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DECISION-MAKING IN THE MODERN MANAGER-LEADER: ORGANIZATIONAL ETHICS, BUSINESS ETHICS, CORPORATE SOCIAL RESPONSIBILITY

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Abstract: *The purpose of the study is to highlight the ethics of the individual and especially of the leader in decision-making. The modern leader has to manage diverse and complex issues in the era of social, economic crises and changes and rapid technological developments. The ethics of the leader manifests itself in prudence, moderation, responsibility, accountability, conscientiousness, mindfulness, and emotional intelligence. These are abilities and skills that should characterize the modern leader in decision-making, which have an impact not only on the company itself but also on society in general. The moral praxis of the leader highlights once again the philosophical anthropological background of the individual, whose basic moral virtues are embodied in Aristotle's ethics. From this perspective, the ethics of the leader in decision-making is applied in practice in two important axes, on the one hand in the exploitation and ethically rational use of technology and by extension artificial intelligence, in which the leader is an ethical technologist in data management. On the other hand, the leader's ethics is evaluated in the leader's ethical thinking, decision and action oriented towards Corporate Social Responsibility, which today is a basic necessity for businesses that are morally committed to society, with the result that Corporate Social Responsibility is considered the dynamic parameter and criterion of superiority in decision-making.*

Keywords: *Leader, moral philosophy, organizational ethics, business ethics, corporate social responsibility, Aristotle, decision-making, utilitarianism, artificial intelligence, decision-making technologies*

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Theoretical framework: the objectivity of moral decision

Decision-making is directly related to human morality, if not completely identical to it. There is absolute freedom in man's choice of right or wrong, but only the right choice will lead to the integration of the intended purpose. Therefore, moral freedom is not to do whatever one wants, but to do the right thing in the right way at the right time[1]. We have infinite free directions to choose the wrong, but only a few or one choice can lead us to the right. Morality is directly linked to necessity, without this limiting freedom. The water of a river flows freely from its sources to its mouth, but if it wasn't the necessity of the bed to contain it, it would be dispersed in space, and the river would disappear[2]. In the same way, we cannot speak of a moral choice, if we do not recognize the necessity and the limitations it poses. From this point of view, ethics cannot aim at the destruction of man, but at his preservation and improvement. So moral is not something that opposes the human purpose, but something that serves it. But what is the human purpose? This is a question that philosophy is called upon to answer. Philosophy attempts to know human nature and the nature of human things and with this knowledge to determine human purpose. Ethics is concerned with human right choices in achieving human purpose, therefore ethics is the practical expression of philosophy and its success is judged by the achievement of human natural integration on an individual and collective level.

Therefore, moral decision cannot be subjective or relative, but is controlled by the objectivity of human nature and human purpose. We are absolutely free to good or evil, but ethics is on the side of good, and this necessity objectifies the rightness of the moral decision. If ethics derives from the definition of man, then the correctness of the choice involves an objective and not a relative character. A consequence of all these findings

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[1] Aristotle, *Nic. Ethics*, 1106b.28-35: *ἔτι τὸ μὲν ἁμαρτάνειν πολλαχῶς ἔστιν τὸ γὰρ κακὸν τοῦ ἀπείρου, ὡς οἱ Πυθαγόρειοι εἴκαζον, τὸ δ᾽ ἀγαθὸν τοῦ πεπερασμένου, τὸ δὲ κατορθοῦν μοναχῶς διὸ καὶ τὸ μὲν ῥᾴδιον τὸ δὲ χα λεπόν, ῥᾴδιον μὲν τὸ ἀποτυχεῖν τοῦ σκοποῦ, χαλεπὸν δὲ τὸ ἐπιτυχεῖν· καὶ διὰ ταῦτ᾽ οὖν τῆς μὲν κακίας ἡ ὑπερβολὴ καὶ ἡ ἔλλειψις, τῆς δ᾽ ἀρετῆς ἡ μεσότης· ἐσθλοὶ μὲν γὰρ ἁπλῶς, παντοδαπῶς δὲ κακοί.* "Moreover, wrong is done in many ways (because the evil and the infinite go together, as the Pythagoreans taught, while good goes together with the finite), but right is done in only one way (that is why the one is easy, while the other is indeed difficult, it is easy to fail in our goal but difficult to achieve it) therefore for these reasons excess and lack characterize wickedness, while measure is virtue, we become good only in one way, but bad in many". L. Strauss, "What is political philosophy?", in L. Strauss, *An introduction to political philosophy: ten essays*, edited with an introduction by H. Gildin, Wayne State University Press, Detroit, 1989, pp. 53: *License consists in doing what one lists; liberty consists in doing in the right manner the good only*. El. Vavouras. "The Machiavellian reality of Leo Strauss", *Dia-noesis: A Journal of Philosophy*, 12, (2022), 265-273.

[2] Th. Hobbes, *Leviathan,* XXI.

is that ethics cannot be a product of human conventions or the historical moment - that is, historicism[3]- but human conventions must be based on human moral decision as a choice of the best solution to achieve the human purpose, as it is included in the definition of man. The positive law of a state, although it is the controller of what is right or wrong according to the law, cannot be the generator of what is right or wrong for man, since the human purpose pre-exists the contract and is above it. So, a positive law is right and therefore moral, when it serves the ultimate human end, i.e., the improvement of man.

