. In this regard, we studied the methods for assessing the quantitative and qualitative parameters of the development of countries in the world economy. We also studied the leading countries in terms of socio-economic development, strategies and their competitive advantages, and identified priority areas for the development of the economies of countries under consideration during the analyzed period. This paper presents an analysis of

economic parameters, a comparison of national economies, their development dynamics using quantitative indicators of economic growth. According to the study, China has prospects for a great leap forward in economic development, the United States is the leader in many respects, and Japan has slowed down in economic growth and risks continuing to suffer losses in a number of economic indicators. Chad, India, China and developed countries have strong differentiation in terms of per capita GDP growth rates according to PPPs. All this speaks of the processes of strengthening differentiation, taking place in the world economy, widening the gap in the level of life quality among countries.

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Keywords: socio-economic development, investment, innovation, education, human capital, poverty problem.

Introduction

There is no single and universal methodology for assessing the differentiation of socio-economic development of countries of the world. An important source of information for assessing the socio-economic development of countries of the world is the system of national accounts. The gross domestic product is a key indicator in this system.

The methodology developed by the specialists of the World Bank Department of Environment is based on the use of sustainable development indicator. According to World Bank experts, national wealth consists of natural capital, human capital, and produced capital. A distinctive feature of this method is the accounting of human capital and natural resources.

The next methodology is the methodology of the World Bank for Reconstruction and Development. In 2000, the International Association of Income and Wealth Researchers

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proposed a new indicator - “national wealth per capita”.

In the second half of the 1980s, it was formed a new concept of “human development index” within the framework of the UN. This index takes into account the conditions provided by the healthcare system and education for human development. Since 1990, the publication of HDI statistics for countries within the UN began.

The economic efficiency indicators best reflect the level of economic development of the country, directly or indirectly demonstrating the quality, level and state of use of all types of resources involved in production, fixed and working capital. Such indicators include: capital intensity, material intensity of GDP unit and a particular product type, labor productivity, etc.

Methods

The material for work was data from the World Bank and the International Monetary Fund. The methods for assessing the parameters of socio-economic development of countries have certain differences, and

therefore can complement each other to determine the differentiation level.

Table 1

Differentiation indicators of the population by income level in the countries of the world

A country	Quintile Income Ratio 2010–2015	Palm Index 2010–2015	Gini Index 2010–2015
USA	9,1	2	41,1
Germany	4,6	1,1	30,1
France	5,3	1,3	33,1
Italy	6,7	1,4	35,2
Great Britain	5,3	1,3	32,6
Netherlands	4,2	1	28
Luxembourg	5,9	1,4	34,8
Sweden	4,2	0,9	27,3
Finland	3,9	1	27,1
Japan	5,4	1,2	32,1
China	9,2	2,1	42,2
India	5,3	1,5	35,2
South Africa	27,9	7,1	63,4
Chad	10	2,2	43,3

From the data given in Table 1, we can draw conclusions about the state of distribution of goods between the population of different countries. It should be noted a fairly high level of uneven income distribution in the USA. The USA and Chad are approximately at the same level for five years. This

paradox can be explained by large population of the USA. The indicators of China are recorded at the same level. There is no strong stratification of society into rich and poor in Europe as a whole, especially in Sweden, Finland, and the Netherlands. There is an unexpectedly low level of uneven

distribution of goods in India. The highest level of all indices is in South Africa, where there is the highest percentage of white population in the African continent.

Currently, the development features of the former colonies and current developing countries is one of the most important topics of the modern world economy. The group of developing countries includes 103 countries in Africa, Latin America, Asia and Oceania, whose population is more than 4 billion people. The share of developing countries is approximately 37% in the world GDP. The production indicator of these countries doubled in the second half of the XX century, and their combined GDP increased by 6 times. In general, the collapse of the colonial system had a positive effect on the economies of the former colonies, as evidenced by the markedly accelerated rate of economic growth.

Since independence, the developing countries have tightened control over their natural resources. Some countries have recreated heavy industry, banking system, infrastructure, workforce training system, and educational system. Other countries have only strengthened all public and state institutions. India, Brazil, Mexico, Egypt work for export and export products of electronics, engineering and other manufacturing industries to a sufficient extent. They can already compete with Japan, European countries and the USA for some groups of goods.

Results and discussion

Based on the per capita GDP and production competitiveness indicators, one can assess the level of economic development of countries and compare the effectiveness and efficiency of socio-economic development models [1].

Table 2

Per capita gross domestic product at purchasing power parity, USD

A country	1980	1990	2000	2010	2015	2016	2017	2018
USA	12553	23848	36318	48403	56770	57877	59895	62606
Germany	11308	20810	29957	40840	47678	48843	50804	52559
France	10728	19605	28470	37217	41687	42525	44168	45775

Italy	10744	20054	28714	34759	36121	37004	38358	39637
Great Britain	8853	17509	26682	36170	42145	43013	44365	45705
Netherlands	11735	21157	33611	45398	50400	51783	53933	56383
Luxembourg	15659	37012	65337	90640	101169	102325	103298	106705
Sweden	10550	19975	29410	42057	48681	49806	51180	52984
Finland	9457	18617	27512	38732	41235	42598	44492	46430
Japan	8948	19861	26956	35149	40458	41155	42819	44227
China	311	983	2930	9250	14372	15417	16682	18110
South Korea	2191	7549	16517	29731	36501	37810	39548	41351
India	559	1169	2026	4424	6264	6761	7287	7874
South Africa	4645	6424	7731	11813	13339	13326	13552	13675
Chad	434	784	956	2194	2650	2446	2349	2415

According to this indicator, we can conclude about effectiveness of the American socio-economic model. A country with such a large population (327.6 million people) demonstrates how to provide its citizens with a high standard of living. Developing countries should use the example of the USA to understand the areas of economy and government that need special attention. As it has been already said in the first chapter, the main components of the American socio-economic model are as follows: freedom of the individual, private property and private enterprise.

The remaining countries of Western Europe (Germany, France,

Netherlands, Sweden, Finland, and Great Britain) generally have a similar indicator level. Japan, South Korea can also demonstrate the effectiveness of the new economic policies.

It is worth paying attention to difference in growing rates of the GDP per capita at PPPs in Chad, India, China and developed countries. All this speaks of the processes of strengthening differentiation, taking place in the world economy, widening the gap in the level of life quality among countries.

The next criterion in the analysis by the international comparison method is competitiveness [2].

Competitiveness index

A country	2007	2010	2013	2014	2015	2016	2017	2018
USA	82.84	79.86	78.11	78.32	79.20	80.19	83.57	85.64
Germany	78.31	76.73	78.25	78.11	78.40	78.98	80.71	82.84
France	74.36	73.32	72.99	72.18	72.52	73.25	74.00	78.01
Italy	62.43	61.55	63.65	62.95	63.12	63.69	64.86	70.77
Great Britain	79.49	74.13	77.85	76.70	77.35	77.62	78.71	81.99
Netherlands	76.65	76.05	78.60	77.50	77.92	78.64	80.08	82.38
Luxembourg	70.84	70.91	72.75	72.67	73.81	74.28	74.71	76.63
Sweden	77.75	78.67	78.96	78.31	77.26	77.64	78.86	81.66
Finland	78.64	77.60	79.23	79.12	78.59	77.88	78.43	80.26
Japan	78.68	76.71	77.08	77.11	78.18	78.09	78.43	82.47
China	65.01	67.66	68.97	69.09	69.87	69.84	71.43	72.61
South Korea	72.41	71.49	73.14	71.59	70.83	71.24	72.43	78.84
India	63.88	61.47	61.73	61.14	60.11	61.58	65.57	62.02
South Africa	64.90	62.00	62.44	62.45	62.15	62.66	61.71	60.76
Chad	40.19	41.07	43.62	40.73	40.67	42.35	42.71	35.52

According to Table 3, we can conclude which socio-economic model is most effective. The USA have the most competitive economy in terms of numbers over 11 years. Its strategy of state non-interference in the economy, the optimal legislative framework for doing business, the freedom of action of economic agents and a strict approach to social support ensured high competitiveness and development of the market economy.

The West European socio-economic model also shows excellent results. The highest result is seen in the German submodel. This model is significantly different from the American one, but nevertheless it is not much behind in the efficiency of economic activity. The main differences are as follows: huge social support of citizens and even migrants, which translates into a large item of government spending, state regulation of

the economy, and public responsibility of citizens for each other. The UK model, which has common features with both the American model and the German one, is only slightly behind the rating leaders.

The economies of Japan and South Korea are about as competitive as the countries of Western Europe. By their example, they show how we can achieve high results in a short time. Their new economic policy, changing the financing vector in the scientific and technical sphere, reducing the public sector in the economy raised their products and services to the world level, so they turned into Asian dragons.

Chad takes the last place not only in our sample of countries, but in the global ranking. Absolutely uncompetitive production or even its absence confirms all the typical features of the African model. The lack of internal incentives for development, the illiterate use of external assistance from the international organizations

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supporting third world countries are some of the many reasons why the Chadian economy has no prospects for progress.

The next method by which the veracity of socio-economic models and their effectiveness will be verified is an indicator of national wealth per capita. For analysis, we will need data on gross national income of PPP and population of countries. When analyzing the data from Table 3 and Table 4 through the criterion of the indicator of national wealth per capita, it is noticeable that the rate of capital growth is lower than population growth. The authors of these indicators interpret this as a lack of enhanced sustainable development in these countries. It is worth recalling that the attitude towards this method has become skeptical after the study results, in which the most developed countries did not get into the top ten. In this case, let us use the method of international economic comparison of the selected indicator [3].

Table 4

Gross national income per capita at purchasing power parity, \$

A country	1990	2000	2010	2015	2016	2017	Average annual growth, %
USA	23730	36930	48900	58300	58960	61120	22,41
Germany	19740	27120	39960	49010	50910	53660	23,33
France	17700	26700	36730	41720	42840	45120	22,00
Italy	18320	26920	34940	36640	39140	41150	18,71
Great Britain	16760	26230	48900	41090	41900	44090	26,83
Netherlands	18720	32100	45170	50340	50580	54650	26,43
Luxembourg	28820	49180	61750	69470	71350	76300	23,67
Sweden	19890	29280	42780	49060	49620	52130	22,84
Finland	17830	26590	39260	42530	44360	46880	23,02
Japan	19740	27220	35890	41990	42630	43540	18,08
China	990	2900	9290	14440	15500	16800	96,89
India	1220	2130	4230	6060	6510	6950	46,13
South Africa	6040	7380	11400	12890	12900	13120	18,30
Chad	710	780	1820	2140	1990	1920	30,05

According to the data from Table 5, the countries are divided into 2 types of average annual population growth: high and low growth. The highest population growth rates are in

India, South Africa, Luxembourg and the USA. Germany and Japan have the lowest rate, which will affect the share of the able-bodied population and the rate of economic growth [3].

Table 5

Population, mln.

A country	1990	2000	2010	2015	2016	2018	Average annual growth, %
USA	250	282	309,7	320,930	323,225	325,32	5,52
Germany	78,949	81,457	80,28	81,687	82,349	82,657	0,93

France	56,577	58,858	62,765	64,301	64,469	64,618	2,72
Italy	56,694	56,924	59,707	60,796	60,666	60,589	1,36
Great Britain	57,077	58,886	62,760	65,11	65,648	66	2,98
Netherlands	14,952	15,926	16,615	16,937	17	17,140	2,79
Luxembourg	0,382	0,434	0,502	0,563	0,576	0,591	9,27
Sweden	8,591	8,883	9,416	9,851	9,995	10,120	3,35
Finland	4,974	5,171	5,351	5,472	5,487	5,503	2,05
Japan	123,4	126,8	127,5	126,978	126,960	126,74	0,54
China	1143,3	1267,43	1340,9	1374,62	1382,71	1390	4,06
India	847,5	1029,5	1200,6	1282,918	1299,796	1316,8	9,52
South Africa	36,79	44,9	50,850	54,75	55,62	56,522	9,24
Chad	5,648	7,478	10,223	11,566	11,855	12,185	5,52

The next method that we will use was developed by the UN. The human development index takes into

account the conditions provided by the health and education system for human development [4].

Table 6

Human Development Index

A country	1990	2000	2010	2015	2016	2018
USA	0,860	0,885	0,914	0,920	0,922	0,924
Germany	0,801	0,868	0,921	0,933	0,934	0,936
France	0,779	0,849	0,882	0,898	0,899	0,901
Italy	0,769	0,830	0,870	0,876	0,878	0,880
Great Britain	0,775	0,867	0,905	0,918	0,920	0,922
Netherlands	0,829	0,876	0,910	0,926	0,928	0,931
Luxembourg	0,782	0,855	0,889	0,899	0,904	0,904
Sweden	0,816	0,897	0,905	0,929	0,932	0,933

Finland	0,784	0,858	0,903	0,915	0,918	0,920
Japan	0,816	0,855	0,885	0,905	0,907	0,909
China	0,502	0,594	0,706	0,743	0,748	0,752
South Korea	0,728	0,817	0,884	0,898	0,900	0,903
India	0,427	0,493	0,581	0,627	0,636	0,640
South Africa	0,618	0,630	0,649	0,692	0,696	0,699
Chad	-	0,299	0,371	0,407	0,405	0,404

According to the data from Table 5, the country with the highest human potential is Germany, followed by Sweden with a slight lag. In general, this indicator is very high throughout Western Europe, which indicates the effectiveness of investing in human capital, healthcare, educational environment and social security. The HDI is not much different and rarely drops below 0.9 in all developed countries.

Asian countries also demonstrate their awareness of the importance of human resource development [5]. However, in terms of numbers, China is noticeably behind its neighbors. This may be due to the high population and internal differentiation of the level of socio-economic development and the stratification of society into rich and poor.

South Africa and India have average HDIs, but little progress is noticeable over the years. These countries have the prospect of further development. In India, the former colony of Great Britain, a large proportion of the population speaks English, which laid the foundation for highly qualified personnel and a fairly good level of education [6]. This causes a conclusion about the prospects for the development of international cooperation. However, it is hampered by high internal differentiation of the social security of the population.

Chad, as expected, ranks last. A country that is unlikely to be able to provide its domestic consumption without external support does not focus on the development of human capital.

Summary

A comparative analysis of the state of the problem of differentiation of the socio-economic level of the countries of the world reflects how the number of countries, suffering from low development rates and high poverty, has changed over 8 years [7]. Table 7 shows the changes in indicators characterizing the poverty level in the world: the

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number of poor countries with a large share of the population living on less than \$5.5; the number of countries with low HDI, the number of countries with low GDP per capita, the number of countries with low prosperity index and the number of countries with a gross national income per capita below the average.

Table 7

The dynamics of indicators of the degree of differentiation of the socio-economic level

Indicators	2010	2018
The number of poor countries with a large share of the population living on less than \$ 5.5	74	24
HDI = <0.5	35	25
GDP per capita below \$ 2,000	29	21
GDP per capita below world average	99	83
Prosperity Index <55	51	41
Gross national income per capita of less than \$ 5,000	61	48

Table 7 presents the dynamics of indicators characterizing differentiation of the level of socio-economic development of the countries

of the world. On their basis, one can see how the situation in the world has changed with the distribution of wealth among countries and the standard of

living [8, 9]. In 2018, the number of poor countries with a large share of the population living on less than \$5.5 has decreased by 50 countries since 2010. The countries with HDI below 0.5 decreased by 10. This indicates an increase in life expectancy, an increase in the education level of the population and GDP per capita at PPPs. The latter conclusion is also confirmed by the international statistics, which confirms the reduction of countries with low GDP per capita: among countries with less than \$2,000 per person - by 8 countries, among countries with a figure below the global average - by 16 countries. The number of countries with a low prosperity index has decreased by 10 in 8 years, which means increasing social welfare in poor countries [10]. The number of countries with low GNI per capita decreased by 13 from 2010 to 2018.

Conclusions

In general, according to the analysis, the situation is being improved, the number of poor countries is declining, the human capital is developing, and the education level of the population is growing in the world.

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An increase in the education of the population is one of the fundamental measures for economic growth and development [11]. According to the UN studies, the world's population is becoming more educated every year. By 2000, the number of people without basic education dropped to 25%; in 1960 this figure was 36% [12]. The Organization of Economic Cooperation and Development revealed that more than 90% of educational institutions are funded by the state at its own expense in the developed countries in its studies on educational trends. Private funding sources sponsor higher education. We also revealed a direct relationship between the education level in the country and GDP. In the future, the growth of GDP and economic development indicators indicates an increase in life expectancy and the quality of public health.

Acknowledgements

The publication was prepared within the framework of the research project No. 19-010-00211 supported by the Russian Foundation for Basic Research (RFBR).

The work is performed according to the Russian Government Program of Competitive Growth of Kazan Federal University.

This work is performed at the expense of the subsidy allocated to Kazan State University for the fulfillment of the state task in the field of scientific activity (No. 26.8732.2017/BCH (Russian: 26.8732.2017/БЧ)

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PSYCHOLOGIST'S WORK ON THE IDENTIFICATION OF EMOTIONAL DISTURBANCE AMONG ADOLESCENTS

Gulnara Hasanova¹

Abstract: This article studies the peculiar properties of the emotional sphere of adolescents, reveals aggression, fears, anxiety, family education types that have an impact on the formation of emotional imbalance and disadaptation among the respondents, it also presents the results of the integrated program for the individual development, taking into consideration the health-saving factor that implements modern and innovative trends required in the work of the psychological service of an educational institution, and provides the justification of the importance and necessity of using associative metaphorical maps in work with adolescents and parents, as an innovative tool for more efficient work with a specific case. We have analyzed family relationships, behavior motives, parental position, parenting styles in order to draw up a special correctional

program. The correctional work has been conducted with the parallel work of the adolescent group, parent seminar and parent group classes, as well as applying the method of cooperative interaction between the children and parents. The author's projective methodology "The Way to the Sun" proposed in the study, and aimed at diagnosing the adolescent's emotional sphere (anxiety, aggression fears), family relationships, have demonstrated their suitability and efficiency of work not only with adolescents but also with their parents, allowing us to work with emotions and feelings squeezed into the subconscious. Moreover, during the research, a model of psychological and pedagogical impact on students was developed with the purpose of regulation of their emotional sphere, the structural components of which included the following: organizational, research,

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cognitive and practical components. A comparative analysis of the availability of psychological problems among students, an integrated approach to the mental health of children and adolescents formed the basis of the pilot project “School of the Future” developed by us, which involves the implementation of a focal point in the education system in order to provide the social and psychological support to the school, combining four services: psychological, valeducational, social educator service and school mediation service. Thus, the experimental research presented in this article has demonstrated the effectiveness of correctional and preventive programs, the efficiency of which has been tested applying methods of mathematical statistics and improving all of the above indicators.

Keywords: Aggressive behavior, correction, metaphorical maps, adolescents, fears, anxiety.

Introduction

Working with this age category, we didn't stop remembering that this is a very controversial, crisis period causing negative outbursts of affections, this is

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the period of the formation of a life position and personal qualities which have not always been as parents and schoolchildren themselves dream. An adolescent... even the word itself is as if “under a sprout”, something fragile can seem right away (L.Surkova, 2015). As G.Craig noted, “The need for autonomy and independence arising among adolescents usually leads to some conflicts in the family, and a growing need of communication with parents in the process of solving certain problems. The family retains a strong influence on adolescents, although their family relationships become complicated”(G.Craig, D.Bokum, 2005).

If you highlight the contribution of foreign scientists to the development of adolescence theory, the following works will take their rightful place: Works by Charlotte Buhler (C. Buhler, F. Massarik. N.Y., 1968) who firstly described the phase of transitional period (physical puberty, negative and positive stages), works by William Stern (V.Stern, 1926), works by Sigmund and Anna Freud (S.Freud., 2015, A.Freud, 1999) who described the protective mechanisms of adolescence (protection against

impulses from “infantile object bonds”), works by Eric Erickson (E.Erickson, 2019) who gave the highest priority to the adolescence in the epigenetic concept, works by Kurt Levine (K.Levin, 2019) who studied the problems of adolescence in the context of social psychology by Jean Piaget (Jean Piaget, 2001).

Russian scientists made an inestimable contribution to the development of adolescence problem. The following studies should be noted among them: L.S. Vigotskiy who reflected ideas related to this age period of personality development in his works: “Paedology of an adolescent”, “The problem of age” (L.Vigotskiy, 1984).

L.I.Bozhovich, characterizing the crisis of adolescence noted that it “is associated with the emergence of a new level of self-consciousness in this period, a characteristic feature of which is the appearance of adolescent’s ability to know himself as a person who possesses it, unlike all other people with inherent qualities. This gives rise to the quest for self-affirmation, self-expression and self-education in an adolescent (L.Bozhovich, 1976).

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A.N. Leontyev viewed the ongoing changes in adolescence through the prism of his theory of activity, offering his vision of the rebirth of an adolescent’s personality, “the transition which marked the true birth of a personality, acts as an event changing the course of the whole subsequent mental development” (A. Leontyev, 1975).

Study

materials presented by D. B. Elkonin (D. Elkonin, 1967) served as a serious help for organization of the process of educating adolescents who have a sense of adulthood at this stage of mental development, as a special form of self-awareness, and they have made a contribution to the development of educational psychology. Indeed, the theory of personality proposed by V.A. Petrovskiy (V.Petrovskiy,1984), which relies on the socio-psychological approach in the periodization of personality development, is worthy of note. An analysis of the scientific literature allowed us to note the positive dynamics of the impact of these innovations on the personal development of children and adolescents. So, adolescence problems and ways out of

them were set forth extremely brief in the book by Yemelyanova, (Y.Yemelyanova, 2008). The interest in this book is explained by the accessible form of presentation and the availability of theory and a practical part, containing exercises, games, trainings and author programs.

The author of another study (Y.Vasilkova, 2010) proposes a discussion of the currently important problem of gender identity violation among adolescents, and the trainings developed by the psychologist, are conducive to development of adolescents' ideas about gender relationships, the development of gender roles in family relationships, and gender roles in professional activities. The work by L.G.Fedorenko having no analogs in the educational psychology (L.Fedorenko, 2017), offers its vision of the organization of joint work of teachers, students and their parents, the content of which is an orientation towards designing positive psychology at school. Based on the concept proposed by the author, the main focus should be on disclosure of the human personality which involves the ability to work with images, the discipline of the

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mind, management of attention, emotions, and confident behavior.

Azerbaijani psychologists made a significant contribution to the study of the problem of adolescence: A.Alizade (A.Alizade, 1974) who studied sexual dimorphism and the formation of personal relationships, S.F.Amiraslanova (S.Amiraslanova, 2000) who devoted her research to the consideration of psychological features and work with difficult children, G.E.Azimov (G.Azimov, 1990) who studies sexual education of children and adolescents, R.G.Kadirova (R.Kadirova, 2007) who presented to our attention a socio-psychological analysis of the national identity of Azerbaijani children and adolescents and many others.

The purpose of our research was to study the possibilities of using the diagnostic and correction methods applied in the psychologist's work to prevent the negative phenomena among adolescents. The goal involves the following **tasks**: to consider forms of maladaptive behavior of an adolescent; to identify types of fears and level of anxiety and forms of aggressive reactions of adolescents; to systematize

the obtained data about the impact of family education on the development of emotional and behavioral disorders of respondents by presenting a generalized and comparative analysis of gender and age dynamics of fears, aggression, anxiety; to develop and implement correctional programs for working with adolescents.

The object of the study was adolescents.

The subject of the study: psychologist's work with adolescents to identify their emotional and behavioral disorders.

Research Methods

Analysis of the existing methods of psychologist's work with adolescents allowed us to select the most informative methods in this case: observation map by D.Stotts, "the scale of the personal disturbance for students" by A.M.Prikhojan, "Types of fear" questionnaire by I.P.Shkutarova, methodology by Bass-Darki, "Analysis of family relationships" questionnaire by E.G.Eidemiller.

The assumptions of the study

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- Having diagnosed the existence of psychological problems at the stage of the adolescent's personality formation, it is possible to develop optimal program options for psycho-correction and prevention of emotional and behavioral disorders among adolescents which allows a comprehensive approach to solving the problem of maintaining their mental health.

- Between the level of aggression, anxiety, maladaptation and fears, there is a close and inextricable connection affecting the formation of emotional and behavioral disorders among adolescents;

- Family education types cause the formation of the psychological health of the individual and explain the presence of both positive and negative attitudes.

- The introduction of specially designed programs into the work of the school psychologist will allow a comprehensive approach to solving the problem of maintaining mental health and preventing emotional, behavioral disorders among adolescents.

The number of those who participated in the study.

The sample was 870 respondents. 227 respondents from them are of both genders (119/108) and their families, the control group was composed of 208 respondents 108/100 with their families. Diagnostic work which was carried out with adolescents consisted of the following stages. At the first stage, information was collected; using the above tests, individual psychological diagnostics was carried out. In the second stage, a correction program was prepared for students and parents after obtaining the results of the diagnostic work, then, at the next stage of the study we carried out repeated diagnostic work in order to compare the obtained results and compare them with previous ones to confirm the effectiveness of the implemented program.

Discussion

We conducted a study that revealed the presence of anxiety, aggression, fears, and maladaptation

among adolescent respondents. All these indicators were correlated with the types of family education (ACB) before and after correctional work conducted with adolescents. The authenticity of the obtained results was verified by applying methods of statistical data processing using the procedures of the SPSS computer program. In the experimental group, fears were identified among 137 respondents (60.3%): 75/62) who were also represented by high results in social and educational fears. Correctional work reduced these indicators to 56 (24.6%) 30/26. In the control group, excepting indicators of maladaptation (from 84.1% to 79.3%), no changes were found. So, the fear among adolescents in the two groups differed both before the correction and after the correction, and the intergroup difference was significant at the level of 0.01 ($P = 0.002$ and $P = 0.000$). This condition made it difficult to determine the correction result in the experimental group, for which the “comparison of paired samples” method and the “T-test” analysis were used.

Table 1. Fear index before and after correction (Independent Samples Test)

	Levene's Test		T-test for Equality of Means						
	Sig.	.000	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	Confidence Interval of the Difference 95%	
								Lower	Upper
Before correction	.8796	.000	-.187	33	.002	142	044	054	229
After the correction	.151	.698	1.958	33	.000	498	042	417	580

Table 2. Fear index before and after correction (Paired Samples Statistics)

Groups	Paired Samples Statistics				
		Mean	N	Std. Deviation	Std. Error Mean
Control	Before correction	1.75	20	.43	.03
	after the correction	1.75	20	.43	.03
Experimental	Before correction	1.60	22	.49	.03
	after the correction	1.25	22	.43	.02

a. The correlation and t cannot be computed because the standard error of the difference is 0.

As the Table shows, the difference between two fear index groups in adolescents before and after correction was significant at the level of 0.01. It was conducted the comparison of indexes that characterize the state of both groups before and after correction in order to show the precise analysis of

correction impact. In comparison with the control group, the indexes of the experimental group were different (before 1.60 and after 1.25) and also it was found out the significant difference between two stages with the significance at the level of 0.01 (P=0.000).

Table 3. Fear index before and after correction (Paired Samples Test)

		Paired Samples Test							
Groups		Paired Differences					t	df	Sig. (2-tailed)
		Mean	Std. Deviation	Std. Error Mean	Confidence Interval of the Difference 95%				
					Lower	Upper			
Experimental	before and after correction	357	480	032	294	420	1.197	26	000
a. No statistics are computed for one or more split files									

The Trait Anxiety Test in adolescents (A.M. Prikhozhan) that we used had shown the following results: at 119 (52,4%) 63/56 respondents had various types of anxiety: school-based

anxiety – 44 (36,9%): 24/20, general anxiety - 26(21,8%):13/13. The positive dynamics was achieved after the correction measures. Anxiety was found out in the control group at 137

respondents, which makes - 65,8%:
 64/73. No changes were detected. The
 statistical data had shown the

effectiveness of the carried out work,
 which was reflected in the following
 tables.

Table 4. Anxiety level before and after correction (Independent Samples Test)

	Levene's Test for		T-test for Equality of Means						
	F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	Confidence Interval of the Difference 95%	
								Lower	Upper
Before correction	3.468	.000	.873	33	.004	134	047	042	227
After the correction	.047	.825	.230	33	.000	368	045	280	456

The indexes comparison had shown their changes at experimental group: $\bar{y}_1 = 1.52$ and $\bar{y}_2 = 1.29$

Table 5. Anxiety level before and after correction (Paired Samples Statistics)

Paired Samples Statistics

Experimental	before and after correction	233	424	028	178	289	.297	26	000
a. No statistics are computed for one or more split files									

The aggression level at adolescent was: 125 (55,0%): 48/77. The aggression level of the control group was: 119 (57,2%):39/80. The results, obtained after re-diagnostics, indicate the effectiveness of the measures taken on order to reduce the aggressive behavior of the respondents of the current age group. The experimental group shows the positive development dynamics of these indexes. There was the significant difference between groups ($P = 0.000$) during the correction works on the second stage (after correction), and this significance was at the level of 0.01.

Table 7. Aggression indexes before and after correction (Independent Samples Test)

	Levene's Test for Equality of Variancies		T-test for Equality of Means						
	Sig.	Sig.	f	Sig. (2-tailed)	Mean Difference	Std. Error Difference	Confidence Interval		
							Lower	Upper	
before correction	.797	.372	.449	.33	.653	.021	.048	.072	.115

before correction	7.337	000	2.543	33	000	511	040	432	590
after the correction	.891	170	6.142	33	000	613	038	538	687

With the purpose of the more precise analysis of correction impact it was carried out the comparison of indexes (before and after correction). The number of the control group in the table slightly differs from the average on the two stages (before 1.80 and after

1.79). For this reason P was not evaluated. But some changes were noted in the experimental group (before 1.33 and after 1.18) and between two stages the current difference was at the level of 0.01 (P=0.000).

Table 9. Non-adaptive indexes before and after correction (Paired Samples Test)

Groups	Paired Samples Statistics				
		Mean	N	Std. Deviation	Std. Error Mean
Control	Before correction	1.80	20	.366	.025
	after the correction	1.79	20	.406	.028
Experimental	Before correction	1.33	22	.471	.031
	after the correction	1.18	22	.386	.026

Before correction	.629	106	5.006	33	000	1.159	232	1.614	.704
After the correction	.548	460	9.192	33	000	2.040	222	2.477	1.604

Table 12. “Analysis of Family Relationships” indexes by E.G. Eidemiller and V. Justickis (Independent Samples Test)

Groups	Paired Samples Statistics				
		Mean	N	Std. Deviation	Std. Error Mean
Control	Before correction	4.31	20	2.310	.460
	After the correction	4.31	20	2.310	.460
Experimental	Before correction	5.47	22	2.504	.516
	After the correction	6.35	22	2.315	.474
a. The correlation and t cannot be computed because the standard error of the difference is 0.					

The obtained results can be characterized as positive, so as the decrease in indexes of the experimental group were both in the families of the

respondents and in all parameters (fear, anxiety and aggression) in comparison with the control group, where changes were not found out. The presence of the

negative indexes suggests that the connection between the variables is opposite, that is the decrease of family

education indexes is opposite to the fear, anxiety and aggression indexes (these indexes grow, i.e. increase)

Table 13. Analysis of Family Relationships indexes by » E.G. Eidemiller with such indexes as: fear, anxiety, aggression (Pierson's correlation)

Correlations		Level of anxiety	Level fears	The level of aggression
	Pearson Correlation	-.796**	- .667**	-.733**
	Sig. (2-tailed)	.000	.000	.000
	N	435	435	435
**. Correlation is significant at the 0.01 level (2-tailed).				

The significant changes were achieved at every point of the study and the following indexes were decreased: fear 137(60,3%):75/62, decreased up to 56 (24,6%):30/26; 66 (27,3%): 32/34 respondents remained anxiety (before correction in 119(52,4%) 63/56 respondents; 53(23,3%)24/29 respondents had aggression after re-diagnostics (it was 125(55,0%): 48/77). In the terms of gender, anxiety and aggression dominated in male respondents and fears dominated in female ones. There were not any changes in the control group.

Conclusion

Thus, we have presented the result of the experimental study. This study lets us to carry out not only diagnostic work with adolescents and their families, but also to show the reliability of the obtained data (SPSS Program) after applied correctional and preventive programs, based on the use of games and tasks, that were aimed to relieve tension, awareness of their aggressive behavior as well as the relieve of muscle tension, which helps to find out not only the existing psychological problems in school students, but also it has created the conditions for correction of the available emotional disorder. The role of a school psychologist is too

versatile in this process due to the fact that such duties let not only to correct the existing contradictions, but also to teach student the skills of non-conflict communication with a group, and it also creates psychologically positive climate in class and promotes the effective perception and digest of new material. Various social and psychological technologies are widely spread in the work of a school psychologist. R.V. Ovcharova (2003) has defined these technologies as “the set of psychological techniques and methods that intentionally affect the consciousness, behavior and activity of a human as a member of society in the process of his socialization, adaptation in new social conditions as well as in socially oriented activities”. It should be especially mentioned the importance of innovations introducing into the work of a psychologist. The realization of such innovations at the modern stage has two directions: use of the existing tools and innovations, which are characterized by a somewhat different quality of consultative, diagnostic and correction assistance providing. We have set the following tasks during the trainings: reveal and resolve some conflict

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situations in the group and to strengthen its cohesion, to reveal the forms of adolescents’ response to extremal situations, to study the group process and group dynamics in the team, to define the role functions of each member in the group. This study let us to emphasize the presence of the close relationship between the types of family education and emotional and behavioral disorders in adolescents: aggression, fears, anxiety and non-adaptiveness. This problem is often considered as the result of not correct attitude of adults to adolescents, their inability to adapt to new social situations. Posysoev N.N., the author of the serious study (Posysoev N.N., 2004) has presented the analysis of family education types, and among these types the classification by V.N. Garbuzov was of the greatest interest to us. He identified three types of improper education by the parents of adolescents. These types of education are: education by A type (non-admission, emotional rejection), education by B type (hyper socializing education) and education by C type (egocentric). The undertaken study showed us that the change in attitude to a child in his family as well as the change of wrong authoritarian type of

education to cooperation and mutual understanding will let to decrease the level of emotional disequilibrium in this age group. At present it is very often we can find the following situation: the more dysfunctional relationship of an adolescent with his parents, the narrower and poorer the world of his hobbies and such adolescent becomes more insecure. F. Rice gives the following arguments: "in families where parents take care and show interest in their children, adolescents have high self-esteem" (F. Rice, K. Dolgin, 2012). The timely preventive measures and correction of children-parents relations, which was organized in the framework of our study, let us to turn the upbringing of a child into a meaningful, purposive and regulated process, where the negative experience of parents did not affect the emotional background of adolescents.

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PROBLEMS OF ADMINISTRATIVE LEGAL REGULATION OF HIGHER EDUCATION IN THE RUSSIAN FEDERATION IN THE CONDITIONS OF GLOBALIZATION

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Abstract: One of the fundamental factors of the harmonious development of any country is a high-quality system of higher education. The globalization of world space, including in the higher education system led to the formation of a single world educational space and to the international market of educational services. The article considers the issues of administrative legal regulation of higher education system, the objective necessity which determines its universal, public, character. Currently Russian Federation is under construction model of mutual responsibility in the higher

education system, the enhanced role of each subject of educational policy. In addition, conducted optimization the management model, which clearly apportioned and agreed competence and authority, and functions and responsibilities of all subjects of educational policy. This requires expanding the diapason of participation in the formulation, adoption and implementation of legal and administrative decisions in the field of higher education. These objectives point to the need for transformation of the legislative acts, which contain legal rules

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of functioning of the higher education system in the Russian Federation. The authors point out that the state system of higher education is becoming less effective, losing connection with the labour market. The way out of the situation should be a gradual transition of universities of the state system in the sphere of civil society, which determines the way of its development based on its needs and requirements of the global economy and world educational space. Should not remain without attention questions of self-organization and decentralization of the universities. The new status of the University should be fixed in the emerging educational legal array, which today constitutes a significant fraction of administrative legislation.

1. Introduction

The key factor of development of any state is a qualitative system of higher education. Therefore an efficiency realization of traditional functions of education: socialization, formation of personality, training of civil senses is objective necessary (Mamedov, 2011).

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Current globalization processes founds a new competitive environment of high school which is characterized increased requirements to the process of management of the quality of educational process. According this realities necessity of compliance to the conditions of market economy and development of global market of educational services means importance of innovative development of whole system of higher education, providing adequate level of its competitiveness.

Modernization of system of higher education, which have place in nowadays in Russian Federation implicates transition from model, based on intrastate paternalism to the model of mutual accountability in system of higher education, and also - to strengthening of role of each subject of educational policy and their permanent cooperation. Furthermore, management model is optimized, where competences and authorities clearly agreed and divided, and functions and responsibility of all subjects of educational policy: regional and federal management structures, institution of higher education and local government bodies also agreed and divided clearly. Such transformation

requires expansion of range of the participation of state in development, making and practical realization of legal and management decisions in sphere of higher education. Foregoing tasks indicate the need of transformation of legal act and series of legal documents, which contains legal reglament of functioning of the system of higher education in Russia.

According to the Doctor of Legal Sciences E.N. Shcherbak, «legislation in sphere of higher education is very volumetric and dynamic, what requires its permanent analyze. A big amount of legal acts, which regulate relations in sphere of higher education, excluding significant number of subordinate legal acts, substantial complicates its implementation, interpretation and not the best way affects to the movement of securing rights to higher education in Russian Federation (Scherbak, 2011).

According to the lot of specialists-experts, globalization process both in sphere of economy and sphere of research and educational space will lead to unification of actual legislation in sphere of higher education and to standardization of legal requirements to

activity of higher education institutes in nearest future.

Foregoing positions underline actuality, timeliness and practical significance of this research for Russian Federation, where system of higher education turning to inherent part of global educational space and national market of higher education – a part of global educational market in conditions of globalization

2. Methods and materials

Problems of administrative legal rulemaking in sphere of higher education on the territory of Russian Federation have its origin in pre-revolutionary period. Generally, it was linked with state regulation of educational activity of higher education institutes in conditions of social-economic relations, which characterized by strict limits of national jurisdictions. Process of globalization both economic and educational space was on the initial stage of formation, and market of higher education itself with its inherent features, did not start to form.

In specified period a main purpose of state was to establish such forms of administrative control,

administrative-law regulation of relation in sphere of state management of higher education, which let to interfere to activity of higher education institutes with no limitations. In other words, a strict reglamentation of the activity of higher education institutes had first place (Zajceva, 2008; Volosnikova, 2006).

Administrative-legal regulation in sphere of higher education in Soviet's period had command-administrative nature in conditions of highly centralized planned economy and was under consideration together with other problems of legal regulation in this sphere. In this period all the attention of scientists was focused on the grounding of legal rules of the Fundamental principles of legislation of USSR and union's republics about national education (Sapargaliev, 1974).

At the present time science of administrative law consider general issues of the management of higher education, new organization aspects of the activity of agencies of management of higher education, correlation of status and competence, rights and duties of subjects of administrative law in field of higher education from different positions.

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V.M. Syryh among the problems of law regulation of higher education, researched a manifold problem of defense of rights and freedoms of citizens in Russian Federation, including right to education, particularly, higher education (Syryh, 2000).

Many Russian scientists are busy with researches in sphere of law regulation of the activity of agencies, carrying out functions of government control in field of higher education (Abaev, 2008; Andieva, 2002; Areshev, 2006; Volosnikova, 2006; Gajvoronskaja, 2005; Graf, 1999; Grichuk, 2004; Zabolotnyj and Majsakov, 2001; Zenkov, 2007; Kirillovyh, 2008; Knjazev, 2004; Mamedova, 2007).

Works of D.L.S. Bratanovskij and D.L.S. Jusupov deserve special attention – on the base of the research of legislation principles and systematic construction of state-public system of education in Russia, structure of its governmental management, they made attempt to substantiate limits of law regulation in system of the management of education and organization-legal problems, occurring in process

functioning of the system and possibility of its settlement in conditions of country's transition to market relation (Bratanovskij and Jusupov, 2004).

Besides aspects listed above, on this problematics scientists are considering:

- Constitutional-law mechanisms of realization of the right of every citizen to education (Barabanova, 2004; Seregina, 2006);

- mechanisms of the management of educational process (Anisimov, 2004; Barsukova, 1999; Dubrovina, 2006; Ermakova, 2005; Lunev, 2000; Menshikov, 1998; Sadykov, 2001);

- legal status of higher education institutions and also different categories of students (Andieva, 2002; Tuchkov, 2001);

- Civil-law regulation of relation in sphere of higher education (Kvanina, 2007);

- economical aspects of the functioning of market of educational services, requiring unmediated legal rulemaking from governmental bodies like: providing of economic safety of higher education institution (Kondrat, 2005; Alimova, 2009), problems related

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to competitiveness of higher education institution (Chausova, 2008; Zagorodnjaja, 2005) and others.

A large part of works of the Russian scientists, concerning system of Russian higher education, made from base of neoliberal theory of the education economy. Their works are dedicated to scientific-theoretical substantiation of the formation of state's policy, aimed at absolutely administrative decentralization and privatization of the higher education institutes, marketization of educational activity, related to intensification of establishment of market principles and cancellation of public-legal regulating impact of government to activity in sphere of higher education down to negation of leading role of government in development of education, including higher (Shvarckopf, 2006).

3. State regulation of higher education: contemporary state and problems of administrative-law reglamentation

3.1 Characteristic of governmental bodies of the management of higher education in Russian Federation

Clear understanding of the construction of system of higher education and actual problems of its functioning determine purposes, principles and modernization direction of higher education.

In Russian Federation following authorities of management of higher education acts:

- 1) Ministry of education and science of Russian Federation;
- 2) Federal service for supervision in education and science;
- 3) Federal departmental agencies of management of education, which manage to jurisdictional educational institutions on the profile of correspond field or spheres of management (for example, ministry of defense, ministry of internal affairs, ministry of healthcare);
- 4) Governmental bodies of management of education of Federal subjects;
- 5) Local (municipal) bodies of the management of education, which could be created on the decision of corresponding local governmental bodies.

Competence of the bodies of management of higher education includes:

- development and realization of purpose-oriented federal and international programs in field of higher education;
- development of governmental educational standards and establishment of the equivalence of documents about higher education;
- governmental accreditation of higher education institutes, promotion for its public accreditation;
- establishment of the order of attestation of research-pedagogical staff of higher education institutes of different types and kinds;
- formation of the structure of system of higher education; development of the list of professions and specialities, for which professional preparation and professional education needed;
- direct financing of the activity from founders, founded them higher education institutions;
- development of governmental normative standards of the financing of higher education

institutions, and also material-technical provision and equipment of educational process;

- control for legislative execution in field of higher education, governmental compulsory standards, budgetary and financial discipline in system of higher education.