But who has the greatest burden of moral decision in the human condition, in the sense that his decisions determine the happiness of a large number of people? There is someone who determines the direction of positive law so that it meets the human purpose? The state is the creator and guarantor of positive law through its institutions. Institutions echo the purpose of the state, that is, the decisions of the state to achieve the human purpose for the greater part of the civil society. The purpose of the state is moral if it agrees with the improvement of man, that is, with the attainment of human integration. Furthermore, he who administers the institutions of a human civil society and thereby determines its decisions and goals is the sovereign representative of the political community, in other words its leader. The leader manages the functioning of the institutions and the response of each political part to this function. The decision-making of the leading sovereign representative largely determines the prospect of happiness for the whole. Ethics in the leader's decision-making determines the success of the human civil society in fulfilling its objective goals. This moral and political function of the leader is not limited only to the management of state institutions, but also to the management of any organization composed of human beings. Each organization has a perhaps subjective goal, as it responds to the vision it serves, but also to the demands of the free market[4]. But this subjective purpose always clashes with the objectivity of human purpose, since all parties involved in the development and action of the organization are composed of human beings. A company's employees, consumers, and social reception are people who would be happier if the organization's purpose aligned with the achievement of collective human purpose. So, ethics in decision-making is directly involved with business ethics and therefore with organizational ethics, corporate social responsibility and

[3] Cf. El. Vavouras, "Natural right and historicism: from Thucydides to Marx", *Cogito*, Vol.XIII, no.1 / March, (2021), 7-20. El. Vavouras, "Machiavelli: Natural right and historicism", *Polis*, Volume IX, Nr. 3 (33), (2021), 5-24.

[4] Cf. El. Vavouras, "Hobbes' hedonism in front of classical hedonism and the free market 's way out", *Dia-noesis: A Journal of Philosophy*, 13, (2022), 85-114.

corporate governance, to the extent that the success of an organization or business is inextricably intertwined with human individual and collective well-being. The role of the leader is to recognize this moral background and integrate it into the management of all parameters and actors involved.

1. The ethical praxis of the leader in decision-making

Ethics is one of the most important branches of philosophy since it deals with what is acceptable and right, what is honest and dishonest, what is right and what is wrong. Ethics is about how we treat others and make decisions that affect others and that we put into practice. The moral status of man in the field of business emerges mainly in making serious decisions in critical circumstances, manifesting through his choices and decisions the quality of human character. Aristotle's ethical praxis is today at the center of decision-making, as it formed a basic background for the formulation of later moral theories[5].

In the moral concepts of European philosophers, a moral code of conduct is indicated, which governs human actions and shapes moral values, which find their application in social, political, professional life, economy and every field of human condition. The ethics of man became the springboard for highlighting the moral universality and deontocracy of Emmanuel Kant and the evaluative utilitarianism of John Stuart Mill, which, together with Aristotelian theory of virtues and practical ethics, dominate decision-making and business ethics in general[6]. In Kantian ethics, personal autonomy is based on deontocracy and universality, where man obeys universal moral laws with universal force, which he himself has established, attempting to preserve his freedom and the moral choices dictated by his will[7]. The transition from individual to common benefit was pursued by the utilitarianism of Jeremy Bentham and John Stuart Mill. Bentham's practical utilitarianism identified the act with its consequences

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[5] S.A. Triantari, *Ethics in decision-making*, Thessaloniki: K. M. Stamoulis-I. Harbandidis, 2021, 7-8.

[6] S.A. Triantari, & A. Koliopoulos, *Business Ethics and Business Negotiations*, Thessaloniki: K. M. Stamoulis, 2022, 89-108.

[7] N.E. Bowie, "A Kantian approach to business ethics". *A Companion to Business Ethics*. Ed. Robert, E. Frederick. Oxford: Blackwell Publishers Ltd, 1999, 3-5. Cf. S. J. Reynolds & N.E. Bowie, "A Kantian Perspective on the Characteristics of Ethics Programs". *Business Ethics Quarterly,* Vol. 14, No. 2 (2004), 275-292. J. Smith, & W. Dubbink, "Understanding the Role of Moral Principles on Business Ethics: A Kantian Perspective". *Business Ethics Quarterly,* 21, 2 (2011), 205-231, 216-217. K. Androulidakis, *Kantian Ethics. Fundamental issues and perspectives*, Athens: Smili, 2017, 34. S. A. Triantari, *Ethics in decision-making*, Thessaloniki: K. M. Stamoulis-I. Harbandidis, 2021, 62-67. S.A. Triantari, & A. Koliopoulos, *Business Ethics and Business Negotiations*, Thessaloniki: K.M. Stamoulis, 2022, 93-99.

for the common good as a basic parameter, without taking into account the rightness of the act, the means for its rightness and its evaluation, based on certain moral principles and rules. Bentham's utilitarianism addressed the negative impact of correctness between the goal and the means to achieve it. Action utilitarianism was opposed by Mill's evaluative utilitarianism, according to which the evaluation of the common good is assessed by whether or not an act is in accordance with the established rules of society, so that through a moral attitude the common good is ensured[8]. Mill formulated the evaluative utilitarianism, which is none other than the utilitarianism of the rules or normative utilitarianism (Rule-Utilitarianism). Here the guiding principle is obedience to the rule, so that the commonly accepted social rules are easily assimilated and adopted by the normative utilitarianism. Normative utilitarianism appears fairer than pragmatic utilitarianism, since the rightness of decision-making is based on general rules of conduct[9].

Mill's evaluative or normative utilitarianism led Hegel to emphasize man's responsibility for his moral life by which he must also define his freedom. The result of the act will judge the motives of the person, who must benefit not only himself but also others. Hegel highlights the need for human self-awareness that transforms the individual personality into a global one, since individual benefit must be committed to global benefit[10]. Friedrich Nietzsche glorified individual responsibility and accountability as the birth of man's free will, attempting to give new meaning to people's

[8] A. Gustafson, "Consequentialism and non-Consequentialism", *The Routledge Companion to Business Ethics*. Ed. by E. Health, B. Kaldis & A. Marcoux. New York: Routledge Taylor & Francis Group, 2018, 83-84. Cf. J.H. Burns, "Happiness and Utility: Jeremy Bentham's Equation," *Utilitas,* Vol. 17 Issue 1 (2005), 46-61. S.A. Triantari, *Ethics in decision-making*, Thessaloniki: K. M. Stamoulis-I. Harbandidis, 2021, 67-70. S. A. Triantari, & A. Koliopoulos, *Business Ethics and Business Negotiations*, Thessaloniki: K. M. Stamoulis, 2022, 105.