Ministry of education and science of Russian Federation is a federal agency of executive power, which doing functions for definition of governmental policy and legal-rule regulation in sphere of higher education, scientific, scientific-technical and innovative activity, developing of the federal centers of science and high technologies, governmental scientific centers and Science Cities.

S.A. Beljakov and A.A. Ivanova call «transition from management of higher education institutes to the management of educational programmes» as a one of condition of realization of Conception of modernization of Russian education. «Consequently, such management functions like control, financing and assessment of the quality of activity will be implemented specifically for

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educational programmes» (Beljakov and Ivanova, 2008).

Development strategy of higher education in Russia is a system reformation of the model of management inclusive of international standards and national specific.

Component parts of governmental management of higher education are realized directly by agencies of executive power, which work with questions of education and science (including unified for them system of attestation of research-pedagogical staff), academical and higher education institutions, which do functions of organizational character upon terms of self-management.

Alternative educational system is introduced. At the same time with economic autonomy and activization of off-budget activity of governmental educational institutions the establishing of non-government educational sector begins. As specialists note, in conditions of demonopolization of sphere, appearance of non-government higher educational institutes became a natural phenomenon, which stimulates its development.

Market of educational services should to have a governmental regulation, because precisely government is a main customer for highly-educated qualified professional. Such approach in governmental regulation of higher education is directed to coordination of structure of governmental management of system of higher education to the accordance with prevailing social relations and new economic conditions.

3.2. Problems of reformation of system of higher education in Russia.

In general, aspirations of reforms reduced to the further denationalization of higher education institutions, firstly through the foundation of autonomous institutions like legal entities in social-cultural sphere.

According to T.A. Guseva, «ongoing reform in educational field, which includes necessity of modification of legal status allows:

- to create more clear separation between customers and producers of services of the fields of social sphere, what will promote to development of the practice of

contractual relationship of organizations with bodies of governmental power;

- more easy to form, introduce and change a structure and mechanisms of management; to become a remedy of attracting investments in fields of social sphere and expansion of financing sources of current activity of this organizations;

- to provide necessary stimulation and conditions for major improvement of the effectiveness of the using of human, material-technical and financial resources» (Guseva, 2006).

Reformation of governmental regulation in sphere of higher education destined to improve the quality of educational services, improvement of equivalence of education to international analogues.

Largely, such process in Russia reflects objective reality – decentralization of management in social spheres.

Transition from “direct” management of the elements of system to the management of their activity defines pithy part of functioning of institutions in educational sphere like a main matter of the authority of governmental bodies.

Herewith necessary to note that “absence of control for social sphere institutions could be negative influence for their functioning. Whereas efficiency could be achieved, only if organization or entity has an owner, who realizes control” (Mamedov, 2013).

3.3. Problems of development of higher education in conditions of globalization.

Decentralization of higher education becoming one of the main strategies of the development of higher education institutes.

Among the problems of the development in sphere of higher education in global scale can be distinguished:

- territoriality – inability to provide an opportunity of getting higher education for everyone;
- conservatism – lag of obtained knowledge from the level of development of informatization and technologies;
- inertness – low adaptability of the system of higher education to the different social-economic conditions;

- locality – specificity of higher education, obtained in certain educational institution;

- limitation – impossibility for regional higher education institutes to teach to all interested to all spectre of specialities on certain territory.

The circle of problem issues also includes a transformation of purposes and values of higher education, what generally creates danger for economic safety of both higher education institutes and whole education:

- uncertainty of the place of higher school in social structure and social relations;

- changing role of government, danger of lowering of apportionment of liability of government for sphere of higher education;

- implementation of market relations to the sphere of higher education;

- changing global conditions in which universities are currently operating: shortage of budget financing, which essentially bounds financial possibilities of governmental higher education institutions; growth of competition on the market of educational

services, caused by expansion of commercial educational institutions and deterioration of demographical situation in country; high dynamic of factors, which determine an order of functioning of educational institutes, which creating necessity for permanent diversion of resources of higher education institute to development of adaptation mechanisms instead their direction to educational purposes;

- competing higher education institutions are trying to engage students with big financial opportunities, but giving less attention to educational process;

- rising of the level of teaching and requirements to students with broad variety of no-purpose motivation (unwillingness to serve in army; fear to remain unemployed with no diploma, tribute to fashion («everybody has diplomas»)) – is danger of loss part of students, which will prefer getting of diploma with less efforts in other higher education institutions, which less demanding to the educational process;

- possibility of higher educational institutions to draw away students from each other at the cost of

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facilitation of educational programs and procedures, what worsens lowering of the quality of study;

- since the most accessible source of the increase of financial resources is expansion of admission for commercial departments and creation of filial agencies of the higher educational institutions, the costs of higher education institutions for expansion considered like preferable with comparison to costs for improving of quality of study;

- in conditions of marketization the conflict of educational and commercial purposes brings down academical autonomy of professors and makes unprofitable a diligent work with students - not stimulated, not compensated by costs and not prestigious.

All of this reflect on choice of instruments of regulating impact to activity of higher education institutions in conditions of globalizing economy.

3.4. Reforming of the authority of executive agencies of power

A certain problem is reform of the authority of levels of power.

Traditions of west models of university in a greater degree based on a broad classification and decentralization

of coercive powers. This system of management reflects weak governmental regulation, nonintervention to academical freedoms and synchronous – a strong coordination on institutional level.

Although, it must be noted that in 80-th years of XX-th century in system of American education happened a strong conversion of authority from local and state bodies to federal government. Department for national education was recreated. Essentially, recreation of this agency shows ambition to centralization of education management. In fact, this agency is Ministry of education of USA.

West experience of the organization of higher education institutions shows basic principles of governmental policy in higher education and methods of its implementation. For example, the system of American universities is largely similar to the system of government itself. Main substantial load in formation of the methods of organization of authority delegation and decentralization of responsibility (Pilipenko, 2008).

In this process Russian nationhood determines its own ways of

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development in the field of regulation of activity of higher education institutions.

Democratization principles migrates into the spheres, where government step by step leaves its positions for more perfect forms of public relations, based on, particularly, on the active cooperation of power and society. Whereas sphere of higher education isn't also exception.

The Russian educational system is gradually coming to approximation with European model of education, perceives necessary forms of democratization of higher school.

Although, it should not go unnoticed, that French model of organization of higher education is influencing substantively at the European system of education. Its feature is also relative strict centralization of the management of higher education institutions, combining with decentralization in its internal organization, what determines freedom of academical component of higher education institutions.

Meanwhile, reforms, which suggested in today in status of higher education institutions are largely far from the west “models” of the

organization of higher education institutions, which is a purpose of native higher school.

Foreign higher education institution – is university like academical subject, for the most part, is not legal entity in traditional understanding of the Russian civil law, but is acting as professor's community. University, in this sense – is a form of provision of education through the “union's” personality of its participants-professors, who independence organizational and financial. Such approach to organization of higher school determines compliance of necessary academical traditions and freedoms, objectivity in assessment of knowledges, provided by personal responsibility for the quality of graduate's preparation.

French model of management of university based on forming up the levels of management, where regulating agencies dissociated for the object of control. Higher-education teaching personnel is controlled by the general inspection of national education, while administrative structures in higher education stand in competence of general inspection of administrative agencies in the sphere of education.

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Herewith, objects itself are defined as central and local (rector, president, director) management agencies.

Formation of organization structure of higher education institutions taking into account of public elements, what taking place in American (and partly – in French) system of higher education, in Russian conditions requires its detailed analyze in part of efficient using of such novations in Russian system of higher education. In our opinion, approach to decision of such question should be balanced and coherent.

Attempt of association of universitarian and governmental first principles, on the one hand, leads to bureaucratization of higher school, erosion of fundamental, historical traditional principles of the organization of higher education institutions, where exactly university essentially influence to society and government. On the other hand – introduction to the practice of educational process the administrative mechanisms with granting of professor with status of state official places an additional obligation on him and responsibility for result of his activity and whole education institution.

Here clear visible the principle of mutual responsibility of higher education institution and government for the quality of provided education. University, by giving diploma about higher education, in the person of government confirms having a necessary level of knowledge of graduate.

Consequently, in such model of organization of higher education institution, government takes responsibility for the quality of education for itself. Synthesis of public and private instruments of regulation of educational activity with active role of government could be put in the base of new system of higher education.

As President of Russian Federation noted, «preparation of specialists with higher education should be concentrated primarily on the federal level, while costs of federal budget for this purposes should be planned taking into account of prognosis of need in corresponding specialists on the different labour markets. One of the directions of optimization of the network of higher education institutions is proclaimed an association of them into the complexes of university type, including educational institutions of

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different levels of education. Classification of governmental tasks between budget institutions on the competitive base should create conditions for normal competition between them, and also to stimulate to search of the new forms and ways of carrying out of activities».

Rationalization of network of the higher education institutions chaired by “high-status” higher education institutions – federal universities, systematically important and innovative higher education institutions leads to the different qualitative criteria of the forming groups of higher education institutions.

Definition of needs for qualified staff with higher education in context of social-economic development should be based on the “needs” of region's economy – demand on the labour market with due consideration of current and planning structure of classification of specialists for groups of specialities on labour market and contemporary and perspective state of the system of higher education of region.

All of this shows in necessity of development of the structure of the management agencies of higher

education in part of the forming of state order, financing, accounting and reporting, control of the quality of education, supervision for the compliance of licence requirements for financial-economic condition etc.

Aspirations of Russian practice in determination of methods of formation of the system of higher education in a manner differ from analogous regulators of similar samples abroad.

While Russian conception of higher education is making attempts to consider its future through the harmonization of public and private interests, the French model of education based on categorie of universal interest. This conceptions reflect a different view of democracy: a liberal – based on individual freedom, and social – based on universal public interest.

3.5. Organization of governmental regulation of higher education

Governmental system of higher education is becoming less and less effective, losing connection with labour market.

As objectively noted Candidate of Economic Sciences E.V. Burljukina,

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«One of the purposeful indicators of the efficiency of the activity of higher education institution is defined the percentage of graduates, who employed for obtained speciality during the first year. The marker of level of graduates employment is necessary criterion, which determines possibility of the reception by higher education institution the governmental accreditation. Despite high level of the priority of assigned task, its realization on the level of certain higher education institution is difficult because of absence of the adapted to market conditions practical methods and mechanisms of management of demand for specialists. In Russian science and practice accumulated weighty experience of analyze and prognosis of labour market, which using rare in process of management of higher education institution because of lack of methodical base. Development and promotion of models, procedures and movements of the management of the demand of specialists will lead to harmonize activity of higher education institution with courses of the market development, external and internal economic conditions, new needs of society» (Burljukina, 2006).

The way of decision of this problem should be the transition of higher education institution from governmental system to the sphere of civil society, which regulated high school, determines ways of its development on the base of own needs and requirements of global economy and world educational process.

That is why organization of governmental regulation of higher education, taking into account of the balance of private and public interests, is determined by governmental-public character.

Should not be unnoticed the questions of self-organization and decentralization of higher education institutions. New status of higher education institution should to be settled in actively forming educational legal massif, which is an essential part of social legislation for today.

On the governmental level should to develop a series of interconnected statutory instruments, generally forming the complex model of the management of higher education institution, which provides an order of cooperation in its structure interconnected mechanisms: economic,

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motivational, organizational, legal, social and political. This model will lead to increase level of the efficiency of organization, management and control for the activity of higher education institution.

4. Conclusion

Thereby, globalization requires a necessary coordination of higher education institutions, determination of the directions of their incremental development, simultaneous strengthening of their organizational-material autonomy, taking into account the development of the market of educational services.

All of this determines for today the existence of diametrically opposed instruments: on the one hand, decrease of decentralization of the system of higher education for the purposes of the establishment of basic educational orientation points, which take into account the needs of global economy, on the other hand – increase of the level of the autonomy of higher education institutions for realization of parameters of organizational and economic free subjects.

Higher education institutions in this process appears like professional-educational organization, acting in the sphere of civil society on the base of socialization through the transformation of management connections for decision of assigned tasks of the system of higher education with compliance of private and public interests.

In process of formation of integral legislation in researched sphere, which is subordinated to one legal logic, it necessary to take into consideration a neoliberal world trends in the sphere of higher education, and also different nature of legal systems of the regulation of national markets in the sphere of higher education. Regulating bodies of governments in sphere of higher education is more and more oriented to cooperation in sphere of legal, and primarily, administrative-law regulation of relations in sphere of higher education. Moreover, globalization in sphere of higher education caused a necessity for national management bodies in this sphere of activity to form an international organizations, supranational structures, providing coordination of their acts for governmental management of higher

education in market conditions, including its administrative-legal regulation.

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**PEDAGOGICAL CONDITIONS FOR THE DEVELOPMENT OF
COGNITIVE INDEPENDENCE FOR HUMANITARIAN STUDIES
IN THE PROCESS OF MATHEMATICAL EDUCATION**

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Abstract: The relevance of this study is determined by the modern requirements related to both the structure of the learning process and the results of training and educating the younger generation in the context of globalization and informatization of a rapidly

changing society. This manuscript is focused on discussing the development of cognitive independence, through humanities classes, among students studying mathematics at a basic level of the new federal state educational standard. The purpose is to find

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pedagogical conditions that contribute to the development of the cognitive independence of students in humanities while studying mathematics at a basic level. The authors provide a logical and didactic analysis of the existing basic-level mathematics textbooks and describe the features of the students in the humanitarian classes. The authors substantiate the pedagogical conditions required for the development of cognitive independence among these students: enrichment of the content of the humanitarian subject areas with an educational and methodological complex aimed at developing cognitive independence; the involvement of students in the humanitarian classes to develop an independent cognitive process under the condition of using the educational information environment. These conditions are said to activate mental activity, contributing to the development of cognitive independence in the study of mathematics. The authors describe pedagogical approaches (activity-oriented, personality-oriented, information-communicative, and competency-based approaches) that contribute to the development of students' cognitive independence. The

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authors present the research methods (assessment of motivation for learning activities, observation of the manifestation of students' strength-will during tasks, the quality of knowledge in mathematics). The authors conducted an experiment on the implementation of sound pedagogical conditions, the results of which are described in this manuscript. The introduction of the proposed pedagogical conditions into the educational process is of practical importance and is expected to contribute to the effective development of cognitive independence, through humanitarian classes, among students studying mathematics.

Keywords: independence, cognitive activity, students, pedagogical conditions, approaches.

Introduction

In the documents on the introduction and implementation of Federal State Education Standards (FSSES) of secondary general education, considerable attention is paid to improving the quality of subject knowledge, the formation of universal educational activities, and research skills. Thus, V. S. Avanesov (2017)

states that “it is necessary to create own educational process, suitable for each student, according to its development path, with own estimates of the growth of educational achievements” (Avanesov, 2017).

According to E. A. Sedova (2015), over the past decades, the actual content of school mathematics has become more saturated due to the introduction of new sections and, at the same time, more abstract. The problem of developing the cognitive independence of students in the study of mathematics at a basic level requires special attention since there are more students of mathematics at this level (future philologists, lawyers, historians, artists, athletes, etc.) than students in the natural sciences. V. N. Klepikov (2017) finds that at present, most modern schoolchildren have a clip way of thinking, and when studying mathematics, he offers a method of plastic modeling and interpretation of texts. Students of the humanitarian classes, in virtue of their physiological characteristics, need a different approach to the study of mathematics. They have mostly visual-figurative thinking, their visual perception is well developed, their

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imaginative memory predominates, their generalization ability is less developed, their arbitrary memorization is poorly developed, and their personal qualities include those that make them dreamers, visionaries, quick-witted, curious, and sociable, among others.

At the present stage, in the process of teaching mathematics, the parallel development of the cognitive independence of students becomes necessary. However, to date, as shown by the analysis of mathematics textbooks, a survey, and the conversation with teachers and students, the constraining factor in the formation of cognitive independence in mathematical education is insufficient consideration of the characteristics of students in humanitarian classes; the task material in the textbooks does not arouse interest in the subject and does not meet the needs and capabilities of students in humanitarian classes.

The process of developing cognitive independence in high school students is entirely dependent on both the student and the teacher's actions; it is a form of self-realization and self-organization of the student and the teacher's effort in organizing the students'

cognitive activity. Therefore, it is necessary to create pedagogical conditions for the development of the cognitive independence of students in humanitarian classes in the study of mathematics. During the study, the following tasks were solved: Conversations with teachers of mathematics and a survey of students in humanitarian classes were held; textbooks and didactic materials in mathematics intended for teaching at a basic level were analyzed; pedagogical conditions aimed to help develop the cognitive independence of students of humanitarian classes were substantiated.

Literature Review

Recognizing the work of domestic teachers and psychologists, whose studies note that the independence and creative activity of students develop most intensively in the process of their independent cognitive activity and in the development of their thinking and abilities, the authors especially consider the work of modern researchers O.V. Petunin (Petunin, 2016) and V.N. Pustovoitov (Pustovoitov, 2010).

The involvement of students in the study of mathematics and the

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problems of mathematical education abroad are addressed in the research by Amy Roth McDuffie (McDuffie, 2018), Carolyn A. Maher (Maher, 2018), Doug Clarke (Clarke, 2018), Fou-Lai Lin (Lin, 2018) and others. The problem of the development of cognitive activity and the influence of students' physical activity in mathematics classes have been extensively represented abroad by researchers such as Jozef Simuth (Simuth, 2015) and Katherine B. Owen (Owen, 2018). The introduction of digital technologies in the educational process and its problems and prospects have been extensively explored by E. A. Barakhsanova, V. M. Savvinov, E. Z. Vlasova, M. S. Prokopyev, I. V. Gosudarev et al. (Barakhsanova, 2016). The study of mass communication in the young generation in the information society and the impact of information and communication technologies on students can be found in the works by E.A. Barakhsanova, I.I. Mulgarov, et al. (Mulgarov, 2016). R.A. Yafizova, A.D. Nikolaeva, and Yu.A. Koshevarova, et al., show the implementation of interactive teaching methods in the educational process in the works (Yafizova, 2016).

When talking about the development of the cognitive independence of students in the humanities classes in the study of mathematics, it comes to creating conditions, based on the characteristics of students with a humanitarian mindset and justification of these pedagogical conditions.

At present, modern education is focused on a personality-oriented approach, providing individual learning, considering their capabilities and needs. In these conditions, independent work becomes one of the priority means of training and education; it forms such a personality quality as independence, which is expressed in the ability to set certain goals and objectives, to achieve their achievement on their own without outside help (Rohaeti, 2019).

Therefore, while working on the development of students' cognitive independence, the teacher should create favorable conditions for maintaining curiosity; supplement it with new motives that go from the content of training, forms and methods of organizing cognitive activity, from the style of communication with students and the students themselves. The teacher

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should adhere to the following provision: whether the student realizes the need for teaching; seeks to deepen the knowledge gained; what are the student's interests - steady, fleeting; can cope with their unwanted motives, etc.

A motive is a human's impulse to action. The main task of a teacher is to educate the motivation of learning (Markova, 2017).

Considering the above arguments, the compilation of an educational and methodological complex aimed at developing cognitive independence, considering the peculiarities of humanities, is being updated. A training package is a set of systematic educational materials designed to ensure the organizational and substantial integrity of the system, methods, training tools aimed at the formation and development of students' cognitive, creative activities, etc.

The selection of school content is the most important step in creating a learning model. The most significant and relevant of them were identified by L.A. Krasnova, in high school to pay attention to the following direction in the selection of the content of mathematical education: firstly, considering the key

trends and factors of modern reality, acting as a sociocultural basis for highlighting content elements; secondly, a set of principles defining the methodological basis for the selection of elements of the content of education. Moreover, in this regard, the authors note that humanitarian education is reserved in the methodological basis for the selection of elements of the content of education among the totality of principles (Krasnova, 2017).

The task material for students must meet the following requirements: firstly, it should be interesting, fascinating, entertaining and cause a desire to solve a problem; secondly, it should consider individual characteristics, meet the needs and capabilities of students (Rakhmatullina, 2015). This implies compliance with the variability in the selection of tasks.

Therefore, as the first pedagogical condition, the authors will consider the enrichment of the content of the subject areas of the curriculum of the humanitarian classes with an educational and methodological complex aimed at developing cognitive independence.

In substantiating the second pedagogical condition for the

development of cognitive independence of students in the humanitarian classes, the authors will proceed from the activity-based nature of cognitive independence and the characteristics of students in the humanitarian classes. Based on the priority of visual-figurative thinking, visual memory, emotional perception of students in the humanitarian classes, it seems appropriate to involve them in a cognitive independent process in the conditions of using the information educational environment.

The creation of an information and educational environment, considering the specific needs of students in the humanitarian classes, contributes to the independent acquisition of knowledge and the qualitative assimilation of information, automation of the processing of learning outcomes and progress in learning. The use of the Internet and the technologies based on its use in the educational process is a powerful means of introducing interactive teaching methods. In the organization of any educational process, the advantages of using information technology tools increase, in this case, the teacher ceases

to be a living source of knowledge, which becomes a creator of resources, a companion, an inspirer of students' independent activities (Laptev, 2016).

Below, the authors provide didactic opportunities for the use of information technology (IT) in the educational process for the following purposes: expansion of the educational environment; assistance in the research process, results measurement, and computer simulation of the studied subjects; automation of computing activities; automation of information retrieval activities for the collection, accumulation, storage, processing, and transmission of information; computer visualization of educational information; formation and improvement of skills; consolidation of knowledge; assimilation control; and generalization (Ziyautdinova, 2015; Laptev, 2016).

The use of IT tools in lessons and for the creation of an informational and educational environment is necessary but insufficient for the development of students' cognitive independence in humanitarian classes. The authors assert that, given the psychophysiological characteristics of students in humanities classes, the

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development of cognitive independence is possible only if teachers implement interactive learning using IT tools in the educational process. Interactive learning technology involves active and close communication about all subjects that are used in the pedagogical process. The use of project-based learning technology, web-quest technologies, research technologies, developmental learning technology, problem-solving skills, and differentiated learning can most efficiently facilitate students' involvement in an independent cognitive process.

When instructors use IT tools to enhance the educational process, students can learn how to analyze information, process data, model problems, design objects, and visualize numerical data. Under this assumption, the authors formulate a second pedagogical condition for the development of cognitive independence in humanities classes: the involvement of students in an independent cognitive process using the educational information environment.

The implementation of an activity-oriented, personality-oriented, information-communicative, and

competency-based approach to teaching is the fundamental factor that influences the development of cognitive independence for students in humanities classes. This active approach, which is tailored to the student's personality, becomes the foundation for project activities in problem-based learning. Notably, the technology used in the interactive teaching method for integrated learning must be closely related to the personality of the student. Personality-based learning fulfills a social role by facilitating communication with other people, providing useful activity, and developing each student's personal plan for learning; thus, it uses the social environment, which is the main source of development of the student's personality, to foster cognitive independence.

A personality-oriented approach considers the student's psychophysiological characteristics, adhering to a differentiated, individual approach in the pedagogical process. The main objective of this technology is to coordinate training and learning (the main sources of cognition); this dynamic relationship should be provided by educational technology that make

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cognition personally meaningful, emotionally rich, and aimed at satisfying the cognitive needs and interests of each person, regardless of their abilities and educational achievements. In this approach, partnerships arise between the teacher and the student, a respectful attitude to each student and acceptance of them, as they are (Isakhanova, 2017).

One of the most effective pedagogical approaches in the development of cognitive independence of students is the information and communication approach. Modern researchers, such as V.P. Bepalko, V.V. Mironov, V.V. Laptev, M.S. Nikolaev, and others, propose the use in the educational process of information and communication technology tools that effectively ensure individualization, differentiation of education, the formation of independent activity, the development of interest, the effectiveness of the educational process, etc.

Modern education cannot be imagined without a competency-based approach. A.K. Markova, S.I. Osipova, et al. contributed a lot to the development of the competency-based approach. The competency-based approach in

education is oriented in the formation of universal educational actions in students of a comprehensive school, i.e. the use of acquired knowledge and skills in various situations. The context of such an approach helps to amend the content of education, to provide the use of new forms and technologies of training and wider opportunities for students to develop the ability to self-education and self-development, and to use the acquired knowledge in practice (Osipova, 2017).

Summarizing what has been said above in the aspect of a theoretical study of the development of cognitive independence of students in the humanitarian classes, with the justification of pedagogical conditions based on activity, personality-oriented, information-communicative, and competency-based approaches, based on the age, individual characteristics of the students in humanitarian classes, the authors come to the following conclusions:

– Pedagogical conditions are substantiated, which hypothetically will contribute to the development of cognitive independence of students in the humanitarian classes of high school:

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1) enrichment of the content in the subject areas of the curriculum for the humanitarian classes of high school with an educational and methodological complex aimed at developing cognitive independence; 2) the involvement of students in the humanitarian classes in a cognitive independent process in the conditions of using the educational information environment;

- The need to use a poly-paradigm approach is substantiated, including the systemic unity of activity, personality-oriented, information-communicative and competency-based approaches in learning, focused on the development of cognitive independence of students.

Materials and methods

The methodological basis of the study is the activity, personality-oriented, information-communicative and competency-based approaches in the study of mathematics by students in the humanities, using modern educational technologies. The authors used theoretical and empirical methods (observing students in the study of mathematics, interviewing students and talking with teachers of mathematics), as

well as a pedagogical experiment. Rural schools were chosen for this study: Khatystyrskaya Primary and Secondary General School, Aldan region; Momskaya Secondary General School, Momsky district; and Beidiginskaya Secondary General School, Ust-Aldan district, with 68 students participating. These schools were chosen because they are far from the center so there is limited or no internet access, which is the most powerful means of obtaining instant, necessary information for teaching. Instead the teachers use mainly textbooks and additional literature.

The purpose of this study was to investigate the development of cognitive independence in students in the humanities classes in the study of mathematics. The following components were selected as indicators of the formation of independent cognitive activity: motivation for educational activities; the manifestation of willpower when achieving a goal; and the quality of mastering the subject. The following methods were used to identify these components: assessment of motivation for learning activities, monitoring the manifestation of the willpower of students in the performance of tasks and

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the quality of mathematics knowledge; and the analysis of the results obtained.

The authors used the diagnostic methodology for educational motivation of students proposed by N.P. Fetiskin, V.V. Kozlov and G.M. Manuylov (Fetiskin, N.P., 2002) They proposed a questionnaire consisting of 21 statements. For each of the seven components of motivation there are three corresponding statements. The respondent rates each of the answers on a 4-point scale: 0 for “almost irrelevant”, 1 point for “partially relevant”, 2 points for “noticeably relevant”, 3 points for “very relevant”. The components of motivation are as follows: 1) cognitive; 2) communicative; 3) emotional; 4) self-development; 5) the position of the student; 6) achievements; 7) external (rewards, punishments).

To identify the manifestation of the students' willpower when performing certain activities, the observational method to evaluate volitional qualities developed by A.I. Vysotsky was used (Istratova, 2010). Signs of willpower are: 1) independence; 2) perseverance; 3) exposure; 4) organization; 5) initiative.

Verification and control work in mathematics was carried out to verify the

quality of assimilation of material in mathematics and to identify the quality of knowledge in mathematics.

Results

The experiment was conducted from 2016 to 2018 for students in the 10th and 11th grades. In the 10th grade (academic year 2016-2017), the work was carried out to identify the level of development of the cognitive independence of students in the study of mathematics. For this control tests in mathematics and the diagnostic

measures to identify motivation and willpower of students were presented, and pedagogical conditions were created. At the end of the experiment, in the 11th grade (academic year 2017-2018), control diagnostics were carried out. The results on the indicators of the development of cognitive independence are provided in the tables below.

The results of the ascertaining and control stages for identifying educational motivation are shown in Table 1.

Table 1 - The results of educational motivation at the beginning and end of the experiment, in percentage

number of students	Components of educational motivation								Average value
	cognitive	communicative	emotional	self-development	student's position	achievements	external (rewards, punishment)		
the beginning of the experiment									
68	57.4	67.6	44.1	60.3	71	64.7	53		59.7
the end of the experiment									
68	82.3	76.5	54.4	73.5	79.4	76.5	55.9		71.2

In regard to the assessment of students' motivation, over 85% corresponds to the optimal level, 65%–

84% to a sufficient level, and 40%–64% to a low level. As illustrated in the table, at the beginning of the experiment,

students demonstrated low motivation for educational activity (59.7%), and educational motivation increased by the end of the experiment corresponding to 71.2%.

The manifestation of the students' willpower was revealed by observation over a two-year period. At the beginning of the experiment, of the selected components of willpower, the smallest indicator was the independent activity (32.3%) of students, which is an indicator of lack of interest and motivation in the study of mathematics; 39.7% showed weak initiative (i.e., the authors did not attempt to identify a rational solution to approach the problem creatively, etc. They were not particularly persistent (persistence was

41.2%) in achieving the goal, e.g., they could leave the problem unsolved due to a lack of understanding of the conditions of the problem or because of cumbersome calculations, among other reasons.

By the end of the experiment, the general indicator of the manifestation of willpower among students had increased by 13.9%, i.e., if the number of high school students showing strong-willed qualities for achieving the goal at the beginning of the experiment was 29, then by the end of the experiment the number was 38.

The results of the diagnostic data on the strength of the willpower of students are presented in Table 2.

Table 2 - The results of the diagnosis of the strength-will of students in the implementation of actions, in percentage

number of students	will-power components					average value
	independence	perseverance	exposure	organization	initiative	
the beginning of the experiment						
68	32.3	41.2	51.47	48.5	39.7	42.6
the end of the experiment						
68	55.9	54.4	63.2	57.6	51.5	56.5

The quality of knowledge in mathematics was evaluated using the control work proposed at the beginning and end of the experiment; the results are shown in Table 3. The results of the survey and observations at an

ascertaining stage testified to the need to use new approaches, means, and technologies of instruction in the mathematics lessons for the formation of independent cognitive activity of students.

Table 3 - Summarized data of the verification work in schools at the beginning and end of the experiment, in percentage

number of students	2016-2017 (the 10th grade)	2017-2018 (the 11th grade)	mark
68	30.9% (21)	47 % (32)	"4" and "5"
	69.1% (47)	53% (36)	positive grades

The table shows that an additional 11 students wrote a quality control assessment, which corresponds to an increase of about 16% from the initial indicator.

The results of the assessments allowed for concluding that the use of tasks in mathematics lessons is effective, the plot of which contains social, cognitive, practical, historical, regional, vocational, and interdisciplinary significance; the use of various modern pedagogical technologies in the lessons of mathematics.

Discussion

Reasonable pedagogical conditions contribute to the development of cognitive independence of students in humanitarian classes and the manifestation of activity in the study of mathematics.

The experiment consisted of three stages: ascertaining, forming, and control stages. The first stage involved a survey of teachers to identify which textbooks teach are used in teaching mathematics; conversation with students

to identify a motivation, interest in the study of mathematics; primary diagnostics of the level of training in mathematics at a basic level; logical and didactic analysis of textbooks in mathematics. The second stage involved the creation of pedagogical conditions (the compilation and use of a training package in mathematics that meets the needs and capabilities of students in the humanities), the use of active, personality-oriented, information-communicative and competency-based approaches, modern methods, technologies and tools that are aimed at developing cognitive independence in learning mathematics. The third stage involved the control diagnostics of the training level in mathematics and the analysis of results.

The main types of work that the authors used to develop the cognitive independence of students in mathematics classes included: solving problems with regional content; solving historical, practical, cognitive tasks; conducting integrated lessons; use of modern educational technologies; reflection, and use of differentiated tasks.

Four assessments were carried out to determine the level of advanced

training in mathematics, an indicator of the development of cognitive independence in the study of mathematics.

It is notable that in school education for the development of cognitive independence of students, attention should be paid to the professional growth and personal development of the teacher. The professional skill of the teacher, his example and personal qualities help students learn, imitate, and develop.

Conclusion

The development of the cognitive independence of students in humanitarian classes in the study of mathematics is most effective if:

- Pedagogical conditions are used that consider the possibilities and desires of students;
- Age, individual characteristics, and personal qualities of students are considered;
- Activity-oriented, personality-oriented, information-communicative, and competency-based approaches are employed extensively.

The educational material, properly selected per the goals, teaching

methods and forms of organization of the educational process, contribute to the formation of basic knowledge; the search for a rational approach in solving the problem; systematization of acquired knowledge; the development of logical thinking; conducting simple experiments and research; conscious determination of the future profession.

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PAYING ATTENTION TO THE EXCLUSION OF LEGISLATOR AND ITS IMPACT ON THE UNDERSTANDING OF HADITH

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Abstract: Just as effective criteria and interpretations are required in the science of commentary to develop understanding of the Word of Allah, there are need principles and rules for understanding the Hadith. It is noteworthy that the earlier scholars of hadith sciences, although referring to the principles and rules of understanding hadith in the course of their research, did not make an independent compilation as a specific knowledge of the application of criteria for better understanding of hadith. However, in recent decades, scholars have dedicated valuable writings to the world of knowledge on independent scholarship in the jurisprudence of Hadith. In this article, based on the method of understanding the hadith by Shahid Thani, the great Islamic scholar and hadith scholar, who used Hadith in Islamic science and his method of

inference in alRouzah al-Bahiah the rule “attention to the exclusion of legislator”, is scrutinized. The result is that the full obedience of all the Innocents words is not obligatory and if the legislator Imam has not mentioned a discussion and used other titles such as “Expert convention” at that time, it should not be generalized to all times and places.

Keywords: Shahid Thani, Understanding hadith, Legislator involvement area, al-Rouzah al-Bahiah.

1. Introduction

Since the proper understanding of the Innocent sayings, deeds in terms of interpretations of the Qur'anic verses and understanding of the legislator's verdict is important in the Islamic sciences, the former scholars refer to al-hadith jurisprudence as a science seeking

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to understand the true and profound meaning and inference of the hadith. They have applied methods and rules in their commentaries and narratives on narrative collections that have noted its rules and problems in the works of the Principal, Rhetoric and other related sciences. Sometimes they have used the rules of hadith jurisprudence in the texts with the content of explaining hadiths and they explained the intention of the innocent like Saduq in Ma'ani al-Akhbar and Tabrasi in Meshkat al-Anvar; however, they had no work on independent knowledge on the jurisprudence on Hadith. Contemporary scholars have scrutinized many of the rules that had not been mentioned in the works of scholars who have used hadith in Islamic science, and ordered in an orderly manner in their contents and in the name of Hadith apprehension and explained them. Ali Akbar Ghaffari, Dr. Abdollahadi Masoudi and Dr. Majid Moareef are among those who have made significant strides in this field, but the question is whether the understanding of hadiths and traditions can be understood solely from the principles and ways of understanding the Hadiths in the Hadith apprehension

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books or are there other rules and regulations?

2. The Position of Understanding the Hadith

Since the Koran denounces blind obedience even to divine revelations, and in many verses it indicates guidance and understanding, as AL-FURQAN (73) says: " And they who, when reminded of the communications of their Lord, do not fall down thereat deaf and blind", Understanding the hadith is also essential to understanding the Shari'a. Since it has a special place, there is need for sound scientific methods for the correct understanding of the hadith, which is called "Hadith apprehension". In other words, all the efforts made in the field of explaining, interpreting and resolving the divisions of the traditions and explaining and removing the obscurity that obstructs their proper understanding is a part of the background of this study. However, first of all, it is essential that during the issuance of the hadith by the Innocent, in addition to the existence of numerous proof that help to understand the hadith, and the companions referred to Imam for a better

understanding and they emphasized the correct understanding of their words, as Imam Ali (pbuh) said about accuracy in understanding the narrations rather than the attempt to express them “They understood religion with learning and practice, not only through listening and narrating because the narrators are abundant in knowledge, and the practitioners are few” (Sharif Razi 1994, sermon 239, 358). Of course, at that time, the term *Deraya Hadith* meant Hadith apprehension; however by departing from the time of the infallibles and the importance in examining the narrative document, its narrative practices and the ways of tolerating the hadith were considered part of the *Deraya Hadith* and it was annexed to *Mustallah al-hadith*. In the modern era, Agha Bozorg Tehrani distinguishes between *Deraya Hadith* and hadith apprehension in terms of subject and considers the subject of *Deraya Hadith* as referring to the hadith document and that of hadith apprehension as the text of hadith (Suleimani 6, 61). Hadith apprehension in the sense discussed in this article is associated with the modern era and its context is in *Deraya Hadith*. It is now developed and become an

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independent science. However, the formation of this independent science has been the result of effort and compilation of detailed explanations for them by the pillars of the science of hadith. To speak of the pioneers of this knowledge, first, the fundamental role of Imam Ali (as) and other innocents (AS) cannot be overlooked. After them, there are great scholars such as Barqi, Koleini and al-Kafi who compiled the Hadith family under the headings of implying the purpose and presented the conflicting news solution in the preface. Sheikh Saduq in *Man La Yahzaraho al-Faqih* has attempted to describe hadiths and difficult words as well as resolve conflict (Masoudi, 3). Sheikh Saduq’s efforts in commenting some news such as *Sahv-ol-Nabi* is remarkable. Seyed Morteza in explaining effective literary discussions in understanding Shiite verses and narratives and defending Shiite beliefs and compiling the first major book, *Al-Zariah Ela Osoul al-Shari'a*, established the foundations for understanding Hadith. Sheikh al-Tusi, in the book *Tahzib al-Ahkam*, explained some of the difficult traditions and in the preface of *Al-Estebzar Fima Ikhtalafa men al-Akhbar* explains the preference of one

narrative over another (Masoudi, 32). After a period of relative decline, Allameh Majlesi wrote detailed commentaries on earlier Hadith books as well as on the Hadith books of Bihar al-Anwar and many other books (Agha Bozorg Tehrani, 94 and 98). Faiz Kashani with Alwafi and editing, explaining and refining Arba books took a great step in explaining and understanding of hadith (Faiz Kashani 1:7) and so on. In contemporary times, Allameh Amini in the valuable book of al-Ghadir and Allameh Tabataba'i in the interpretation of al-Mizan have offered many valid arguments based on the rules of understanding and criticism of hadith. Imam Khomeini has also left valuable works by carefully considering and presenting numerous and varied points and interpretations in hadith and in jurisprudence and principles. Contemporary hadith scholars Ali Akbar Ghaffari, Abdolhadi Massoudi, Jafar Sobhani, Mohammad Taghi Jafari, Mohammadi Ray Shahri and others took significant steps in understanding the tradition of Hadith such as transmitting narrations to the Qur'an and successive traditions, understanding the role of singularities of the Hadith and its

combinations by collecting presumption, ways of finding the hadith entry, precision in the type of hadith impression, the necessity of forming a hadith family, how to retrieve corresponding hadiths and paying attention to the conflicting hadiths and utilizing human knowledge in understanding the hadith. They even went beyond and addressed the subject of obstacles to understanding, including subjective assumptions, simplifications, selective approaches, ignorance of the tone and many of the mentioned rules. Of course, in addition to the above written rules, there are some rules and regulations in the understanding of hadith used by earlier scholars in their books, manuscripts, and practices, but they are not mentioned explicitly. Here, it is decided to analyze and explain a case of unpopular rules used by scholars, especially Shahid Thani to understand the hadith, for rational and transmissible reasons.

3. Shahid Thani and the Rules of Understanding Hadith

Among the great Shiite scholars, Shahid Thani, Zayn al-Din bin Ali bin Ahmad Amali holds a high rank.

Like Shahid Awwal, Shahid Thani is well known in the Islamic sciences and in the defense of the Imamieh School that both of them have been martyred in this regard.

The al-Bedayyah fi Elma al-Derayah, following the pioneers, first discussed the terms and types of hadith and then proceed to express how to interpret the hadith and in this case it is among the Hadith science books. Therefore, it is not helpful in hadith apprehension and understanding. Therefore, to understand the importance of understanding the traditions and how to deal with and apply the hadiths and using them in jurisprudential rulings and issues the books of Shahid such as Al-Rozahah al-Bihia are addressed. The rules he used when using narrations to achieve the rule are found that sometime the scholars found them by contemplating in the related books of hadith and presented in hadith apprehension. Sometimes while searching, some rules of understanding hadith are achieved that despite being used by the jurisprudence in their books, they are not considered in any hadith apprehension book explicitly. For example "paying attention to the general

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rules in understanding specific traditions" can be helpful in understanding some of the traditions.

4. Paying Attention to the Fields of Including the Jurisprudents

One of the debates among the jurisprudents is about the obedience of all the narrations. In other words, they are about the fields of entry of the jurisprudents. It means whether all the hadiths of the Ahl-al-Beyt as "jurisprudence" rules that seek to establish or discuss rules or in some reasons, their entry is not jurisprudential. The importance of answering this question is that if the fields of legislator entry are jurisprudential, the answer and expression of the Imam in the traditions should be applied for all times and places. However, if in some cases, it is concluded that the legislator entry are not jurisprudential, and it is to answer a question, it is concluded that his answer is custom of that time and geographical boundary, and it is not possible to interpret it in other ways.

It should be noted that the task of the jurist in the field of inference is generally divided into two parts:

A: The inference of religious law, whether statutory or assignable

B: Explaining the issues expressed by the Legislator

Now, if there is no definition by the jurisprudent in the field of explanation of a particular subject, the jurist cannot naturally attribute a definition to the jurisprudent but instead relates such cases into the common law. As Mohaghegh Ardebili said: when there is no comment on the part of the jurisprudent on an issue, there is no doubt that custom can be referenced, but if it opposes the comment of the jurisprudent, it loses its credibility. However, the authority of custom is summarized in the following four matters: 1- To discover the status of a statutory or assignability, which is used on two terms. Firstly, it does not oppose the legal text, such as the incorporation of un-related men and women in the celebrations and weddings, although this has become customary; secondly, it has been a customary matter in the Innocent time, and it has been heard or observed in but there is no comment. 2- To explain some of the common concepts such as when renting or buying, what is included in the property being bought or rented?

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Or, for example, it is referred to custom in music at any time.³ To identify instances that are subject to the rulings but the Shari'a has made the custom responsible for them like home, mine, land, etc. 4- To act on a particular custom of a region which can be the presumption case to solve many verbal and actual conflicts such as disputes over selling meat without mentioning its type, it is possible to refer to the custom of that area. Alternatively, for example, items in some areas that are weighted or counted in some areas, where the custom of that area should be considered (Sobhani Tabrizi, 2008, 150-153) and here some cases of referencing the custom are mentioned from the perspective of Shahid Thani.

Example 1: In Wasiat, , the subject of what is inside the legacy says: In the will of the sword, in addition to its blade, the sheath and ornaments attached to the sword also enter inside the will; however, in terms of word, the will to sword only includes its blade. However, according to the custom, the sheath and ornament of the sword are also part of the sword and enter into the legacy, even though not mentioned explicitly because

the word sword in addition to its blade denotes the sheath and ornaments.

Here, Shahid Thani does not refer to the narrator's as a reason for the interpretation of sword, but rather uses the narrative as evidence and testimony (Tarhini Ameli, 2006, 6: 59) not as an expression of the truth of the law and Shahid Thani refers to custom to understand the term because the custom is a case of presumption used to solve many ambiguities in the mind (Sobhani Tabrizi, 2009: 153). He has also used custom whenever it is necessary and in fact mentioned Imam (as) as a custom expert rather than the legislator or the one who should be obeyed.

Example 2: In Tejaran under discussion on the “one who wants to buy an object of sale” he says if the object of sale enters the commerce, the general rule is that (Shahid Thani, 1: 337). To determine the extent of what is considered as object of sale, the common or specific custom must be observed and the holy law shall be considered in all transactions.

Example 3: In Din, there are two views on the debtor whose debt has been proven and must be released:

1- Jurists like Sheikh Tusi who say that the debtor after being released is not obliged to work for two reasons to be able to pay off his debt, first because of the verse 280 of Sura al-Baqarah (And if (the debtor) is in straitness, then let there be postponement until (he is in) ease) and refers to the interpreter's deadline until he finds an opportunity and did not mention doing any business to pay for his debts.

2- The second is because of the principle of freedom from suspicion that when there is doubt in the responsibility, it is abolished and here the responsibility is doing business that is abolished.

3- Jurists such as Shahidin and Allameh who have made doing business obligatory for the debtor after the release for two reasons, first due to the narrative of a dwelling on the debtor, from the Amir al-Mu'minen Ali (AS). He would hand the debtor to the creditors and said: Hire him or whatever you want him to work for you as much as he has to pay to you. Secondly, because of the reasoning of Shahid Thani who believes: paying debt becomes obligatory upon the creditor's demand and if the debtor is unable to pay the debt but is able to do a

job, receiving Zakah It is forbidden to him.

Therefore, it will be out of the above verse (280 Surat al-Baqarah) and the debate will be on the business necessity for the released debtor. Accordingly, another narrative says: Amir al-Mu'minin (AS) would hand the debtor to the creditors and said: Hire him or whatever you want him to work for you much as he has to pay to you. And Shahid Thani based on the same narration considered business as obligatory for the debtor (Shahid Thani, 1: 364), he considered his employment in carrier that comply with his dignity. Therefore, paying attention to custom, where the legislator does not enter, has been one of the trusted criteria of Shahid Thani. Therefore, the obligatory principle of employing the debtor is one of the fields of entry of the legislator the rule of which is stated and according to the traditions, the quality of employing the debtor is subject to the custom and the legislator does not enter it.

5. Conclusion

Due to the importance of understanding the hadith and the need for proper scientific methods for a complete

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understanding of the traditions, in the absence of clear rules and lack of attention to the required principles, it is possible to deviate from the path of Prophet (peace be upon him) and his successor imams. Therefore, the early to recent Islamic scholars have somehow tried to systematize the sciences of hadith and have employed some ways understand hadith in a better manner. However, some contemporary scholars with careful and thorough study of the hadith related books have achieved a number of rules and principles that explain them briefly in their books. Some of the rules that are derived from religious scriptures by Shahid Thani without explicitly mentioning the rule used by them including: "Paying attention to the fields of non-entry of the Legislator", which is one of the commonly asked questions by jurists whether all narrations should be regarded as a ruling by the Legislator or can it be said that in some cases the Innocent Imams applied the custom. Because if all areas of Legislator entry are customary, the Innocent's speech is applicable to that specific time and place and there is no need to generalize it to all places and times. Since if the text is not

presented by the legislator, the jurist cannot provide a definition, such cases are referred to the custom or an expert.

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MAIN DIRECTIONS OF CREATION OF ELECTRONIC CATALOGUES IN LIBRARIES IN THE INFORMATION SOCIETY

Oruj Guliyev¹

Abstract: The article analyzes the state and directions of the organization of electronic catalogues in the system of libraries, and shows the scientific-theoretical basis and methodology for the creation of electronic catalogues. The article also focuses on improving the efficiency of library services, the directions and principles of its improvement, and the optimal use of modern catalogue was noted. The article comparatively analyzes the methods used in the world practice and shows the methodological basis for the application of the innovations. In addition, at the modern era it outlines the automation of libraries, the creation of electronic catalogues, and in general problems of cataloguing, the role of libraries in providing access to documentary and database users who have access to various libraries around the world and in the country. The author concludes that

the work done on the organization of electronic catalogues in our country contributes to the effective organization of the inquiry-information the process in the libraries of the Republic, accelerates access to the most valuable documents and facilitates world integration.

Keywords: Information society, libraries, electronic catalogue, the main directions

Introduction

Among the characteristic trends of information technology of the XXI century play an important role on the development, systematization, protection and use of electronic media that protect various types, kinds and contents, and remote access in network mode. All these directions are expressed in complex creation of electronic libraries and organization of electronic library and information support. Existing

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traditional libraries have always been an open network document-information system in terms of interlibrary subscription, domestic and international book exchange, and several forms of personal service. Electronic libraries are super-open information systems created by various social institutions, including traditional libraries, and greatly expand networking capabilities. They are the logical continuation of historically existing network libraries-information services in terms of new methods, tools and technologies.

In the independent Republic of Azerbaijan, confidently moving on the path of building a democratic, secular, legal state, a private economic system based on various forms of ownership is being developed and the market economy is based on integration into the world economy. The process of major changes in the socio-economic life of the country deeply affects science, education and culture. All of this is reflected in "About Education", "About Culture", "About Library", "About Publishing", "About Mass Media" and other important laws.

These laws impose many important tasks on the independent state

of Azerbaijan. Great work is being done to solve these problems and successfully complete them. Extensive contacts with the world states in the field of education, science and culture began to emerge. Many talented young people from Azerbaijan study in foreign universities and work in science. They learn human knowledge and best practices. There is a great need for the use of media - books, periodicals, libraries, and more. As always, the libraries' bibliographic survey devices play an important role in fulfilling these tasks.

As a result of important reforms in the market economy, the improvement of libraries, the enrichment of the book fund, the implementation of modern bibliographic survey devices, including electronic libraries with access to the world-wide Internet, establishing links with libraries of the developed countries, ensuring the use of readers' book funds and surveys, is of great importance. In this connection, there was a great need for expert readers to organize the library service in accordance with the new requirements, automate library work, and create electronic catalogues.

The main purpose of the article is to identify the main trends in the

creation of electronic catalogues in libraries in the information society, to demonstrate the practical importance of using innovative methods available in the world, and to highlight the importance of the use of electronic catalogues in libraries.

Research Methods

The survey used survey techniques to analyze reader feedback, as well as analysis of activity products, methods of comparison of different systems, and analytical analysis. The research is based on the most general-theoretical provisions and ideas of modern librarianship and the organization of electronic catalogues.

Development

In the modern world of literature, the concept of "Electronic library" is used as a synonym for the concept of "virtual library", "digital library", "network library", "library without walls", "hybrid library". But the concept of "hybrid library" is not in place here. So, the hybrid is something to do with something. It seems that traditional libraries are one thing and electronic libraries are another. In terms of library

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work, a traditional library is different from an electronic library solely for information carriers and processing technologies, and there is no independent electronic library in the world. It is a section of the library that extends some of the most important and difficult to maintain and service functions of the traditional library, that is, the library within the library. There is no scientific evidence for those who categorically call them hybrids.

Increasing the efficiency of the library service, its improvement requires the creative use of scientific innovations and best practices in the organization of library processes. Because most of the methods of spiritual service are no longer meeting the needs of today's readers. That is why in the modern world the problems of automation of libraries, creation of electronic catalogues and, in general, the problems of cataloguing have become the focus of attention of all world experts. Thus, the development of computer technology depends directly on the solution of the information exchange. This problem has been widely discussed at the international conference "International and National Cataloguing:

Today and Future", held in April 1999. (Gribov V.T., 1998).

Different aspects of the concept of "electronic library" are not fundamentally different in modern times from each other. For example, the world-renowned expert on electronic information, V. Arms has given such a definition to the electronic library. (Arms V., 2002): "The electronic library is a systematic and manageable collection of information that is digitally protected". According to the author, the word "managed" in this definition is a basic concept; thus, the flow of information from an artificial satellite is not yet the information provided by the electronic library; the organization and management of that information in a particular system is already an electronic library; the electronic library is a library that has a specific system, management structure and information collection for many users' appeals. Another American expert, David Wright, calls the electronic library a "digital library," giving it the following definition: "Digital libraries are funds created by institutions and their professional specialists to ensure the selection, processing, intellectual processing of documents, with the aim of

providing easy and convenient access to a wide range of digital libraries, agencies that provide the interpretation, distribution, and storage of documents, as well as the completeness and protection of information" (Arms V., 2002).

Apparently, the conceptual differences between the two definitions are small. At the same time, both definitions include features that are typical for traditional libraries (document processing, systematization, storage, search, etc.). Only methods, ways and technologies can be distinguished here. Social and information functions are the same for both libraries.

"In the concept of "Electronic library", the word "library" is conventional. Thus, electronic libraries are created by publishing houses, archives, research institutions, large businesses and, of course, existing (traditional) libraries (Arms V., 2002). Regardless of their big and little size, they have the following in common:

- 1) Electronic libraries have hardware and software tools, exchange protocols available for corporate,

national, transnational and global networks;

2) The documents have a structured form and a search procedure;

3) It is hosted on the server of the affiliated organization and is used remotely over the network;

4) They operate based on Web technologies and online regime (Vershinin M.I., Masevich A.I., 2002).

Currently, there are continental (for example: Europe), national (country) and local (corporate) electronic libraries, geographically. In addition, there are electronic library projects and real-time electronic libraries on subject areas (for example: humanities and technical sciences), types of publication (for example: periodicals, rare books, illustrations etc.) and problem directions (for example: intellectual property, digital technology). (Vershinin M.I., Masevich A.I., 2002). There are several objective reasons for the creation of electronic libraries:

1) The user can directly access the electronic resources of the library, regardless of their location in any geographical area without coming to the library;

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2) It is much more convenient and comfortable to read printed works anywhere (at home, outdoors, transport, etc.). However, searching for them in a wide geographical location and finding and acquiring them can take a long time, and getting them to read depends on the rules of service adopted in a particular library. For example, a library does not give a book unless being a member as a reader, or it is difficult for those outside the library of a particular institution or office to receive books by subscription; periodicals and other similar editions are generally not provided for at-home use and so on. In recent years, small, lightweight portable (pocket) apparatus and their special software have been developed for reading at home electronic libraries and other types of electronic publications. These include Peanut Reader, Soft Book Reader, Netlibrary and other mobile reading tools (Gribov V.T., 1998).

3) In order to use the most valuable and rare literature, you have to go to a library in a specific country, or, if possible, take a photo or a photocopy of it. And when you have an electronic library, there is no need for it. Because

the electronic resources of the existing libraries (electronic libraries) are for protecting this literature firstly;

4) Electronic libraries are never closed. A recent study at the British University showed that 49-50% of those who apply to the electronic library of that university are those readers who apply for it after the library is closed (Arms V., 2002). Unlike traditional libraries, (electronic) the bookstore cannot be simply a document that is cannot be found and handed to the reader because of books that are "available" for other readers to use, or books that are physically old-fashioned as "unsuitable for use", they are not put on the shelf or on the catalogue.

Any document in any library in the world can be easily found and used, as in a local library.

Certainly, the advantages of this are not to say that the electronic library is more reliable than a traditional library. In the electronic library, the computer system may stop working, the communication line may be slow and unreliable, the virus may be affected, and so on. However, unlike traditional libraries, the electronic library is open and accessible all day long for any user,

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regardless of geographical location. Because the servers (computers) where the electronic documents are protected work seamlessly. This process is typical for all providers and nodes of the global network;

5) Neither the printed works, nor the libraries in which they are stored, nor their social information functions, will never change regardless of the electronic libraries. As information carriers, clay plates are replaced with papyrus, the latter with parchment, parchment paper, and paper with partial microforms. Electronic media is developing in parallel with printed works. They are currently about 20% of the total document information product; in 2000, the world consumed 315 million tons of paper. The OCLC catalogue contains bibliographic data of 43 million titles. If we count all of them on average 300, then 13 billion pages will be printed (Gribov V.T., 1998).

Now we are not simple, we are very complex, difficult and at the same time honourable and powerful profession. Without the necessary resources, no production and turnover are possible. Rich information resources are only available in libraries. Thus, most

libraries have the right to own most components of the database. Libraries should be better equipped with new, high technology, methods and tools. In this regard, the role and importance of electronic libraries are very important.

Scientific ideas about electronic libraries have emerged in recent years. Even in the 50s of the XX century, V. Bush set out the general outlines of electronic libraries in his "How We Think" article, the first open-world idea in the world by Y. Liklayder, in the book "Libraries of the Future". The problems of the creation of electronic libraries in connection with the transition to the qualitatively new stage of information technology (CD-ROMs, personal computers, the Internet and etc.) from the beginning of the 1980s have again become relevant. Since that time, national and transnational software projects have been developed for the creation and practical implementation of electronic libraries, and since the early 1990s, those libraries began to operate. Their quantity and resources are growing rapidly. (The European project of electronic libraries, 2002).

Several national and regional projects and programs for the creation of

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electronic libraries in Russia have been developed, and some of them have been implemented in practice. Examples include the Russian State Science and Technology Program, "the creation of a national computer telecommunication network for science and education", Russian electronic libraries, a subprogram of the Russian Ministry of Culture (2001-2005) "Electronic Libraries of the Federal Program of Russian Culture". At present, the global state program "Russian Electronic Libraries" has been launched. The program is attended by 11 ministries, the "Soros" Foundation, the Federal Science and Technology Fund. For example, at the expense of the "Soros" Foundation, an electronic version of 14 thousand scientific and technical journals was developed. In general, in the first phase, a national database of 80 million titles will be created in Russia. The second phase of the program should be completed by 2010. This stage has global parameters (for example, creating a network of electronic libraries based on document arrays that are actively used in all administrative-territorial divisions of the country, including more than 1500 MKS, information exchange with

electronic libraries of foreign countries (the great seven), creation of Russian national electronic depository and network electronic catalogue, national information space, electronic document delivery etc.).

Transnational programs and projects for the creation of electronic libraries have also been developed. These include "Biblioteca Universalis", seven of the European Commission's members, including Russia, "the European Union's Telematics Library", "CANDEL" (Controlled access network of European electronic libraries), "DECOMATE" (Controlled access network of electronic libraries in Europe), "DIEPER" (European electronic periodicals), "Miracle" (music catalogue for the blind) and many others. The latter project provides for the creation of a multimedia electronic library centre for the blind in Europe and the use of Braille music in digital form. The central coordinator of this project is the National Library of the Netherlands for the Blind. The UK, Italy, Switzerland and Spain are participating in the project. This project has been implemented since 2003.

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Creation of electronic libraries is a complex scientific and technical problem. It requires large financial resources and high staff. Like traditional libraries and their function as a subsystem, it is constantly evolving. There are many organizational, technical, technological and regulatory problems in its creation and use.

It is well known that the rules of cataloguing are the main normative document in all countries and constitute an important part of the formation of bibliographic records. Currently, the CIS countries have a difficult situation: they also faced two choices because they did not have independent national cataloguing rules. As such, they must either follow the Russian rules they have begun cataloguing or adopt the English-American rules. The same applies to libraries of our republic.

The creation of electronic catalogues in the modern world is very relevant. In this area, electronic catalogues play an important role in the creation and use of inter-library automated communications as one of the diversity of information systems. Thus, the use of electronic catalogues on the Internet is not just about obtaining

bibliographic information at any time, anywhere, but at the same time familiar with a large number of valuable publications available in various libraries.

In modern times, libraries are becoming a centre for the protection of the cultural, scientific heritage of mankind, and most importantly, a direct link with the world information space. An information-driven civil society, a new type of society, wants to see the future libraries not only as suppliers of various types of print products, but also as an information enterprise that can provide readers with local and Online (from a distance) services by integrating automated service components (2-3). In order to meet this requirement and keep up with the existing competition in the global information market, libraries need to make changes in their business principles, learn and apply the innovations of the modern era. The application of these innovations and achievements to libraries should provide readers with an enhanced level of library-information services, and the provision of prompt, comprehensive information services. Libraries should have a rich audiovisual background and

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an electronic catalogue system that, in addition to the traditional fund, will meet the requirements of the modern era to ensure full and complete readers' inquiries (Arms V., 2002).

It is well known that the library catalogue opens the contents of each library's literature fund and guides readers in the service process. Readers' service and all other activities of the library are built on it. The rapid growth and obsolescence of information in modern times dictate that electronic library catalogues are replacing traditional libraries today, with its emphasis on providing readers with operational and geographical distance. The electronic catalogue enables readers to get acquainted with the contents of the library's literature fund through the network, to respond to their inquiries from a distance, without the help of an operative and librarian bibliographer, and to order literature from a distance. For libraries, the electronic catalogue enables real-time online booking, library statistics, readers' statistics, defining areas of interest, tracking and compiling the book fund in accordance with the readers' inquiries (for example, who owns the literature, when it is returned,

the time it takes, etc.) and providing readers with a modern Online service (e-mailing to readers and libraries, methodical guidance, etc.).

Globalization, a key attribute of an informed society, is clearly a problem that libraries cannot ignore. That is, libraries can carry out their functions according to modern requirements by establishing creative links with other consortiums or other libraries. Mutual relations and mutual interests are based on electronic information exchange. Electronic information exchange is possible only through the catalogue. The electronic catalogue also provides efficient use of the library's human resources and resources by automating cataloguing and bibliographic work. This is one of the most important factors for Azerbaijani libraries living in transition. On the other hand, the electronic catalogue requires librarians to learn modern librarian-information technologies, thus stimulating the librarians to raise their intellectual level.

One of the main advantages of the electron catalogue from the traditional library catalogue is that it has a more complete implementation of reader surveys. Thus, the electronic

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catalogue provides using of the Author's articles. The description of the literature can be based on a wider bibliographic element. Today, the development of digital technology, the reader who uses an electronic catalogue as the information on paper allows to be converted into an electronic form in addition to obtaining bibliographic information about the availability of the literature in the library online as appropriate, it can also obtain an electronic version. The electronic catalogue provides more reliable protection of bibliographic information about the library's resources in contrast the traditional catalogue. Thus, unlike a traditional catalogue, information about that literature is lost by the destruction of catalogue cards. The recovery of lost information requires additional time and financial resources, depending on its discovery. This process is very difficult, especially in libraries with multimillion backgrounds. Regular, problems of systematic diagnostic and preventive measures on the technical support of electronic catalogue, maintenance of backup speed, storage of electronic bibliographic databases on computers - servers, "privileged" mode of access to

information and maintenance of electronic catalogue have been solved in electronic catalogue. The use of the electronic catalogue makes it possible to achieve real accounting of the library stock, and it also enables to effectively fight against "undisciplined" readers (those who do not return the literature in time, lose it, cause injury, etc.). As a result, the rights of other readers to use literature are protected.

Discussions

The organization of the electronic catalogue is implemented based on the UNIMARC format (Arms V., 2002), which is used all over the world today and is the basis of modern library and information technology. UNIMARC format that readable with machine provides the preparing the bibliographic writing in coded form. This ensures the achievement of some valuable results in the performance of the electronic catalogue's core function as a result of the reader inquiries. Encoded information also helps eliminating orthographic mistakes that may occur when accessing information. As a result, it increases much more the chances of implementation of readers' surveys.

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The most important aspect of the UNIMARC format application is provided of the integration of each library's electronic catalogue into the global bibliographic library-information space. As a result, the library can exchange the bibliographic information without any restrictions. If the right management policy is pursued, the scientific library will be able to generate additional and substantial financial incomes. (Arms V., 2002).

Since UNIMARC has a wider range of descriptive elements, the electronic catalogue provides users with a wider range of search capabilities in contrast to the traditional catalogue. As a result, readers' surveys are fulfilled operative and exactly. New service methods are being formed that will increase the library's contingent and readers' attendance by increasing the image of the library.

Database of the electronic catalogue should be created in the automated workplace cataloging through the Automated Library-Information Management System (for example, MARC SQL 1.5 in BSU (Gribov V.T., 1998). The database must be located on servers allocated for a specific library.

The following measures should be taken regularly for information security:

- unauthorized use of information by outsiders;
- struggle against virus;
- purchasing of the automatic backup copy with mirroring reflection principle and so on. (Gribov V.T., 1998).

Generally, the electronic catalogue should operate based on the client-server architecture. Entry and editing of information, formation of readers' surveys is implemented on client computer and in relevant automated workplaces. In the creation of an electronic catalogue, modern Web technology should be used in conjunction with traditional programming tools. So, the formation of readers' surveys should be provided through the Web site (European Project of Electronic Libraries, 2002). Transferring to the server by converting it to Structured Query Language (SQL) and delivering the result back to the reader by searching the bibliographic database of the electronic catalogue of that survey is accomplished by CGI technology. Information search is implemented based on indexed special

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dictionaries (author, title, subject, keywords, etc.) that are automatically generated when creating a database. As a result, unlike other systems, time that spent searching for information is minimized. The advantage of CGI technology over other Web technologies is that the information search algorithm for users remains confidential. As a result, in other non-legal entities, it is not possible to use the system. On the other hand, as information is presented to readers and users only for review, the probability of changing the information is equal to zero.

Based on these principles, the creation of an electronic catalogue, namely "Computerization of Libraries", was carried out at the Scientific Research Laboratory under the guidance of Professor A. Khalaphov, Honored Scientist at the Baku State University, Doctor of Historical Sciences, Academician of the International Academy of Informatization under the UN. Laboratory Collaborators soon began to create electronic database of periodical press, literary fund in foreign, Russian and Azerbaijani languages, rare books and dissertation funds (Khalaphov A., 2003).

Currently, the process of creating an electronic database at the Baku State University Scientific Library is in progress. We hope that this process will be completed in the near future and that the Baku State University Scientific Library will develop to a great extent comparable to that of libraries in many countries. It would be expedient for other libraries of Azerbaijan to benefit from this experience.

A number of traditions of electronic catalogue development have been considered in world practice: it includes here increasing the number of different types of search, unlimited using of indexing files (indexing all articles), formation of the establishing normative files and international links in this area, converting traditional catalogues into machine-readable forms, and practically, giving of all catalogues to the Internet and searching and using of it in various networks. Collection of information about documents in electronic catalogues, the necessary information about any document is provided delivering to the consumer as required.

Electronic catalogues are the main source of information for worldwide libraries. The character of all

works applied in any computer-based in the library without an electronic catalogue is a carrier of narrow meanings. A library with an electronic catalogue can reflect its fund more broadly, can reach the attention of a wide range of readers, and can actively influence the overall level and quality of the library system as a whole. It should also be noted that electronic catalogues do not limit search within a single library worldwide. The reader-consumer can also search for the information he or she needs in connection with other libraries, get the material he or she wants, and creates reading completeness. So, there is an important need to create electronic catalogues in our country. More precisely, electronic catalogues should be established in addition to traditional catalogues, its unified system should be created and shaped, and should cover the entire area, even the whole country libraries, and should introduce them to the Internet. Here, the organisation of batch electronic catalogues plays a special role. Batch electronic catalogues are considered the richest surveys, search, information sources that contain a large number of documents at the specific region, district, city, Republic

scale. Considering the modern technical support of batch electronic catalogues, they are of the highest operativeness character and optimize the service of the library, which is one of the main duties of the library, and provide the operative using of the library stock. That is why the creation of batch electronic catalogues in libraries of our republic is one of the most important duties. With creation in cooperative form and using of batch electronic catalogues played an important role in increasing the opportunity of inter-libraries in our country, formed a single information scale.

Generally, the creation of batch electronic catalogues also create essential conditions for maximum satisfaction of information needs and effective provision of the modern society as a whole and its individual members. Through batch electronic catalogues, the reader-consumer can access the information he or she needs from each library. In addition, batch electronic catalogues are used in related type cataloging of documents, in mutual complementation of funds, in assessing the thematic direction of specific

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libraries, and in eliminating of re-acquisition of foreign publications.

System of creation of single (on the republic) batch electronic catalogues and organization of compact optical disks will fully reflect the library funds in the region. The batch electronic catalogue system plays an important role in library service area, as well as in information bibliography work, and has a major impact on delivering to readers-consumers the most relevant literature available within the country and abroad (Evstingeva G.A., Zemskov A.A., 2003).

Outstanding librarians around the world have come to the conclusion that the creation of regional (national) retrospective batch catalogues (especially rare books, manuscripts, periodicals, and continuing publications) is not only aims to expand the using scale of information resources, but also eliminates the flaws between the supply of literature and its consumer. But foreign experts believe that the creation of batch retrospective electronic catalogues is a very complex, labor-intensive process. Experience shows that the proper understanding and adopting of cataloging and ensuring the adaptation of

traditional catalogues to electronic catalogues organize the basis of the formation of direct batch electronic catalogues. Creation of high-quality retrospective electronic catalogues in each library will create important conditions for the mass organization of batch electronic catalogues in the future. Without considering this aspect, it is impossible to speak positively about the formation of batch electronic catalogues.

Organization and using of batch electronic catalogues in our republic will provide an important opportunity for successful implementation of library services. However, the effectiveness of transferring traditional catalogues to electronic catalogues is not possible without directly linking it with other libraries and without providing methodical guidance by centralized cataloging.

The emergence of new computer technology and machine-readable information in libraries has become the most powerful challenge of the modern era, this has also put serious duties before librarians. At the moment, librarians from around the world are working hard to build a closer relationship with engineers and to be

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able to clearly solve the issues ahead. That is, librarians must be well-versed in their professional knowledge as well as have the ability to work with new techniques.

The approaching problem of cataloging issues of the electronic resources shows that importantly, traditional cataloging is not always possible by selecting all areas of the bibliographic description as well as its individual elements. Despite the different types of electronic resources (resources), common features that unite them. It also relates to the connections of the title of the document, the author, the publication, the date of publication, the text, the images, etc. (electron and non-electron). However, many find it difficult to obtain a bibliographic description of electronic resources. This process was difficult in the 1960-1970s in the description of audio and video material and in the traditional cataloging area. A similar situation has occurred in the recording of electronic resources. Librarians have begun to the principle of cataloging of new types of information, that is, recording electronic resources. The point here is not only to provide bibliographic information about

documents, but also to provide information about the text of the document.

The problems of cataloging of electronic resources in library networks are more complex character. It is important to take into account not only the acquisition, placement, and giving to the Internet of electronic resources, but also should be taken into account that all information is cataloged according to the volume. Without this, it would be impossible to catalogue all the documentary - information resources. This also results in a limited number of documents being processed and used. Therefore, it is necessary to take into account two aspects that can properly determine the mass of electronic information: the creation of catalogues of electronic resources and the organization of catalogues resources provided to the Internet.

According to the international standard, the bibliographic description of electronic resources is directly based on the unit methodology of documents.

The cataloging of audiovisual documents should be prepared standard for the "Internet", more depending on the external and internal design of electronic

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resources and registration objects. If the source of the description of traditional books is the title page, the source of the electronic resources description organizes its external design, which also covers all the characteristics of the electronic resources. The technical characteristics of electronic resources have many many meanings.

Conclusion

By summarizing the information we can conclude that a bibliographic description of the electron resources can be given in the common electronic catalogues. But here also takes into account the records of traditional documents. Thus, the structural records of electronic reserves correspond to the descriptive elements given in the traditional catalogues. However, the electronic libraries should have their own special catalogues, special electronic catalogues must be created in the newly created electronic libraries, and their own search systems should be organized. Without them, the use of electronic catalogues would be unfit, and could just become a collection of cards. Specific electron catalogues should be established for electron libraries. Here,

some general rules for working with electronic catalogues should be taken into account. First of all, it is good that the consumer must know the amount of database available in the library, or rather how much bibliographic records are in that database, what kind of documents they are displaying here, when the process starts, to cover all the documents included in the catalogue, how to make catalogues cards and how it works with the electronic catalogues, determining the years of use of directory cards, how to consider specific areas of knowledge or thematic sections, the types of survey information and its use in the search system.

Secondly, searches on the electronic catalogues screen are conducted sequentially and various information is provided. If the screen has the ability to list the searches, then the consumer simply selects the required option on the screen and obtains the necessary information.

Third, the support of the on-screen service key must be precisely provided up and down, with lines between scripts. It is possible to search bibliographic descriptions within any program of electronic catalogues in any

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business process. Here, it is necessary to correctly define the shelf index of the document so that the documents or manuscripts can be delivered to consumers. Along with all this, we must note that, significant works have been done in our country on the creation of electronic catalogues, and this work is currently being continued successfully, which facilitates the survey process in the libraries of the Republic, accelerates the acquisition and delivery of the most valuable documents.

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LITERARY PORTRAIT GENRE IN ANAR'S ART

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Abstract: In all his art, Anar turns to the genre of literary portrait as one of the forms of artistic and documentary narrative of memorial-biographical literature. Anar's task is to create complete and reliable impression about any outstanding person, his character, place in society, shown in the context of a certain time and space. The hero of literary portrait of Anar is real person with real biography, whose personal and creative fate the writer produces through his perception, using both documentary and artistic means. Literary portraits of Anar make it possible to study this genre as independent one, consisting in the experience of genre synthesis, where the author's concept of the world and human is expressed most clearly.

Keywords: literary portrait genre, Azerbaijani literature, Anar's art, genre synthesis, artistic and documentary narration.

Introduction

In all his art, Anar gives special attention to the richest cultural heritage of his people, the nature and development of which he studies from the point of view of individual outstanding persons who lived and worked in different periods of development of national history. In order to do it, he often use the literary portrait genre as one of the forms of artistic and documentary narration. Usually literary portrait of Anar consists in a model of the world, reflecting the author's concept of created character. In this regard, the consideration of the features of literary art of Anar makes it possible to present the features of the worldview positions of modern people in the conditions of growing interdependence and integration.

The purpose of this article is to analyze the artistic features of literary

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portraits in the art of modern Azerbaijani writer Anar, based on his works, since one of the main genre trends in the development of modern world literature as a whole is referring to literary portrait as a way of determining moral and aesthetic characteristics of a hero.

The scientific novelty of this approach is associated with the comprehension of main directions of personal development of modern human, with the possibilities of demonstration of person in the wide information space, in the conditions of the interdependence and integration which become closer day by day. The spirit of the time, recognized by the writer, demonstrates itself namely in portrait sketches, where main features of modern person, aspiring to the creation of new humanistic characteristics, are captured.

Development

The phrase "literary portrait" ("portraitlitteraire") was introduced into the literature by Sainte-Beuve, who began to create "literary portraits" of "geniuses", creative "minds" [Anar, 2012]. In Russian literature, N.A.Polevoy is considered as the first practitioner and theorist of this genre,

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who actively turned to biographical materials when analysing creative writing. He created a number of literary portraits of G.R.Derzhavin, V.A.Zhukovsky, A.S.Pushkin and several others, and later, these literary portraits were combined in the book called "Essays on Russian Literature" [Markova O.V., 1988]. In this book the writer's work was considered in close unity with his life, person, age. Further, such a genre, which is based on the combination of creative and personal origins, allowing you to create holistic view of certain artist, outstanding person, was established in literary terminology as a "literary portrait", designating one of the genre formations.

The "Concise Literary Encyclopaedia" defines a literary portrait as "a documentary essay about a writer, artist and outstanding public figure" [Baraxova V.S., 1985]. Researchers are constantly make corrections to the definition of the genre, adjusting it. For example, V.S.Barakhov gives the following definition: "a literary portrait is an artistic holistic characteristic of certain real person in the form of a memorial essay that creates an idea about his/her individually unique,

living appearance, about his/her character” [Baraxova V.S., 1985]. O.V.Markova defines a “literary portrait” as “a complex synthetic formation that develops on the border of art and documentary genres” [Markova O.V., 1988].

As one of the forms of the writer’s memorial-biographical prose, literary portraits, being synthetic genre, built on a combination of documentary and artistry and having their own specific ways of creating the character, consist in classic examples of this genre, certainly enriched by creative person of their author, his/her creative manner.

Methodological Bases of Research.

In order to disclose, ground current goal, various methods, including comparative analysis, methods of describing the artistic image were used in the research. The research referred to scientific and theoretical practice of Azerbaijani literary studies, turned to the methods of creating of artistic portrait of scientists. Scientific and methodological basis of the research is the thoughts of general theoretical significance of outstanding scientists, literary scholars,

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main principles of artistic and analytical analysis in Azerbaijani literature.

Discussion

The task of Anar when writing a literary portrait is to create by means of verbal art the most complete and reliable impression about certain outstanding person, his character, place in society, shown in the context of a certain time and space. The hero of the literary portrait of Anar is a real person with real biography. At the same time, this is an image, a line of life, personal and creative fate of which the writer produces through his perception, using both documentary and artistic means. This is the aesthetic essence of literary portrait of Anar, designed to reflect as closely to the reality as possible both external features and the behaviour manner, character, language, thinking, views, whole biography of his hero, but from the point of view of the author’s attitude towards this hero.

Literary portrait genre is often equalled with the essay genre or serves in relation to it as a synonymous term. However, an essay is a phenomenon more of journalistic degree, while literary portrait contains elements of

artistry and is more correlated with fiction, or at least with documentary fiction. To the greatest extent, this is able to be applied to literary portraits of Anar, who brings in them his subjective feelings and sensations, breaking through them his attitude towards the hero. Anar also gives great attention to artistic and visual means, clearly thinking through artistic component, composition and techniques of expressive. For the most part, literary portraits created by Anar, which constitute extensive layer in his comprehensive and rich work.

Literary portraits of Anar were also created based on the biographies of his contemporaries, based on personal impressions of the writer, captured in his memory. These are representatives of the generation of Anar himself (Mammad Araz, Bakhtiyar Vahabzada, Vagif Samadoglu, Alla Akhundova, Elchin etc.), representatives of younger generation, up to the youngest (Afag Masud, Zalimkhan Yagub, Ilgar Fahmi, Elchin Huseynbayli, Gunel Anargizi etc.). However, perhaps, the greatest number of literary portraits is devoted to outstanding persons of the past, people who are separated from the writer by a

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time distance, sometimes very long time distance.

In case of historical figures, the author designs his “portrait” based on the learning of available information about the hero’s biography and activities drawn from various written sources, while the portraits of contemporaries are based on personal observations and even close acquaintance of the writer with the portrayed. Literary portraits of Nizami, Fizuli, Nasimi, Vagif and Vidadi, M.F.Akhundov, G.Zardabi, Natavan, J.Mammadguluzadea Sabir, H.Javid etc. are able to be considered as such portraits. Arranged in chronological order, these portraits in common give an idea about the development of Azerbaijani literature, starting with “Dede Gorgud” up to date.

Usually, the headings of literary portraits belonging to many writers is the name of the portrayed. Anar also has such headings that immediately let you know the name of the hero. These are literary portraits of ““Where is Nizami? - Every verse will answer “He is here””, “A Word about Yusif Vazir”, “Reflecting about Mehdi Huseyn” etc. However, more often, the heading of literary portrait by Anar expresses the

essence of character, the main trait of the hero, dominant feature that distinguishes him from others, and determines the concept of character in the perception of Anar.

For example, literary portrait devoted to the rebel poet, freethinker Nasimi is called "The Feat of the Poet." "The Victory of the Poet" is the heading of the portrait of Shah Ismail Khatai, the poet and ruler who reigned for 23 years and marched from victory to victory. The portrait devoted to the greatest lyric poet, singer of love and torment arisen from it, Fizuli, called "The Sorrow of the Poet". The portraits of Vagif and Vidadi are produced under one heading - "Singer of pleasures, singer of sorrows".

This union of two major poets in one work is not accidental. Both poets lived in the same age, were friends, and even related, having married their children. However, at the same time, Vagif was a singer of material pleasures, swinger and a sybarite; and Vidadi was a poet whose poems were painted in sorrowful tones. "Memories about the Sower" is literary portrait of Zardabi, the publisher of the first Azerbaijani-language newspaper Ekinchi (Sower). In addition, the portrait of the long-

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suffering Huseyn Javid, the greatest dramatist who created priceless examples of tragedy, is called "The Tragedy of the Author of Tragedies."

Thus, Anar's search line for the key moment of the person of the people portrayed by him, the conceptual feature of certain person is determined already in the heading. However, comprehensive image in the unity of his creative and personal characteristics, the place of this artist and his views in the context of time, socio-political, ideological views, environment and circumstances both of personal and public nature, reveals in the text of the portrait.

Each of the portraits of historical figures created by Anar has individual colours, which is specified by the appearance of the hero's person. However, at the same time, all portraits of Anar have common typological features. First, all of them are characterized by certain plot fragmentarily. In each individual case, the writer highlights the most expressively certain individual aspects of creative person. However, at the same time, in each portrait created by Anar there is the author's concept of the character of the hero based on the

available facts of his biography, and the time and space in which the hero lived and created are reflected. Second, the narrative structure of each portrait, irrespective of in which age his hero lived, clearly expresses the inner world of the narrator himself, his attitude to the depicted.

In this regard, we can show as typical example literary portrait of Khurshid Banu Natavan, called by Anar “Wounded monument, wounded memory”. The name of the poetess, Natavan who was the daughter of the last ruler of Karabakh Mehdigulu Khan, is firmly connected with Shusha. Speaking about it, Anar writes: “At present, when the road to Shusha has been prohibited for us because of Armenian occupation, Shusha, this city of my love, youth and work in my mature years, makes me groan every string in my wounded soul” [Anar, 2012].

This is a view from the present, a bridge between the past and the present, between us and Natavan, who lived in the 19th century, between Shusha of Natavan and Shusha of Anar. Thus, the author also becomes one of the characters in the portrait, and therefore an object of the image for the reader.

And the name of literary portrait reflects actual fact of the bullet-ridden monument of Natavan, which once adorned Shusha, and therefore of our memory.

In literary portrait of Anar, the fact of real biography without prejudice to the objectivity of the content is enriched to some extent by the creative imagination of the author. His portrait is similar to the novel, since it reflects the fate of man in time and space. However, unlike the novel, the image of the author is more activated. Reading literary portraits of Anar, one comes to the conclusion that researchers who think that “Structural plan of the genre represents that level of artistic harmony at which the "transition" of the reality material to artistic image takes place, its "recoding" is being implemented” are right [Urtiminseva M.Q., 2005].

The "novelistic nature" of Anar's portraits expresses itself in writing out by the writer the life path of his heroes, the most difficult vicissitudes of their personal life. We learn about the sad of Nizami, who lost his beloved wife - the beautiful Kypchak Afet and found solace in his son, about Nasimi's love to real material pleasures, about his painful

death in Aleppo, that “Shah Ismayil never smiled from the date of the Battle of Chaldiran until his death - whole ten years” [Anar, 2012].

We learn from the portrait devoted to Zardabi how he knocked the thresholds of the rich men to raise money to help needy students and for the newspaper, we learn about his first love, his life and death with detailed description of magnificent funeral that he did not want to give even a little amount for Zardabi's educational projects. In the artistic and integral image of a person, the uniqueness of his internal and external appearance, thinking, language, character, manner of behaviour in everyday life, in his creative activity, the aesthetic essence of literary portrait genre of Anar is revealed.

Anar, creating his literary portraits, uses various techniques to create the reader's visual impression about the hero. Sometimes this happens through a show of appearance, but more often - direct author's characterization, as well as showing actions, demeanour, interpersonal relationships etc. There is certainly discovery and emphasis by artistic means of something individual,

unique in the imaging of certain hero, on the other hand, of typical traits of this person and allowing him to be correlated with other similar persons.

Thus, revealing the image of Shah Ismail Khatai, Anar writes: “there were many battles “in his name” since his childhood, many sacrifices were made for Ismail. Being the successor of glorious dynasty, he, as Anar writes, as if “this great person appeared in the world long before his real birth” [Anar, 2012]. Anar calls Nasimi “Renaissance person”, this rebel, who rebelled against the orthodox religion, proclaiming “I am God.” A poet, philosopher, propagandist of Hurufism and a hero-martyr. This is how Nasimi appears in his main features in literary portrait of Anar. And this specifies many of his actions, his attitude to the world, and as a result, the reader creates a full-fledged, visible idea of this person.

A portrait is often perceived as a way of literary, aesthetic and scientific-research, since it often allows you to raise very actual problems of literary criticism, history, philosophy, as well evaluate the role and place of certain creative person in the development of national and world literature, culture, art.

Literary portraits of Anar are especially significant also in this point of view. His literary portraits give an idea not only about certain individuals, but also contain theoretically grounded thinking about Hurrufism, Sufism, medieval literature and philosophy, on the relationship of power and art in different periods of national history, and on much more.

It is no coincidence, that M.I.Andronikova in her book “From Prototype to Image”, considering literary portrait genre, noted: “Portrait is a kind of art model of a real concrete person, which reproduces - directly or indirectly - the environment of certain real person, his background, his individually unique connections with the outside world” [Andronikova M., 1974]. In this regard, the portraits of Anar are very demonstrative, since they give an idea of not only private fate of individual person (although it is very important), but they also quite visibly give the context of the age, the atmosphere of time, the tread of history.

Literary portraits of Anar make it possible to study this genre as an independent one, consisting in the experience of genre synthesis, where the

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author's concept of the world and human is expressed most clearly. Unfortunately, there is still no work in Azerbaijani literary criticism and criticism devoted to the study of the poetics and artistic specificity of literary portrait as the genre of Anar, it is also applicable to Azerbaijani literature. Literary portrait carries enhanced role of the author's origin, therefore, various forms of expression of the author's person (citationality, intertextuality, a combination of different time layers and points of view, etc.) get great role.