[9] D. Miller, "Mill, Rule Utilitarianism, and the Incoherence Objection". B. Eggleston, D. Miller and D. Weinstein, (eds), *John Stuart Mill and the Art of Life*, New York: Oxford University Press, 2011, 94–118. Cf. A. Antoniou, *Business Ethics. Philosophical-Psychological Consideration of Money*. Athens: Gutenberg, 2016. I. Patsiotis-Tsakpounidis, *Business Ethics and the Aristotelian Leader*. Athens: Livanis, 2015. S.A. Triantari, *Ethics in decision-making*, Thessaloniki: K.-M. Stamoulis-I. Harbandidis, 2021, 70-73. S.A. Triantari, & A. Koliopoulos, *Business Ethics and Business Negotiations*, Thessaloniki: K. M. Stamoulis, 2022, 106-108.

[10] R.M. Wallace, *Hegel's Philosophy of Reality, Freedom, and God*, Cambridge: Cambridge University Press, 2005, 8-9. Cf. A. Patten, *Hegel's Idea of Freedom*, Oxford: Oxford University Press, 2005, 1-6. F. Neuhouser, "Freedom, Dependence and the General Will", *Philosophical Review*, 102/3 (1993), 363-395. O. O'Neill, "Ethical Reasoning and Ideological Pluralism". *Ethics,* 98 (1988), 705-722. S. A. Triantari, *Ethics in decision-making*, Thessaloniki: K. M. Stamoulis-I. Harbandidis, 2021, 74-79.

ethics through their actions and their natural will to power[11]. The power of human action through Aristotle's ethical view was emphasized by Marx, supporting the rational man as the creator of himself and the social conditions in which he lives. Marx's ethics focused practical ethics on a nexus of responsibility, accountability, beliefs, principles and rules to address social and class inequalities and the unlimited liberation of capital[12].

Throughout time, at the center of the ethical view of man, the responsibility and accountability of the individual and especially of the leader is put forward as a counterweight to his irrational and selfish thinking, behavior, decision and action, which results in the satisfaction of individual, personal benefit at the expense of the public benefit. Aristotle's practical moral philosophy was and is the crown of human ethics in decision-making, as it is based on the combination of perceptual reality and experience with rational judgment and logical thinking, with the aim of conquering the end (the purpose), which is the final and key element in the application of decision-making.

2. Aristotelian ethics in decision-making: Individual, Responsibility, Purpose

In Aristotelian thinking, the individual, and especially the leader, gathers in his person virtues, intellectual and moral, that are inextricably linked to his actions, forming the practical ethics, which finds application in the decision-making process. The intellectual virtues concern the intellectual part of the soul and are directly related to truth. The moral virtues concern the mastery over the passions and the rational actions of the leader[13]. For Aristotle, virtue is a dynamic disposition of the soul

[11] M. Haar, "Nietzsche". *Encyclopedie de la Pleiade*, *History of philosophy - 19th - 20th century: Evolutionary philosophy - National schools of philosophy*, Trnsl. Marilisa-Papa. Athens: MIET, 1991, 91. Cf. D. N. Lambrellis, *Nietzsche. Philosopher of multiplicity and the mask*. Ioannina: Dodoni, 1988, 273-274. S. A. Triantari, *Ethics in decision-making*, Thessaloniki: K.-M. Stamoulis-I. Harbandidis, 2021, 80-85.

[12] A. Giannaras, *Marx und die Griechische Philosophie*, Freiburg: Universitatsblatter, 1973, 23-71. Cv. C. Castoriades, “From Marx to Aristotle, from Aristotle to us”, *Social Research*, Vol. 45 (1978), 667-738. G. Maniatis, "Marx and Ethics. A reappraisal". *Marxism. A reassessment*, Athens: Society for Studies of Modern Greek Culture and General Education, 1995:115-131. TH. P. Lianos, *The Political Economy of Aristotle*. Athens: MIET, 2012, 36. S.A. Triantari, *Ethics in decision-making*, Thessaloniki: K.-M. Stamoulis-I. Harbandidis, 2021, 86-90.

[13] Aristotle, *Nicomachean Ethics, A-K*. Introduction, Translation, Comments: D. Lypourlis. Thessaloniki: Zitros, 2006, 1103a, 1103b. Cf. J. McDowell, “Virtue and Reason.” *The Monist*, 62 (1979), 331-350. D.N. Koutras, *The Practical Philosophy of Aristotle*, Athens: 2002, 22-23. A. Triantari, *Ethics in decision-making*, Thessaloniki: K.

towards the objects of action and the passions, which are shaped and improved by continuous practice (*ἔθος*). Exercise and experience contribute greatly to the improvement of the passions and emotions by the control exercised by the mind. Experience is a criterion for self-awareness and self-control, because it determines the way a human acts and lives. Virtues are the foundation of man's mental life and a basic precondition for happiness[14]. Aristotle emphasized the moral responsibility of man in the practical application of the decision before an act is done and put forth the requirement of controlling the motives of an act. In the definition of virtue, he identified the criteria of the motivations of human action, which are rational choice (*προαίρεσις*) and measure (*μεσότης*)[15]. Rational choice and measure are two parameters that have a mediating role between intellectual and moral virtues and determine the quality of the decision-making either by the leader, or by the group, or by a collective body. Virtuous decisions and actions create the right conditions for the vigorous formation of a community within the organization. Making a decision fairly and correctly is a springboard for cultivating trust and mutual respect in the workplace. Making the right decision contributes to the prosperity of the business, and can lead to increased production, efficiency and profit for the benefit of all[16].

The result of a morally reasonable decision-making is related in Aristotle to the determination of the concept of "end" (*τέλος*), which is the acquisition of some good. The philosopher clarified that there are many "ends", i.e., purposes, and furthermore the separation between them lies on the one hand in that some "ends" are actions, before their implementation, and some other "ends" are specific works, that is, it is the completed achievement of the goal. On the other hand, there are many kinds of "ends", precisely because there are many kinds of actions, just as there are many kinds of arts and sciences, just as the end of medicine is health. Decision-making with its implementation turns into an action, into completing the achievement of the project, and with this reasoning the leader or the group can make many kinds of decisions depending on the

M. Stamoulis-I. Harbandidis, 2021, 93. S.A. Triantari, & A. Koliopoulos, *Business Ethics and Business Negotiations*, Thessaloniki: K. M. Stamoulis, 2022, 117-118.

[14] K. Voudouris, *The Moral Philosophy of the Greeks*, Athens: 1996, 56-57. Cf. S. A. Triantari, *Aristotle on Drunkenness, On Virtues and Vices, On the World. Philosophy and Education*. Thessaloniki: Zitros, 2011, 113.

[15] H.K. Tsoukas, *If Aristotle was a managing director. Essays on leadership and management*, Athens: A. E. Kastanioti, 2004. Cf. S.A. Triantari, *Ethics in decision-making*, Thessaloniki: K. M. Stamoulis-I. Harbandidis, 2021, 95.

[16] S.A. Triantari, *Ethics in decision-making,* Thessaloniki: K.M. Stamoulis-I. Harbandidis, 2021, 96-98.

type of issue or problem[17]. The purpose of all the actions of the leader is aimed at the good, which is bliss. Choosing a decision, guided by virtue leads to good, to bliss, which is not a means but an end in itself. By the decisions the leader makes many goods can be achieved, where each one is proportional to the decision or decisions he makes each time[18].

Aristotle posed a dilemma of moral perspectivism for the preservation of the entity of the business, according to which a business should choose between decisions that contribute to the maximization of profit and ᾽ a strategic planning based on moral rules, which preserve the entity and the identity of the business. Securing and increasing profit is not always an element of responsibility if we consider decisions to produce products, such as genetically modified products, with negative effects on human life and the natural environment. For the well-being and balance of a business aiming at its happiness, Aristotle proposes the triad of virtues: a. Moderation (*μεσότης:* choice of the right measure), inextricably linked to words and actions related to interpersonal communication with others, is often difficult to achieve and above all, when the leader is focused on his own pleasure. In making a decision that is motivated by the pleasure of getting rich, the leader must manipulate his pleasure, so that he can become an objective and fair judge and evaluator of his decisions b. Rational choice (*προαίρεσις*), reflects the moral freedom of the human, which indicates his individual responsibility for his action. Aristotle attributed two meanings to rational choice a. The moral intention of the leader during the process of the act. b. The ability of the leader to choose the means he will use for whatever he does, in order to reach the realization of the purpose. Rational judgment is necessary in decision-making and for its formation it need a major factor, which is the will and expresses the purpose of the act and a minor factor, which is the rational choice and expresses the search for the means to achieve the act. c. Prudence (*φρόνησις*), is important in decision-making and its implementation, since, guided by rationality and knowledge, it contributes to finding the appropriate means that could be decisions, from one-to-many alternatives, in order to achieve the goal by applying them in practice. The stages of judgment in decision-making, according to Aristotle, are a. right will (*εὐβουλία*) i.e., rationality, b. prudent judgment, where the human, after completing the comparison of alternative

[17] Aristotle, *Nicomachean Ethics,* I, 1094a. Cf. A.E. Demirci, "Aristotelian Foundations of Business Ethics: The Possibility of Moral Judgment in Organizations", *Turkish Journal of Business Ethics,* 12, 2 (2020), [1-14], 3-6.

[18] R.C. Solomon, "Corporate roles, personal virtues: An Aristotelian approach to business ethics", *Business Ethics Quarterly,* 2, 3 (1992), 317-339. Cf. S.A. Triantari, *Ethics in decision-making*, Thessaloniki: K.M. Stamoulis-I. Harbandidis, 2021, 100-101.

decisions, is led to the recognition of the best decision, which is comparably superior to the other decisions, c. rational choice, which is the making of the final decision or the preferred post-judgment decision, and therefore is the beginning of the act and d. the act is the application of prudence[19].

Particularly important in the decision-making of the leader is the rational choice, the intention to choose the appropriate decision, which the prudent leader turns into action, for which he bears the main responsibility. Responsibility reframes all possible excuses of the leader, such as that he is under pressure to increase profits or because of his strong desire to succeed or that he had no other options, etc. The leader is responsible for his actions and their consequences, as he could have avoided them if he had disciplined his desires to reason.

Today the responsibility of the leader and his rational judgment for making a decision is evaluated in the field of business analytics through methods of development of information systems technology, creating new perspectives on the leader and decision-making. The question is to what extent the responsibility and rational judgment of the leader in collecting and analyzing the necessary information at any time, through technological methods and tools, contributes to drawing up a rational strategy for making critical decisions with positive results for the company.