Most of all, Anar's authorial position manifests itself in theoretical generalizations that the author makes, discussing certain person, as well in lyrical digressions. This makes the narrative fabric in literary portrait multilayer, depriving it of monotony. Thus, narrative of each of Anar's literary portraits is built on the alternation of strictly objective reasoning and emotionally coloured lyrical digressions.

In determining the genre specificity of literary portrait, fundamental question is the question: "Into which of the genre systems — journalistic, artistic-journalistic, or fiction — the researchers include this

genre. Anar, usually, includes it into artistic-journalistic coordinate system, where in each individual case either the artistic or documentary-journalistic principle prevails. Going from fact, document to artistic comprehension, Anar creates his own concept of character of the individuality of the hero.

The combination of novel and essay, artistic and journalistic thinking, inherent in Anar, allows him to create, manoeuvring between these various systems of verbal art, a unified whole, which every time consists in original mixed genre that combines elements sometimes of several genres. Thus, in literary portrait, organic unity is formed by elements of an essay, and a documentary narrative, and an art essay, and a literary and critical article.

Important feature of the narration in literary portrait of Anar is a combination of several contexts related to each other: personal fate, originality of creativity, features of the age. All these three contexts are invariably involved in each literary portrait, being their typological trait. Thus, in literary portrait devoted to Nasimi, the author exclaims: "This is how this age reflected in the art of contemporary and eyewitness of the

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occurrences - Imadaddin Nasimi!" [Anar, 2012].

"They lived at the same time - a time of vague, harsh, cruel." [Anar, 2012]. This is the beginning of literary portrait devoted to Vagif and Vidadi, and then the analysis of their personal life and work follows. Based namely on this "triunity" (person, creativity, time) special "plot" of literary portrait is created, a kind of composition is built that allows you to create a complete picture of the hero, and most importantly, "new knowledge" about famous person.

The fight of Anar is in the name of ensuring that the culture of the people, to accommodate time and individual ideological trends, does not become a victim of overthrowers of truths, which has been observed in history at all times, has encouraged him to create priceless "literary monuments" of the leading figures of Azerbaijani literature, art and culture, as well of young, novice writers, of worthy changes that aims to continue the mission of their predecessors. Anar's "literary portraits" artistically reinforce his position, which in polemical form expressed in many of his journalistic articles and speeches.

In this point of view, public statement of November 5, 1992, signed by Anar together with other 35 cultural figures, is worth a look. It says that national culture “has now found itself in a confrontation, in a fight against the market criteria, market concepts and tastes, with the market level and morality. At present, all the cultural heritage of our people undergoes total audit” [Anar, 2005-2008].

Conclusions

To sum up the article, we can say that literary portraits created by Anar have the following general parameters: they reveal the nature of real person, documentary facts in them are thought up by the author, each of the portraits has its own stylistics, melodic and intonation, which varies depending on the situations involved in plot, there is the connection into a unified whole in them of the fate of the character, his work and the time in which he lives.

By virtue of its nature, as one of the types of memorial-biographical literature, literary portrait combines the past and the present, producing holistic image of historical time on certain material - the appearance of a hero, who

is the embodiment of the time. Literary portrait genre of Anar has a more local structure in comparison with his memory books, about which we will talk below.

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INTERNATIONAL IMPLICATIONS IN THE ANGLOPHONE CRISIS IN CAMEROON

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Abstract: This article sheds particular light on the Anglophone crisis in Cameroon, focusing in particular on its internationalization. It exposes the highlights of the manifestation of insecurity in the English-speaking regions of Cameroon. This article finally proposes to explain the roles and intentions of international actors as they attempt to lay the foundations for/or increase their influence in Cameroon.

Keywords: Internationalization-Cameroon-Crisis-Anglophone-Power.

Introduction

The crisis that Cameroon has been experiencing in recent years in its Anglophone part and which has been at its worst since 2018, has provided an intense vision of some essential mechanisms of the international community and thus a better understanding of its in-depth nature. The political tension provoked by the

American position, in the name of the responsibility to protect, on the said crisis had as its main stake to rally a maximum of members of the Security Council. However, the debates did not solve the fundamental challenge of Russia and China that are traditionally hostile to interventionism. This shows that in this “space of power” known as the UN, states are now seeking consensus. As a result, the Government of Cameroon itself will have to take appropriate measures to maintain peace in the Anglophone areas. These international implications do not seem trivial, given Cameroon’s strategic position and the hegemonic ambitions that characterize foreign powers. This raises the question of why the Anglophone crisis arouses so much interest on the part of the international community. Is there not a hidden agenda behind Cameroon’s condemnation and solidarity with it in managing the crisis?

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We will try to shed light on these concerns.

Literature Review

One of the steps of the literature review can be considered as “*grasping the state of knowledge about a subject in a given cognitive space (political science, history, psychology, sociology, social work, etc.). Of course, we must know the theoretical foundations of the problems that have already been researched and those that remain to be solved*” (Olivier et al., 2005:29). The involvement of the international community in the Anglophone crisis in Cameroon is justified by the weakness of military capabilities, but also by the procrastination of foreign powers as to the undeniable economic benefits offered by this country.

There is no proper scientific work on the question of international involvement in the Anglophone crisis. However, many scientific researches of a general nature on foreign interventions in conflicts in Africa exist as well as those devoted to the Anglophone crisis itself. We will present them briefly. With these implications in the conflicts in Africa, Porteous Jacques Christophe

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considered that the former colonial powers sought, by indirect means, to preserve their political and economic interests – being able to intervene themselves or to interfere, on many occasions, when they considered them endangered (Porteous, 2003). And for Philippe Hugon, oil seems to be the first stake of the war for this continent which represents 8% of the oil reserves and constitutes a major stake of diversification of the supplies and control over the reserves on the part of the foreign oil companies (Hugon, 2003).

Never has the Cameroonian state seen its status in the international system so threatened by the international community and mainly by the United States. This is evidenced by the fact that even concepts of territory, frontier and sovereignty, which may be considered as fundamental to define the notion of State (Beja, 2013:82), are called into question. It is in this perspective that Vincent Ntuda Ebodé states that “*in the new global post-bloc strategic context, endless conflicts are perceived conflicts from their mafia, coercive, predatory angle in a wars system dominated by rarely conventional wars. wars with a*

recurrence of civil wars with a low degree of institutionalization of the armed forces and where the distinction between belligerents and civilians is difficult if not impossible to make; that is, conflicts that are often not reduced to military operations” (Ntuda Ebodé, 2010:189).

It is also important to mention the question of the status of studies and positions on the “Anglophone problem” or the “Anglophone crisis”. Joseph Nfi Lon is the first Cameroonian to announce the precursors of the “Anglophone problem”(Nfi, 2014) now a terrorist event. His work is followed by Pierre Kamé Bouopda, who confirms that this institutional problem is at the heart of the political crisis that has repeatedly affected the NOSO-Cameroon for decades, and which has degenerated into an armed conflict since the end of 2017(Bouopda, 2017:11). Augustin Emmanuel Ebongue and Angeline Djoum Nkwescheu examine in their turn linguistic conflicts under the lens of the sociolinguistic theory of linguistic insecurity in a context of official French/English bilingualism, in the anglophone and francophone communities (Ebongue and Djoum

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Nkwescheu, 2018). Sosthène Nga Efouba analyzes political, economic and social situations by highlighting the influence of the United Kingdom under-tutelage of the United Nations after the First World War (Nga Efouba, 2018). This reminder of historical events therefore involves the reader to a process of federalization and reunification in which the depth of English culture seems to be not sufficiently highlighted. This legacy is not only formal as one might think, but fundamentally structures the men and women of this part of Cameroon, to the point of suggesting to them a vision of the country and a vision of the world that is not always the one we could wait for a francophone, for example. The author captures the news of the so-called Anglophone crisis in order to give politicians, different actors and mediators necessary historical elements and to take into account in the analysis of conflicting concerns.

If a new partition of the country is not possible, the reading of his book enables us to understand the socio-political roots of the crisis and to envisage unity with more efficiency.

Speaking of these crises, Modeste Mba Talla recognizes that

Cameroon has been shaken recently by many internal crises. According to him, in order to maintain power, the ruling regime weakens and fragments social and political forces, while exploiting anti-terror laws (Mba Talla, 2018).

Methodology

There is ample existing literature on the Anglophone crisis in general and more specifically on the international involvement in conflicts in Africa, which will be the first support for this research. In addition to the scientific materials on the Anglophone crisis (which has shown a constant interest in this subject, but has never treated it independently), a great deal of the documentary resources used in this research will be taken from journal articles and specialized presses in the analysis of the international implications on the Anglophone crisis. Our collection of documentary sources will follow the traditional methods of searching documentary and digital data.

However, several methodological challenges confront any research dealing with conflicts in general and interference in particular. These challenges revolve around the difficulty

of obtaining first-hand data. It is obvious that in a context of conflict such as the one prevailing in the English-speaking regions of Cameroon, any attempt at research is limited by various factors such as : the insecurity characteristic of the research community, which makes any field mission impossible; the clandestinity of the actors which excludes any possibility of interviewing them, even if a field mission would have been carried out; the fear of reprisals that discourages local witnesses from speaking openly about the conflict, interests, etc. All of which limit the search to the exploitation of secondary data.

Our research is focused on the international implications in the Anglophone crisis; therefore, the action, the behavior of foreign powers that takes into account the geographical location of Cameroon and the resources at their disposal, inevitably lead us to convene the geopolitical approach in order to attempt to understand the sense, the meanings, the purpose of the decisions taken and the act made by the main foreign decision-makers. Geopolitics is a discipline whose object is to study the relations that exist between the conduct

of the foreign policy of a State and the geographical context in which it is exercised (Boniface, 1995:115).

Thus, using tools and grids of reading, fed by the intersecting methodologies of geopolitics, geostrategy, sociology and history, it will be necessary to analyze the logic of international implications in the Anglophone crisis in Cameroon. To achieve the most objective possible understanding of the said implications, the positions of the actors, mainly the United States, Russia and China, but also their stakes should be taken into consideration. In this intra-state war, we note the rise of a certain cooperative hegemony and the balance of powers leading to a division of the international community in this crisis.

In addition, the strategic analysis is “the study of the strategy of the actors within the organizations” (Grawitz, 2001:156). According to the approaches, the notion of an actor defining himself as an individual or a group of individuals capable of strategic action – or the concept of strategy (Crozier and Friedberg, 1977) will be central to this analysis. However, making a break

between the actor and his strategy is a delicate intellectual exercise that it does not seem useful here to submit. The extreme imbrication of actor/strategy justifies that reference is made simultaneously to both notions even if a strong emphasis on the concept of strategy can be observed. In analyzing the international implications in the Anglophone crisis in Cameroon, the actor is a being capable of strategic action and whose action has tangible repercussions on a given political process. The concept covers two dimensions: “one concerning the contribution of the actor to the political process and the other relating to the impact or the influence of this contribution on the result” (Grossman, 2004:23).

Results

This research allowed us to explore the geopolitical and strategic roots of positions of the foreign powers that are the United States, Russia and China on the Anglophone crisis in Cameroon. After choosing to place research at the level of the search for power and influence, we used the strategic approach to understand the

dynamics of foreign implications in the Anglophone crisis. It is difficult to pinpoint precisely those international actors who nevertheless pursue well-articulated objectives, aimed in part at feeding their international ascension by posing themselves as responsible and conciliatory powers and competing with the American superpower who wishes to maintain itself by preserving its status.

The deadly push of the secessionist terrorists in the English-speaking areas of NOSO is part of the deteriorating dynamics of Cameroon's security situation. For nearly three years this part of the country has been facing the rooting and development of certain illicit activities, as well as forms of violence of which terrorism constitutes one of the variants. In this context, the fight against the continuing secessionist terrorist organization poses a serious threat to the peace and stability of Cameroon and remains one of the priorities of the Government and the international community. The durability of such a conflict constitutes the paradigmatic axis of the analysis of the role of the foreign powers on this one.

Given the above, it is clear that the common position of China and

Russia on the Anglophone crisis is to challenge the dominant power that is the United States. Such an alliance consists in mutually increasing the resources needed to enhance their power and denying the dominant power in the United States access to Cameroon, rich in resources and strategically interesting. The desire to challenge the status quo is their main motivation. However, balancing is more than anything easy, since it implies significant investment, trust in the other, common interests and a common strategy.

New challenges faced by the international community today since the beginning of the 21st century are not sparing Cameroon (Zeibote et al., 2019). This country has become one of the theaters for the globalization of strategic challenges, having found itself in the center of the Anglophone crisis that threatens peace and stability. This is what makes Angela Meyer say, speaking of the states of Central Africa, that their "stability is especially threatened by the fact that these states are not sufficiently capable of guaranteeing the security of their populations. This is among other things to relate to the new, broader concept of security. Given the extent of

certain challenges or their transnational nature, the state presents an actor that is not appropriate to meet all the security needs of its citizens”(Meyer, 2006:2).

Discussion

All previous studies on the Anglophone crisis and international interference in the conflicts in Africa have some convergences with ours. But, as far as we are concerned, our research differs from previous work by the fact that we seek to demonstrate the motivations of foreign powers in the Anglophone crisis. We seek to decrypt the stakes and the game of these actors.

Insecurity in the anglophone regions

The Anglophone crisis in the northwestern and southwestern parts of the country, which were sub-mandates of the League of Nations (SDN) from 1922 (the date of signing the Treaty of Versailles) and sub-tutelage of the UN from 1945, and were administered by Great Britain until in 1961, is the last factor in Cameroon’s history of insecurity. This crisis, which began in October 2016, has turned into a conflict between security forces and increasingly well-armed separatists fighting on behalf

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of the so-called
“marginalized” Anglophone minority.
An idea refuted by President Paul Biya, when he states that *“to explain this crisis, it has often been evoked a feeling of marginalization experienced by the populations of North West and South West. I would like to repeat to our countrymen in these regions, but also to those of the eight other regions of Cameroon, that marginalization, exclusion or stigmatization have never inspired the action of the various governments that I have formed since my accession to the supreme magistracy of our country”*(Biya, 2019). The instability and conflict engendered in these regions are not only influenced by specific social and political changes, but they themselves also illustrate a tendency to change the course of events in unpredictable ways.

The Anglophone crisis results from an internal decomposition of Cameroon with propagation effects. Since summer 2018, this conflict has overflowed Francophone regions and the risk of communitarization has become high. Twenty attacks and fires took place in the French-speaking regions of the West (Menoua, Bamboutos and Noun

areas) and the Littoral (Mbunga, Njombe Penja and Mpenda Mboko areas), killing about fifteen people and causing considerable material damage (International Crisis Group, 2019). After three years of clashes, which resulted in 1,850 deaths, 530,000 internally displaced persons (IDPs) and tens of thousands of refugees, power and separatists seem to be in irreconcilable positions. With regard to refugees and IDPs, their influx creates resource pressures for both neighboring Nigeria and western Cameroon, causing near-term shortages. The management of these populations is generally problematic for both states. In addition to human displacement, there are the destabilizing effects of the spread of war itself, a situation that English-speaking secessionists take advantage of to perpetrate their terrorist acts. *“The abuses of armed groups have pushed thousands of our compatriots to seek refuge in other parts of the country, and even, for some, in neighboring countries where they are reduced to precariousness”* (Biya, 2019). The number of refugees and deaths produced by this crisis only reflects the terrorist character of the movements that trigger

them. The separatists live in the utopia of upcoming independence by the creation of a Republic of Ambazonia causing mistrust of the Cameroonian authorities and the state apparatus. The government, meanwhile, persists and signs on the uniqueness and indivisibility of Cameroon, in accordance with the Constitution, what makes Paul Biya say that “Cameroon will remain one and indivisible” country (Biya, 2019).

In reality, the ambiguity of the relations between the Cameroonian diaspora and the state apparatus, enamelled of mistrust and resistance hides behind this Anglophone crisis. The very difficult living conditions or the personal and collective ambitions often force the Cameroonian populations to leave their country of origin for other “greener pastures” or other real or imagined eldorado. This explains the strategy of supporting English-speaking secessionists through financial support for the perpetration of terrorist acts by the population. In a context of globalization where transnational and international migration is considered as geopolitical and geoeconomic mobility, the contribution of Cameroonians in the diaspora has, for some time, taken on a

very particular meaning for Cameroon in terms of its destabilization, supported by some governments in their host countries (Škuflić et al., 2018; Lincényi, 2017). Paul Biya (2019) confirms this when he states that radical movements, mainly inspired from abroad, have recovered and misrepresented corporatist claims: *“they thus hatched a secessionist project with the aim of partitioning our country. To this end, they have formed and financed armed groups that have caused great damage to the populations of the North-West and South-West regions”*. Moreover, the prodigious evolution of science and the development of new information and communication technologies (NICT) over the last twenty years have allowed the Cameroonian diaspora to play the role of demonization and destruction of their country, rather than an important role in the development and strengthening of scientific and technological capacities Cameroon. Regarding the Anglophone crisis, *“social networks have unfortunately favored the emergence of self-proclaimed leaders, extremists of all kinds trying to establish their notoriety through insults, threats, calls for hatred, violence and murder”* (Biya, 2019).

Nevertheless, being aware that the Cameroonian Diaspora can play a crucial role in the management and appeasement of the Anglophone crisis, as well as in the reconstruction of conflict-ridden regions with the strong commitment of President Biya to promote and strengthen the reflection on its commitment in several thematic fields related to development in order to value their role and their actions, the government remains opened to their contributions. Accordingly Paul Biya(2019) says, *“the time has come to mobilize all the positive and constructive forces of our country, both inside and in the diaspora, for this desire to become a reality”*.

The outbreak of the Anglophone crisis has had enormous socio-political and economic consequences for Cameroon such as: a break in cross-border trade with Nigeria, an influx of refugees, increased political instability and the instigation of the armed conflict, the abandonment of rubber plantations, palm oil, banana plantation from the Cameroon Development Corporation (CDC) and Pamol, the shutdown of Telcar Cocoa (a private company, the leader in the cocoa

market in Cameroon), fishery resources and hydrocarbons. The economic and security situation is contrasted in the two English-speaking regions. We note the rise of military companies that show a new kind of contractual subcontractors in this war zone. New actors have proliferated: terrorist networks, mafias and others such as the “Ambazonia Defense Forces (ADF)” created in 2017 and its dismemberments that are “Tigers of Ambazonia”, “Vipers”, “Ambazonia Restoration Army (Ara)”, “Ambaland Forces”, and the “Southern Cameroons Defense Forces” (Socadef). These latter are terrorists in the Anglophone regions and Paul Biya(2019) takes the international community to witness in these terms: *“the whole world has witnessed the atrocities committed by these armed groups: mutilations, beheadings, assassinations of elements of the Defense and Security Forces, administrative authorities and defenseless civilians, destruction of infrastructure and public buildings, burning of schools, hospitals, etc.”*.

In view of the foregoing, it is not an exaggeration for the Cameroonian Government to take measures aimed at the militarization of the Anglophone

regions. While *“armed violence destroys lives and livelihoods, fuels insecurity, fear and terror, and has a profoundly negative impact on human development”*,(The Geneva Declaration on Armed Violence and Development, 2006)it is true that Armed violence is always linked to internal political issues. It is for the Cameroonian army to preserve the integrity of the territory and strengthen an established power. In a broader perspective, the level of violence in the Anglophone crisis – which is not limited to crime – and the feeling of insecurity depend largely on the behavior and performance of the Cameroonian Defense and Security Forces (CDSF). In this area, the record is mixed with allegations of human rights violations by the CDSF by non-governmental organizations such as International Crisis Group, Amnesty International and Human Rights Watch. Nevertheless, it is clear that a majority of the population of the two English-speaking regions displays their confidence in the state to ensure their protection. In this regard, Paul Biya (2019) reassured that *“the Defense and Security Forces have taken drastic measures, often risking their lives, to*

ensure their duty to protect citizens and their property. At present, these measures are beginning to bear fruit with the improvement of security and the gradual recovery of economic activities in both regions”.

It is also important to note how the actors of chaos have given the Anglophone crisis an international face through the active participation of foreign powers and non-governmental organizations. To assert the legitimacy of their claims, Ambazonian leaders rely on their diaspora and powerful international lobbies. Another decisive dimension is the convening of the “Arria-Formula” meeting, at the initiative of the United States of America, on the humanitarian situation in Cameroon, held on May 2019 at the United Nations Headquarters. During the debate, Cameroon found itself in a position where the only veto powers it could rely on were mainly France, China and Russia. The Arria-Formula meetings are a relatively recent practice of the members of the Security Council. Like the plenary consultations of the Council, they are not provided for in the Charter of the United Nations or in the Provisional Rules of Procedure of the

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Council. However, Article 30 of the Charter makes the Council the master of its procedure and gives it full latitude to establish its practice. Arria Formula Meetings are confidential and very informal meetings that allow Council members to have, in camera and in a flexible manner, open discussions with persons whose Board member (s) who invited them and who are in charge of organizing and animating the meeting consider that the Council would be interested in hearing them or to whom they wish to convey a message. They give the members of the Security Council concerned the opportunity to have direct exchanges with representatives of governments and international organizations – often at the request of the latter – as well as with non-State parties, on issues that affect their concern and which are the responsibility of the Security Council.

The internationalization of the anglophone crisis

It seems that it is the incapacity of the Cameroonian army to contain the Anglophone crisis and to protect the population and the goods, which, in fact, force the international community and

mainly the United States to take a particular interest in it. Indeed, American diplomacy expresses its concern over the conflict between secessionist groups and the Cameroonian authorities in these Anglophone regions. Tibor Nagy, the US assistant secretary for African Affairs, reiterated his concern for “the civil war that is taking place in the facts” (Bensimon, 2019) in the western parts of Cameroon, *“where, fundamentally, Anglophones are fighting for their rights and where, unfortunately, the government did not respond in a way that soothes the fears of Cameroonians”* (Bensimon, 2019). At the request of the United States, therefore, the separatist conflict in the two western regions of the country must be addressed at the United Nations. It is true that previously, the European Parliament has addressed the issue by *deploring “the unwillingness of both parties to the conflict to engage in peace talks; urges the African Union and the Economic Community of Central African States to work to convince Cameroon to organize such talks; considers that, in the absence of progress at this level, the crisis in Cameroon should be brought to the*

attention of the United Nations Security Council” (Foute, 2019).

The detailed statements from the meeting, in the spirit of conflict prevention and in the presence of the Secretary General of the Norwegian Refugee Council and the UN Deputy Secretary General in charge of Humanitarian Aid, made it possible to identify divergent positions of the international community on the Anglophone crisis in Cameroon. The United States had hoped to garner support – in the form of a declaration – to encourage foreign intervention in Cameroon, in the name of the responsibility to protect. However, the meeting ended with an overview of the deep divisions that drive the international community on the response to the Anglophone crisis that has shaken Cameroon since 2016. Russia, Equatorial Guinea and China tried to prevent the holding of the meeting called for by the United States and not included in the agenda of the Council, arguing that the Anglophone crisis in Cameroon is not a threat to peace and security in the world. China made an appeal to respect the sovereignty of Cameroon by noninterference in its internal affairs. It

claimed of the readiness to support the Cameroonian government in resolving this conflict. Russia, for its part, presented the multiple fronts on which Cameroon is engaged in connection with the humanitarian situation (the Sahel, Gulf of Guinea, refugees, etc.), and invited the international community not to exceed the limits in order to enable Cameroonians to solve their problems by establishing a national dialogue with the support of the African Union. It should be emphasised that in 1945 the United Nations Charter had to simultaneously respect State sovereignty and allow military intervention by the international community to prevent attacks on world peace and even humanitarian crises. With regard to Equatorial Guinea, it condemned the politicized approach and the political use of the Anglophone crisis by the international community, while commending the efforts of the Cameroonian Government for peace and national reconciliation.

In the same perspective, it is in this complex context of the Anglophone crisis that some NGOs build their interventions to respond to the plight of the populations of the English-speaking regions. The strategies of these NGOs

are to better adapt to the recurrence and the complexity of this humanitarian crisis. The NGO Reach Out-Cameroon presented the situation prevailing in the English-speaking regions of Cameroon and mainly the violence against women, without putting an end to the efforts made by the English-speaking women in the context of the resolution of the crisis. As for the NGO Caritas Bamenda, it reported the deterioration of the humanitarian situation in the English-speaking regions of Cameroon by calling for help in this direction.

In the same vein, and with regard to other members of the Security Council, such as the Dominican Republic, it spoke of enormous material and human damage that mainly affects young people (unwanted pregnancies) and called for an intensification of the dialogue between stakeholders. Belgium is concerned by the ramification of the Anglophone crisis, both at the national and international level and has called for urgent and thorough investigation with punishment of possible perpetrators. In addition, it recommended inclusive and committed dialogue and welcomed the recent visit of the Cameroonian Prime Minister to the English-speaking

regions, which is an important sign. It expressed its willingness to share experience in Cameroon with regard to decentralization and the promotion of bilingualism. As for Germany, it said that the situation is extremely serious in the English-speaking regions and that it is urgent to establish responsibilities and make every effort to ensure that the humanitarian disaster ceases in those regions. The United Kingdom recalled the historical links that binds it in Cameroon and praised the generosity of the latter in terms of hosting refugees from the sub-region. For The United Kingdom, it is urgent to talk about the social-political crisis that underlies this humanitarian crisis, launch a credible dialogue between the parties to the conflict and finally implement decentralization. Kuwait said the humanitarian situation in Cameroon is extremely difficult because more than 3 million people are in need of humanitarian assistance. There is an urgent need for preventive diplomacy and dialogue to ensure respect for human rights and humanitarian law. It called on the Government of Cameroon to work with international organizations and the international community to put an end to

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this crisis. Also, it asked the UN to play a central role in the humanitarian aid 2019, relying on the arrangements made by the Organization of Islamic Cooperation (OIC) to help Cameroon to get out of this situation. Indonesia spoke of the need for cooperation with the authorities in the resolution of this crisis and questioned the relationship between the United Nations and regional organizations in this regard. Poland referred to the complexity of the humanitarian situation in Cameroon in its multiple facets and condemned extrajudicial executions, restrictions on movement and incitement to interethnic hatred. It called on the parties on the ground to open dialogue and strict respect for human rights and humanitarian law. France is also very concerned about the multiple security fronts that Cameroon is engaged in and has called for the protection of civilians from violence and that impartial investigations are conducted to establish accountability in national courts. Finally, the European Union recommended a dialogue worthy of the name and proposed the need to bring a regional and international response to find a political solution in the long term.

In Cameroon, there is a tension between the will of the United States to intervene in the Anglophone crisis and the need to have this problem solved by the Cameroonians themselves. Indeed, the credibility and legitimacy of the Cameroonian institutions are proportional to their ability to distance themselves, to empower the United States, so as not to be perceived by the Cameroonian population as the auxiliary of the US intervene, but as the result of an intra-Cameroon political game. This is why the Ambassador, Permanent Representative of Cameroon to the United Nations, H.E. Tommo Monthe said that this meeting under the Arria formula did not meet the accession of Cameroon. And that the latter *“is standing, stubborn as the truth, aiming for the emergence in 2035, a country that is not in paradise, but not in hell either, but on the earth of men patiently and methodically seeking its way to endogenous development, in this pivotal period where the realities and survivals of the twentieth century still overlap with those of the twenty-first century affirming itself; in a context where rivalries of power, interest and ideology are increasing in various parts of the*

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world; in an Africa which is projected by 2063 as a prosperous, free, united, peaceful continent and a major player in international relations”(Arria, 2019).

Emergency economic measures, president Biya’s political reforms, the Cameroonian authorities’ call for a dialogue and repression have still failed to bring calm in the English-speaking regions. The Anglophone crisis has become internationalized and the aid received by secessionists from the petromonarchies of the Gulf of Guinea contributes both to the militarization of the conflict and its continuation. The support given to the Biya regime by France, Russia and China allows it to last and condemn without concern any foreign intervention. Already, in December 2018, when Cameroon was mentioned during the presentation of the report from of the Secretary-General on Central Africa, the Russian diplomacy had expressed its views, being very close to Beijing and African countries: *“It is important not to cross the border between prevention and intervention in the internal affairs of States. All indications are that a number of our colleagues are very close to this. For the moment, we have every reason to believe*

that Cameroon is able to solve this thorny problem alone. We are willing to help, but only if our partners in Cameroon deem it necessary” (Bensimon, 2019). And to better reinforce this position, Dominique Bilde, French Member of the European Parliament, stated on her twitter page of April 18, 2019 “No to the interference in the affairs of Cameroon, who bravely fights Islamism!” She goes on to say, “*in the fight against terrorism, Cameroon has carried it beyond its own borders. In addition, despite a difficult domestic situation, it has long been home to thousands of Nigerian refugees fleeing Islamist barbarism. These are the feats of arms of the Cameroonian, light years away from the vitriolic portrait that some believe good to brush”* (Foute, 2019).

Cameroon is therefore protected in the UN Security Council by the triple veto: French, Russian and Chinese. However, the Biya regime does not manage to overcome the Anglophone secessionist terrorism: a low-intensity conflict settles over time with its procession of bloody atrocities on both sides, characteristic of a real war. By default, the international community is often obliged to entrust the restoration of

order to states that want it because, precisely, they have strategic interests in the troubled regions.

American, russian and chinese interventions for strategic mobiles?

This reflection is based on a geostrategic framework; geostrategy as a strategy of space makes it possible to highlight the deployment of competing forces in a space in search of interests. In the wake of the search for solutions to the Anglophone crisis, the Cameroonian territory used to serve as fertile ground for the realization of geostrategic projects of foreign powers. Thanks to its important geographical position in the Gulf of Guinea and in the Central African Economic and Monetary Community sub-region, Cameroon is attracting foreign powers. The objective here is to show that their involvement in the Anglophone crisis hides veiled interests, fueled by their unbridled race to energy resources.

Cameroon’s Anglophone regions abound with oil deposits like Limbe and Bakassi oil (Cossé, 2006), and the Gulf of Guinea, of which Cameroon is the main gateway, is a hot spot in the global oil geography

(Rosellini, 2005). This is what makes Dominique Bilde say, with regard to the Anglophone crisis, “the dissensions between Anglophones and Francophones are less the result of deep antagonisms than of well understood economic interests” (Foute, 2019). Clearly, the latter states that “the national hydrocarbon reserves lying off the Anglophone crisis” are the source of this unrest observed by foreign powers. Without ignoring the other powers, like France, which is traditionally present on Cameroonian territory and provides part of the maintenance of security and fight against terrorism that gangrene certain regions, it is important to take into interest the American, Russian and Chinese positions that seem proactive, pragmatic and focused on the Anglophone crisis. To believe realistic arguments that are almost unanimous on the fact that states are constantly in a frantic race of their vital interests, the commitment of the United States, Russia and China on the Anglophone crisis is a good illustration of fundamental axis linking space and power, the power expressed in the space policies implemented by these states. Space is like a palette where the degrees of state

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power can be expressed. For Samuel Huntington “*the power of a state is normally evaluated by measuring the resources available to it compared to those possessed by other states that it tries to ‘influence’*” (Huntington, 2000 :111).

However, the world governed by the concept of the “security dilemma”, which means that regardless of how the United States behaves on the Anglophone crisis, there is still a tendency to curb or counter its superpower. If the United States has been in a position similar to that of Great Britain since the end of the Cold War after the Battle of Waterloo: a predominant position; other powers such as Russia and China feel threatened by the hegemonic power that this country represents. The United States will see in a certain future their power to be first caught, then matched and finally perhaps outdated (Smout et al., 2003:94). In order to rebalance the system, the emerging powers – mainly Russia and China – are in fact more and more tempted to find themselves in a position to be at odds with the United States. Their goal is to create a multipolar world that would

weaken American power at the same time.

As a nation that is a close friend of the United States, Cameroon has always accommodated the American imperative of promoting democracy through the strengthening of its political stability. At the end of President Paul Biya's visit to the United States in March 2003, the then head of the State Department announced, "*Cameroon is a place of stability in that part of Africa and we want to do everything we can strengthen the government and strengthen our relationship with Cameroon*" (Powell, 2003). This is to say that the United States has committed itself if not to strengthen, at least to maintain the political stability of Cameroon. The rapprochement vis-à-vis Cameroon seems to testify to their will to protect their national interest in order to nourish "a strategy of sharing the regional influence with this country" (Chouala, 2005). The American petrostrategies in the Anglophone regions is primarily a maneuver aimed at the United States; we can say that it does not benefit Cameroon any less. Not that the latter profit passively, because it is still free to refuse the hand of the United

States, but more because it makes rational acts of a nature to achieve ends of national interests. This is a case of interdependence commensurate with the effects of military cooperation between Cameroon and the United States. The reversal of the situation inherent in the Anglophone crisis arose first from a feeling of Anglo-Saxon cultural solidarity and then from the control of energy resources. The tensions in these areas date back to the colonial era when the present republic of Cameroon emerged from the combination of the former British colony with the great French colony. Anglophone regions say they are "marginalized" politically and economically in a country dominated by Francophones. It is therefore understandable why the United States and its allies in the "Anglo-Saxon imperialism" (Canada, but also Nigeria and South Africa), constitute a geopolitical reality more than ever of actuality and tightened indeed the sponsors of secessionist lobbies known as "Ambazonians". "Diaspora groups in the American suburbs (Washington) support a dissident Cameroonian (separatist) nation" (Michel, 2017). The turn of the Anglophone crisis in the

international community illustrates that the United States has an impressive capacity for projection and a powerful apparatus of propaganda (Richardot, 2003). They seem to encourage secessionists in their logic and criticize the security measures taken by the Cameroonian government. In this military situation, the United States Embassy in Cameroon urged the Cameroonian police and security forces to exercise restraint. *“Reprisals against these provocations would endanger the civilian population and only feed a cycle of violence. The violence must stop. Now more than ever, we call on both parties to engage in an expanded dialogue without preconditions”* (Mbodiam, 2019). President Biya persists in restoring the order: *“on the other hand, those who persist in committing criminal acts and violating the laws of the Republic will face our Defense and Security Forces and will suffer all the rigor of these same laws. The same is true of hate and violence promoters who, comfortably and with impunity in foreign countries, continue to incite murder and destruction. Let them know that they will sooner or later be accountable to Justice”* (Biya, 2019).

Given that Cameroon is a key geo-economic and geopolitical issue for many state actors, that is why it is strengthening its relations with emerging powers such as Russia. The strengthening of relations between the two countries is therefore part of a tradition based primarily on historical legitimacy, originating from Russia’s involvement in the decolonization struggles of several African countries, then on the promotion of the principles of non-democracy, interference and neutrality as the foundation of partnership with Africa. Igor Ivanov, then Russian Foreign Minister, pointed out in 2001: *“our country has played a leading role in the decolonization of Africa and has helped several countries in their struggles for independence. African leaders today remember this very well”* (Keir, 2013). Nearly two decades later, in March 2018, as part of an interview on the sidelines of his African tour, Sergei Lavrov said: *“Russia actively contributed to the independence of African countries and the development and strengthening of their states”* (MID.RU, 2018). Against a backdrop of multipolarization of international relations and exacerbated

realpolitik, Africa is once again a theater of influence games as in the Cold War era (De Martin de Viviés, 2019). Russia exercises real power in the African continent, through military, energy and commercial partnerships, and asserts its influence in the face of crises such as the so-called Anglophone crisis in Cameroon (Rezk et al., 2019). In this country, it focuses more on security and law enforcement. The conclusion of military agreements and the sending of military advisers, instructors of the troops and the formation of the Cameroonian defense and security forces materialize its presence. Russia does not forget its supply of raw materials at low cost. Its goal was to create a multipolar world that would weaken American power at the same time, which, according to many researchers, is therefore a “strategic interlude”, soon exceeded. Russia claims no doubt to legitimize its share in the paternity of the new order. There is therefore a real desire to rebalance the international system (Skidmore, 2005).

While it is true that China’s African policy is “part of a broader strategy of circumventing Western powers or assimilated”(Niquet-

Cabestan, 2006), it is none the less true that it invites itself to the concert of the nations in Cameroon and mainly on the Anglophone crisis to take advantage of subsoil rich in raw materials and ores (diamond, bauxite, gold, lithium, copper...). Hence, it promotes the rapid development of Cameroonian territories, by the construction of bridges, highways and railways facilitating the transportation of wealth collected. China is not afraid to fight US superpower; that is why Deng Xiaoping so strongly expressed to Henry Kissinger: “China fears nothing under heaven or on earth” (Murawiec, 2002:103). It therefore seeks to increase its diplomatic offensive in Cameroon. It pursues a policy of peaceful development and harmonious society. This is why Tanguy Struye De Swielande considered the development of soft power by China as a gentle way to defend the national interest (De Swielande, 2006). Chinese actions in Cameroon thus contribute to shaping a favorable environment for achieving its objectives.

Conclusions

In short, the Anglophone crisis is part of the wake of the increasingly polarized world, with escalating crises and conflicts hampering economic growth and creating lasting humanitarian problems for the population of certain regions and, on the other hand, regions that have a lasting peace. This is why international involvement in the conflict is crucial. This seemed to justify the decision of the United Nations Security Council to hold an informal meeting on Cameroon on May 2019, to stimulate international efforts on the human rights crisis affecting the English-speaking regions of the country.

However, it is true that the intervention of the international community in this so-called Anglophone crisis Cameroon has been going through since 2016 seems to be largely linked to the geopolitical designs of the Powers, aiming at consolidating an area of political and economic influence. This ambition intended to establish a form of ideological balance in a “miniature Africa” perceived as being an area under the imperialist influence of the powers such as the United States, Great Britain and France.

In view of the current situation that persists, the international community just wants to facilitate the end of the crisis, but they cannot solve this situation without the will of Cameroonians. That is why after a long way President Biya announced the opening of a major national dialogue during his message to the nation.

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INTENSIFICATION OF THE LEGISLATIVE PROCESS: THE EXPERIENCE OF SERBIA

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Abstract: The article presents an analysis of the legislative process in the Republic of Serbia. The leading method in this study is a systematic approach that allowed analyzing the specifics of the stages of the legislative process in terms of ensuring its effectiveness and efficiency. Studying the peculiarities of the lawmaking of the National Assembly of the Republic of Serbia, the author concluded that the modern constitutional legislation of Serbia provided for the intensification of the legislative process, which, in turn, made it possible to update, develop and increase the current legislative array of the Republic of Serbia within a fairly short period.

Keywords: legislative power, legislative initiative, separation of powers, functions of parliament, the promulgation of the law, amending the constitution.

1. Introduction

According to Article 1 of the 2006 Constitution, the Republic of Serbia is a state based on the rule of law and the principles of civil democracy. The governmental structure of the Republic is based on the separation of powers into legislative, executive and judicial. The relations of the three branches of government are based on balance and mutual control. The National Assembly is the unicameral highest representative body in the Republic of Serbia; it consists of two hundred and fifty people's deputies elected by direct election by secret ballot. Also, under the 2006 Constitution of the Republic of Serbia, the National Assembly carries out a wide range of functions: budgetary, control, electoral, quasi-judicial, and, of course, the law-making function.

The Republic of Serbia pose no exception to the rule that when examining the role of parliament in the socio-political process of any state, the

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attention should certainly be paid not only to the breadth of functions of the representative body but also to the features of parliamentary procedures, which often have a decisive influence on the content of decisions made by the representative body. Thus, Henry Martyn Robert attached much more importance to parliamentary procedures than even to the substance of the addressed issues. He noted, in particular: ‘The presence of a procedural rule is much more important than its content because its existence provides a uniform discussion of the case, which does not depend upon the caprice of the chairman, the session or mood of its participants’.² That is why the most important procedural rules are most commonly enshrined directly in constitutions or special laws on parliament, and described in detail in parliamentary regulations. This primarily concerns lawmaking procedures, since the adoption of laws and other normative acts continues to be the main focus of the parliaments of modern states. The Parliament of the Republic of Serbia also

known as the National Assembly poses no exception as well.

Thus, according to Article 98 of the Constitution of the Republic of Serbia, the National Assembly is the bearer of the constituent and legislative power in the Republic of Serbia. The Assembly has the right to adopt a law on any matter within the competence of the Republic of Serbia. Moreover, the 2006 Constitution provided for three exceptions to this rule: territorial changes of the Republic of Serbia, regulating the substantial autonomy of the province of Kosovo and Metohija, as well as creating new autonomous territories and, respectively, abolishing and merging the existing ones. The above issues may be regulated solely as part of the procedure for amending the Constitution. In this case, along with the National Assembly, the constituent power is also exercised by citizens within the framework of the referendum institute.

When it comes to immediate parliamentary procedures in the National Assembly, Article 53 of the Law on the National Assembly lists all of the types

² Robert, H. *Robert's Rules of Order* // Washington, 1992. P. 24

by which the Serbian Parliament renders decisions (for example, the ratification of international treaties, the adoption of the budget, the procedure for prior approval for the charter of the autonomous region, the procedure for adopting an urban development and/or spatial plan, legislative and constituent procedures, etc.).

Detailed regulation of the procedure for adoption of laws is presented in the Rules of Procedure of the National Assembly, which regulates, in particular, the procedure administering the legislative process, the rights and obligations of deputies and deputy groups in the implementation of legislative activities, the requirements for legislative bills and amendments, and other issues related to the process of adoption of laws. Moreover, as observed by professor Stojanović, to prevent parliamentary obstruction, the Assembly repeatedly resorted to amending and supplementing its Rules of Procedure.³ As a matter of fact, it is the normative regulation of law-making procedures that is the subject of the presented article.

2. Methods

The object of this study is a complex of constitutional-legal relations arising from the passage of legislative and constituent processes in the Republic of Serbia. The research undertaken in the article was conducted using several general scientific and special methods of cognition and research. Like other post-socialist states of Europe, with the transition to a new socio-political and economic system, Serbia faced the problem of adopting a huge array of new legislation that would ensure the formation of liberal democratic foundations of the state structure of the Republic. Therefore, a pressing need arose to ensure an adequate regulatory framework for the legislative activity of the National Assembly of the Republic of Serbia. As a result, the legislative process in Serbia has been significantly intensified through the introduction of several special institutions. The leading method in this study is the system analysis, which allowed analyzing the specifics of the stages of the law-making process in terms of ensuring its effectiveness and efficiency. Also, the

³ Stojanović, D. Constitutional law (In Serb.) / Niš, 2009: 250

special legal method peculiar to this study was actively used in analyzing particular constitutional and legal establishments such as institutes of legislative initiative and promulgation.

3. Results and discussion

3.1. The legislative process

Professor Pajvančić described the legislative process as one of the most important and most frequently used decision-making procedures in the practice of the National Assembly. Accordingly, this process is regulated in detail by the Rules of Procedure of the National Assembly.⁴ The Serbian doctrine distinguishes four main stages of the legislative process: 1) legislative initiative; 2) discussion of the draft bill in the committees of the National Assembly; 3) discussion at the plenary meeting of the National Assembly and adoption of the law; 4) approval and promulgation of the law.⁵ In addition to the general rules of the legislative process, the Rules also provide for the practice of expedited adoption of laws.

Referring to the first stage of the legislative process (legislative initiative), as per Constitution of Serbia, each deputy, the Government of Serbia, the assembly of the autonomous region, as well as at least 30,000 voters, have the right to introduce legislative proposals, as well as to draft other general acts. Thus, the Serbian Constitution provided for the right of popular legislative initiative. Moreover, the amount of necessary 30,000 voters for submitting the draft to the National Assembly seems somewhat overstated, considering that the population of Serbia has a little more than seven million people.⁶ This is probably why the bills submitted within the framework of the institute of the popular initiative are almost imperceptible in the total volume of bills submitted to the National Assembly annually by the subjects of the law of legislative initiative. Besides, such institutes as the Protector of Citizens and the National Bank of Serbia also have this right of legislative initiative in matters within their competence (Article 107). The subject of the right of the

⁴ Pajvančić, M. Constitutional law (In Serb.) / Novi Sad, 2014: 198.

⁵ Stojanović, D. Constitutional law (In Serb.) / Niš, 2009: 251

⁶ According to the Republican Statistical Institute of the Republic of Serbia, as per 01/01/2017, the Serbian population accounted for 7,040,272 people (excluding the data for the Autonomous Province of Kosovo and Metohija).

legislative initiative has to present a bill with the proper substantiation. According to Part 2 of Article 151 of the Rules of Procedure the National Assembly, such substantiation must contain the constitutional and legal basis for the adoption of the law; the grounds for the adoption, which should include: an analysis of the current situation, the problems that the bill is aimed at solving, the tasks that the bill is pursuing, the possibilities for solving the problem without adopting the new law, and also rational explanation of why the adoption of the law is the best way to solve the corresponding issues; the substantiation should also list the justification of the main legal institutions; assessment of financial resources necessary for the implementation of the law, including sources of support for these funds; and consideration of the provisions of existing laws that are subject to change or amendment (by striking out part of the text that is changing, and the new text is entered in capital letters). If the draft bill contains provisions that have a retroactive effect, then it is necessary to substantiate the common interest of the subject of the legislative initiative that introduced the bill when it provided for

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the retroactive effect of certain provisions of the draft law. Whether, however, an expedited procedure is proposed for the adoption of the law, the grounds for the adoption of the law as part of the expedited procedure should also be narrowed down.

Furthermore, the substantiation may include an analysis of the consequences of the proposed law, which may include the following explanations: who and how will most likely be influenced by new legislative decisions; what costs the application of the law will entail for citizens and the economy (especially for small and medium-sized businesses); as well as whether the positive consequences of the adoption of the law justify the costs that it requires; whether the creation of new business entities and effect on market competition are covered by existing laws; whether the interested parties had an opportunity to define their position, and what measures during the application of the law have to be taken to achieve the conditioned result of the adoption of this law. As it could be concluded from the foregoing, the Rules of Procedure of the National Assembly thoroughly established the requirements

associated with the justification of the feasibility, relevance, and content of the bill introduced by the subject of the legislative initiative.

It should be noted that in addition to the draft bill, the subject of the legislative initiative who introduced the draft is required to submit a statement on the compliance with the provisions of the European Union legislation or on absence of the obligations to adjust with or that the bill cannot be harmonized with legal acts of the European Union, as well as a conformity table on the harmonization of the bill with the provisions of EU legislation. The foregoing is undoubtedly of particular importance concerning Serbian endeavor for European-wide integration, declared in the 2006 Constitution.

Also, if the requestor is represented by a group of deputies, then along with the legislative proposal, a document should be submitted establishing the appointment of a representative of the subject submitting the bill. In the absence of such a document, it is considered that the representative of the subject of the legislative initiative is the deputy, whose signature under the bill goes first.

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According to Article 152 of the Rules, a draft bill submitted to the National Assembly is forwarded (immediately after registration) by the President of the National Assembly to the deputies, the relevant committee, and the Government if the latter is not the subject of the legislative initiative that introduced the draft. The bill is also forwarded to the Protector of Citizens or the National Bank of Serbia if it regulates matters within their competence.

If the draft law has not been prepared following the requirements of the Rules, the President is obliged to suggest the subject of a legislative initiative to bring the draft law in line with the provisions of the Rules with an exact indication of the inconsistencies identified.

The subject of the legislative initiative has the opportunity to alternatively respond to the comments of the President of the Serbian parliament. Thus, the requestor may refuse the bill. Whether the subject of the legislative initiative introducing the bill to the National Assembly considers this unsuitable, then this party is still provided with 15 days to amend the bill,

eliminating the inconsistencies indicated by the President of the Assembly or disagree with the stated opinion. In this case, the subject has to request the National Assembly to express its position on the issue of compliance of the bill with the requirements of the Rules in writing. Moreover, the Assembly is obliged to state its position on this issue at the first meeting before considering the agenda of the corresponding day without any debate. Before a decision is made by the Assembly, the subject of the legislative initiative introducing the bill has the right to substantiate its position within the term of no more than five minutes. Noteworthy that according to statistics, the above procedure in the National Assembly is a rather rare (even exceptional) phenomenon, most commonly, the requester independently eliminates the shortcomings, satisfying the requirements of the President. As a general rule, a draft bill prepared under the requirements of the law is included in the agenda of the meeting of the National Assembly within 15 days from the day it was submitted.

An important role in determining the future bill is played by

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the relevant committee of the National Assembly, as well as by the Government of Serbia if the latter is not the very body that introduced the bill. In fact, the consideration of the bill in the relevant committee is the second stage of the legislative process in Serbia. Thus, before being reviewed at a meeting of the National Assembly, the bill is subject to consideration by the relevant committee and the Government. It is the above-mentioned bodies that notionally recommend in their report (conclusion) to the National Assembly to accept or reject the bill. At the same time, if the relevant committee and the Government propose to adopt the bill in general, then, in this case, they must indicate whether this recommendation concerns the bill to be adopted as a whole or with the amendments and additions that are proposed in the form of amendments. Thus, according to Part 3 of Article 155 of the Rules of Procedure, pursuant to the general rule, the relevant committee and the Government submit a report (conclusion) to the National Assembly no later than five days before the day of Assembly meeting, which is scheduled to consider the draft law.

When it comes to the discussion in the relevant committee, first of all, a general discussion of the bill is given at the corresponding meeting, followed by the clause-by-clause detailed review. The latter is held on the amended clauses and articles of the draft; the following officials are entitled to take part in the discussion: members of the committee, subject (or representative) of legislative initiative introducing the draft law, representative of the Government, sponsor of an amendment(s), people's deputies present at a meeting of the relevant committee, as well as other invitees. After the discussion is done, the relevant committee submits a report to the National Assembly which contains the opinions and suggestions of the committee, as well as the special opinion of its members (if any); according to statistics, there could be quite a lot of them. The committee appoints a spokesperson who is entitled to justify the position of the committee at a meeting of the National Assembly.

Special attention should be given to amendments to the bill. Thus, according to Article 161 of the Rules of Procedure of the National Assembly, an amendment is a proposal to amend and

supplement the bill. An amendment can be made both by the subjects of the right of legislative initiative (which is provided for by the Constitution) and by the relevant Assembly committee. Amendments are submitted to the President of the National Assembly, in writing or electronically, starting from the day the bill is registered in the Assembly, but no later than three days before the date of the meeting at which consideration of the bill is proposed. The sponsor of an amendment cannot independently, or together with other people's deputies, submit several amendments to the same article of the draft law (Article 161 of the Rules of Procedure of the National Assembly).

As for the requirements imposed by Serbian legislation on the content of amendments to draft bills, they should contain the corresponding article of the Rules as a legal basis for submitting the amendment; article number of the amended bill; full text of the amendment; a justification containing an explanation of the proposed text of the amendment and the purpose pursued by its adoption, as well as, if necessary, an assessment of the impact of the proposed amendment on

budgetary funds. It should be also noted that the Uniform Methodological Rules for the Drafting of Regulations are applied in amendments composition as well (Part 2 of Art. 162 of the Rules).

The President of the National Assembly directing the well-timed submitted amendments to the subject of the legislative initiative, to the people's deputies, the relevant committee and the Government. Moreover, the committee is endowed with the right to reject meaningless (or even insulting) amendments, notifying the National Assembly in a special report. In case the deadline has not been met, the Secretary-General of the Assembly informs the persons and authorized bodies that the amendments were not submitted on time. As a result, the rejected and untimely submitted amendments cannot be the subject of discussion; also, voting is not held on this count.

Note should be made of that the subject of the legislative initiative that introduced the bill, as well as the relevant committee, are considering amendments to the bill and also submitting proposals to the National Assembly on amending

and rejecting the very same amendments. Whether the amendment is consistent with the Constitution and supported by the subject who submitted the bill (as well as by the relevant committee), then, in this case, the amendment becomes an integral part of the bill and the Assembly does not take any special decisions on that matter.

The third stage of the legislative process in Serbia is its discussion at the plenary meeting of the National Assembly. An integral feature of the legislative process in Serbia, or rather a feature of the consideration of the draft bill at the plenary meeting of the Assembly, is that this consideration is 'single-stage'⁷, i.e. the procedure for considering the bill at the plenary meetings of the Assembly is not broken down into readings. The Assembly may decide to hold a general debate on several bills that are on the agenda of the same meeting and are related to each other by the subject or procedure for its decision. As regards the draft bill, the plenary session, first of all, holds a general debate, which results in a vote on the potential adoption of the draft. If

⁷ Pajvančić, M. Constitutional law (In Serb.) / Novi Sad, 2014: 199

people's deputies agree in principle with the draft bill, then a clause-by-clause discussion of the bill is held. At the same time, clause-by-clause discussion, as a general rule, is held no earlier than 24 hours after the end of the general debate. During the period between the completion of the general debate and the opening of a clause-by-clause discussion of the draft bill, the relevant committee is entitled to amend it. However, concerning certain bills, the Assembly has the right to decide on holding a clause-by-clause discussion immediately after the end of the general debate of the draft bill (Part 7 of Article 157 of the Rules of Procedure of the National Assembly).

A clause-by-clause discussion of the draft bill is carried out in respect of only those articles to which amendments have been proposed, as well as those amendments that require the inclusion of new provisions in the bill, while the total time for clause-by-clause discussion for parliamentary groups equals the time allotted for general debate. Moreover, the allotted time is distributed between deputy groups in

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proportion to the number of members of the corresponding deputy group (Part 2 of Article 158 of the Rules of Procedure of the National Assembly).

Prior to the relevant Decision of the Constitutional Court, the Rules have limited the participation in the debate on amendments only to the sponsor of an amendment, the subject of the law of the legislative initiative who introduced the bill to the National Assembly, the speaker of the relevant committee, the chairman of the deputy group, and the authorized representative of the Government. According to the Constitutional Court, such provisions of the Rules of Procedure did not comply with the Constitution of Serbia, since they limited the right of the people's deputies to express their opinion on everything that is discussed in the National Assembly.⁸

To optimize the legislative process, the Rules also significantly limited the time for participants to take part in discussions. Thus, each entity proposing an amendment to the bill has the right to submit a corresponding substantiation for such amendment but

⁸ Constitutional Court Decision IU 61/01 / Official Gazette RS 16/04

only within the two minutes timeframe. Furthermore, the requestor of the bill also has the right to submit an opinion on each amendment for up to two minutes, so that the total length of a clause-by-clause discussion on this basis does not last more than three hours. People's deputies, who are not members of deputy groups, being determined by agreement of no more than three participants to the discussion, are entitled to speak out on their position for up to five minutes. Whether the mutual agreement is still not reached, then three people's deputies, who were the first to sign up for the speech, have the right to deliver another speech for up to five minutes.

During the clause-by-clause discussion of the draft bill, amendments in a written form are entitled to be submitted only by the subject of the legislative initiative introducing the draft, the relevant committee, as well as the Government, and only if the need for the adoption of the amendment arose because of the previous adoption of the other amendment. Besides, whether due to the adoption of one or more amendments it becomes necessary to conduct a technicality revision of the text of the draft bill, or if it becomes

necessary to harmonize the amendments with each other and with the statutory wording, the National Assembly has the right to postpone the decision and request the Committee on Constitutional and Legislative Issues to conduct a corresponding technicality revision of the text of the law; the relevant committee is obliged to harmonize the adopted amendments with each other and with the statutory wording at a specially allotted time. The National Assembly makes a special decision on each amendment; the vote on amendments follows the order of articles of the bill. If several amendments have been submitted to one article, a vote shall first be taken to exclude certain provisions of the relevant article, then by an amendment that provides for a change to the entire article. Voting is not held on amendments that were supported by the subject that introduced the bill, the relevant committee, and the Government, as they become an integral part of the bill. After the President of the Assembly determines that there is no one more willing to present their position, and also after the time set for a clause-by-clause discussion exhausted, the

President closes the debate and announces the vote on the bill as a whole.

Thus, after deciding on the amendments, the National Assembly votes on the bill as a whole. If amendments to the bill have not been submitted, then after the adoption the Assembly decides on principle agreement with such a bill.

As can be seen from the above, the National Assembly renders three main types of decisions related to the adoption of laws: the decision on principle agreement with the bill, the decision to amend the bill, and on the bill as a whole.⁹ Certainly, the Assembly renders a decision to amend only if the bill is principally agreed with. The quorum for decision-making is the absolute majority of deputies, that is, the presence of at least 126 deputies. Therefore, to adopt the law, more than half of the quorum necessary for decision-making, thus, at least 64 people's deputies have to vote for its adoption.¹⁰

Moreover, according to Part 3 of Article 105 of the Constitution of Serbia, 'By means of majority vote of all deputies, the National Assembly shall decide on laws which regulate: 1) referendum and national initiative; 2) enjoying of individual and collective rights of members of national minorities; 3) development plan and spatial plan; 4) public debt; 5) territories of autonomous provinces and local self-government units; 6) conclusion and ratification of international contracts; 7) other issues stipulated by the Constitution'. " The original text of the adopted law is stamped by the National Assembly; it remains deposited in the National Assembly as well.

Particular attention should be paid to the adoption of the law as part of an accelerated legislative procedure. Thus, according to Article 167 of the Rules of Procedure of the National Assembly, the law can be adopted in the order of an expedited procedure. This is the procedure to adopt the law regulating issues and relations arising as a result of

⁹ Also, according to Article 160 of the National Assembly Rules of Procedure, 'Where a bill contains provisions which envisage retroactive effect, the National Assembly shall vote separately on whether such an effect is in the general interest'.

¹⁰ According to Article 100 of the Constitution of the Republic of Serbia, the composition of the National Assembly includes 250 people's deputies.

circumstances that could not be foreseen, and failure to enact laws acceleratedly can have harmful consequences for the human life and health, the security of the country and the activities of bodies and organizations, as well as for fulfillment of international obligations and harmonization of legal acts with the European Union legislation. In this case, the subject of law of the legislative initiative that introduced the bill is obliged to state the reasons for the adoption of the law in the order of expedited procedure.

A bill that is proposed for the expedited procedure may be included in the agenda of the National Assembly meeting if submitted no later than 24 hours before the relevant meeting. At the same time, even shorter terms for inclusion on the agenda of the meeting of the Serbian Parliament are envisaged regarding issues related to the protection of the state and society from external and internal threats. Thus, according to Part 2 of Article 168 of the Rules of Procedure of the National Assembly, the bill regulating defense and security issues, the adoption of which is proposed for expedited proceedings, can be included in the agenda of the Assembly

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meeting even if it is presented on the day of the meeting two hours prior to opening session; also, if the bill is introduced by the Government of Serbia, it can be included on the agenda even if it is presented during the meeting of the National Assembly, provided that the meeting will be attended by the majority of the total number of deputies. On any proposal to include bills following expedited procedures to the agenda, the National Assembly renders a decision without a debate. Moreover, the Speaker of the Serbian Parliament is obliged to submit a bill, for consideration of which an expedited procedure is proposed, to deputies and the Government immediately after its receipt. However, discussions on the ‘expedited’ bill can begin immediately, without additional provision of information and reports of the relevant committee and the Government; amendments to such a bill can be submitted no later than the start of the debate.

When it comes to the last stage of the legislative process (promulgation of the law), the President of Serbia has this right as head of state. Thus, according to Article 113 of the Constitution, the President of the

Republic is obliged, no later than 15 days after the adoption of the law (or no later than 7 days, if the law was adopted by expedited procedure) to issue a decree promulgating the law, or return the law to the National Assembly with the written justification for reconsideration. Whether, with regard to the above mentioned, the National Assembly takes the decision to hold a second vote on the law, which the President of the Republic imposed a veto over and returned for reconsideration; in this case, the law is to be adopted by a majority of the total number of people's deputies. The President of the Republic is obliged to promulgate the repassed law. If the President of the Republic does not enact an ordinance on promulgation of the law within the period provided for by the Constitution, then such a decree shall be issued by the President of the National Assembly.

According to Article 196 of the Constitution of Serbia, laws are officially published before they enter into force. The official republican press agency in which laws are officially published

before entering into force is the Official Gazette of the Republic of Serbia.¹¹ Laws shall enter into force no earlier than the eighth day from the date of official publication. Consequently, as noted by professor Stojanović, the time that must pass from the moment of official publication to the entry into force of the law, *vacatio legis* or 'idling for the law' is most commonly consist of seven days.¹² At the same time, the Constitution of Serbia allows for the law to enter into force earlier than the specified period only by virtue of particularly justified reasons established in the process of its adoption.¹³ The Constitutional Court of Serbia in its Decision IU 72/02 indicated that the provisions of the general act providing that this general act enters into force on the day of adoption do not comply with the provisions of the Constitution, which stipulates that the law, another normative act or general act enters into force not earlier than on the eighth day from the day of official publication, unless it is stipulated that due to the presence of certain justified reasons it may enter into

¹¹ Official Gazette of the Republic of Serbia

¹² Stojanović, D. Constitutional law (In Serb.) / Niš, 2009:254

¹³ According to Part 5 of Article 160 of the Rules of the National Assembly of the Republic of

Serbia, 'If the Bill stipulates that the law comes into effect less than eight days after its publication, the National Assembly shall vote separately on whether there are particularly justified reasons for that'.

force earlier, but not earlier than the day of its official publication.¹⁴

The Constitution of Serbia also imposed a ban on the retroactive effect of the law. However, Part 2 of Article 197 of the Constitution of Serbia stipulates that only certain provisions of the law can be retroactive and only as an exception when this is required by the ‘general interest’ established upon adoption of the law. Thus, Part 4 of Article 160 of the Rules of Procedure of the National Assembly specifically stipulates that if the draft bill contains retroactive provisions, the National Assembly takes a separate decision, establishing whether there is a ‘general interest’ as the basis for providing the relevant provisions with retroactivity. Besides, the provision of the criminal law can be retroactive only if it mitigates the responsibility of the person who committed the crime (Part 3 of Article 197 of the RS Constitution).

It should be noted that the National Assembly has not only the right to adopt laws but also the right to give their authentic interpretation. An authentic interpretation of the rule of law

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is a kind of official interpretation given by the issuing authority. Thus, the authentic interpretation of the norms of the law carried out by the National Assembly is a direct explanation of their meaning; it is generally binding on all law enforcers. The Rules of Procedure of the National Assembly regulate the adoption of an authentic interpretation of laws. Thus, according to Article 194 of the Rules, the proposal to adopt an authentic interpretation of the law can be introduced by the subject of the legislative initiative. As mentioned above, under the 2006 Constitution such subjects may include people’s deputies, the Government, the Assembly of the autonomous region, and at least 30,000 voters, as well as (within their competence) the Protector of Citizens and the National Bank of Serbia (Article 107 of the RS Constitution). If the relevant committee concluded that such a proposal is justified, then it prepares a draft of an authentic interpretation, which is to be directed to the requester of a proposal and to the National Assembly to render a corresponding decision. Whether the committee concluded that

¹⁴ Constitutional Court Decision IU 72/02 / Official Gazette RS 8/04

such a proposal is unjustified, then it notifies the subject of the right of the legislative initiative that has proposed the adoption of an authentic interpretation, and the National Assembly, which makes the final decision on an authentic interpretation proposal. However, if the National Assembly takes a positive decision on the need for such an interpretation, then it obliges the relevant committee to develop a draft of the latter. In the course of its consideration and adoption, the National Assembly, following Article 195 of the Rules, applies the provisions of the Rules governing the adoption of the law as part of the adoption of an authentic interpretation, unless otherwise provided by the Rules.

3.2. Constituent process

The constituent process in the Republic of Serbia deserves special attention. It should be noted that the current Constitution of Serbia of 2006 made significantly simplifying adjustments to the procedure for amending the Constitution compared to the previous Constitution of 1990. Under the 2006 Constitution, the National Assembly has the authority to

adopt and amend the Constitution.

Thus, following current Basic Law, the procedures for reviewing and amending the Constitution are coinciding.

A proposal to amend the Constitution may be submitted by at least one-third of the total number of people's deputies, the President of the Republic, the Government, or by at least 150,000 voters; such a proposal is to be submitted in writing and with proper substantiation. The select committee ensures that the proposal is submitted by a person authorized by the Constitution and in the prescribed manner. The National Assembly considers the proposal at the next meeting not earlier than thirty days from the date of submission. According to Part 2 of Article 143 of the Rules of Procedure of the National Assembly, the sponsor of an amendment to the Constitution should be present at the meeting, at which the proposal is discussed; however, the proposal cannot be amended during the discussion. At the end of the discussion, the National Assembly has to render a decision on the amendment of the Constitution. The proposal is accepted by the Assembly by a two-thirds majority of the total number of deputies. Whether the aforementioned

majority is not achieved, then the corresponding proposal to amend the Constitution cannot be reconsidered during the next year (Part 4 of Article 203 of the RS Constitution).

If the National Assembly accepts the proposal to amend the Constitution, then it proceeds to develop, respectively, the consideration of an act amending the Constitution. According to Article 149 of the Rules of Procedure of the National Assembly, the provisions of the Rules governing the procedure for adoption of the law apply with due regard to the procedure for amending the Constitution, unless the Rules themselves provide otherwise.

The select committee of the National Assembly plays a significant role in the adoption of the amendment to the Constitution. Thus, according to Article 144 of the Rules, the committee approves the draft act on amending the Constitution (with corresponding justification), and also the draft constitutional law on amending the Constitution, by a majority of the total number of committee members. Having proposed to amend the Constitution, the subject of the legislative initiative is invited to a meeting of the select

committee. If the requester appears to be a group of people's deputies or voters, their representative is invited to a meeting of the select committee. Whether such representative remains undefined, then the very first deputy, who signed the draft and, respectively, the voter, are invited to the meeting of the committee. The select committee submits a draft act on amending the Constitution and a draft constitutional law on amending the Constitution to the President of the National Assembly; the latter immediately passes the draft to people's deputies.

Noteworthy that before the adoption of the relevant Decision by the Constitutional Court of Serbia, the Rules of Procedure of the National Assembly limited the pool of participants of the debate on the amendment to the Constitution at the meeting of the National Assembly only to the person who submitted the draft, the representative of the select committee, the chairman of the deputy group, and the authorized representative of the Government. However, the Constitutional Court established by one of its decisions that the above provision of the Rules does not comply with the

Constitution since it limits the right of the people's deputy to express an opinion on everything that is discussed in the National Assembly.¹⁵

The Act on the amendment of the Constitution is adopted by a qualified two-thirds majority of the deputies. At the same time, the National Assembly can decide on the need to approve such an act in a republican referendum. This ipso facto refers to a non-binding constitutional referendum. As a result, if the National Assembly decided not to pass an act amending the Constitution to a referendum, then the amendment to the Constitution is adopted by voting in the National Assembly, and the act on amending the Constitution comes into force after being proclaimed by the very same Assembly. However, in accordance with paragraph 7 of Article 203 of the Constitution, the National Assembly is obliged to submit an act amending the Constitution for approval by a republican referendum, if such amendments concern the preamble of the Constitution, the principles of the Constitution, fundamental rights and freedoms and minority rights, the

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establishment of public authority, the declaration of martial law and a state of emergency, and restriction of human and minority rights in a state of emergency and martial law or constitutional amendment procedures. From the foregoing, professor Stojanović draws the fair conclusion that a referendum appears non-binding only if amendments to the Constitution affect the economic structure and public finances, the competence of the Republic of Serbia, the Constitutional Court, the territorial division, as well as the constitutional and legal provisions of the Constitution.¹⁶

In the case of an act on amending the Constitution is submitted to a referendum for its approval, citizens have to express their will no later than 60 days after the adoption of the act on amending the Constitution. Moreover, a change in the Constitution is adopted by a simple majority of citizens voted for it in a referendum (Part 9 of Article 203 of the RS Constitution). It should be noted that, unlike some particular European states,¹⁷ the Constitution of Serbia does not require that the number of people

¹⁵ See: Constitutional Court Decision IU 61/01

¹⁶ Stojanović, D. Constitutional law (In Serb.) / Niš, 2014: 167

¹⁷ Such as France, Hungary, and Macedonia

participating in a referendum exceeds half of the total number of voters.

4. Conclusions

Thus, taking into account the experience of past years and trying to prevent the ‘cumbersomeness’ of the legislative process, the current legislation of Serbia provided for a simple legislative process (it has four stages and it is not split into readings in the National Assembly), which, allowed updating and developing the modern legislative array of the Republic of Serbia. This tremendous success in legislative process was achieved in a mere ten-year period and generally meets highest European standards. There is a good reason that all stages of the legislative process are accompanied by requirements related to the harmonization of the bill and amendments with the current legal framework of the European Union, which reflects the Serbian endeavor for European-wide integration. Currently, the regulation of the legislative process in Serbia is distinguished by a clear time frame for all stages and procedures, which again helps to optimize the legislative process. Of particular interest

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among the new laws of the Serbian legislative process is the procedure of adopting the law in expedited proceedings aimed to prevent harm to the life and public health, as well as to ensure the immediate defense and state security. Also, both the people’s institute of the legislative initiative stipulated by the 2006 Constitution, as well as the retroactive effect of certain provisions of the law to ensure the ‘general interest’ (which is given special recognition in the Serbian legislative process) merit serious attention.

When it comes to the constituent process in the Republic of Serbia, the current Constitution of Serbia of 2006 modified the procedure for changing the Constitution compared to the previous Constitution of 1990, greatly simplifying and substantively supplementing it. As a result, the constituent function is currently being carried out by the National Assembly along with citizens of the Republic of Serbia, who, as part of a non-binding or mandatory republican referendum, take part in the procedures for amending the Constitution. Until now, the updated constituent procedure has never been used, and the constitutional updates were

performed through the adoption of interpretative decisions by the Constitutional Court of Serbia.

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INFRASTRUCTURE SUPPORT FOR THE DEVELOPMENT OF REGIONAL ECONOMIC SYSTEMS

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Abstract: This article considers the problems of infrastructure financing, which is necessary for the successful development of regional economic systems. To identify the current problems in the development of investment attractiveness of the Russian regions, we selected the following factors: availability and level of provision of industrial, social, transport, and other infrastructure with facilities, government expenses on the creation and development of regional infrastructure. The study consists of several stages and is based on data published on the official websites of the World Bank, Gazprombank, the Ministry of Economic Development of the Russian Federation, and the Ministry of Regional Development of the Russian Federation. The study shows that the absolute leaders

in terms of infrastructure investments are such countries as China, the United States, and India. In the total amount of infrastructure investments, transport infrastructure and telecommunications have an absolute advantage. In recent years, one of the development priorities of the Russian regions has been investing in physical culture and sports infrastructure facilities. This is due to major international sporting events and increasing the investment attractiveness of the regions. An important trend in the development of infrastructural support for the development of regional economic systems has been the conclusion of international investment transactions (IIT) and regional agreements. Most countries and regions, leading in the inflow of foreign direct investment, are the leaders in terms of

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infrastructure development at the same time.

Keywords: infrastructure, region, regional development, infrastructure projects, investments, sports infrastructure.

Introduction

The world experience in financing the improvement of regional development infrastructure shows the priority of this area of investment, due to the infrastructure's ability to stimulate economic growth of both individual regions and countries as a whole. Thus, an increase in the infrastructure investments can lead to an increase in the number of jobs, an increase in the rate of economic turnover and an improvement in the quality of life of the population in the short, medium and long term, respectively.

In addition, a balanced infrastructure system is able to increase mobility of the population, which leads to optimization of the labor market structure, an overall increase in population incomes and stimulation of economic growth through an increase in effective demand. Currently, the value of Russia's infrastructure assets is about

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60% of GDP, while the recommended level of this indicator is 70% to maintain the necessary level of the country's infrastructure. Consequently, the infrastructure investments shall be increased at a faster pace. Today, Russia's share in the total global investment in infrastructure is about 3%.

Methods

It should be noted that all countries and regions lack infrastructure financing today. In various countries, the volume of underfunding ranges from 20 to 40%.

Based on the historical volume of infrastructure investments for the last 18 years, averaging 3.5-3.8% of GDP worldwide, as well as taking into account the critically low level of infrastructure financing in Russia and the outstripping growth in demand for infrastructure, it can be assumed that the minimum required volume of investments in Russian infrastructure in the period until 2030 will amount to 5% of the country's GDP.

The infrastructure of Russia is one of the most diverse in the world; it combines roads and railways, airports, ports, pipelines, energy (including

nuclear), and water supply. One of the most acute problems of infrastructure development in the Russian regions is the high level of its depreciation.

investments in global infrastructure is currently accounted for by roads (Fig. 1). The ports are in the last place under this indicator [1].

Results and discussion

The largest share of total

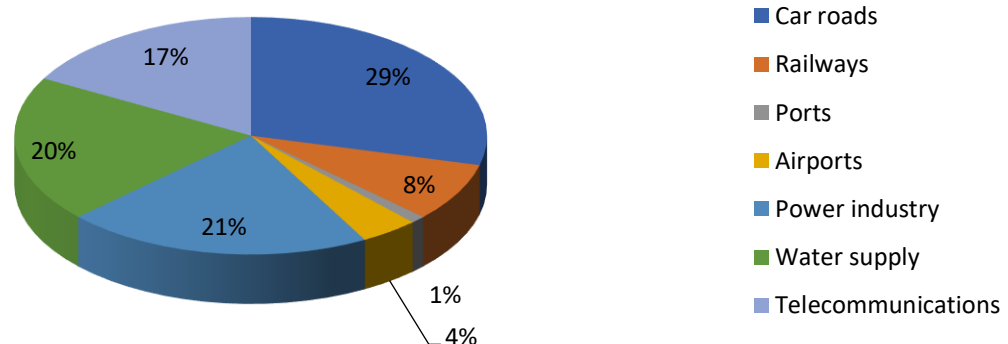


Fig. 1. The structure of the infrastructure investments of the world in the context of investment objects

The state budgets and funds (over 65%), formed from tax revenues, excise taxes or national welfare funds

remain the main source of infrastructure financing in the world (Table 1).

Table 1

The structure of infrastructure investments in the world by sources of financing [2]

Source of financing	Volume of investments, billion dollars	structure, %
State budgets and funds	1 350	65,4

Bank loans	160	7,7
Loans from international financial organizations	25	1,2
Share capital of infrastructure companies	40	1,9
Own funds of infrastructure companies	125	6,0
Corporate Bonds	365	17,7
Total	2 060	100,0

There are several objective reasons for this situation:

1) a significant part of the infrastructure is designed to provide the necessary standard of living for the population and is not able to generate income for private investors (for example, the construction of urban roads or water supply systems).

2) a high capital intensity of many infrastructure facilities leads to their inability to generate cash flow that can interest a private investor (for example, the construction of airport runways, the construction of railways with low cargo turnover).

In the short term, a significant increase in budget spending on infrastructure is not forecasted, as most countries in the world are trying to reduce the budget shortage by reducing their costs for transport infrastructure.

Infrastructure projects are becoming increasingly attractive to

investors. Despite the fact that the share of equity infrastructure financing was less than 2% earlier, this figure is growing from year to year. Thus, the amount of funds raised by infrastructure funds from 2004 to 2017 increased by 94%, or by \$ 37.6 billion in absolute terms. The number of infrastructure funds involved in the share purchase of the infrastructure companies increased by 700 over the same period. The return on investment of such funds allocated for financing infrastructure facilities is on average 10-16% per annum.

The volume of bank lending to global infrastructure is about \$160 billion per year. The credit institutions are reducing the amount of long-term financing in the current conditions of economic instability. The cost of such financing increased by 1-2 percentage points on the average after the financial crisis of 2008 in the developing countries. Also, in order to reduce credit

risks, credit organizations increased the required share of borrower own funds from 10 to 30%. As a result of these steps, the weighted average cost of capital for an infrastructure project increased. In the near future, an increase in the number of risky projects in developing countries is forecasted, which may lead to a further increase in the cost of credit resources [3].

About 18% of investments in global infrastructure are attracted through the issue of corporate bonds. The volume of bonds issued by the infrastructure companies in 2015 amounted to about 365 billion dollars. [4]. The shares of the total volume of issued infrastructure bonds were distributed as follows: USA - 25%, Europe - 25%, and China - 15%. There are companies in the energy sector (50%) in the first place, and in the telecommunications sector - in the second place in terms of the volume of placed corporate bonds (25%). There was a sharp increase in the volume of placed infrastructure bonds due to the high requirements for borrowers for long-term loans in the infrastructure sector during 2010-2015. The main investors in infrastructure bonds are

pension funds, hedge funds and commercial banks [5].

Public-private partnerships are becoming one of the promising areas for coordinating the interests of investors and infrastructure companies. Today, its share in infrastructure financing is about 8%. The governments of many countries are making efforts to develop it, which led to an increase in private infrastructure financing through PPP mechanisms to \$180 billion for 2004-2015 [7]. The disadvantage of using the PPP mechanisms for infrastructure financing is the unattractiveness of socially significant projects for them, including transport infrastructure projects.

One of the main trends in attracting private capital to infrastructure projects is the desire of governments to balance the risks and profitability of infrastructure projects by expanding the range of effective financing mechanisms. Thus, a guarantee of minimum profitability of infrastructure projects has been introduced in many countries [6]. In addition, the investors are provided with a minimum payment after completing construction of the infrastructure facility, as well as

protecting private investments from inflation.

An increase in private investments in Russian infrastructure projects is hindered by inadequate guarantees of return on investment. Therefore, to increase the attractiveness of Russian infrastructure projects for investors, it is necessary to ensure government assistance in achieving the required level of return on these projects. This can be achieved using the minimum guaranteed income mechanism, widely used in the world [8].

Summary

The global economic crisis of 2008–2009 complicated the implementation of the regional development goals, led to a reduction in investment and innovation costs, as well as exacerbated the structural weaknesses of the Russian regions [9]. Nevertheless, the difficult economic situation in the short term does not indicate the need to revise the goals of long-term development; rather, the bar is seriously “raised” for the pace and quality of economic development of the Russian regions. Solving the problems of accelerating the transition to the

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innovative development path of the Russian regions in the context of the impact of a number of external and internal challenges on Russia, complicating the achievement of goals, on the one hand, and dictating the need for even more intensification of efforts to solve the problems accumulated in the Russian regions, on the other hand.

The following problems are the main in the development of regional economic systems:

- 1) low efficiency of the implementation of the program-targeted management method.
- 2) lack of progressive structural changes in the economy of most Russian regions;
- 3) weak budgetary security and high debt burden. Thus, the debt of the Russian regions amounted to 2 206 billion roubles as of 01.01.2019.
- 4) high dependence of the regional economy on the development of the raw materials sector. Thus, more than 50% of the value added and about 30% of the industrial production volume falls on the extractive industry in the Republic of Tatarstan.
- 5) low level of development of business activity in the peripheral

areas of the region, which contributes to the growth of spatial polarization of Russian regions;

6) low level of material and technical base of production potential, which entails an increase in costs, a decrease in production competitiveness and profitability;

7) bias in the tax burden distribution - the bulk of tax revenues is generated from the taxation of legal entities, while it is generated from the taxation of individuals in many developed countries. Moreover, taking into account the measures taken in the field of tax policy, the overall level of the fiscal burden will remain at the level of 38-39% of GDP in the near future.

To solve all the accumulated problems, it is necessary to ensure structural changes in the economy of the regions, which shall be accompanied by infrastructural support for regional development, aimed at stimulating and attracting investments [10]. In this regard, it is necessary to assess the availability of infrastructure of regional economic systems in the context of federal districts or constituent entities of the Russian Federation, as well as to forecast structural changes in the

economy, taking into account the high uncertainty of the prospects for the global economy.

Conclusions

In conclusion, it should be noted that the progressive structural dynamics of the development of regional economic systems depends on many factors as the whole. However, the most important of these are infrastructure support and effectiveness of regional socio-economic policies. Infrastructure development is becoming a prerequisite for economic growth, which is reflected in the strategic documents for the development of the region and its territories. In turn, a high level of infrastructure development helps to reduce investment risks in the region.

In the implementation of large-scale infrastructure projects, priority should be given to the public-private partnerships, as direct private investments are the most effective and sustainable source of infrastructure development compared with other forms of investments.

The development of the Russian economy and individual regions depends on the level of infrastructure

development and its innovative potential. Moreover, innovation is one of the driving factors for the infrastructure development.

In modern conditions, the infrastructure investments are financed mainly from the profits of enterprises and revenues from the federal budget, which is a consequence of the still weak development of the capital market in Russia. External sources of capital are not used much, while foreign capital is one of the least used sources of investment financing.

The main task of the state shall be to improve the investment climate and create favorable conditions for domestic and foreign investors. At the same time, the mechanisms of public-private partnership shall play a decisive role among the mechanisms of state influence on the development of the innovative component. Taking into account the increased interest of foreign investors, it can be said that the potential for attracting foreign direct investments in the infrastructure development is significant when creating the appropriate conditions.

Acknowledgements

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The work is performed according to the Russian Government Program of Competitive Growth of Kazan Federal University.

This work is performed at the expense of the subsidy allocated to Kazan State University for the fulfillment of the state task in the field of scientific activity (No. 26.8732.2017/BCH (Russian: 26.8732.2017/БЧ)

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HUMANISTIC IDEAS AND THE IMAGE OF A STRUGGLING HUMAN BEING IN THE WORK OF SULEYMAN VALIYEV

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Abstract: The article is devoted to the work of Suleyman Valiyev, one of the prominent representatives of XX century Azerbaijani literature. The article notes that the images created by the writer are distinguished by their vitality, emotional and psychological sensitivity. The article analyzes the peculiarities of humanistic ideas that are reflected in the work of Suleyman Valiyev, and presents a system of positive and negative images, which are analyzed in the philological aspect. The image of a struggling human being that is the leitmotif of a prominent writer's works is characterized by special professionalism and clarified the main characteristic of its core.

Keywords: an international theme, an active hero, the concept of a struggling human, Arabic stories, the writer's ideal

Introduction

As in the history of the XX century, the fate of the people of Azerbaijan is remembered by spectacular events, deep contradictions and conflicts, revolutions and overturns. The liberation of the peoples from the “Tsar's prison” as a result of the collapse of the Russian tsarism and the colonial system as a result of the First World War, as well as the national freedom struggle of the Azerbaijani people have been in this century. The deep crisis of the capitalist system and the emergence of terrible totalitarian regimes - Fascism and Stalinism are also the results of the XX century. Due to the scale and horrific consequences of World War II launched by German fascism, it has caused unprecedented disasters in human history. Not only wars but also revolutions, repressions and exiles, mass murders and massacres, caused by war and total socio-political clashes, are indicative of the tragedies of mankind.

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The struggle of the Azerbaijani people for national freedom, their struggle for their national identity and their homeland, modern society and state-building have taken place in such complex historical circumstances. Contemporary Azerbaijani culture, art and literature were formed directly under the influence of global events occurring in the external world, while also resisting these influences. It is no coincidence that in the XX century, the Azerbaijani people, despite great losses and deep tragedies, continued the history of the coup, proven a great national identity and gone through a great development. These difficulties of national history were written by Azerbaijani writers and reflected in the literature.

One of the prominent writers of Azerbaijani literature is Suleyman Valiyev. Suleyman Valiyev (1916-1996) is an Azerbaijani writer with a wealth of creativity and author of four novels, dozens of narratives, memoir, over a hundred stories and essays. He lived in the Soviet era, saw the pains and contradictions of his time, and reflected in his creativity. The writer's creativity, in general, reflects all the stages of the Azerbaijani people's life in the Soviet

era. This is one of the key factors that make the topic relevant.

Contemporary literary criticism revisits the creativity of representatives of XX century literature, in terms of Azerbaijani ideology and artistic values, it places a value on the classics and engages in its analysis. "When evaluating the personality, activities, and works of any creative person, it is necessary to take into account the historical conditions and environment of his creative work. It is not possible to correct or fix either literature or history of people as much as our heart desires in terms of the realities and demands of today. History is history, together with its pros and cons. The main task is to analyze it from the point of view of the modern requirements, new national methodology, modern theoretical and aesthetic principles of world literature, to consider the pros and cons of planning our future work. The study and historical evaluation of Suleyman Valiyev's work in terms of the demands of national ideology and modern literary criticism is also relevant.

Development

Description of research.

The creativity of the outstanding Azerbaijani writer of the XX century Suleyman Valiyev has not been widely studied, although it has attracted the attention of literary criticism of its time. Much has been said about the writer's successes in more prose articles. At the same time, literary critics [Yahya Seyidov,1954], [Bakir Nabiyev,1970], [Jamal Ahmadov,1989] and critics [Suleyman Rahimov, 1976], [Abulhasan Alakbarzada, 1974], [Famil Mehdi,1983], [Ali Sabri,1962] and other writers have published articles about some of Suleyman Valiyev's works. His works have been published in tens of thousands of languages both in Azerbaijani and Russian language, and have won the sympathy of a wide readership. In this regard, Russian literary criticism also aroused interest in Suleyman Valiyev [Овчаренко А.И., 1968]. Georgi Markov, chairman of the Soviet Union of Writers, spoke at the IV Congress of Writers about the creativity of Suleyman Valiyev [Марков Г. О, 1983], he also wrote the preface to his "Selected works" [Мотяшов И., 1986] in Russian language, and also to the book of "The bird with the wing broken also

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flew" [Мотяшов И., 1986] in Azerbaijani language. At the same time, it should be noted that the large-scale creativity of Suleyman Valiyev is not widely investigated in literary criticism and literary studies. Research shows that this is largely due to the difficult life of the writer during the Soviet era. Although the works of the writer during the Soviet period were marked by the bitter truths of war, exile, moral repression, and the environment of ideological lies, the interest in the writer has been formally mentioned, it has not been specifically stated. During independence, Suleyman Valiyev was unfairly forgotten as a "Soviet writer" of his past and his creativity was left out of the study. The research revealed the need for a thorough study of the writer's creativity and a re-evaluation in the light of modern Azerbaijani ideology.