3. Business analytics and decision-making technologies

The use of informatics in decision-making is an important issue in rational decision-making. A modern business leader is confronted daily with the volume and diversity of data they must manage. The abundance of information poses a basic concern regarding its quality, in order to make decisions related to the risk that they will have for the company itself and also the company's responsibility towards society[20]. Towards this direction, the study is oriented on two axes, on the one hand data management, their quality, their modeling and their governance. These are parameters that frame Operational Analytics and contribute significantly to the leader making the right decisions, which highlight the moral quality of his character, as well as his prudence in critical situations. Data management makes the recipient responsible for the process of finding the appropriate data, which is directly linked to the management of the database, which contains all the data being processed. One of the basic principles that data follows is its quality. Quality gives value to data, so that it is treated as a key asset for the business, its profitability is a

[19] SA. Triantari, *Ethics in decision-making*, Thessaloniki: K.M. Stamoulis-I. Harbandidis, 2021, 104-114.

[20] K. Zopounidis, *Business and Management*, Athens: Kleidarithmos, 2020, 109.

component of maintaining its quality, the quality of the data satisfies the business itself and its participants, and the focus is to the data they are interested in, i.e. the metadata[21].

Safeguarding the quality of the data highlights the credibility of the business, but also the management ability of the leader to ensure the strategy of the business, avoiding its negative impact, which is the result of low-quality data with consequences of the conflict of interests within the business, the repeated corrective procedures, customer dissatisfaction, lack of originality, disciplinary fines, as well as the violation of principles of Corporate Social Responsibility[22]. Data quality is underpinned by data modeling, which is the process of finding, analyzing, and defining specifications that the data must follow. It is about the formatting of the data, according to a standard that necessarily follows the specifications of each company[23]. Modeling preserves quality and facilitates the process of Data Governance, i.e., those processes that are directly related to the decisions that must be made regarding the management of the company's data. The aim is to control the data, so that its management follows the practices and objectives of the business. Governance focuses, on the one hand, on the type of actions to be taken with regard to data. On the other hand, how, i.e. the way in which the company's employees must manage them[24].

The brief report on Business analytics highlights that all data management processes with the help of technology minimize the risks and enable the recipient, and more so the leader of a business who has the primary responsibility, to formulate a strategy and policy in data management which will ensure the quality of the company's profile and identity. In this context, the company formulates a communication strategy both towards its internal environment, senior management, employees, stakeholders, and towards the external environment, customers, suppliers, society[25]. A fundamental element of this strategy, which can secure more securely the management of data, is governance, which is an imperative for data, because it concerns the moral personality of the administrator and decision maker. The type of actions, as well as the way of data management highlight four basic dimensions, a. moral responsibility, with the aim of respecting justice towards the two

[21] J. Romerantz, *(P/B) Metadata*, Athens: MIT PRESS, 2015.

[22] D. Henderson, S. Earley, *DAMA-DMBOKData Management Body of Knowledge*, 2nd Edition, 2017.

[23] M. Weske, *Business Process Management. Concepts, Languages, Architectures*, Scientific Edited by M. Vlachopoulos, K. Vergidis. 2nd ed., 2018.

[24] An. Pomportsis, *Introduction to Electronic Government*, Athens: Giola, 2006.

[25] S.A. Triantari, & A. Koliopoulos, *Business Ethics and Business Negotiations*, Thessaloniki: K.M. Stamoulis, 2022, 141.

environments of the business, internal and external, b. the human responsibility of the decision-maker, whether he is an employee or the leader of the company, towards society with his actions and decisions, c. the legal responsibility with the application of rules, laws and standards with the aim of ensuring the quality of the business and the protection of the consumer and d. the financial responsibility, which is related to the responsibility of the business in matters mainly financial towards employees, shareholders, interested parties and customers[26].

Under these circumstances, decision-making takes on an undoubtedly important place in the duties and responsibilities assumed by the leader of a business, and especially if we consider that only 20% of executives state that they trust the quality of the data they use to make decisions about with risks[27]. This percentage allows to understand that on the one hand businesses have to manage data from many different sources, as a result the lack of links between systems and sections can bring chaos with a negative impact on financial results. On the other hand, it highlights the gravity of the responsibility of data management both on the leader himself and on the executives who have control over data management. In particular, when management concerns decisions made for risk management, high quality data is needed, characterizing the importance of moral responsibility that extends to the implementation of effective strategies[28].

Technology systematically contributes to decisions and facilitates the work of the leader or decision-makers by providing tools and resources that speed up processes. From this position businesses make more informed and effective decisions as technology evolves and even more so today with new technologies such as artificial intelligence revolutionizing the way that business decisions are made. With artificial intelligence, it is possible to analyze large amounts of data, and to identify patterns and trends that can significantly influence decision-making. Next, Big Data also refers to a large amount of data analysis from various sources, from which businesses can gain important insights and make decisions based on accurate data and in real time. However, the intervention of Business Analytics and new technologies in decision-making presupposes the good use of the technology manager, who should possess the trinity of virtues, right measure, rational choice and prudence, applying Aristotelian ethics

[26] A.B. Carroll, "Corporate social responsibility: towards a moral management of organizational stakeholders". *Business Horizons*, Vol. 38, issue 3, (1999), 268-295. Cf. S. A. Triantari, & A. Koliopoulos, *Business Ethics and Business Negotiations*, Thessaloniki: K. M. Stamoulis, 2022, 142-143.

[27] K. Zopounidis, *Business and Management*, Athens: Kleidarithmos, 2020, 109.