Suleyman Valiyev's stories about the life of the Arab peoples are not just stories that are included in the book of "The Fig Tree", the writer continued this topic in the following years, writing stories such as "The Nile Water" (Suleyman Valiyev, 1953), "The Dream of the Fallah" (Suleyman Valiyev, 1958), "A bunch of Grape" (Suleyman Valiyev,

1961), "Shilla" (Suleyman Valiyev, 1969) and others. As the literary critic points out: "Arab stories" by Suleyman Valiyev are particularly different. During his time in Arab countries, he studied the customs and traditions of the local people and published books such as "Fig Tree", "A sahang of Water", "Rainfall". The Arabs' hard way of life, the colonialists' plundering of the Arab world for centuries, the awakening of Arabs' feelings of imperialism, oppression and colonization contain specific artistic details and human characters in these stories. S.Valiyev's books about Arab life were highly appreciated in the progressive Arabic press.

The story of Suleyman Valiyev's international story, "Picture," (Suleyman Valiyev, 1956) speaks of the Chinese people's struggle for freedom. As in the "Arab stories", the writer follows the struggle of the people in their individual fate. Even the fact that an individual who has withdrawn himself from the common struggle willingly joins with his people, is reflected in the story. Lu De-sin is a photographer, trying to turn a blind eye to the injustice and oppression that surrounds him, and

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constantly tries to live with "It does not bother me, they do whatever they do, no matter what I do! I am only a photographer, and I am" psychology. But that doesn't work out for him. He surprised when he saw a pregnant woman who took a picture with her husband among a group of prisoners passing by. When he met his mother, it was revealed that the photographer was guilty of the woman's capture. Lu De-sin ignored the request and posted that beautiful photo on the showcase, and the detective who followed the picture pursued the woman. Although the story ends with a schematic ending, the writer embodies the struggle of the human mind. To correct his mistake, Lu De-sin joins the crowd protesting the detective, participating in the rescue of the prisoners.

The "Turkish Girl" narrative (Suleyman Valiyev, 1962) has also been written internationally. In the story, Gulbahar, Tofig, and in general, Turkish students are embraced by the true Turkish character. Although the narrative focuses on Soviet ideology, exposing the regimes that dominated capitalist countries, the author creates the image of brave and humanistic Turkish

youth in the face of the mainstream. The author considers the plunder against the Greeks in Istanbul an act of American imperialism. "On the streets, Americans are becoming more and more noticeable every day. As if they are the lords of these places. I do not like it. Suddenly, our independence may be taken away. This objection, which is urgent, also shows Gulbahar's actions. The Greek girl, who accidentally took refuge in her home during the plunder, rescues Diana and hides in the village of her aunt's house. This act, which also reflects the humanistic nature of Turkish, is also reaped: "The Turkish girl who saved my life extends a helping hand to my family too!" When the plunderers attacked the shop, he blamed himself for his hatred of the Turks: "I made a mistake. There is no fault of the people. There are many people like Gulbahar. She is a true Turkish girl!" (Suleyman Valiyev, 1962). Although Gulbahar herself is imprisoned, she does not give up, and in prison, she meets various people against the despotic regime. Gulbahar is also freed by the protests of rising university students. Although Sulayman Valiyev's literary-artistic heritage has been repeatedly explored by literary critics,

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human ideas and human observation have not been systematically analyzed, which draws attention to the relevance and importance of research.

Methodological Bases of Research.

Various methods were used in the study, including comparative analysis and description of artistic images. The study relied on the scientific-theoretical experience of modern Azerbaijani literary criticism and applied to a number of researchers, including Suleyman Valiyev's method of creating a literary portrait. The scientific and methodological basis of the research is the views that are generally important of prominent scientists, literary critics, and scientists.

Discussion

After returning from repression Suleyman Valiyev presents his book "The fig tree" to his readers. In the stories of "The fig tree" (Suleyman Valiyev, 1958), "Rainfall" (Suleyman Valiyev, 1958), "The garden of paradise" (Suleyman Valiyev, 1958), "The Destroyed Land" (Suleyman Valiyev, 1958) and other stories, the writer saw the lives of the heroes of the lower ranks

of the Arab people, but at the same time, colonialism. Suleyman Valiyev remains committed to his concept of a human being and he creates patriotic characters such as Mahmud, Gazanfar, Durra, Jalal and others who disagree with their position in these stories.

The protagonist of “The fig tree” story, Mahmoud, was miserable due to unemployment and he lost interest in life after losing his wife. Mahmud's situation is so miserable that he was even jealous of a barefoot person with a bicycle cart, “If he is suffering now, his stomach will soon be full.” When he begs his God, a stranger tells him to help his driver, even wondering if such “a body man” is unemployed. He charmed Mahmud with the “chocolate he pulled out of his pocket”, promising a job and taking it with him. He feeds him well and shows the man who will kill him as a hired killer. Looking out the door and saw that the man who was going to kill was talking to a young girl about freedom and about the people's tomorrow, Mahmud is experiencing psychological concussion: “He is working for the freedom of the people. He is the brave of Cairo. You are sold to a foreigner who drinks the blood of his

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people, and you want to kill your own blood brother. Are you and those of you who are not the same aliens who put you in these miserable days?” At the same time, he brings his lover in front of his eyes and not separating the young, thus decides to run away from Cairo. The end of the story ends with optimism. Returning to Cairo on a sunny day, Mahmud joins the crowd around the fig tree he once met with his lover. “One of the brave men who freed Cairo” was delivering a speech that “that young man” speaks. No matter who he is, Mahmud is proud of his contribution to the freedom struggle, not being misled by a foreigner.

The events in the “Rainfall” story take place in Qatar, It describes the selflessness of Durra, who dives into the sea in rainfall to rescue Gazanfar from prison, who was arrested for disobeying his master. The events in “The garden of paradise” are taking place in Iraq, they want to persuade Yusif to tell every word of Saleh, his rector, who is his assistant. He refuses and choose to go to jail, but they can't afford to miss the “The garden of paradise” where he admires. A year later, “the fate of the Iraqi Republic took over”, and he and his family became

permanent residents of "The garden of paradise". In the story of "The Destroyed Land," Port-said Jalal convinces them to offer his services to the English as a "spy," saying he has found weapons storage and brings officers and soldiers into his hut. The demolition of the mined old land is symbolic and proclaims the day of the liberation of the people.

In his 1980 novel, "Bloody land", (Suleyman Valiyev, 5) Suleyman Valiyev talks about a conflict between Jews and Palestinians over another conflict that is urgent in the international arena. The novel primarily talks about the Palestinian people's struggle for freedom, while also promoting the idea of friendship between the Arab and Jewish people against Zionism. The wide-ranging novel was able to vividly illustrate the events taking place in Palestine through dozens of pictures, the gradual seizure of Zionists and the oppression of the Palestinian people, Palestinians' bitter fate, poverty, unemployment, and unification in the resistance movement, and their struggle for freedom in a single front. At the centre of the novel is Nur and his family: his father Khalil, his mother Kamila, his elder brother Asim and his lover Shahla,

her aunt Khadija, her uncle Salim, Nur's lover Anisa and her artist mother Kibriya, Nur's Jewish friend Khaim and his family, his surgeon father Abram Stein, Nasir of the resistance movement leaders, members Sadig, Zahir, Sara, the leader of the movement Mohammed Habibi and others give a clear view of the conflict zone in their open and covert activities against the Governor of Gaza city and his regime's oppression and injustice.

Nur's family lives in a small room with a small window. His father, Khalil, is involved in pottery, and his sons help him in this. His elder son Asim and daughter-in-law Shahla join the resistance movement. At Khalil's wife Kamil's advice, he get land from seaside from his brother-in-law Salim in Gaza and builds a beautiful home. It brings joy to the family. But the joy is short-lived, city governor Guberman offers Khalil to build such kind of home, in return of wealth. When he reports that he is not a stonemason Khalil is arrested and he is tortured, the house is taken from the family. Nur enters a secret resistance movement, fulfilling important tasks, even though selling it to kufa in the city. He met Anisa at a meeting organized by

her, and then this friendship became love. Although he and Khaim have strong ties, Anisa and aunt Khadica are urged to be cautious against Khaim. Though doubtful until the end of the novel, this friendship is put to the test. Khaim's father, Abram, is an accomplished surgeon and is well-known in the upper circles. He refuses when they give Nur's house to him. Instead, Guberman turned his house into a Zionist military headquarters. Khaim also reports Nur that many weapons and rolling bombs were brought here. The mystery unfolds, and it turns out that Khaim really loves the daughter of a police officer, but they both hate Zionism. The police's attempt to use Khaim as a spy is worthless. On the contrary, through the intention of Khaim Nur, who deliberately agrees, he constantly warns the resistance movement against the dangers. Against the news brought by Khaim, Nur is preparing an operation with Nasir's leadership. Under the pretext of fishing in the sea, he approaches his home and puts dynamite on the back. The home that his father built with his own hands and labour, but now turned into the

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enemy's headquarters, is ruined by a huge explosion.

As you can see, the novel uses the metaphor that the writer uses in the story of "The Destroyed Land". Khalil's house symbolizes the entire homeland. As a result of the Zionists' evil deeds, their native land became a bloody place. Nur wants to root the conflict by blowing up the house. The writer sees the salvation of the homeland in the goodwill of the Jewish and Arab peoples, and in the establishment of right and justice. Nur and Khaim's friendship also symbolizes this. The end of the novel has a profound effect. As an inspiration to the Nur's eye, Anisa and Khaim come to the aid of the boat from the sea. "Nur examines the environment. Their homes were bombed. "But what about myself? Maybe I'm not alive? Is this the end of life? May be. Anyway, a piece of fire can burn. Then the soil will swallow me up and turn me into a sunflower or a fig tree." There are many people around. They came out for a show. When he first caught up with Anisa's arm and met him, "Freedom, freedom!" he shouts. Suddenly he looks around as if he has woken asleep. The fig tree grows in front of his eyes. Although the novel ends, the

writer believes that the bloody quarrel has come to an end, and that peace will soon be established in Palestine.

The works written by Suleyman Valiyev on the international issue arouse the writer's confidence in the mind and belief of the modern man, and artfully demonstrate his great confidence in the future of humanity. The future of a free and happy future - is an expression of the writer's ideal. One of the most important means of expression of the poetry of Suleyman Valiyev is the portrait and landscape. The writer used both elements of artistic expression in all his works, without exception. In his works, Suleyman Valiyev strives to achieve unity by creating both the character and the inner portrait of the heroes and images. The exterior portrait fits the character of the image and complements it. The writer in the "Turkish Girl" narrative creates a broad portrait of the hero in several paragraphs before moving on to plot and events. It also presents the image of a "girl in love" in coherence with the exterior and interior portraits: "Gulbahar, who does not like to be served as a modern girl, has changed a bit. She wore the most expensive outfit made of colourful

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Japanese silk and spun in front of the mirror. The dress suits her. The girl had just heard about it. Seeing her face in the mirror, her eyebrows, her large, brown eyes, her black spots on her cheek, and her smile, she realized that those who say "beautiful girl" are not mistaken. No matter how heartwarming these words were, they were offensive to Gulbahar. Only her student friend Tofig could catch the proud girl's heart. She liked the boy's good character and friendly attitude..." [Valiyev S., 1957].

The main negative image in the novel "Bloody Land" is that of Guberman's portrait is in conflict with both external and internal qualities: "The governor was a middle-aged and average man of high stature. The colour is white. He seemed to have a powder on his face. He had no hair, no wrinkles on his face. He had brown combed hair that is tidy. He wears glasses with a golden frame. There was no sign of malice in his eyes. The governor's calm, the gentle attitude had a strange effect on everyone. He did not look like a cruel man. He probably can not even want to cut his chicken head. However, the Palestinians gave the governor "Prisoner Colonel" name." [Valiyev S., 1957].

Suleyman Valiyev tried to paint a portrait of all the characters he had described in his works. In addition to extensive portraits, he also creates characters with several portraits images. In the narrative of "The Shor jullutu", Gulu's revolutionary friend, Vasili, is an episodic character, but the compact portrait character makes it a typical representation of the labour movement: "Vasili was five years younger than Gulu, and he was forty years old. But there was so much suffering that he was getting older, and that the hair on his head was losing and white. Vasili was originally from Moscow, but he was living in his native country very little, and he was exiled to Siberia with his young wife and two-year-old daughter because of his active involvement in the revolution. There his wife and then his daughter became ill and died. He could not forget the terrible days in Siberia." The short portrait cartoon about Nina, whom Mustafa loved, in the "Mustache Agha", becomes even more complementary to the character's character: "Nina was a blonde, average, blue-eyed girl. Although she was 25 years old, she had tasted all the pains of

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life like Mustafa and had seen many places..." [Valiyev S., 1957].

In the novel "The Fountain of the Stone" the image of the sweeper is as important as the image of the writer: "Drugova was a young woman with a lean, small, skinny face. At first, the person was not impressed. However, those who knew Anna well-liked her. There was such respect among the employees, as if she was the director. She was very demanding. If she could see someone smashing his cigarette in the ground and entering inside without cleaning his boot, she would report. It was difficult for her to find fault." [Valiyev S, 1983]. In general, the writer does not portray image art without a portrait. In general, Suleyman Valiyev's work can be viewed as a portrait gallery of people of his time.

One of the elements that play an important role in Sulayman Valiyev's expression style is the landscape. The writer often refers to landscape works, noting that he is not alone, but as the natural background of events and the continuation of the mood of the characters. In the work of nature, nature is revived as a human activity and landscape. Successful boards are an

expression of both the artist's own and the hero's feelings and emotions. In this regard, each of Suleyman Valiyev's works can be seen with dozens of examples of nature as part of events. Nevertheless, the novel "The Fountain of the Stone", which is based on the relationship between human nature and the humanization of nature, is particularly popular. The direct depiction of Siberian land and taiga forests is one of the characteristics that determine the ideological and artistic effects of the work. In addition to analyzing and commenting on the creative style and poetry of Suleyman Valiyev, the study examines the creation and implementation of the concept of a human struggle in Suleyman Valiyev's creative work and examines his works on the international subject.

Conclusions

The creativity of Suleyman Valiyev occupies a special place in XX century Azerbaijani literature. The writer, who lived through the contradictions of the Soviet era, not only brought about the innovations of the structure, but also described the difficulties of his life, reflecting the

history of the national life of more than half a century. As a result, Suleyman Valiyev's creativity created a unique concept of human struggle, reflecting the struggle of the time with the human, his aspiration for the future, his self-determination and freedom. Suleyman Valiyev has written four novels, dozens of narratives, over a hundred stories and essays, and has created his own creative style.

Suleyman Valiyev, who has witnessed great historical events, has always stood in the way of modernity and has spoken the word of time, he was able to create the unity of history and modernity in his artistic works. Formation of the writer's original creative poetry is directly related to his active attitude to time. Just as it is possible to learn the historical scenes of the XX century from the works of Suleyman Valiyev, the image of struggling human beings created are relevant and meet the requirements of modernity. Suleyman Valiyev's creative style reflects the simplicity and beauty of the Azerbaijani language, the richness and variety of the means of expression. The creativity of the writer is distinguished by the genre, the plot and

composition, the depth and the artistic excellence, the depth of the artistic conflict and the integrity of the expression. The modernity of the writer's ideas is reflected in vivid human characters, characters and types, and still maintains its relevance and importance today.

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EXAMINING THE PARTHIAN ART AND ARCHITECTURE AND THE IMPACT OF GREEK ART AND ARCHITECTURE

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Abstract: In this article, a brief look at the history of ancient Iranian art before Islam, its characteristics during the Parthian rule, and the study of the monuments left over from that period, especially the palaces and the influence of ancient Greek architecture on them. Parthian period, due to the succession of the Seleucids, the Greek and Iranian domination over the Greek culture and architecture were widespread in Iran, one of the most important periods of the history of Iran. The Parthian era culture is a culture that tries to dominate the remains of Greek civilization and culture to bring Iran to re-establish. Parthian win this battle and inspiring inventions and innovations of the Sassanid civilization and Islamic culture of Iran. Overall, what is interesting is the dramatic Parthian architecture are among the Porticoes wide open courtyard surrounded by

columns attached to the wall. Plaster Vonda colored object of interesting architectural elements farthest era of special features. The use of materials and the use of adobe bricks with mortar gained sharply. Perhaps one of the advantages of this new material, creating massive arch of the dome is first and then create a new architectural style were the architects of the Sassanid indebted. City maps with Hypoderm been carried out in some cities. But the main feature of the Parthian city circular design in cities such as Marv, Ctesiphon and Hart seen.

Keywords: Architecture, Parthian, Greece, Urban.

Introduction

Alexander the Great's overthrow of Iran and the extinction of the Achaemenid government completely

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undermined Iranian culture and civilization. The political revolution and the chaos of the country necessitated an important literary revolution. Parthian warrior and brave people who have been successful for five years a powerful empire across the Iranian Plateau run. Achaemenes defeat of Alexander, his successors continue the government, a combination of new features art culture eastern Greece was replaced by former Iranian cultural and historical features. Greek family relationship with the Orient, background and reasons for the favorable influence of culture between East and West created. The new culture emerging as an institution that Hellenistic culture (Hellenistic) became famous. In the course of mixing styles Greek and Persian practices of other nations ((Hellenistic architecture)) was created. However, the extent to which historians study the Parthian, Greek-Roman attitude most have rejected the values of their special abilities become more obvious Parthian architectural survey and the influence of Greek architecture, the purpose of this article.

Forming parts people: Part Porta a branch of the Iranian people. The inscription of Darius I of the

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Achaemenes Inscription land on the "light" called. According Astrabun, Parthian leader was a man named Rask's Arish which later became part of the Parthian king's hypothetical ancestor. Part of the successors of Alexander the Macedonian government toppled Achaemenes (Seleucid), and have a strong government and a huge back for five centuries are founded. Parthian city of Nysa first capital (near Ashgabat) Turkmenistan, the second capital city of one hundred gates that it hecatomb pelisse said police in southwest Dagan and the third city of Ctesiphon on the Tigris and the other is Seleucia.

Parthian era architecture: Parthian architecture developed very different given. Marina this period were the heirs of different traditions, traditions of Central Asia on the one hand with them and on the other hand saw an Iranian native architectural features. The collection of Greek traditions should also be noted that during the rule of was common in Iran. Parthian architectural style as the other continued and consolidated. Parthian architecture combined Greek and Persian elements in the development of a unique

architectural work. The Parthians in 123 BC. The following is information about a wide architecture Party begins. The ruins of a great palace of the second century AD Altar, Iraq, if they cannot see party technologies, at least enough to know that Botanyatdad open party. The main facade is made of stone cut with two large patio. Two smaller rooms Dashawn beat the symbol and may have two floors. The room is small arch in Altar apparently been a place of worship. The excavations that took place in different parts of the remains of the Parthians and then the style of the past were built you can specify the architecture and features, including: - Maximum use of materials such as canvas binding of stone, adobe and plaster cooked one of the architectural features of aggregate Party (shaved, aging, carcass) and adobe in the body and cover. Construction materials used during the Parthian and Sasanian time more cleanly shaven stones mostly of adobe, clay is. To decorate buildings and blue glazed tiles and plaster coating (baked and crushed stone (stone)) was used. The emerging phenomenon in the Parthian period plaster decoration was for the first time, the material is flexible

and easy access to, and the material was suitable to perform different tasks. Which was widespread relief that a combination of Greek and Achaemenes style. More because of the abundance of the mineral gypsum plaster art boom and ease of working with this method is that the use of decorative has caused. At the time, mortar, plaster on the wall easily and quickly was drawn and it was hard. Since the Achaemenes for decorating the building of masonry and stone was used for the construction of parts of the Median of engraved bricks were used. - Very good use of advanced techniques and Ivan arch and dome of the dome using ecological materials out: Parthian architectural style before the wooden roof against climate change, such as humidity, corrosion or other risks such as fire and life cannot be durable materials to cover the arc and arch were drawn. Buildings on top of the style of Iranian construction of the Parthian dynasty start. In fact, two of the dome arch buildings known to date in country, One of the first king of the Sassanid palace was built in the late Parthian period and the other House, Mount Khawaja in Sistani that more resembled a Greek buildings to the Iranian Amby. Parthian

architecture arch rocking the arc and Richen with stone slates and decorative relief work routine and sometimes you had a column. -Party style buildings designed after the invention of the dome, a mixture of the porch, the room is domed chamber. And in the house, porch to put innovation into the next period's architecture was transferred. As open space covered porch on the one hand and the connecting space is outside, in addition to the hours of the day and seasons of the year is habitable and operation. - The most important architectural parties, abandon the use columns to keep the rectangular room ceilings and instead beat arch from one side to the courtyard or courtyard of the network that had been made. Parthian unlike the Achaemenes (the stone) and Mud (using wooden structure) to hold the roof, columns and the porch went ahead for the first time in the Iranian and Greek art from Venture hidden. The building houses the central life plan was to explore more areas have been identified in Mesopotamia, the system architecture. Central to the plan is an excellent example of the life of Ivan led standard, has been identified in the State House. -Do not avoid and alpine glory in

this long porch and covered by a dome structures with short and long run by Iranian architects have a special skill. It works like House of buildings can be Firuz Abad and harvestman especially huge deficit arch named. -The tremendous variety of designs: Another Party architectural features of the buildings is diverse and non-uniform, So that the building cannot have that same map, In contrast, the European churches and other buildings in particular are often the same plan. Remains of the Parthian period, including the State House, the Palace of Harte (Herten), which in Arabic is called Altar, Throne of Solomon Temple, Temple is in Kandahar. -Using mortar and asphalt that it could create large architectural spaces, Char bitumen mortar (mortar) is comprised of: lime milk, washed and ground clay, plaster half-baked and half beaten, Gaurs (sand grains such as millet), rock sugar, syrup made of grapes or dates, sometimes goat hair camel Yapshm have been added to the mortar. Stone mortar were not used, because the Parthians were refractory clay and brick mortar.

Introducing Greek Architecture:

The houses of the ancient Greeks were devoid of any self-deprecating ornaments, the Greeks did not have royal houses, and they performed their religious rituals in the open air, and the architects were tireless.

Their very important buildings were originally built as simple shrines to preserve the statues of their gods. More and more attention was being paid to the construction of these buildings every day, until they strongly decided to embody the attributes of each god in the

buildings or shrines themselves. The sculpture played its part in this transformation; the Greeks also considered the building itself to be an abstract form, with a power to embody human traits.

They emphasized the pervasive importance of the stately temple and its inspiring role in public life by choosing a high point often over a hill overlooking the city (Acropolis) for its building (Figure 1).



Figure 1: Greece, Athens, Acropolis Collection Overview, World Bank

The early temples were made of wood, and over time, their wooden form gradually changed and durable materials such as limestone and sometimes marble were used. The Greek temple, in terms of

layout, closely resembles that of the Barnes Masonic Hall, and even in its most advanced form, the basic simplicity of the Hall's building is to be seen, a single or two roomed room with no

windows, with one In (two doors for nested) and (a) a porch or two columns between walls (columns between two jars), or (b) posterior columns (wallless

columns), or (c) columns Posterior and anterior, or each of these maps, inscribed by (d and e) a row or (and) two rows, (figure 2).

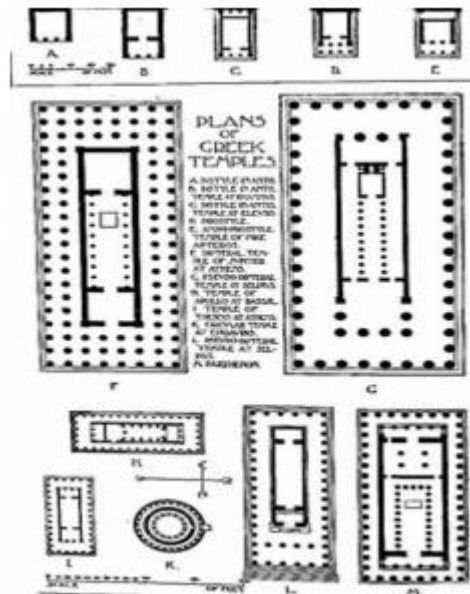


Figure 2: Different types of Greek temples

What we have all seen in ancient Near Eastern architecture: its order and its symmetry, the difference in sense of proportion by the Greeks and their striving for optimal perfection in terms of regular numerical relations and geometrical rules. Their experimentation guides were found to fit into the maps of temples. The earlier temples (of ancient times) were often narrow and had a ratio of approximately one to three between the posterior and anterior walls.

Late Classical and Hellenistic maps were closer to one-two, but never

exactly one-two; lateral walls of the Classical period were often slightly more than twice the posterior and anterior walls. Appropriation in architecture, sculpture and harmony in music was almost a unifying phenomenon in the Greek mind and, in a more accurate sense, embodied cosmic order, as "good life" and rationality did. The long description of the Greek building is expressed from top to bottom with the terms column, platform and superstructure or spray; this is how the composition and the relationships

between the three components or units are called. The three ways that Greek architects developed were somewhat different in detail, but largely in terms of the relative proportions of the components. Each method was used for a specific purpose and embodied different concepts. The earliest formulable practices in Greek architecture were the Durrigan style of Greek mainland and the Ionic style of Central Asia and the Aegean islands of the Corontian style, later found. Stones mounted on a ramp or platform. Depending on the type of each method, it consists of two or three components: the column body, whose surface is covered with vertical slots (spoons). The head of the column and (in Unicentric and Corinthian way) the pedestal or base of the column, the height of the column body gradually decreases as the column diameter decreases and a slight curvature in its profile (convexity convex); Is characterized by one or more horizontal

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lines (Sereston's throat) which are the forerunner to Sereston. The column is composed of two components, the lower part being cushioned in style; It is small in the Unicode style and under the base sometimes leads to a spiral-like spiral and is added in a Corinthian manner for its height and is essentially The spray is made up of three parts: the fringe or backrest and the main compressor mounted directly on the headstock; the inscription, and the prominent, horizontal edge of the roof with the other two inclined triangles forming the santuri. Includes itself. In the Ionic and Cornite styles, the fringe border is often divided into three rows of molded overlays.

The inscription in Durrick's style is divided into two parts, three compositions and four corners, and in the unicorn's manner it remains unified to provide a unified context for prominent roles (figure 3).

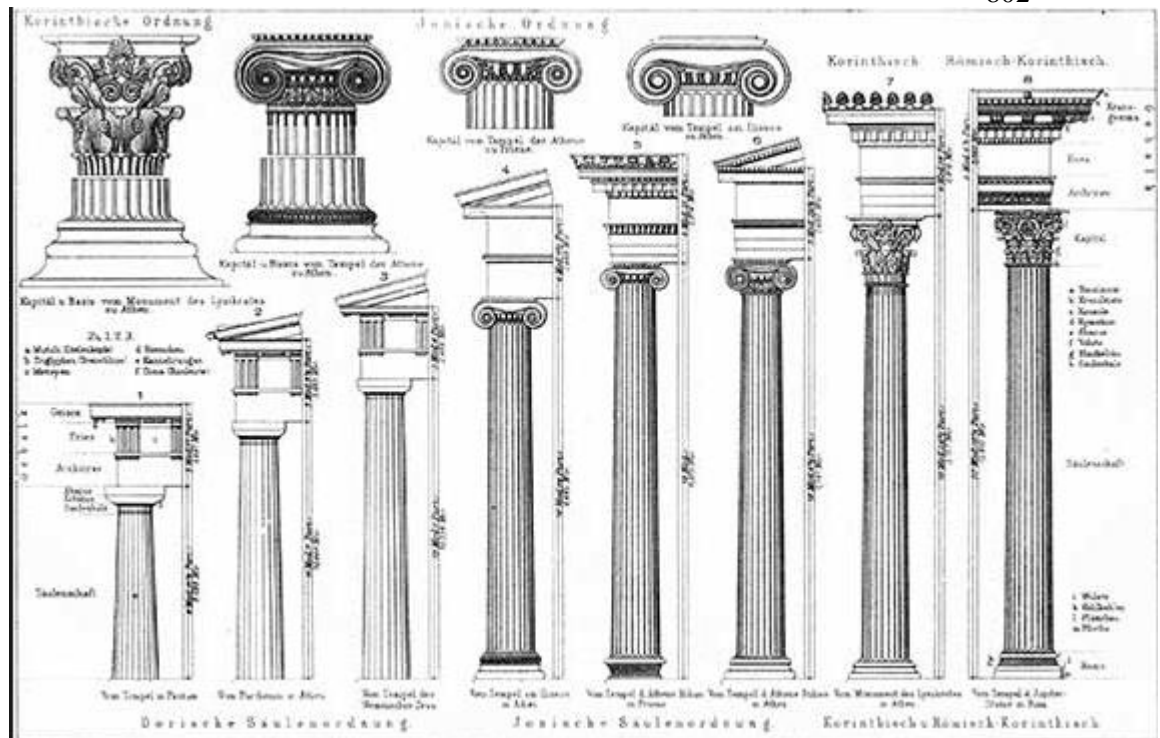


Figure 3: Types of Greek styles and comparisons them

Case examples (Nisa City)

The relics and survivors of Nisa where was an ancient settlement of the Iranian peoples, located near (modern-day) Bagir village, 18 km southwest of Ashgabat, Turkmenistan. Nisa is described by some as the first seat of central government of the Parthians. It is traditionally assumed to have been founded by Arsaces I (reigned c. 250 BC–211 BC) and was reputedly the royal

residence of the Parthian kings, although it has not been established that the fortress at Nisa was either a royal residence or a mausoleum. Many monuments have been identified with separate plans. The Nisa Basin in Turkmenistan today is one of the most important cities and many believe that this city is in fact one of their first capitals.



Figure 4: Nisa aerial image

The geographical location of the city of Nisa placed it at the crossroads of four major commercial routes. The Parthian Empire used the city as an obstacle to the advancement of the Romans, but at the same time it was a very important point of contact between East, West, North and South. The area is well-known for its Greek art and culture. The ancient site of Nisa now comprises two distinct parts: the city of Nisa, the new and the old. Research has shown that the new city of Nisa was one of the most important cities of the region in its time, flourishing at least to the Parthian period and surviving to the mid-century.

But the holy city of Nisa, within the fences, towers and fences, had a

complex of public and ceremonial buildings and was an important religious and governmental center for the Parthian kings. In fact, the new city was home to most of Nisa's people and the old city was home to the royal citadel and ritual and religious buildings. The old town or royal citadel stands on 14 hectares of natural hills and is surrounded by forty towers. There are numerous buildings with different uses in this part of the ancient city. One of these buildings, which has a large courtyard, has several rooms, each of which has its own purpose: a royal treasury, a wine cellar, and a side building.

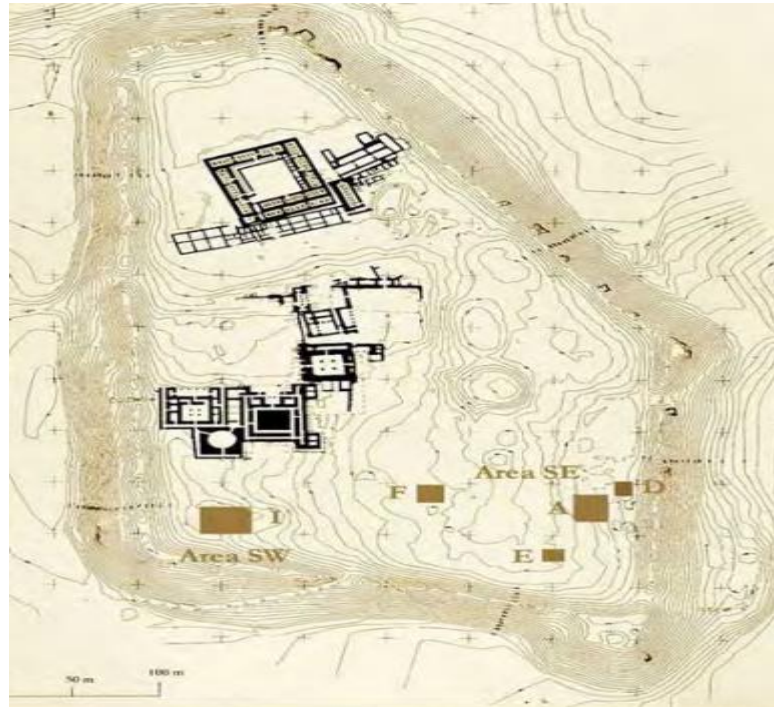


Figure 5: Topographic map of Nisa's Old Town



figure 5 - The supposed restoration of the old city of Nisa

Town of Parthian period:

Parthian government body with the destruction of the Seleucid government, embodies the Hellenistic city of Pars have also changed and for the first time in history, the city creates circular. Four major city in the Parthian period and was restored, and all four were circular in design, are: Mary, Ctesiphon, Hatra (Altar) and City Shays (Takht-e Soleiman current) of Ctesiphon was the first military camp that the Roman side was created. City Hydra (Altar) in the same order on the border of Mesopotamia (in the Parthian era) was built.

Conclusion:

Parthians had for 475 years of monarchy in Iransince 250 BC. AD to 226 AD began and ended. Contact Party ring style architecture and art with architecture and art of the Achaemenes era Sassanid era. Art of Alien and delivered to the Iranians. Greek architecture could survive in Iran. Because not only Greece's model was not accepted but Greek and Roman materials that rock and is abundant. This material is not in use, because the region does not have adequate coordination of

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the use of these materials. Another feature of this era of self-sufficiency and the use of ecological materials is achieved. In general we can say that the architecture of Parthian era have gradually from under whatever was imposed on Iranian art and flavor out of Iran to take, Because of the nature of the Iranian Parthian architectural style once again to praise his occupation is construction. Given that this process eventually culminating Sassanid architecture ancient architecture led Iran.

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RELATIONSHIPS OF MIRZA FATALI AKHUNDZADA WITH HIS CONTEMPORARIES IN THE FIELD OF STRUGGLE FOR NEW ALPHABET

Musayev Shahbaz Shami ¹

Abstract: The article investigates the new idea of alphabet of M.F.Akhundzada and the social-scientific relationships with his contemporaries in the field of realizing this idea. It is noted that the idea of new alphabet constitutes the basis of the concept of enlightenment. According to the rich scientific and epistolary heritage of writer-thinker, he put forward the issue of the necessity of alphabet reform giving ground that it causes to the massive illiteracy and non-compliance with Arabic alphabet used in Azerbaijan to the phonetic nature of Azerbaijan language as the result of social-historical processes and making special difficulties in teaching process. However M.F.Akhundzada doesn't consider his mission to be completed with putting forward an idea, he made a new alphabet and sent it to the official counties of the

Ottoman Empire and Iran, as well as the scientific centers of the important five countries of Europe for discussing it. The article has investigated the visit of M.F.Akhundzada to İstanbul and its results, as well as the correspondences with the official counties of Iran and consultations with his contemporaries for discussing new alphabet project. The article as involved to the study of letters he sent to his contemporaries, his relevant writings kept in the archive of M.A.Akhundzada, and appreciated the idea and considerations of other researchers about the problem. The Article clarifies the reasons of not realizing the idea of new alphabet of M.F.Akhundzada, and showed historical-culturological importance of this idea. It is noted that new alphabet idea collected supporters during little time, the issue of changing Arabic

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alphabet became social requirement in society and after Azerbaijan regained its state independence, the country started to Latin graphics alphabet.

Keywords: Mirza Fatali Akhundzada, enlightenment concept, modernization of society, new alphabet idea.

1.Introduction

Mirza Fatali Akhundzada (1812-1878) is one of the outstanding representatives of history of literary-artistic, cultural, scientific-philosophical thought of Azerbaijan. He founded national dramaturgy with comedies he wrote in 1850-1855 years, and realistic artistic prose with novella "The Deceived Stars" written in 1857 and thus he gained a great reputation as a founder of modern literature in his country and also in the whole East. He was also known as the first literary theorist and professional critic for his literary-theoretical views in Azerbaijan.

M.F.Akhundzada understands well as an enlightened realist writer and he was writing to his contemporaries that it's possible to heal the sick society drowning in ignorance and the religious

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fanaticism only by a new type literature related to the real life. M.F.Akhundzada shows that in the period of the world nations seeking progress and in new socio-political condition, traditional Eastern literature genres and especially ghazal and ode not related to real life, already have not working for people and he preferred essentially social literature that leads to national progress, serving for the progress of society, arose from the demands of the time. Deeply acquainted with the history of world artistic thought, M.F.Akhundzada preferred the second one- closer to the life comparing the East and West literatures from this point of view. It is not accidental that the writings of the outstanding representatives of European literature like W. Shakespeare, J.B.Moliere, F.Fenelon, G.G.Byron, J.Moliere, M.Voltaire, Sh.L.Montesquieu, and J.J.Rousseau always attracted his attention and he was benefited from the European writers in new type of literary creativity. That's why the enlightenment movement in Azerbaijan, the enlightened realism period in national literature is exactly related to the name of M.F.Akhundzada.

M.F.Akhundzada entered to the history of national thought as a creator of modernization concept of Azerbaijan society. He kept in mind continuously the matter of modernization of society in his correspondences with his contemporaries- in his rich epistolary heritage, scientific-philosophical writings, thenovella of “The Deceived Stars”, the treatise of “ Letters of Kemal-oud-Dovle” and his plays, this problem constituted the leitmotif of all his creativity. M.F.Akhundzada tried to solve the important problems as launching to publish book, creating national press, achieving freedom of speech and thought, being integrated to Europe in civilization and modernization process. In his mind, it should be performed complex measures for enlightening the nation, creating new type of education system for joining of Azerbaijan to the world and European civilizations above all.

He realizes that it is enough difficult to implement these tasks with this illiterate mass, if total illiteracy is related to the conservative, old way of thinking prevails in the society, on the other side, it is related to Arabic alphabet used compulsory by nation as a result of

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the historical processes arising by invading Azerbaijan by the Arabs.

As a result of scientific analysis and observations M.F.Akhundzada concluded that they should refuse the arabic graphics alphabet leading to the massive illiteracy without delay and complicating much more the writing and readings of Azerbaijanis, as well as unable to fully explain the phonetic nature of the Azerbaijani language, Turkish languages, the basis of articulation, and they have to start to the new alphabet written from the left to the right as Europeans.

For this purpose, he made a new alphabet project and struggled for realizing it until the end of his life. He built close relationships with his contemporaries who are in the same opinion, government representatives, and outstanding intellectuals of his period for realizing his new alphabet project. There is a serious need to the struggle for alphabet and investigating the relationships with his contemporaries scientifically in this field. This is specially importance for preparing an excellent scientific biography of M.F.Akhundzada and from the point of view of valuing writer-thinker’s outlook.

We should note that the problem was investigated in enough tendencies with the direct effect of communism ideology during the Soviet era. (1920-1991). There is a serious need to the comprehensive research of the problem of relationships with his contemporaries in the field of struggle for new alphabet of M.F.Akhundzada in new socio-political condition emerging after gaining state independence of Azerbaijan (1991) and turning over the subject of international law.

M.F.Akhundzada had intensive discussions with his countrymen who are outstanding scientific, cultural and religious figures of their time living in Shusha, political, economic and social center of the Caucasus XIX century for realizing new alphabet project. He corresponded with the persons representing different classes in Iran, and visited to Istanbul (1863) for making discussions with the official and scientific counties considering exceptional importance in development and cultural life building of Muslim nations. M.F.Akhundzada has sent new alphabet project to the important scientific centers of Germany, Austria, France, England and Russia for

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collecting more supporters for himself among his contemporaries and possibly expanding the geography of dissemination of the idea, getting opinions from them, acquainted his European counterparts with the project. Analyses show that these expectations of M.F.Akhundzada were justified itself. Although new alphabet project was greeted with some caution in The Ottoman Empire, and with harsh protest in the level of high political counties in Iran, in any case it was effective and Turkish intellectuals started to widespread discussions in the country and Turkish immigrants in Europe. Besides the supporters of M.F.Akhundzada, there were opponents of his idea. But the main thing is that the issue from the centers to the press then became wide social movement. We should note that when M.F.Akhundzada put forward the issue of alphabet with all his seriousness, he was known as a modern writer in the cultural counties of Russia, The Ottoman Empire, Iran and other European countries.

2. Literature Review

In 19th century which entered to history as progress and civilization

century, M.F.Akhundzada who thinks that the civilization way of nation which he belongs to, passes through the beneficial alphabet and justifies scientific evidences of these thoughts, he strengthened his position with relevant examples in the letters addressed to the persons and organizations-in the writings with excellent scientific thoughts and argued with his opponents with his real linguist competence and persuaded them. In the letter addressed to the enlightenment minister of Iran M.F.Akhundzada talked about the difficulty of writing and reading with available Arabic alphabet. He often took example of Europe when explaining his thoughts about the problem and explained the development in science and education of Europeans with the excellence of the alphabet. M.F.Akhundzada links Muslim children to being left behind by their European peers in education, not by their personal incompetence, but by the imperfection of the alphabet.[Akhundov, 1955, s.101]. That is why M.F.Akhundzada firmly believed that the alphabet stand on the basis of any progress and tried to persuade his opponents to this. “Building the railroad is important, but it is more

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important to change the old alphabet. Building telecommunication line is important, but it is more important to change the old alphabet. Because science is a foundation of all work. And science is depending on the easiness of the alphabet. [Akhundov, 1955, p. 109].

3.Method

The theoretical basics of the research are the generalization and sistematization. During the analysis and investigation of the texts involved to the study, historical-comparative and analytical-typological methods were used, history and modernity, time and space principles were taken as a basis. The study evaluated the political and ideological tendencies reflected in all the materials reviewed and referenced, approached in the context of that historical period, of the views and opinions of individual authors.

4.Discussions and Conclusion

Archival documents and letters to his contemporaries of the writer indicate that M.F. Akhundzada came up

with the idea of changing the Arabic alphabet in the second half of the 1850s. M.F. Akhundzada archive contains three writings that tell about his study of the history of the Arabian alphabet, the imperfection of the alphabet, and its interpretation of the essence of the new alphabet [Archive of Akhundzada fund 2, storage unit 33, 2 + 4 pages; storage unit 34, 3+3 pages; storage unit 447, page 24-29]. Each 3 writings were written in 1857.

M.F. Akhundzada understood well that alphabetical reform would be met with protest by forces that have conservative thinking and nihilistic attitude to any innovation. Therefore before taking concrete practical action it was necessary to prove that changing the alphabet wasn't against Islamic religion or the Qur'an. M.F. Akhundzada wrote by referring scientific sources that the Kufi line existed before Islam, and it was written in the alphabet after the Qur'an was revealed. Therefore, just as there is no need for the goddess of the alphabet, there is no harm changing the religion to the religion and Guran. On the other side, at the beginning of the fourth century of the Hijri history, the Arab scholar Ibn al-Mughla created a naskh line based on the

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Kufi line written by the Qur'an. M.F. Akhundzada wrote that if we consider the interests of the people, we can change the nuskh line of Ibn-Mughlana, which is now being used among all the Muslim nations, and if we create more easy method of writing, we wouldn't violate religious and legal norms.. [Akhundov, 1988, III c., p. 56].

Was there an idea of reform or a complete change of the Arabic alphabet before M.F. Akhundzada. In terms of investigating the relationships whether it is scientific or absolutely with his contemporaries of M.F. Akhundzada, the answer to this questions should be sought. We should note that in Azerbaijan akhund science it has unambiguously affirmed and accepted that the question of inability of the Arabic alphabet for the Turkish people has been raised by Mirza Fatali Akhundzada for the first time in East and Azerbaijan and he has tried to realize his idea until the end of his life. The author noted the issue of alphabet was raised by M.F. Akhundzada for the first time. He was writing on October of 1857 " there was a need to make an innovation.. in the alphabet of the Islamic writing. Making reform was necessary. But I was in

charge of renewing work of the alphabet” [Akhundov, 1988, III c., p.19] The importance of accepting the only new alphabet was also putting forward for European and Asian countries in the beginning of XIX century. The author of this idea was French enlightener, philosopher, politician Konstantin François Volney(1757-1820). C.Volney suggested this idea in writing of “European alphabet applied to the languages of Asia” which is published in Paris in 1819. However, unlike M.F. Akhundzada, K. Volney's goal was not to directly prove the inability of the Arabic alphabet to the Eastern languages. As an author of the idea of reunion of nations in “The head states of Europe”, C.Volney suggested the transition to the unit Latin alphabet. The analysis show that the new idea of M.F.Akhundzada differs from the analogical works of French reformer in terms of purposes and essence. C.Volney's alphabet idea was largely emerged on his political views and outlook, but the alphabet idea of M.F.Akhundzada which he tried to realize, was emerged as a demand of the time, the necessity of national-cultural thought and later turn to the wide social-

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scientific movement, has become a social order, as a result it was realized. This idea in C.Volney couldn't go beyond utopia. According to the rich heritage of M.F. Akhundzada, it could be said that he was acquainted with the outlook and creativity of C.F.Volney. In his famous writing of “Criticism”, he used the name of C.Volney along with the outstanding thinkers such as Voltaire, Montesquieu, Rousseau, Duma, Humboldt, Box, Shakespeare and Byron.[Akhundov, 1987, p. 332]. He concluded that prominent literature critic Aziz Mirahmadov in his article of “M.F.Akhundov and C.Volney” [Mirahmadov, 1985, p.17] concluded on the basis of analysis that he involved the attention of M.F.Akhundzada not only with hostile attitude to the religion, Feudal despotism, but with the activity on conducting reforms in the alphabet area.[Mirahmadov, 1985, p.17]

M.F.Akhundzada wrote in a letter dated 5 June 1858 to Hussein Nizamuddovla of Tehran that he was working in the Caucasus provinces to justifying and applying the idea of a new alphabet.[Akhundov, 1988, III c., s. 68-69]"Caucasus Provinces" refers to the central Tbilisi of the Caucasus,

Azerbaijan, Dagestan, and the North Caucasus. It should be noted that in the 19th century famous scholars and clerics of Azerbaijan, as well as the whole of the Orient, such as Mohammadali Huseynzada, Fazil İravanî, Mehdi İsmayıloğlu, Mahammad Afandi Muftizada, Ahmad Huseynzada, Huseyn Afandi Qayıbov lived in Tbilisi. M.F. Akhundzada discussed his idea of new alphabet with many of these intellectuals and sought ways to realize them.

Akhund Ahmed Huseynzada (1812-1887) was one of the persons whom M.F. Akhundzada met regularly in Tbilisi and discussed various issues such as science, culture, literature, education and so on. Epistolary heritage of M.F. Akhundzada proves that Akhund Ahmad Huseynzada always supported him in the issue of new alphabet. Ahmad Huseynzada who was sheikh-ul-islam of the Caucasus in 1862-1884 was one of the rare religious figures with the democratic style of thinking and rich knowledge. He participated closely in the opening of Azerbaijan department in Gori Teachers' Seminary together with M.F. Akhundzada. Being an outstanding Islamic scholar of his time, he was well

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versed in secular sciences and wrote several textbooks. Professor V. Guliyev writes that behind the personal relationships of these prominent personalities, very serious social issues have been put forward and they have exchanged views on the necessary reforms that the Islamic world needs. [Guliyev] Akhund Ahmad Huseynzada didn't support the activity on the reform of new alphabet of M.F. Akhundzada, in general he accepted the necessity of changing the arabic alphabet and was a supporter of all these initiatives in this area and showed scientific attitude to this problem. A letter from M.F. Akhundzada to his friend Mirza Melkum khan on June 2, 1871 reveals that M.F. Akhundzada began to seek judgement on contradicting to the Sharia laws of changing the alphabet in scientific-religious sources for protecting his associates. [Akhundov, 1988. III c, s. 173] Existing documents reveals that Sheikh-ul-Islam Ahmad Huseynzada has always been interested in the activities of M.F. Akhundzada's well-known contemporaries. Researcher V. Guliyev wrote that he defended the writing of "The only word" (One word) on the reforms in the area of law and in the

administration system of his friend sheikh-ul-islam Mirza Yusif khan.[Guliyev]

The most active activity of M.F.Akhundzada in the area of realizing his new alphabet idea may be considered his visit to Istanbul. He understood well that in fact, the issue of new alphabet with all its parameters depends on the attitude of The Ottoman Empire rulers to this matter. So that M.F.Akhundzada has prepared to visit The Ottoman Empire some years ago.

It should be noted that in all works that written in Soviet period (1920-1991), the visit of M.F.Akhundzada and its results was reflected in the curved mirror under the influence of political ideology in most cases, and there were many faults. During the Soviet period, the visit of M.F.Akhundzada to the Ottoman Empire was silent over the position of the Azerbaijani statesmen and scientists, who had been living in exile in Turkey, in the struggle for the realization of the idea. Undoubtedly it didn't allow fundamentally investigating the problem of M.F.Akhundzada's relationships with his Turkish contemporaries.

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The researchers who are the authors of valuable writings on the Azerbaijani literature, culture and history and living in exile in Turkey talked about the alphabet reform in the frame of the life, creativity, scientific-social activity of M.F.Akhundzada and his visit to The Ottoman Empire for this purpose. In this regard, the articles of "Mirza Fatali Akhundzada" [Jaferoghlu, 1933] and "A Certificate about Mirza Fatali Akhundzada" [Jaferoghlu, 1934] of an immigrant scholar, professor Ahmad Jafaroghlu have a great importance. Those sources allow studying deeply the relationships with his contemporaries in the matter of new alphabet, and the results of visit of M.F.Akhundzada to The Ottoman Empire

The visit of M.F.Akhundzada was realized in 1863 after 6 years of sending the alphabet project. As it's seen from the records of the writer, he held meetings with prime minister Fuad pasha, foreign minister Ali pasha, enlightenment minister Adham pasha, as well as head translator of Minister of Foreign Affairs, the founder of Society of Science of the Ottoman Empire and the enthusiastic supporter of new alphabet

Munifafandi in Istanbul. M.F.Akhundzada has met highly at the level of government leader in the Ottoman Empire.

It is clear from the records of M.F.Akhundzada, the alphabet project was discussed firstly by the task of prime minister Fuad pasha on the 10th of July in 1863. In the first discussion M.F.Akhundzada was participated and give a comprehensive explanation on the project. In the second discussion which happened after one week, M.F.Akhundzada hasn't participated for unknown reasons but was informed by Munifafandi who presided over the discussions.

Munifafandi was one of the open-minded personalities of his time, and worked in the Embassy of the Ottoman Empire in Berlin for a while, and was the education minister of the Ottoman Empire at three times. By the initiative of Munifafandi, the Society of Science of the Ottoman Empire and his "Majmuayi-funun" (the compilation of Subjects) journal of 32 pages were created. Dozens of writings on the different fields of science was published in "Majmuayi-funun" of Munif afandi. The article of Munif afandi which

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supporting the idea of the Azerbaijani thinker was published in the compilation shortly before the visit of M.F.Akhundzada to İstanbul. [Jaferoghlu, 1934]. Munif afandi was in the translator position at the Ministry of Foreign AffairsM.F.Akhundzada's visitto İstanbul.

As it is seen in the records of M.F.Akhundzada, the members of society was agreed principally with his project from the first discussion. The second meeting which he wasn't participate was final and reflected the scientific approach of Mirza FataliAkhundzada to the alphabet project. The clear documents and materials proves that Society members approached the problem completely objective, none of the members had been given tendency instructions related to any issue by government, the most importantly they approached with special respect to M.F.Akhundzada's personality and alphabet project. As it is seen in the records of M.F.Akhundada the necessity of transition to new alphabet has reflected to its details in the final decision of the Society of Science. Thus the alphabet project of

M.F.Akhundzada was accepted in terms of facilitating the application process - with definite modifications by the Society of Science of the Ottoman Empire.

It should be noted that the members of the Society of Science of the Ottoman Empire, led by Munif Afandi have completely implemented their duties. Although there were disagreements about the certain details, the members of the Society appreciated the project and also presented a report to the Ottoman Sultan on M.F. Akhundzada's personality and artistic creativity. We should note that the first information about that document was given by exile immigrant A. Jafaroghlu, and published the full text of the report in his journal of "Azerbaijan country knowledge" [Jafaroghlu, 1934, p. 41-45]. In addition to preparation the alphabet project of M.F. Akhundzada, it was emphasized in the report that he was a modern-minded person with rich worldview, an intelligent knowing some western languages, therefore an author of stories. In fact, this document could be considered the end of M.F. Akhundzada's visit to Istanbul.

Dozens of authors, including M.F. Akhundzada himself, have analyzed the visit to Istanbul from different perspectives up to now, and came to various conclusions.

But analysis show that it's impossible to perform the project in state level because of the reasons shown in ahead, the visit of M.F. Akhundzada to Istanbul hasn't been ineffective, the movement on the alphabet was founded in the Turkish society, this is important issue has been studied and analyzed systematically by the intellectuals after the visit of Azerbaijani thinker. In letter to his friend, Mirza Yusif khan of Tabriz, who was in diplomatic activity has written about the new alphabet in the newspaper of "Hurriyat" which they published by immigrants in London and about what they are talking about M.F. Akhundzada. [Akhundov, 1988, III p. 285-286].

Despite the decision of the Science Society of Ottoman, the adoption and implementation of new alphabet in state level wasn't occurred. In addition, promising high-level circles, the writer's dramatic works have not been published in Istanbul. M.F. Akhundzada explained it by the fact

that Mirza Hussein Khan, the ambassador of Iran in Istanbul at that time, described him as an enemy of the religion with the Ottoman authorities. Thus M.F.Akhundzada explained the idea on new alphabet of not being realized in Ottoman with the subjective factor. In our mind, starting to the implementation of alphabet project of fully approved is related to the international situation of the country and internal situation in the Ottoman Empire on that time. Immigrant researcher, professor A.Jafaroghlu naturally considered that Ottoman government would not enter to a revolution like changing the alphabet in 1863 [Jafaroghlu, 1933, p. 442]. The immigrants started a serious struggle to the Ottoman government in Europe in 1860s. The Ottoman government was severely criticized in Turkish emigration press founded by the Society of New Ottomans.

Freedom ideas were peached in the writings of Ali Suavi, Namik Kamal and others. It also should be noted that both Ali Suavi and Namik Kamal spoke in the press about the alphabet and made their suggestions. M.F.Akhundzada was seriously criticized Ali Suavi's

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suggestions on the new alphabet in the newspaper of "Correspondent" which he published in London and justified its uselessness in arguments. [Akhundov, 1988, II edition p. 259-270].

Thus, the Turkish government couldn't suddenly set this sensitive issue such as changing the alphabet in extremely complicated internal and external situation. Undoubtedly, because of the government doesn't consider the new alphabet as an issue, they couldn't give an opportunity to his political opponents to shoot with their own weapons by taking such a step.

Talking about the views on the new alphabet of M.F.Akhundzada, it's important to learn the relationships of the prominent contemporaries of the writer, as well as some of the officials of this country and the official position of Iran.

As part of M.F.Akhundzada's struggle for the new alphabet, his public relations with his Iranian contemporaries can be clearly seen in the repeatedly published epistolary heritage, which has been preserved in the archives of the writer. In the letters addressed to the prime minister of Iran, Tehran's emir from other officials, Etizadussaltana of the education minister, Hussein Khan

Nizamuddovla, separate diplomats, consul Ali khan, Mustofiyul-Mamalika, Mirza Alakbar who was working translator in Russian Council in Tabriz, the responsible officer of the Ministry of Foreign Affairs and others, M.F.Akhundzadawrote that the new alphabet would open new page in the history of Islamic nationsand the Muslims would join among the developed countries of the world. Although Akhundzade's correspondence with officials was not intensive, correspondence with some Iranian contemporaries later developed into a firm belief friendship and continued for many years. The research of these relations of M.F.Akhundzada with these Iranian contemporaries had necessarily great importance. The research of his relations with Mirza Melkun khan, Mirza Yusif khan, Jalaladdin Mirza, Mohammad JafarGarajadaghi, Mirza agha Mohammad Mehdi helps to identify the philosophy of the outlook of M.F.Akhundzada, and evaluate direct or indirect impact on the literary process and social literary-cultural life of Eastern nations in the second half of XIX century.

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Returning to İstanbul in 1863, M.F.Akhundzada continued strictly his struggle on new alphabet and tried to persuade official Tehran of the necessity of alphabet reforms for the sake of the progress of Islamic nations and sent his developed project and the alphabet project of his friend Mirza Melkun. The emigrant researcher A.Jafaroghlu was writing that, according to its nature, Tehran has denied Mirza's suggestion.[Jaferoghlu, 1933, p. 442].

M.F.Akhundzada agreed with the relevant state authorities on the appeal to Iran about the alphabet beforehand. It shows that M.F.Akhundzada'sactivity in that area, in fact, has been in control of state authorities. It can be seen from the allowance that given to M.F.Akhundzada by relevant state body. " Major Akhundov! For submitting to necessary institutions of your projects on changing of an old Islamic alphabetyou're allowed to submit to head consul of Iranian state. [Akhundov, 1955, p. 69]. On September of 1868 M.F.Akhundzada applied with the reference to Ali khan, the head consul of Iran in Tiflis. 5 documents were in the reference- the project he made in 1857,

the published opinion on the alphabet project his new project, of Science Society of Ottoman Empire, the opinion on the positive characteristics of the project submitted by Mirza Melkum khan, finally the publish opinion of Mirza Melkun khan on changing Islamic alphabet. Apparently, Iran had the opportunity to choose the most suitable option for its respective circles. But the alphabet projects in Iran hadn't only discussed, but also were clearly rejected. According to the records of M.F.Akhundzada, the position of official Tehran was like this: The most rewarding and favourable work would be that Mirza Fatali Akhundzada would express his views on changing the Islamic alphabet to the Ottoman leaders. We- Iran nation don't need to change our alphabet Because we have three kind of scripts: nastalik, Shikasta, naskh are higher than all the scripts in the world. We'll never leave our scripts by no means. "We don't comply and would not comply the new script of M.F.Akhundzada and Melkum khan"

Rejection of new alphabet project in Iran may be related to both the conservative way of thinking and subjective factors and to the intense

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processes happened in the country on that time. It is also possible to link Mirza Hussein Khan's idea that "Changing the Islamic alphabet would lead to the loss of the Gajarid dynasty of Iran. During M.F. Akhundzada's appeal to Iran regarding the new alphabet project and intensive relations with Iranian contemporaries (1857-1868), very serious political processes took place within this country. Nasreddin Shah, who came to power after his father, Shah (1831-1896; years of power: 1848-1896), tried to soften the tense internal politics, while also adjusting to a foreign policy. Of course, he was also inherited with a very complex internal situation together with the throne-crown. The Babylon movement took over the country. The uprising initiated by Sayid Ali Mohammed Bab began in 1850 in Zanjan, which covered almost all of the population's classes was suppressed during the first years of shah's rule. Despite Sayid Ali Mohammad was killed, the Babylon movement has spread to all Iran, gain massive character, different religious sects close to Babylon, as well as Bahaism began to expand rapidly. It is not possible to consider accidental of appearing the

writing “The beliefs on Babylon” [Akhundov, 1988, II c. p 232-235] of M.F.Akhundzada at that time. In the letter to his friend Mirza Yusif khan on August of 1969, he wrote that the Babylonians rose up in Tehran and there is no knowledge of the alphabet project. [Akhundov, 1988, III c. p.131]..In such complex situation- intense conflict time in the country it was completely impossible to make a decision on changing the Islamic alphabet of the official counties of Iran. We think that the rejection of the alphabet project of M.F.Akhundzada by official Tehran was directly related to the mood of internal auditory and the situation in the country at that time. It is also possible to add the wrong approaches of religious views of some authoritative officials.

The results of our analysis shows that either in Turkey or in Iran, the non-acceptance of the new alphabet project was directly related to the extremely complicated external and internal situation in each countries. Here, undoubtedly, the fact that the political power and way of thinking of officials is not at the level that the old alphabet can reject, should be valued as a serious factor.

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The scientists, cultural and religious figures who understands the importance of new alphabet-the contemporaries of M.F.Akhundzada must accept this idea, agree with him, work on the promotion of the project and, so on, in fact, should be accepted of fulfilling properly their historical mission within the terms of that period.

Although the new alphabet idea of M.F.Akhundzada wasn't realized by the subjective and objective reasons, the long-standing struggle of the enlightened writer hasn't been ineffective. The researches show that new alphabet idea has founded the new social movement in Azerbaijan under Russian colonialism, as well as in the Ottoman Empire and Iran in the health of M.F. Akhundzada and in his later years, and gained thousands of supporters in shortly time. The social-political situation happened in 1920 allowed to the realization of new alphabet idea and Latin graphics alphabet was applied in Azerbaijan from January 1, 1929 until January 1, 1940. On January 1, 1940, Cyrillic alphabet was applied in Azerbaijan without considering people's will. After gaining independence in 1991, the reasonable measures were taken in state level in

direction of restoration of Latin graphics alphabet in new social-political situation that appeared. Since 2001, August 1 is celebrated annually as the Alphabet Day in Azerbaijan.

Our studies have shown that the foundation of enlightenment concept of M.F.Akhundzada forms the idea of new alphabet. The idea of new alphabet of writer-thinker was appeared as the result of the long-term observations and analysis. Based on scientific analysis, M.F.Akhundzada concluded that the massive illiteracy of the nation he belongs to, being out of the civilization process occurring in the world is directly related to the difficulty of Arab alphabet and it should be started to the alphabet reforms without delay. But he understood well that it will be difficult to break the resistance of religious fanatics, to persuade to the necessity of the alphabet reform of the society which unable to give up conservative way of thinking, old traditions. That is why M.F. Akhundzada, as an educator, justly proved that changing the Arabic alphabet did not contradict the Quran and Sharia law written in this alphabet, and conveyed his thoughts and ideas to the

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prominent scholars, culture and clerics of his time.

Our studies show that MF Akhundzada tried to realize the idea of the new alphabet through the Ottoman and Iranian states, given the fact that his country was under Russian colonization. Our analysis shows that MF Akhundzada tried to realize the idea of the new alphabet through the Ottoman and Iranian states, given the fact that his country was under Russian colonization. Studies show that even though the writer-thinker failed to achieve his goal, he was able to unite many of his contemporaries with a great reputation in the community around the idea of a new alphabet, in his letters to friends, expressing his confidence that future generations would fulfil his dream.

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Newspaper 525, May 19, # 91

LEGALIZATION OF NON-TRADITIONAL MARRIAGES AS A FACTOR UNDERMINING THE MORAL BASIS OF THE FAMILY AND LEADING TO THE REJECTION OF CHRISTIAN VALUES

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Abstract: *The goal of this research article is to demonstrate that non-traditional marriages not only undermine the moral basis of the institution of the family, and lead to the rejection of traditional values. In order to examine this problem, comparative analysis was*

chosen as the main research method. Through the exploration of international experience and comparing legal norms, repeating the same mistakes in the area of domestic law and judicial practice can be avoided. This approach also facilitates the assessment of the effectiveness of

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solving various problems of law enforcement associated with the institutions of marriage and as a consequence, family in modern society. Additionally, the authors employed some other general and private scientific methods. Based on the findings of this work, the following *conclusions* were drawn: non-traditional marriage is a relationship in which the number of participants, their gender, the method of marriage registration, as well as the method of choosing a partner differ from the generally accepted standard of “the man and the woman” to meet sexual interests and needs of the participants. It is noteworthy that family is the basis of the state, national identity, and cultural development. Without a family in its traditional sense, it is impossible to preserve traditions and to pass them on from one generation to another. Therefore, it is imperative for us and our legislators to seriously consider the legalization of the concept of non-traditional marriages so that they are prohibited and the individuals who are looking to enter into such marriages are persecuted, since these newfangled Western trends are aimed at the

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destruction of state values and the inexorable degradation of the state itself.

1. Introduction

The changes in Russia’s political, economic, and social system have led to large-scale transformations in many areas of life. In this context, the continuing processes of globalization have contributed to the formation of a post-industrial society characterized by radical changes in traditional values and ethical ideals. In turn, these transformations have greatly influenced professional, moral, psychological, aesthetic, and family relationships of the genders, which has negatively affected the very fabric of family values.

Nowadays, the family remains the most important socially significant institution that requires close attention and support from the state. Recently, the development of information and communication systems (ICT) has catalyzed a nefarious, massive propaganda of new values, aiming to promote such a distorted form of family relations as cohabitation among Russian citizens. In addition, such concepts as abortion or a forced action on an unborn child have easily taken root in modern

society. At the same time, recent European family trends entailing the promulgation of same-sex marriages and the adoption of children by such families also have a noticeable influence on Russian society. All these changes are systematically undermining and uprooting centuries-old family values and traditions of children upbringing in Russia. For this reason, the preservation of marriage and family values today is a pressing issue that modern Russian society should be concerned about.

At present, Russia is witnessing a crisis in the institution of the family. The number of marriages in our country has decreased. The underlying reasons for this should be sought not only in the external economic circumstances of the life of a family, but also in the personal features, the loss of spiritual foundations, of the values that hold the family together. It was the rejection of the holiness of the marriage bond that provoked the crisis of the modern institution of marriage and family relations in Russia (a considerable number of divorces, the emergence of non-traditional family models: civil marriage, guest marriage, childfree, and partner swapping). The reasons for this

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are the increasing popularity of liberal values, in particular, unmarried sex, homosexuality, and the exaggerated idea of sexual equality. As a result, the individuals have lost their moral integrity, which leads to the alienation of man in society and their further degradation.

In Russia, there has been an acute discussion about the legalization of same-sex marriages since the 2000s. This is because same-sex couples living in Russia began to refer to the global experience and attempted to register their relationship. The first attempts to legalize same-sex marriages in Russia were made in Moscow: “On January 18, 2005 the Savelovsky registry office of Moscow registered the application for entering into a same-sex marriage between Yabloko’s parliament member Edward Murzin and the editor-in-chief of the gay magazine “Queer” Eduard Mishin.” By this, they publicly revealed their sexual orientation, and their attempt of a marriage was an appeal to the Russian society to resolve this issue at the legislative level.

Today, researchers air their ideas about further development of same-sex marriages in Russia. President

of the Russian Federation V.V. Putin (2013) expressed his dissatisfaction with Western attempts to eliminate the differences between traditional and same-sex families, and Patriarch Kirill called the homosexual union “the destruction of the nation” (Yakovleva, 2013). Most researchers exploring this issue believe that in the future the legalization of such marriages in Russia is impossible since it will not find support among most Russians.

However, some people claim that it is possible, but in the distant future. For example, sociologist Alexander Novikov (2008) said: “I predict that it is quite a while until same-sex marriages can be registered in Russia.” Vitaly Milonov (the author of St. Petersburg law “On the prohibition of gay propaganda”) questions such statements and notes that homosexual families will never be recognized in Russia.

Igor Kochetkov, one of the leaders of the LGBT network of the Russian interregional social movement aiming at the protection of the rights and social adaptation of sexual and gender minorities, has the opposite opinion. He says, “Within less than 20 years, the

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main European countries will recognize marital equality for all, regardless of their sexual orientation. This is a common process, not a parallel one, and Russia will be involved in it. In a free discussion, we can come to a consensus. I believe that the issue of legalizing same-sex marriage in Russia is a matter of time and public discussions” (Kochetkov, 2013).

We see that this issue currently remains debatable in the Russian society. Perhaps in the future, supporters and opponents of the legalization of same-sex marriage will reach an agreement. However, according to the forecasts of experts, this will not happen soon.

As for the recognition of same-sex marriages throughout the world, we can highlight two trends. Firstly, there are countries in which gay marriage has been legalized (Greenland, Canada, USA, Argentina, Uruguay, part of Mexico, Iceland, Finland, Sweden, Norway, Britain, France, Belgium, Spain, Portugal, South Africa, Japan, Malta, Zealand, and Colombia). Secondly, some countries have legalized same-sex civil partnerships and unions (Germany, Czech Republic, Hungary, Switzerland, Greece, Croatia, Cyprus,

and Estonia). Equating such, a marriage to an official one poses some problems: the identification of marriage as a legal and social institution, blurred family roles, the time of their beginning and expiration, the range of rights and obligations of spouses.

Same-sex marriage is just a form of marriage and family relations. The problem is much more serious since marriage and family relations are changing, and not for the better. In this paper, the definition of “non-traditional marriage” denotes all kinds of relationships based on hedonism and sexual freedom. It should be noted that this term is not used in international and national legislation, despite its wide application.

In our opinion, non-traditional marriage is a deviation from Christian norms, and it is anti-religious. Such a non-traditional marriage should be considered not as a union of a man and a woman aimed at starting a family and procreation, but as a fake, that devalues the traditional purpose of the institution of the family and marriage.

The seventh commandment of the synodal translation of the Bible is: “Thou shalt not commit adultery.” The

same commandment can be called the Christian principle of sexual morality as it emphasizes the needs of human as a biological being for his internal moral purity.

Christian norms pay a lot of attention to the essence of human nature and its manifestations. Christian doctrine is focused on man, his spirituality, education, and morality. It has a negative attitude to all manifestations of the sinful nature of the human. From the Apostolic Age, Christian ideas about sexuality did not contain the definition of the legal nature of marriage customary for us. They regarded all non-traditional forms of sexual relations as adultery, identifying them as sinful. For example, Jewish historian Josephus Flavius condemned sodomy and compared this act to sex with a menstruating woman and bestiality, emphasizing that “Moses forbade sexual relations with a menstruating woman, bestiality and sodomy, pointing to all the shame of such crimes” (Flavius, 1544).

The Russian Orthodox Church has a pronounced negative attitude to these phenomena and gives an explicit theological answer to the problem we are studying. Unfortunately, the sexual

madness that affects many people, regardless of their age, gender, nationality, religion, social status, is not currently being treated. This ailment can be healed only through religion, the theological dogmas and rules that should be followed and learned. We should turn to the teaching of the Holy Apostles, which protects the moral standards of human coexistence.

The Russian Orthodox Church has always seen the marriage and the family not only as a union of two people formed for obtaining mutual benefits and giving birth to children. In the story of the creation of humankind, we see that God did not just create man as an individual. Humanity was created as a family in which there were a man and a woman, and this marriage union was completed by their relationship with God and the potential to be creators of their own kind – childbearing.

“For Christians, marriage has become not just a legal contract, a means of procreation and satisfaction of fleeting bodily needs, but, according to St. John Chrysostom, the sacrament of love, the eternal union of spouses with each other in Christ. Initially, Christians sealed marriage with a church blessing and joint

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participation in the Eucharist, which was the oldest form of the sacrament of marriage” (Official site Pravoslavie.ru, 2017). In other words, in the Christian tradition, the family is a small church with God and man.

Thus, the family as a home church is a single organism in which members find mutual understanding based on the laws of morality and mutual love, where family values are formed and passed on from generation to generation. Such an approach aims to create a healthy civic position through piety, the right attitude not only towards one’s nearest and dearest, but also to the whole nation and society. To overcome the crisis of the institution of the marriage and family, one should turn to Christian values, which have a long history. They will help strengthen the family and will become the key to improving family relations in Russia. The Church taught in the past and still teaches the true principles of building the marriage and family. For many centuries, it has been instructing to have a family and build it according to the Word of our Lord Jesus Christ. The Church sees marriage as “a union according to Divine and human law,”

that is, not only according to temporary rules established by the people themselves, but also according to eternal laws created by God.

Unfortunately, Christian dogmas are interpreted in a distorted way. For example, in 2008, US President B. Obama claimed, “Marriage is possible only between a man and a woman, because God unites”, but a little later, he radically changed his position, referring to the “golden rule” (the concept that Christ taught in Matthew 7:12), which forced him to accept the so-called gay marriage. Then, is homosexual marriage the “golden rule” for marriage?

If we do not want human race to fall like Sodom and Gomorrah because of its depravity, we should radically change our attitude to the most ancient social institution – the family and the marriage.

2. Literature review

Currently, not many researchers have explored this issue. There have been no monographs published either by international or Russian scholars. There are several scientific papers and notes presenting philosophical positions of scientists.

Among international scholars exploring the problems of same-sex marriage we should mention G. Herek, a psychologist by training, who is mainly engaged in studying the psychological orientation of persons in same-sex marriage. In one of his well-known works, “Legal recognition of same-sex relationships in the United States: A social science perspective,” G. Herek states that “Whether and how civil society should recognize committed relationships between same-sex partners has become a prominent, often divisive, policy issue. ... same-sex and heterosexual relationships do not differ in their essential psychosocial dimensions; that a parent’s sexual orientation is unrelated to her or his ability to provide a healthy and nurturing family environment; and that marriage bestows substantial psychological, social, and health benefits. ... same-sex couples and their children are likely to benefit in numerous ways from legal recognition of their families, and providing such recognition through marriage will bestow greater benefit than civil unions or domestic partnerships. Trends in public opinion toward greater

support for legal recognition of same-sex couples are discussed” (Herek, 2006).

In their scientific work “Observing gay, lesbian and heterosexual couples’ relationships: Mathematical modeling of conflict interaction,” J. Gottman and R. Levenson, like their colleague from California, solely focus on the psychological basis of the relationship of spouses in such marital and family relationships. The conclusion that the scientists came to is contradictory. According to them, “Two samples of committed gay and lesbian cohabiting couples and two samples of married couples (couples in which the woman presented the conflict issue to the man, and couples in which the man presented the conflict issue to the woman) engaged in three conversations: (1) an events of the day conversation (after being apart for at least 8 hours), (2) a conflict resolution conversation, and (3) a pleasant topic conversation (Gottman, Levenson, 2003).”

M. Trandafir (2014) conducted a rather interesting study regarding the impact on the institute of the family from the legalization of same-sex marriages. It is well-known that the first state to

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legalize same-sex marriage was the Netherlands (1998). M. Trandafir concluded that the legalization of same-sex marriage entailed the transformation of the institution of marriage from a union of a man and a woman into a status similar to “daily plebiscite” (Trandafir, 2014). S. Titshaw (2012) proved that civil same-sex marriage appeared more appealing than starting a family.

In Russian science, only a few researchers, mainly of a specific political and sociological orientation, explore such unions. For example, scientists O.B. Bozhkov and T.Z. Protasenko (2012) conducted a sociological study aimed at identifying the causes of non-traditional family relationships. In their opinion, the main reason is the increasing popularity of this kind of unions and political reasons. Russian scientists, unlike their Western counterparts, have a negative attitude to these new-fangled Western phenomenon, linking it with a drop in the birth rate, a demographic catastrophe, and a fall in the family values. Thus, the presented analysis of the positions of Western and Russian scientists indicates that the problems considered in this article have not been fully explored since

it is wrong to study the phenomenon of non-traditional marriages only from the socio-political and psychological perspective. This issue has many aspects and is connected with the interests of not only an individual or a group of people, but also the whole society and the state.

3. Materials and methods

In this research, we applied the following types of analysis: diachronous and synchronous, internal and external comparison, formal legal and sociological methods, as well as dialectical methods of scientific knowledge: analysis, abstraction, induction, deduction, hypothesis, analogy, and synthesis. The paper combines theoretical and empirical information.

4. Results

This research topic is quite controversial since people have very different opinions on this issue. To obtain experimental data, we took part in the Seventh International Youth Forum “Moral Imperatives in Law, Science, Education, and Culture”, which was held on May 24, 2019 at the Belgorod State University (Belgorod, Russia). Our

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experiment aimed to obtain the data necessary to develop a certain position on the legalization of non-traditional marriages in Russia. During the presentation, the conference participants were invited to take part in a short sociological survey answering the following questions:

- What is your attitude to the institution of the family (do you support civil marriage/ cohabitation)?

- Do you support non-traditional types of sexual relations (yes/no/don't know)?

- Do you personally know any people belonging to non-traditional families (yes/no/I do not know)?

- In your opinion, should persons in non-traditional families be prosecuted (yes/no/ I do not know)?

The total number of the respondents was 70, and their age varied from 18 and older. As for their social status, the respondents were students, teachers, candidates and doctors of sciences, representatives of religious groups, psychologists, judges, administrative and management personnel. For more accurate presentation of the data obtained, we

created several pie charts and drew certain conclusions based on them.

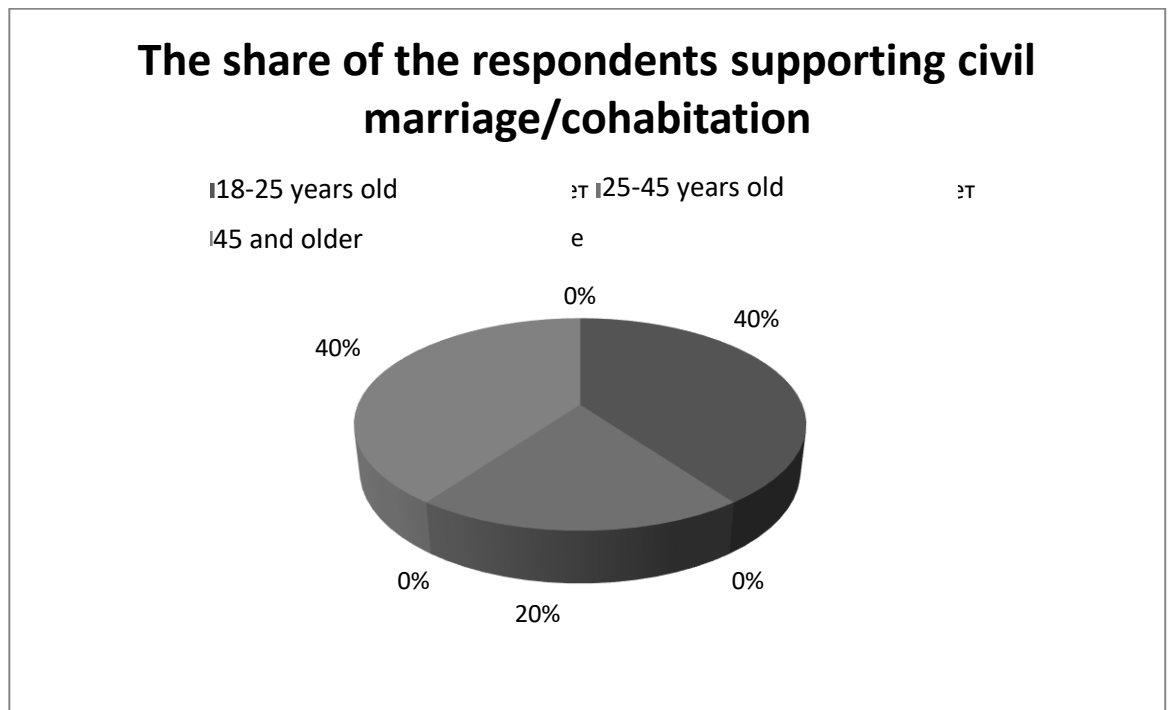


Chart 1. The share of the respondents supporting civil marriage/cohabitation

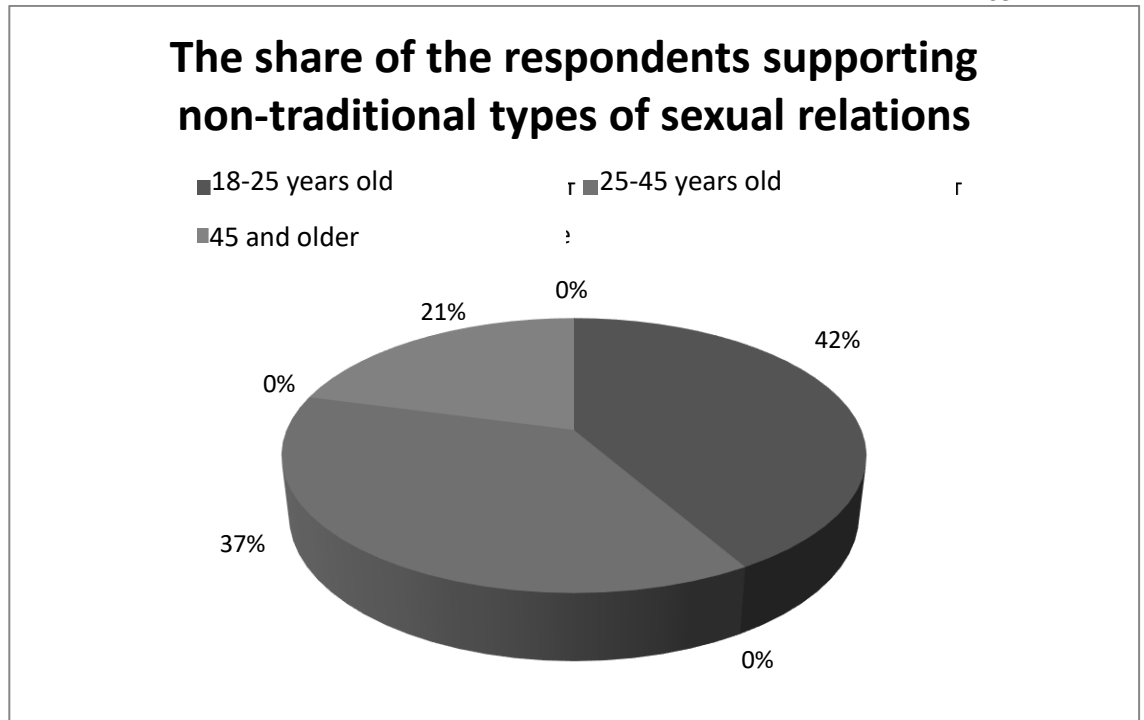


Chart 2. The share of the respondents supporting non-traditional types of sexual relations

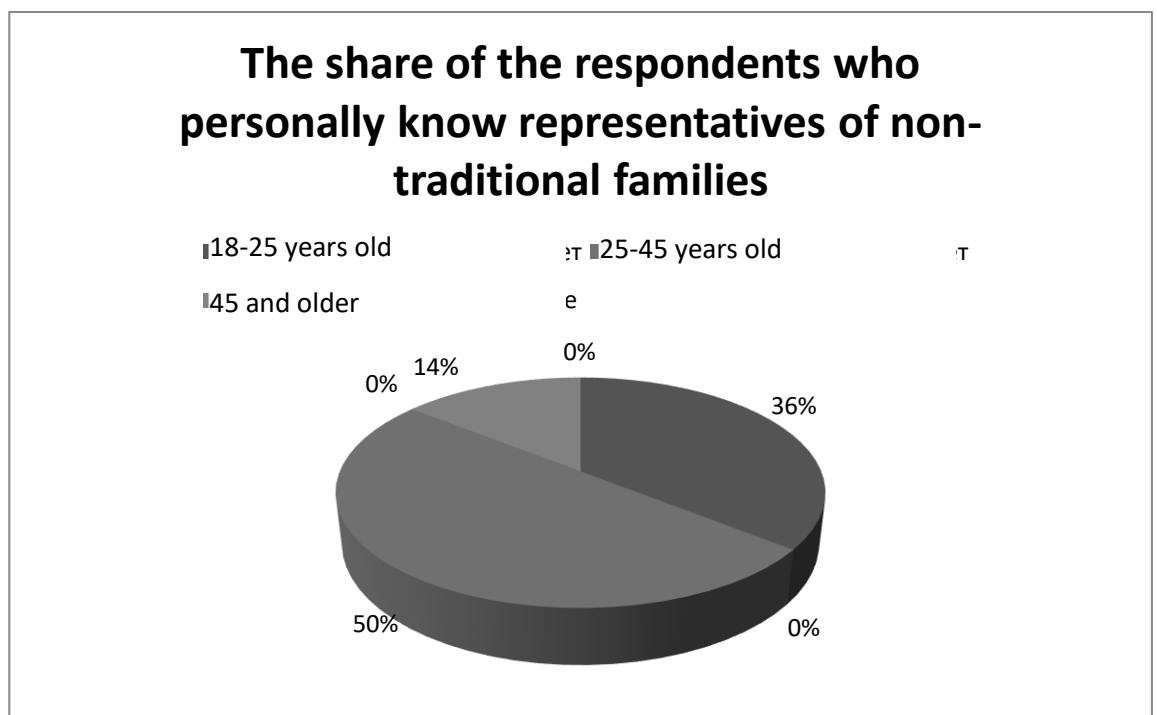


Chart 3. The share of the respondents who personally know representatives of non-traditional families

The share of the respondents who do not think that representatives of non-traditional families should be prosecuted

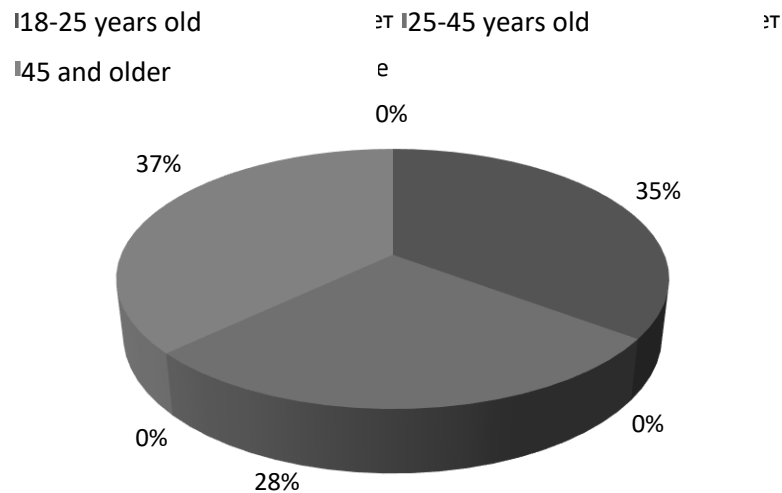


Chart 4. The share of the respondents who do not think that representatives of non-traditional families should be prosecuted

These simple questions caused a storm of indignation among the representatives of the scientific community and students since, so to speak, the respondents divided into two groups: let us call the first one “students” and the second – “scientists”. The former defended the legal status and legalization of same-sex unions in the state and did not see anything bad in them. The students considered this the norm of the modern time and a personal choice of the individual. The scientists (doctors of

sciences, associate professors, and the representatives of the Orthodox Church) tried to show to the younger generation that the legalization and development of non-traditional marriages and family relations in Russia would lead to the collapse of the institution of the family and the subsequent destruction of the state due to the transformation of national traditions. We drew the following conclusions from the experiment.