[28] K. Zopounidis, *Business and Management*, Athens: Kleidarithmos, 2020, 109.

to modern moral virtue[29]. The consideration of applied ethics in decision-making supervises and limits the extreme use of technology, as for example an intelligent machine cannot be held accountable for a decision in the same way that a human does. In making decisions, the manager of the decision, and indeed the leader manager cannot rely exclusively on the data of the technology, because he should take into account human values in all this management. Through right measure, rational choice and prudence, the decision-maker attempts a rational use of data that does not alter human judgment, but evaluates and prioritizes information to manage risks not only to the business, but also to the impact of its actions in the society. In this context the managerial leader is responsible for using artificial intelligence and ensuring human values so that the world is sustainable[30].

The above marking leads the decision-maker towards the attribution of his decisions and actions and his individual responsibility in situations where the negative effects of his decisions bring him face to face with his own interest or the common good or with alternative decisions that exceed its moral values and are imposed due to some external factors mainly economic. This is a mixed type of action that is common in decision-making, as the managerial leader will have to bring out the competing ethical standards and demands of the parts involved[31]. In the decision-making strategy, social responsibility appears to have priority, which reflects the dominance of rationality, intellectual and moral, an element that mainly characterizes man, who must manage and use technology rationally and prudently. In this direction, decision-making plays the most important role in Corporate Social Responsibility, because it highlights the responsible behavior of the business and the prudent personality of the modern leader.

4. Corporate Social Responsibility a criterion of excellence in decision-making

The dynamic in decision-making is primarily focused on Corporate Social Responsibility, which highlights the responsible behavior of a company towards society. The roots of Corporate Social Responsibility are found in the philosophical views of Socrates, Plato and Aristotle, in which

[29] J. Duffy, "The good writer: Virtue ethics and the teaching of writing", *College English*, 79, 3 (2017), 229–250.

[30] V. Dignum, "Ethics in artificial intelligence: introduction to the special issue", *Ethics and Information Technology,* (2018), vol. 20, 1–3.

[31] S.M. Schwartz, "Ethical Decision-Making Theory: An Integrated Approach", *Journal of Business Ethics,* 139, 4 (2016), 755-776.

the two poles of individual-society, virtue-vice, desire-reason[32]. The historical past of Corporate Social Responsibility made its appearance in the form of sponsorship. It is an institution based on the financing and support of non-profit actions by private enterprises, which involved the transfer of resources from the private to the public sector, from private initiative to the state, with the ultimate goal of the welfare and good of the whole[33]. Formal interest in Corporate Social Responsibility appears in the 20th century. Subsequently, thoughts and opinions about Corporate Social Responsibility are rekindled around the world, and interest has become evident in the US. With reference to Corporate Social Responsibility, several definitions were given[34], which led to basic guidelines, which connect businesses with the tripartite society, economy and environment, in which the dimensions of Corporate Social Responsibility are highlighted, with economic, legal, ethical, voluntary/ humanitarian and educational responsibilities[35].

From the above it becomes clear that the decisions taken either individually or collectively in a company are influenced by a variety of factors that are directly linked to Corporate Social Responsibility, which includes, like decision-making, the ethical dimension in the decisions of the decision-maker. Whatever method or form of decision-making the leader chooses, his responsibility and awareness are considered as a basic condition, so that he is led to rationally optimal decisions, which go beyond personal benefit. Heightened mindfulness and accountability give leaders greater chances to make decisions that will be most appropriate at the given moment. Mindfulness bases its operation on perception, cognition and emotion. The degree of mindfulness of the leader, related to the axis of his attention for observing events, is determined by his intention to focus his attention on the specific problem, focusing his thinking and emotions on the given temporal event[36]. The high-definition perception of one's cognitive and emotional processes is also linked to

[32] S.A. Triantari, & A. Koliopoulos, *Business Ethics and Business Negotiations*, Thessaloniki: K. M. Stamoulis, 2022, 164.

[33] S.A. Triantari, & A. Koliopoulos, *Business Ethics and Business Negotiations*, Thessaloniki: K.M. Stamoulis, 2022, 164-165. Cf. J. Coleman, *History of political thought. From Ancient Greece to the first Christian times*, Athens: Kritiki, 2005.

[34] S.A. Triantari, & A. Koliopoulos, Business Ethics and Business Negotiations, Thessaloniki: K. M. Stamoulis, 2022, 166-169.

[35] R.W. Mondy, J.J. Martocchio, *Human Resource Management*, trnsl I. Phirippi. Athens: Giola, 2019: 57. Cf. A. Antoniou, *Business Ethics. Philosophical-Psychological Consideration of Money*, Athens: Gutenberg, 2016:124-127. M. Vaxevanidou, *Corporate Social Responsibility*, Athens: Stamoulis, 2011:73.

[36] S.A. Triantari, *Leadership. Leadership Theories. From the Aristotelian rhetorician to the modern Leader,* Thessaloniki: Thessaloniki: K.M. Stamoulis, I.A. Harmbandidis, 2020, 251-261.

one's responsibility, contributing both together to one's self-awareness and self-mastery. Responsibility means at the same time the strengthening of judgment, which also predetermines the moral quality of the leaders' character. Accountability preserves the validity and effectiveness of the decision, and at the same time ensures the ethics of the interpersonal relationships between the recipients, who must submit their opinions and arguments[37]. The form of responsible and conscious decision-making limits errors that distort the rationality of decisions and minimizes and prevents the possibility of harming the interests of the business or causing negative consequences to the wider environment.

Good practices, adopted through the steps followed by the business leader in decision-making, are inextricably linked to Corporate Social Responsibility. Corporate Social Responsibility is considered as a business practice and operates as a strategy, as it is integrated into the strategic planning and core operations of a business, with the result that the management of the business is exercised in the interest of the wider set of interested parts, in order to achieve medium-term and in the long term the optimal and maximum economic and social value[38]. Therefore, a consciously responsible leadership is important for the strategy of Corporate Social Responsibility, which is based on the strategy of decision-making, through which the actions of assuming the social responsibility of the leader as a decision-maker are also seen. This strategy is also a defense mechanism to protect the company's reputation[39].

Decisions are made within an ethical regulatory framework, because both the choices in the decisions and the implementation of the decisions in practice increase and distort the concept of the moral responsibility of the person, the leader of the business, who is morally responsible for the decisions and his actions, as this emerges through a process of free choice. Responsibility can be attributed to an individual, either a leader or a group of individuals, who are held accountable. In both cases criteria are set, which protect not only the personal but also the Corporate Social Responsibility of the business. These criteria constitute the ethical framework of the decisions and are as follows:

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[37] S.A. Triantari, *Leadership. Leadership Theories. From the Aristotelian rhetorician to the modern Leader,* Thessaloniki: Thessaloniki: K.M. Stamoulis, I.A. Harmbandidis, 2020, 127-130. Cf. Zsolnai, L. 2008.

[38] W.B. Jr Werther, D. Chandler, "Strategic corporate social responsibility as global brand insurance", *Business Horizons*, Vol. 48, (2005), 317-324. W.B. Jr Werther, D. Chandler, (Strategic corporate social responsibility: Stakeholders in a global environment. Sage, 2006, 6-44, 48-80.

[39] W.B. Jr Werther, D. Chandler, "Strategic corporate social responsibility as global brand insurance", *Business Horizons*, Vol. 48, (2005).

a. **Self-control** refers to decisions made in pursuit of the long-term good, strengthening self-control through the empirically chosen means that help guide the individual's emotions and determine his impulses depending on the situation. This specific criterion allows the consequences to be budgeted, but defining the decisions and actions on the basis of the rational choice of the person who is in harmony with the feeling, or even better who has the self-awareness to regulate his feelings and impulses. In this way the extreme of consequentialism is avoided, whereby the individual is coldly driven to achieve the best consequences, resulting in isolation from the common good of the enterprise and from himself. With self-control, decisions and actions are subject to a constant control and gives as much objectivity as possible to the decisions, and in particular to the choices of the doer[40].

b. **Utilitarianism** is about decisions made based on outcomes, with the goal of providing the greatest good for the greatest number of people. Utilitarianism aims at actions that will benefit the majority of people and consequently human happiness will be achieved, which determines the good or bad decision and action. The utilitarian view finds a response in business decision-making because it favors efficiency, productivity and profit maximization. The utilitarian conception seems to have a broad force in the norms of society, so that the decisions and actions of an individual or individuals are evaluated as to whether or not they are in accordance with the norms of society, with the ultimate goal of safeguarding society as a whole. With this perspective, utilitarianism can be understood as good thing with the simultaneous maximization of benefits and minimization of harms. For example, the decision to avoid the production of a product, because it will endanger people's lives, gives priority to the responsibility that the company bears towards society as a whole[41].

c. **Ensuring human rights** refers to the focus on respect for human rights and fundamental human freedoms, such as freedom of speech, expression, and the right to privacy. Whistleblowers often report unethical situations or decisions to entities outside the company. They exercise the right to freedom of speech either because the interests of the company are affected, or because the rights of an individual or individuals are violated,

[40] A. Antoniou, *Business Ethics. Philosophical-Psychological Consideration of Money*, Athens: Gutenberg, 2016: 41, 20. Cf. I. Patsiotis-Tsakpounidis, *Business Ethics and the Aristotelian Leader*. Athens: Livanis, 2015, 118-119.

[41] Robbins, St & Judge, T.A. *Organizational behavior. Basic concepts and modern approaches,* Introduction-Edited by A. Sahinidis. Translated A. Platakis. 2nd ed. Athens: Kritiki, 2018, 198-199. Cf. K.V. Kortenkamp, C.F. Moore, "Ethics under Uncertainly: The Morality and Appropriateness of Utilitarianism When Outcomes Are Uncertain". *American Journal of Psychology*, 127, issue 3(2014), 367-382. Antoniou, A.-St. 2016:57-59.

or because wrongdoing is done to the detriment of the company's employees[42].

d. **Application of justice** refers to the application and enforcement of legal rules, with the main goal of making decisions that do not violate the law, but ensure justice through the equal distribution of responsibilities, goods, benefits, etc. Fairness is one of the main goals of the business. In particular, the application of distributive law in decisions concerning groups of employees or persons within the company, where they should not enjoy different treatment and even more so, when the individuals belong to different cultural groups[43].

e. **Corporate Social Responsibility** as a complex concept refers to the behavior of the leader, decision-maker, as he is called upon with his decisions to respect the company's code of corporate ethics with commonly accepted ethical principles, which demonstrate respect for human life and dignity. Corporate Social Responsibility, on the one hand, passes through interpersonal relationships, making controllable not only the behavior of the recipient or recipients among themselves but also within the context of their coexistence in the company. On the other hand, it also engages in practices that do not harm the interests of consumers, or even more the natural environment through the management of illegal practices. The criterion of Corporate Social Responsibility leads to a rational behavior, where through the decisions the company acquires foundations in society and creates commitments that contribute to its corporate reputation. It is a fact that in the era of globalization, economic crisis and climate change, the responsibility for decisions that lead to responsible actions empower effective corporate responsibility initiatives, quality product production, where sustainability issues are taken into account, and employee performance, who, by making rational decisions, demonstrate Corporate Social Responsibility[44].