1. People aged from 18 and to 45 support such a form of marriage and family relations as cohabitation and do not oppose non-traditional marriages.

2. Non-traditional marriages were supported by young Russians. Currently, the youth is experiencing the transformation of traditional family values aimed at the destruction of gender roles in the family.

3. The younger generation to some extent supports the institution of cohabitation, recognizing non-traditional types of sexual relations. They are familiar with such forms of non-traditional marriages as, for example, partner swapping.

4. The students strongly disagreed with the persecution of persons creating non-traditional marriages, providing examples from life and the consequences of such actions. For instance, they mentioned Alan Matheson Turing, an English mathematician, who for his homosexuality was subjected to forced hormone therapy for suppressing libido, which led to his suicide by cyanide poisoning.

Thus, having carried out this small study and having obtained certain

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results, we identified the ideological position of the representatives of young Russians, which confirms the relevance of the research topic chosen.

5. Discussion

This article considers one of the oldest institutions –the family and marriage. Non-traditional marriages are the plague of the 21st century that lead to the degradation of marriage as a legal and social institution, with subsequent fading away over time, since the main gender mission of human is lost. By legalizing same-sex marriages, legislators deliberately facilitate the self-destruction of humankind, resulting in transhumanization of society. At present, the legalization of same-sex marriages in Russia seems hardly possible.

In this study, we examined the types and forms of marriage in the modern world and classified them. Non-traditional marriages are considered deviations from Christian norms. Having analyzed the church dogma, we demonstrated the anti-religious nature of such unions. According to the Bible, marriage and family are the remnants of paradise on earth. This is an oasis that was not destroyed by the global

cataclysms, desecrated by the sin of the first people, or was not swept away by the waves of the Great Flood. This shrine should be kept clean. All this is possible if Russian legal norms regulating marriage and family relations incorporate the church dogma. The Russian Orthodox Church is a fierce opponent not only of same-sex marriage, but also the recognition of the rights of citizens with non-traditional sexual orientation. Moreover, the position of the Russian state on homosexuality and same-sex marriage is strongly negative, which also has a powerful socializing effect.

Nowadays Russian youth is experiencing the transformation of traditional family values aimed at the destruction of gender roles in the family. In our opinion, the continuous spontaneous and deliberate destruction of the patriarchal family in the Russian Federation as the basis of the microsocial component of human society currently manifests itself through:

1. Negative demographic consequences that undermine the concept of what is permissible and what is forbidden, blurring the differences between normal and deviant behavior.

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2. Decreasing effectiveness of anti-criminal moral and psychological factors in the situation when the relationships between sexes and generations are being distorted.

3. The weakening of the “preventive actions” of the Orthodox Church among the Russian youth.

6. Conclusion

Having analyzed the types of marriage and family relations and partnerships, we systematized them according to the following criteria: by the number of participants in such a union: monogamy and polygamy; by the method of marriage registration: church, civil, and cohabitation; by gender of partners: heterosexual and homosexual; according to the method of choosing a partner: endogamy, levirate, sororate, exogamy, arranged, and egalitarian marriage.

Non-traditional marriage is a relationship that deviates from generally accepted standards “the man and the woman,” varying in the number of participants, their gender, the method of marriage registration and the method of choosing a partner in order to satisfy sexual interests and needs. In our

opinion, to avoid unnecessary emotions and disputes on the issue of same-sex relationships, it should be recognized at the legal and political level that the family consisting of a man and a woman is the norm. Everything else, not only homosexuality, but also any fornication and adultery should be considered a deviation from the norm and detrimental. The state policy should not see these as normal. If people are not stimulated to destroy this moral constant and accept the deviation as a norm, then there will be no heated debate and strong emotions about this issue.

Having analyzed the opinions of international and Russian scholars, religious norms, and the sociological data obtained, we can conclude that a change in national legislation regarding the preservation of the institution of the family is inevitable, it is just a matter of time, one or maybe two decades. The family is the foundation of the state, national identity, and cultural development. Without a family in its traditional sense, it is impossible to preserve traditions and to pass them on from one generation to another. Therefore, it is imperative for us and our legislators to seriously consider the

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legalization of the concept of non-traditional marriages so that they are prohibited and the individuals who are looking to enter into such marriages are persecuted, since these newfangled Western trends are aimed at the destruction of state values and the inexorable degradation of the state itself.

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EXPLORING AND EXPLAINING THE ECONOMIC POLITICAL RELATIONS BETWEEN IRAN AND THE SOVIET UNION IN THE SECOND PAHLAVI ERA EMPHASIZING THE SYSTEM THEORY

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Habibollah Saeedinia²

Abstract: Iran and Russia have common interests, especially in political terms, because of the common borders and territorial neighborhood. This has led to a specific sensitivity to how the two countries are approaching each other. Despite the importance of the two countries' relations, it is observed that in the history of the relations between Iran and Russia, various issues and issues have always been hindered by the close relations between the two countries. The beginning of Iran-Soviet relations during the Second Pahlavi era was accompanied by issues such as World War II and subsequent events. The relations between the two countries were influenced by the factors and system variables of the international system, such as the Cold War, the US-Soviet rivalry, the Second World War and the entry of the Allies into Iran, the deconstruction of the relations between

the two post-Cold War superpowers, and so on. The main question of the current research is that the political relations between Iran and Russia influenced by the second Pahlavi period? To answer this question, the hypothesis was that Iran's political economic relations were fluctuating in the second Pahlavi era and influenced by the changing system theory of the international system with the Soviet Union. The findings suggest that various variables such as the structure of the international system and international events, including World War II, the arrival of controversial forces in Iran, the Cold War, the post-Cold War, the US and Soviet policies, and the variables such as the issue of oil Azerbaijan's autonomy, Tudeh's actions in Iran, the issue of fisheries and borders. Also, the policies adopted by Iranian politicians, including negative balance policy, positive nationalism and

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independent national policy, have affected Iran-Soviet relations. In a general conclusion, from 1320 (1942) to 1357 (1979), the relationship between Iran and Russia has been an upward trend towards peaceful coexistence. But expansion of further relations in the economic, technical and cultural fields has been political rather than political.

Keywords: Political Relations, Economic Relations, Cultural Relations, Iran, Russia, Pahlavi II.

Introduction

Iran and Russia have common interests, especially in political terms, because of the common border and territorial neighborhood. This has led to a specific sensitivity to how the two countries are approaching each other. Despite the importance of the two countries' relations, it is observed that in the history of the relations between Iran and Russia, various issues and matters have always been hindered by the close relations between the two countries. Iran needs to cooperate with the great powers of the world in order to raise its position in the world. Russia is one of the

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countries with a special status in the history of political relations in Iran, given its geopolitical commonality with Iran. Considering Russia's importance in Iranian foreign policy, studies on Iran's relations with the country are also of particular sensitivity. The beginning of Iran-Soviet relations during the Second Pahlavi era was accompanied by issues such as World War II and subsequent events. Therefore, it can be admitted that the relations between the two countries were related to the systemic variables of the international system, such as the Cold War, the US-Soviet rivalry, World War II, and the entry of the Allies into Iran, the deconstruction of the relations between the two post-Cold War superpowers. Has been affected. With this in mind, it can be admitted that the relationship between Iran and the Soviet Union during the Second Pahlavi period has been influenced by internal and external factors, and, given this category, the history of relations between the two countries during the mentioned period has been uplifted. Iran needs to cooperate with the great powers of the world in order to raise its position in the world. Russia is one of the countries with a special status in the history of political

relations in Iran, given its geopolitical commonality with Iran. Considering Russia's importance in Iranian foreign policy, studies on Iran's relations with the country are also of particular sensitivity. In addition to academic use, this research can be used by the enthusiasts and other researchers. The necessity of this study is also to examine the evolution of the international system and its impact on Iran-Russia political relations in the second Pahlavi period. This article can provide the audience with an overview of the ups and downs in the relations between Iran and Russia during the second Pahlavi era.

1. Research background

The number of resources written about Iran and Russia is very small, and in relation to the issue under discussion, so far, no independent scientific research has been made. But in some of the sources it is briefly mentioned, the most important of which are:

A: Russian and British in Iran (2001) Hossein Nazem: This book was written by Hossein Nazem. In all the chapters of this book, Russian and

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English competition in Iran has been addressed. The author has used archival documents from Russia, Britain and the United States. For this reason, its use has been instrumental in furthering the research. The author further explains the presence of Russia in Iran and the extent to which Russia has gradually penetrated Iran in its bid to compete with Britain.

B. Iran-Soviet Trade Relations and the Formation of Economic Movement in the Early Pahlavi Period (2002) Torabi Farsani: This article examines the economic relations between Iran and the Soviet Union. According to the research, the change of political regime in Russia and the creation of new conditions in the trade relations with Iran led to a crisis in trade with Russia. Hence, Iranian businessmen responded with numerous reactions, including writing protest letters to the government, the parliament, newspapers and business institutions, and finally the establishment of an organization called the Economic Movement. This organization reflected the inner coherence of this class and was a possibility for the demands of the merchants who were confronted in the

constitutional movement. This work is noteworthy because it examines the history of economic cooperation between the two countries and the problems encountered in this regard.

C: Iran and Iran's Problem (2008) by Lord Cresen: This book, published in two volumes, was written by Lord Cresen. Lord Cresen has entered Iran as a political agent before he becomes the viceroy of India, and has written his observations and memories. His carefulness in expressing the details of Iranian life and paying attention to issues of other foreign governments in Iran has led her book on the study of Iran in the nineteenth and twentieth century. Since the competition between Russia and England has been mentioned, this book has been used in this study. This book is one of the most accurate sources of information on the internal and geographical situation of Iran, especially the intense political struggles of two powerful Russian and British governments during the reign of Nasir al-Din Shah Qajar. In the words of the author of "Lord Cresen", who pledged himself to be the Great Political Regiment of England: the book is the

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result of almost three decades of almost continuous work and a traveler for six months in the land of Iran and a previous trip to its neighborhoods and from it So it is also the continuation of the correspondence with the officials who are the authoritative resident of that country.

2. The system theory of international relations

This view is mainly applied to the international system of the world, and therefore, it is less effective in direct analysis of foreign policy than other perspectives. The main application of this view is to examine foreign policy in its widest context, to identify its patterns, and to compare them with the foreign policy patterns of other states. In addition, all theories can easily be linked to it. The similarity of "regular systematic" and "systemic system" words may somewhat be confused. From the point of view, when we systematically examine the nature of international issues, even in the face of unfamiliarity with the name of this view, we use it unconsciously; for example, it is "Mr. Jordan" Molier that he received throughout his life [unconsciously] prose

works. However, system analysis is not limited to the mere development of some common sense-based concepts, in the form of difficult words; its emphasis on the coherence of all factors and events is important as a general orientation.

The concept of "system" in "international relations" is taken directly from the same concept in the "general theory of systems". This theory seeks to find a fundamental link between all areas of knowledge. Given this fundamental goal, studies in this area are often multidisciplinary and therefore potentially entail many inspirations and inspiration for those "international relations" theorists that have recently entered the field of systems (Joseph 1997: Pp. 79-48).

This theory defines the "system" as a systematic set of interconnected components. In the vast literature on this subject, three types of system or system are discussed: one is the "ideal" system with its distinctive features and the other one is the existing international and historical systems in the past and present, and the third is the combination of these two types. These texts tend to focus on the most sophisticated systems-now the global

system-but some also focus on analyzing subordinate systems such as the regions or political systems of each country. The advantage of using the term "international system" instead of the traditional terms of the "family of nations," "international community," or "global community" is that it seeks to "scientific" and identify variables and patterns, while the old concepts without Attention to this has been used gloomily (Joseph 1997: pp. 79-48).

The attitude of system thinkers to the world is based on the four foundations:

1. Organic thought; the concept that places the organism at the center of the human perception project.
2. Holistic; ie, every phenomenon is considered as a living entity, order, open-environment, self-regulated, and purposeful, and instead focuses on and focuses on the components of phenomena.
3. Modeling; ie, the system thinker tries to match actual perceptions of real phenomena rather than breaking into the entire contractual component.
4. Recognition Improvement; so that a systematic thinker and researcher understands that;

(A) Living in an organic system and continuously in the process.

B) The recognition of man from a whole, through the observation of the processes within which it occurs, is obtained not by observing the components of the whole.

C) What a person observes is not reality itself, but his perception of reality (Rezaeian, 1370: p. 11).

Of course, system thinking is not in contradiction with analytical thinking; in fact, these two methods are complementary, not alternatives. Nevertheless, as system thinkers have discovered, the study of the interconnected grids of components of a system is more useful than their analysis (Rezaev, 1370: p. 11).

The political system consists of the structure (the mode of communication and the integration of functions) and the process of political life. Thus, the analysis of the processes and the nature and conditions in which the responses of the system to absorb and digest functions are a fundamental problem of political theory. In this regard, the following points should be noted:

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1. The assumption is that political actions and reactions in society (both domestic and international) constitute a "behavioral system" in general.

2. The political system is not located in the vacuum, but is surrounded by physical, biological, social and psychological environments. Without considering these environments, one can not understand the behavior of a political system in order to remain stable and change.

3. As a consequence or necessity of the second point, the political system is an open system; the components of the political system must operate in conditions that have created events and influences derived from the whole environment.

4. Observing a resilient system (due to environmental degradation) means that the systems have the power to withstand turbulence and can adapt themselves to the existing conditions. This is done by the mechanisms in which the rest of the systems adjust their behavior and, if necessary, change their internal structure and even their goals (Khoshvaght, 1375: p. 32-31).

In general, it should be noted that the value of a systemic perspective

is that it enables us first to analyze the behavior of states in the context of its environment or appropriate environments, and secondly, instead of focusing in vain on a country, also pay enough attention on its interaction with the external environment. In foreign policy analysis, constant attention to systematic variables and systematic study is essential. Imagination of international phenomena as a system is itself the cornerstone for achieving legality. According to this theory, the main variables of all international systems can be significantly divided into three large categories: first, the action of governments as the main components of the system; second, the structure and functioning of the system, which originates from the interaction of its units; and Third, environmental factors that limit both the operation of the units and the operation of the system (Joseph 1997: 48-79).

Thus, in the present paper, the study of Iran's economic-political relations is inspired by systematic theory, and the relationship between the two countries is discussed within the framework of developments and events of the international system. In other

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words, the influence of the variables of the international and domestic system, including the governing structure of the international system and its resulting developments on the relations between Iran and Russia, are considered

3. Variables affecting the relations between Iran and Russia (1320-1357) (1942 to 1979)

In order to investigate the relations between Iran and Russia, it is necessary to point out that in this regard, various factors and variables are influential, some of which are influenced by the events of the international system, and some of them are from internal events in Iran during the second Pahlavi period. Further, these factors have been investigated.

3.1 Influence of the occupation of Iran by the Allies

On 03/06/1320 (August 25, 1941), British troops raided Iran from the south and west of the country. At the same time, the Soviet military forces quickly occupied all the provinces of Azerbaijan, Mazandaran, Gilan and northern areas of the Khorasan province. The Soviet government referred to

Articles 5 and 6 of the Iran-Soviet Union amity contract on 07/12/1299 (February 26, 1921) in order to legitimize the occupation of Iran (Azghandi, 1382: p. 370).

And, by resorting to these two articles, legitimized their actions. With the occupation of Iran by the Russians, Iran's relations with the Soviet regime, which was severely hostile to Reza Shah's reign in the last years of the reign, entered in a new phase of conflict and opposition (Azghandi, 1382: p. 371-370).

Hostile actions such as the bombing of the suburbs of Tehran and Mashhad by the Soviet air forces, the Red Army's establishment in Qazvin, the disarming of police and gendarmerie forces by air forces in various cities of the country, the seizure of Iranian trucks by Red Army soldiers and the capture of some Iranian Officers by the Soviets, increased the concerns of the Iranians and the Britains and led them to react (Azghandi, 1997: p. 104).

After these problems, the drafting of a tripartite treaty was prepared by Iran, Britain and the Soviet Union, and on the second day of the month Dey of 1320 (December 23,

1941), it had presented to the thirteenth parliament. Finally, the Bill on the Alliance was ratified on 08/11/1320 (January 28, 1942) in nine articles (chapter) and three annexes after one month with 80 votes out of 93 of MPs and one day later on 09/11/1920 (January 29, 1942), at the Palace of Foreign Affairs, was signed by the Soviet Ambassador Andreiovich Smirnov, the Secretary-General's of Soviet Union, and Sir Reyder Bolard, Britain Minister, and the Foreign Minister of Iran, Ali Soheil. Mohammad Ali Foroughi issued an order to Iran's Ministry of Foreign Affairs on 12/11/1320 (February 1, 1942), and the British occupation forces and salvage dumped partly Tehran and the suburbs. At the same time, Byzaghi sent a telegram to Churchill and Stalin on the treaty, and Mohammad Reza Shah, by sending a letter, informed Roosevelt's from the talks and provisions of the treaty (Azghandi, 1997: p. 107). According to the fifth chapter of the treaty of Iran, allied forces of the Soviet Union and the United Kingdom were required to withdraw their troops from Iran after the ending of conflicts with the US governments, but the Soviets were denied to take them out of Iranian

territory, and this lead to exacerbate the hostile relations between them (Azghandi, 1997: 179). Iran's grievance with the United Nations made Iran's relations with the Soviet Union darker, and with the summons of Maximov, the Ambassador, and Yaghoubov, the deputy ambassador of the Soviet Embassy in Iran, the situation became worsened (Azghandi, 1997: 180).

3.2 The Impact of American Presence on the Relationship between the Two Countries

After World War II, the Cold War was ruled out. And the two US and Soviet superpowers competed in Iran. The rivalry made the Shah of Iran, who from one hand felt the fear of communism infiltration as a potential threat, and on the other hand, didn't have the power to balance the power with the Soviet Union and the United Kingdom, to chose the United State as a supporter. Iran, after the Second World War, was found to have a geostrategic importance in the framework of the interest of the United States and the West with the aim of controlling the Soviet Union, and this was the origin of the US policy toward

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Iran and even the conducting of the Coup d'état of the 28 of Mordad of 1332 (August 19, 1953), with the participation of Britain, to dismiss Mossadeq's government. Truman also based on this, introduced his "theory of incarnation" inclusive of America's decision to defend its own strategic interests and its allies against the threats posed by the Soviet Union (Droodian, 2003: p. 151).

Americans actually realized that if Iran, as one of the leading countries get into the Communists hands, all the economic and political interests of the West in the region will be at risk and threatened by the Soviet Union. On the other hand, Iran supported the US presence to reduce the influence of the Soviet Union and the United Kingdom (Azghandi, 1997: 104).

The entry of the Shah into the Western bloc's military and security alliances and the signing of bilateral alliances with the United States placed him in opposite of the Soviet Union. The economic recession and severe military and security weakness caused the Shah's regime to be strongly dependent on the United States. The Americans who sought to seize Iran's oil and create a security belt around the Soviet Union

were fighting Britain's policy on the pretext that the British government and the oil company were responsible for the poverty and misery of the people of Iran, and this continued to bring about the development of communism in Iran. The United States of America declared the Truman Principle of Fourth Truman on 30/10/1327 (January 20, 1949), which aimed primarily at confronting communism and, in fact, infiltration in the countries of the world, and in particular the former colonies, within the framework of the new global politics of America, through donations and Technical was formed to the backward countries of the Third World. In opposite to the Moscow leaders, the United States has been identified as the greatest threat. It was said that the United States was working to create a set of regional bases in order to bring pressure on the Soviet Union and attack on socialism. Soviet leaders viewed Iran in this overall picture. The United States was determined to control Iran to plunder its natural resources and exploit its neighbors with the southern republics of the Soviet Union. Thus, with the strengthening of Iranian-American military ties and Tehran's behavior

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adapted to the needs and requirements of the Cold War, Moscow expressed its deep dissatisfaction and strongly objected to this cooperation (Kollaei et al., 2007: 72-73).

3-3 Privilege of North Oil and Increasing Tensions between Iran and the Soviet Union

Another important factor affecting the relations between Iran and the Soviet Union was the problem of the northern oil privilege. The story was that, in the month Esfand of 1322, two British and American delegations came to Tehran from the Sokoni-Vacum companies and American Singler oil companies and the English-Netherland Royal Dutch Shell Company, requesting oil prices in the southeastern regions. Negotiations and even the presence of the representatives in Tehran were kept confidential, and no one was aware of the forearm's talks with only a few senior officials. As soon as the Soviet Union became aware of the oil talks through their agents, they also began work and, in Shahrivar month of 1323(Februray 1944), appointed a delegation headed by Sergei Kraftaradze, Deputy Foreign Minister of the Soviet Union, to apply for

the North Oil privilege. The Soviets argued that they did not have any share of Middle Eastern oil and all the oil resources in the region were available to the British and Americans. Therefore, they also have the right to demand oil revenues in northern Iran, near their borders. Former Prime Minister Saed, who had been negotiating with representatives of American and British companies yesterday, refused not only to accept the Soviet proposal, but also refused to discuss the proposal of the Soviet delegation (Hooshang Mahdavi, 2005: p. 92). The decision of the government was considered to be an act against the Soviet Union, and the head of the Soviet delegation described it as an approach with the aim to disturbing the relations between the two countries (Maraghehei, 1373: p. 181).

3-4 Autonomy of the Azerbaijan and Kurdistan Provinces

Autonomy of the provinces of Azerbaijan and Kurdistan is considered as one of the most effective indicators on the relations between the two countries. After the advent of the northern oil, the Soviets devised a new map for obtaining petroleum credits in northern Iran, which

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was the cause of the problem of Azerbaijan and Kurdistan ((Hooshang Mahdavi, 1384: p. 96). Thus, the Soviet authorities had been working since the end of the Second World War in order to create a precondition for the establishment of a separatist movement in Azerbaijan, in order to achieve its long-term goal of deconstructing Iran and linking Azerbaijan to the Azerbaijani Republic of the Soviet Union and reaching the northern oil. (Ahmadi, 2013: p 91)

In 21/09/1324 (Dec. 12, 1945), coincided with the domination of the Democratic sect on Azerbaijan and the declaration of autonomy, Hakimi presented the parliament with an ambiguous report about the current situation in Azerbaijan as a prime minister, made his decision to travel to Moscow to negotiate with The head of the Soviet government announced (Official Gazette 22/9/1324). Finally, Hakimi's ineffectiveness in resolving the crisis led to his resignation. In general, the crisis of Azerbaijan and Kurdistan after the end of the World War had a negative impact on the relations between Iran and the Soviet Union.

3-5 Qavam-Sadchikov Agreement

Ahmad Ghavam, who was appointed as the prime minister after Hakimi, stated in his first political statement that in the current situation the implementation of any domestic reform program was to resolve the problems in the foreign relations, for this reason, he intended to travel to Moscow to express goodwill and friendship. Traveling (Azghandi, 1382: p. 180).

In this regard, Qavam, along with a group of prominent politicians and journalists, visited Moscow on 29/11/1326 (February 18, 1924), during which time he met with Stalin and Molotov, the secretary of state and other political and higher officials. The Qavam negotiations in Moscow during this trip were centered around three issues: (1) the oil problem; (2) the autonomous states of Azerbaijan and Kurdistan; (3) the issue of the withdrawal of Soviet forces from Iran (Azghandi, 1382: p. 181). During the period when Qavam stayed in Moscow, at the last night, Stalin took a friendlier approach and agreed to modify his demands and conditions in the agreement - if the Iranian government agrees with the grant of the North

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Petroleum Prize. Instead of concessions, Qavam agreed to establish a joint Iranian-Soviet company to exploit the northern oil and negotiated an agreement to sign an agreement between the two countries with an ambassador which will sent to Iran by the Soviet Union. According to Stalin's request, Ghavam promised to take a peaceful approach to the Democrats of Azerbaijan and to withdraw Iran's complaint from the Security Council (Amini, 1381: p. 62).

In the final conclusion of these negotiations, it can be said that meeting of Qavam and Stalin and Molotov (Soviet foreign minister) in this trip had no meaningful conclusion for the parties (Azghandi, 1382: p. 181).

But in the continuation of the negotiations, Ivan Sadchikov finally traveled to Tehran. After his arrival and the continuation of the negotiations, a joint statement was signed on behalf of Qavam and Sadchikov in Tehran, which was the result of the negotiation and agreement between Qavam and Sadechikov:

1- Parts of the Red Army from Sunday, 4th of Farvardin of the year 1325 (March 24, 1946), should get out of Iran in one and half month.

2- The contract for the creation of a mixed Iranian-Soviet oil company and its terms will be proposed from March 24, with seven months validity, for approval by the fifteenth parliament.

3. Concerning Azerbaijan as a domestic matter, a peaceful arrangement for implementation of reforms in accordance with the current laws and with the spirit of benevolence towards the Azerbaijani people will be given between the government and the people of Azerbaijan (Zhouqi, 1375: p. 214).

The contract of Qavam Sadchikov was considered as a historic victory. If in Moscow, the issue of oil was the first priority, Iran was the third priority. While the issue of the withdrawal of Soviet forces in Iran was the first priority. In order to show his goodwill to the Russians, Qavam took back Iran's complaint from the Security Council and took members of the Tudeh party in his cabinet. (Three members of the Tudeh party, Iraj Eskandari, Dr. Morteza Yazdi and Dr. Fereydoon Keshavarz, respectively Responsible for the ministries of commerce, medicine and culture). In the opinion of Qavam, there were no reason to ransom the Russians after the departure of the Soviet

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forces. Qavam until the Mehr month of the year 1326 (1947) was able to solve the crisis of Azerbaijan and Kurdistan cleverly and consolidate the sovereignty of the central government throughout the country. The only remaining case was the creation of a mixed Iranian-Soviet oil company, which called for parliamentary approval, while Qavam delayed to provide the plan for approval to the parliament. Soviet Union also considered Qavam behavior as a return to hostile policy. Thus, the contract of Qavam-Sadchikov left short-term works in the relations between Iran and the Soviet Union (Azghandi, 1382: 183-182).

3-6 The Impact of Mohammad Mossadegh's Policies (Implementation of Negative Balance Policy)

In the era of the Second World War, superpowers such as the Soviet Union and the United States were opposed to each other, Mosaddegh, who had studied in Switzerland, was heavily influenced by the Swiss neutrality policy in international conflicts. (Bastenegar, 1381: p. 254). Mossadegh believed that in order to prevent the expectations of foreign

countries from Iran and to reduce the pressure on their rivals, the Iranian government should, without unanimity, enter into disagreements, and do not pursue or oppose any one, and neutralize them. This policy, included another aspect of Foreign policy of Doctor Mosaddegh, which is in fact the complementary part of the negative balance policy. In addition to the negative balance of power, Dr. Mossadegh's foreign policy also had another very important dimension which known as Positive Neutrality and later the Non-Aligned Movement on that days (Bastenegar, 2002: p. 259). Negative balance policy is in fact the political principle of Mohammed Mossadegh and the logic of revising this and that or the neutrality policy among the major global forces based on the preservation of national interests. Also, the meaning of the negative word was the rejection of the forces and motivations that denied Iranian freedom in its own administration. On 11/09/1323, (December 2, 1944), Mosaddeq in a famous speech, addressed at the time of the issue of granting North Korea's privilege to the Soviet Union against the Fourteenth Parliament, explained the

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reasons for refusing to give such a privilege, and then set a policy that would later lead to a negative balance policy. It became known as saying: "Whenever we follow as a positive balance policy, we must give the North Sea oil rating for 38 years and establish a political balance in this way." Aside from the fact that the Iranian nation forever, and now the parliament does not agree with this, it is as if Moghtolleydi is satisfied with the balance to maintain his balance (Aghabakhshi, 1383: p. 447). Thus, the implementation of the policy Negative balance is considered to be an influential variable on the relations between Iran and the Soviet Union.

3-7 Policy of Patience and Expectation of the Soviet Union

With the defeat of the Soviet government due to the non-approval of Qawam-Sadchikov's contract, the country began a massive campaign of war against Iran. The sharp edge of these attacks came to the attention of the British and Iranian agents who, with the rise of the nationalization of the oil industry, also became aware of the Americans. However, since influenced by domestic and international conditions

and with the support of the people and the parliament, Dr. Mossadegh assumed the formation of the cabinet and the fundamental principles of foreign policy became fundamental, the Soviet Union cut off anti-government propaganda and wary policies and patience for Iran and Mossadegh's government (Azghandi, 1386: p. 221). Although during the reign of Dr. Mosaddegh, the Soviet Union cut off anti-government propaganda against Iran, but because of conflicting assessments of the nature of Mossadegh's regime, he did not provide the necessary protection against Britain and the United States, and even refused to pay Iran's debts to Mossadegh government.

3-8. The Law of Prohibiting the Granting of Petroleum Privileges to Foreigners

As previously mentioned, several British and American oil companies demanded oil privileges in the southeast regions of Iran (Balochistan) in 1323 (1944). Members of the Tudeh Party in the parliament strongly opposed the granting of oil concessions. At the same time, the Soviet

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government also asked for a rating on petroleum in northern Iran, but this time the Tudeh Party supported the granting of the North Petroleum privileges to the Soviet Union. The Soviet government pressurized the government and parliament to impose a petroleum rating on the levant using leverage such as the Tudeh Party and its internal factors, as well as the Soviet armed forces, who were still present on the Iranian soil despite the end of the war. Finally, by adopting a bill in parliament that banned the government from negotiating with official representatives and, unofficially, the foreign governments abandoned the oil crisis without the decision and approval of the parliament. The plan was presented to the parliament by Dr. Mosaddeq and passed by a majority. The measure was a ban on the assignment of oil privileges to the Eastern and Western powers, which were adopted against the positive balance policy that granted the privilege of oil to the east and west. (Houshang Mahdavi, 1391: 429-438).

With regard to Mossadegh and the nationalization of Iranian oil, Mossadegh was considered by imperialism to be independent because of the fact that he did not want to take

Britain in the Middle East and also because of the nationalization of oil and the end of the British colonial presence in Iran, lost its share of North Oil and basically its possible historical balance. Mossadegh and the National Front were at stake in their strategy. In the same vein, instead of purchasing Iranian oil at a discount of 50 percent after its nationalization, the Soviet Union preferred to buy its oil from the West. The Soviet Union also refused to accept the request for assistance of \$ 20 million from Iran (Modir Shanehchi, 1377: p. 89). These are the effects of Mossadegh's independent sovereignty policy on the relations between Iran and Russia.

3-9 Improving Soviet Relations with the Coup d'état in Iran (1332-1342) / (1954-1964)

With the coming of the coup d'etat government in Iran and the inability of the Soviet government to dominate the Middle East, in a completely bipolar atmosphere after the end of the Second World War, Khrushchev provided an initial ground for promoting relations with Iran. Accordingly, as the Russians strengthened their military capabilities to

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compete with the Western superpower, they were trying to attract third-world countries such as Iran. The main goal of such a strategy was to prevent the region from becoming a safe area for the West in pursuing the "policy of containment" around the Soviet Union. Following such a policy that, despite the vast and growing relations between Iran and the United States and even Iran's engagement in the Baghdad treaty, Moscow, regardless of its grave dissatisfaction and concern, treats it with tolerance and hopes to find Influential ways to expand their ties with Iran. The result of such a policy was to conclude the 11/09/1333 (December 02, 1954) Agreement and to determine the settlement of border disputes and to demand 11 tons of Iranian gold (Etaat, 1375: p. 70).

The Soviet government, refusing to pay the 11 tons of Iran's gold, refused to pay to Dr. Mossadegh government, in 1334 (1955) delivered the consignment to the government of Zahedi (Hooshang Mahdavi, 1384: p. 242).

After the coup d'état and the reign of Zahedi, the Soviet Union extended its relations with Iran because

of Zahedi's government's ability to provide security and internal political stability, and in light of this stability of Soviet the debt to Iran, and the border issues were resolved. The signing of the Baghdad Treaty and Iran's membership in it led to a reduction in relations, and the Iranian parliamentary delegation returned to the Soviet Union to empty hands and accused the Soviet Union of communicating with the Tudeh Party against Soviet criticism (Arghandi, 1376: p. 265). The total collapse of Dr. Mossadegh during the coup d'état of 28th Mordad of 1332 (August 19, 1953) and Stalin's death spread Soviet relations with Zahedi's regime, indicating that the Soviets supported a government in Iran that could provide political stability.

3-10 Tensions between the Leaders of the Tudeh Party and Iranian Authorities

The strategy of the Soviet Union was reflected in the positions of the Tudeh Party towards Iran. The Tudeh Party in Iran has always supported the positions of Russia. For example, the Tudeh Party newspapers launched a massive campaign to win over the

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northern oil franchise, and even called the "People for the Intellectuals" journal of the north of Iran "Soviet security" (Hooshang Mahdavi, 2005: p. 92).

Under the rule of Mossadegh, the Tudeh Party was created in the autumn of 1331 (1952) in light of political freedoms and called itself the representative of the working class. In the new program, the Tudeh party called for the overthrow of the royal regime and the establishment of a republic based on democracy led by the working class. The Tudeh Party on Mossadegh believed that, although Mossadeq fought for nationalization of oil, but in support of the United States, the masses should not support the nationalization of oil. On this basis, the masses, during the period of Mossadegh's rule, promoted disturbances by provocations and demonstrations, and provided a platform for social insecurity (Keshavarz, 1379: p. 257). In general, the activities of the Tudeh Party have clearly and implicitly influenced Iran-Russia relations.

3-11 Follow up of the détente policy

Following the end of the Cold War and the beginning of the tensions and changes in foreign policy of the US

and the Soviet Union, Iran also made changes in its foreign policy and talked about peaceful coexistence, especially with the Soviet Union. The Soviet government, while dissatisfied with the membership of Iran in the Baghdad treaty, continued its efforts to improve its relations with Iran in implementing the peaceful coexistence policy. The Soviet goal of this policy was to stay away from the situation in Iran and leave empty for its English and American rivals. In contrast, following the actions of Mohammad Reza Shah to the land reform, the Soviet press, which by the summer of 1341 (1962) talked about the corrupt regime of the Imperials, suddenly changed their tone and praised the Shah and called him the pioneer of

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the land reform, which, though the issues of Iran. It does not completely solve, but it is definitely a big step ahead. The cause of this fundamental change was due to international developments, which did not hide the king, whose goal is to limit Iran-Soviet relations in the near future to economic and technical cooperation and to block all ways of Soviet political influence in Iran. The Soviet Union was not allowed to go to the Soviet Union when it opened its doors to the countries of the world. Although the Soviet Union, in the face of the dangers the Shah raised against the outbreak of Marxist thoughts against its citizens, continued to strive to improve relations (Historical Documents Review Center, 1381: 11).



Document 1 - The coastal city of Yalta in the south of Ukraine was set up in 1344 (1965) to welcome the kingdom, which was before only yesterday towards the western bloc. Archive number: 124927-275.

Conclusion

Studies show that during the period of 1320-1332 (1941-1953) WWII played a significant role as an influential variable in relations between Iran and Russia during the Pahlavi era. In this period, Russia as one of the allied forces entered the Iranian soil and refrained from expelling its troops from Iran. At this point and with the arrival of the allies, Iran was also inflicted heavy losses, and a large part of the damage was caused by the damage that the Soviet Union had imposed. Although Iran's policy in the Second World War was a policy of neutrality, the Soviet government tolerated Iran's neutrality before the German invasion of the Soviet Union, despite Iran's extensive relations with Germany, but after entering to the war, the accused Iran for cooperate with Germany and insisted that Iran cut off its relationship with Germany in favor of the Soviet Union. Another issues that has examined, was the influence of the

Tudeh Party and its members on the relations between the two countries. This is one of the most important factors in the implementation of Soviet Union policy in Iran. The founders of the Tudeh Party were Marxist and pro-Soviet. One of the major events attributable to the Tudeh Party, followed by the collapse of Iran and the Soviet Union, was the defeat of the Tudeh Party following the assassination of Mohammad Reza Shah on 15/11/1327 (February 04, 1949) by a person named Naser Fakhraei, which documents indicate that this person was known as one of the member of the Tudeh Party; after this incident, the Tudeh Party was dissolved. After this incident, the crisis between Iran and the Soviet Union became more intense. The collapse of the two countries after the incident caused even dispersed confrontations between Iran and the Soviet Union on the border between the two countries.

The northern oil was another factor affecting the relations between

Iran and the Soviet Union, which considered as one of the most important and fundamental reasons for the Soviet government to refuse to evacuate its forces from Iran. The problem of evacuating the Soviet forces and asking for the privilege of the northern oil and gas supplies of Azerbaijan during the Qomam period was pursued. Qavam pledged to create a mixed oil company in Iran and the Soviet Union in exchange for the abandonment of Iranian soil by the Soviet Union and the end of the Azerbaijani gas field. But after the withdrawal of the Soviet forces, Qavam was delaying its presentation to the parliament; this caused the Soviets to regard these policies as hostile. Another factor affecting the relations between Iran and the Soviet Union was the impact of the nationalization of oil. This issue became applicable when Mossadegh came to power. Though the Soviet press supported the Iranian national movement and published some material about it, and celebrated the struggle of the Iranian nation against colonialism, the newspaper of the people of the official organs of the Hub of Tudeh at the same time considered the motto of nationalizing the oil industry as a

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betrayal of the Iranian people. In addition to opposed the nationalization of the oil, the Tudeh party opposed Mossadegh and his government. The Tudeh Party separated its account from Mossadeq and expressed hatred in general about the "treacherous policy of all those who used the Iranian regime to disrupt Iran and the Soviet Union or implement anti-Soviet intentions." From the very beginning, the Tudeh Party, representing the Iranian people, who was in favor of a clear and explicit policy of full friendship with the Soviet Union, expected all future governments to separate and strictly observe the conditions for the friendship and friendship of Iran in order to implement the policies of the Iranian people. Mossadegh's negative balance policy was also one of the indicators. This policy, based on the refusal of a political and military alliance with the United Kingdom and the Soviet Union to try to take advantage of their competition to maximize the interests of Iran, took steps to strike a balance between the emerging US superpower and the Soviet Union. During this period, the Soviet Union provided a policy of patience and anticipation without support from the

Mossadeq government, but in the late Mossadegh regime, relations between Iran and the Soviet Union became more friendly.

The formation of two blocs of the East and West and the Cold War between the US and the Soviet Union and the competition between them as a systemic variable is considered as an interchangeable variable in the type of relationship between the two countries of Iran and the Soviet Union. After the coup of 28th Mordad of the year (August 20, 1951) the US adopted a new approach compared to Iran. The danger of the expansion of the influence of communism and the Soviet Union led the United States to turn Iran into an anti-communist pillar. The purpose of this policy was to create a defensive belt around the Soviet Union to prevent the spread of communism. On the other hand, the Soviet Union sought to gain more influence in countries such as Iran, because of its rivalry with the United States and the Cold War. In this context, in the bipolar space after the end of the Second World War, Khrushchev provided the groundwork for relations with Iran. Accordingly, as the Russians

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strengthened their military capabilities to compete with the Western superpower, they were trying to attract third-world countries such as Iran. But Iran's politics at this time was a positive nationalism policy. The economic political relations between Iran and Russia of 1357-1342 (1978-1963) were not only political but also economic, technical, cultural, and even military-friendly relationship. During this policy period, the Shah's policy was changed to an independent national policy. The policy was based on expanding relationships with neighbors and contributing to the security of the Gulf and the Middle East. One of the most important aspects of this strategy, and one of the most important results of this change in Iran's foreign policy, was the move of the country to destabilize and expand relationships with the Eastern bloc and the Soviet Union. In fact, within the framework of the Independent National Policy, "the restoration of relations with Moscow was the main component of the foreign policy of Iran within the framework of unity with the West. In the field of cultural cooperation between Iran and Russia, it can be said that the cultural relations of Iran and the

Soviet Union in the last two decades of the Pahlavi era was the prosperity of cultural relations between the two countries. In 1356 (1977), there were also cultural contacts for the exchange of cultural and literary personalities, the gathering of library experts, the collection of books, the collaboration with the Museum of Armitage and the Museum of Ancient Iran, the Soviet film week in Tehran, and the Iranian film week in Moscow. Regarding the economic and cultural political relations between Iran and the Soviet Union in the 1340s and 50s (1960s & 1970s), it should be noted that despite the very good relationship in the fields of trade and culture, there were political conflicts between the two countries. In the final years of the Pahlavi era, the Shah resists the Soviet insistence on deepening political relations, and only wants economic cooperation with the Soviet Union.

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