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[42] St. Robbins, T. Judge, *Organizational behavior. Basic concepts and modern approaches*, Introduction-Edited by A. Sahinidis. Translated A. Platakis. 2nd ed. Athens: Kritiki, 2018, 199. Cf. J. Hollings, "Let the Story Go: The Role of Emotion in the Decision-Making Process of the Reluctant, Vulnerable Witness or Whistle-Blower". *Journal of Business Ethics* 114, no. 3 (2013), 501-512

[43] St. Robbins, T. Judge, *Organizational behavior. Basic concepts and modern approaches*, Introduction-Edited by A. Sahinidis. Translated A. Platakis. 2nd ed. Athens: Kritiki, 2018, 199. Cf. D.E. Rupp, P. M. Wright, S. Aryee, Y. Luo, "Organizational Justice, Behavioral Ethics, and Corporate Social Responsibility: Finally The Three Shall Merge". *Management and Organization Review,* 11, issue 1 (2015), 15-24.

[44] St. Robbins, T. Judge, *Organizational behavior. Basic concepts and modern approaches*, Introduction-Edited by A. Sahinidis. Translated A. Platakis. 2nd ed. Athens: Kritiki, 2018, 199-200. Cf. P. Eliopoulos*, Business Ethics as Applied Ethics*, Athens: Papazisis, 105. A. Milios, *Corporate Identity and Image*, Athens: Kritiki, 2020, 163-182.

The decisions and actions of Corporate Social Responsibility highlight the social role of the leader, his social and moral status, through which he has a positive impact on investors, customers, consumers, suppliers, etc[45]. The preparedness of the leader to perceive and prevent existing and future problems, the networks of decision-making centers, as well as the strategies of an enterprise strengthen social awareness, and in particular the ability of organizational awareness, which is part of the social skills of the leader as a result of the emotional of intelligence[46]. CSR-oriented leader decision-making indicates a socially responsible behavior that is focused on the leader's emotional and perceptual control and self-control. Corporate Social Responsibility becomes a criterion of excellence for decision-making, creating dynamic environments, superior levels of employee performance in conjunction with high productivity. The lack of conscientiousness, emotional intelligence, social awareness, justice and responsibility in the leader circumvents Corporate Social Responsibility practices, leading to irrational and unethical decisions. The leader's decisions about the internal environment of the business constitute an organizational commitment to the employees. At the same time, the leader's decisions with a focus on Corporate Social Responsibility represent the company's moral commitment to society, so that the corporate values and the behavior it projects are compatible with the company's morally rational economic development[47].

The necessity for the leader to be able to take, manage and implement decisions in the modern era of economic and social crises and changes, rapid technological developments and achievements is based on the pedestal of the moral personality of the leader as a decision maker, so that he becomes himself advisor and guide of a philosophical economy[48]. The moral responsibility of the individual, who thinks and acts on the basis of Aristotelian praxis, with prudence and moderation as the main virtues of rational choice in decision-making, is not limited only to the evaluation or assessment of the information he receives, but much more to the management of information and data that makes him an ethical technologist in the case of using artificial intelligence. The superiority of

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45 S.A. Triantari, *Leadership. Leadership Theories. From the Aristotelian rhetorician to the modern Leader,* Thessaloniki: Thessaloniki: K. & M Stamoulis, I. Arch. Harmbandidis, 2020, 142-143.

46 D. Goleman, *Emotional intelligence: Why is EQ more important than IQ?* Athens: Greek Letters.

47 S.A. Triantari, *Ethics in decision-making*, Thessaloniki: K.M. Stamoulis-I. Harbandidis, 2021, 213-214.

48 El. Vavouras, "The political philosophy as a precondition and completion of political economy in the *Ways and Means* of Xenophon", *Dia-noesis: A Journal of Philosophy*, 13, (2020), 183-200.

his decisions becomes even more evident when he focuses on Corporate Social Responsibility, being involved in an effort to access unfair competition and the observance and moral commitment of the company towards society, with the most basic responsibility today being the protection of the environment, man and the whole of the planet.

Conclusions

1) Ethics in decision-making presupposes knowledge. The leader must know the human condition and the individual or collective purpose of man, in order to make the appropriate decisions that will promote the improvement of the human units he manages. Knowledge of the nature and purpose of man is an essential feature of philosophy, or more precisely of moral and political philosophy. Also, the correctness of the decision presupposes the knowledge of the causes of each problem that arises. Without a thorough knowledge of the causation of events, there can be no precise delineation and resolution of any problematic condition. The knowledge of man and his purpose, as well as finding the causes of each situation, is not a matter of any rational level and epistemological training of a human subject. The leader must have prudence, that is, knowledge of the necessary means to achieve virtuous ends, but also rational acuity, so as to see the essence behind the phenomena and diagnose the cause of their appearance, but also their sequence in their causal time series. Not everyone can become leaders, certainly not moral actors.

2) Making a right and therefore moral decision is related to the imposition of order and not disorder. The ethical decision is part of a rational organization of the data and the people involved with it, it is the result not of any random choice, but of choice, that is, of a rational weighing of the data. We cannot speak of moral decisions under the state of irrationality and disorder. Ethics is a product of rationality and orderliness. This is where organizational ethics emerges as a necessary rational arrangement of the functions of each part within an organization. Each part can respond to a specific function that can bring maximum efficiency to the overall organization. The task of the leader is to give each part the appropriate function, so that there is the best possible result for each distinct part, but also for the overall organization. The rational order imposed by the top leadership part through ethical decision-making contributes to the unity of the parts of the organization and their harmonious interaction.

3) Ethics always develops under the restraining force of the necessity of human nature and circumstances. The moral decision always moves rationally in the right measure between excess and deficiency, any deviation from this rightness leads to error. The leader is neither

omnipotent nor absolutely free, for inappropriate adaptation to necessity brings disaster. These finding limits individualism and selfishness, as each decision must be adapted to the human natural factor and the socio-political environment. Corporate social responsibility consists precisely here, in the recognition that for the development of an organization a basic condition is the adaptation to the necessity of political and social conditions. The organization whether political or business is in necessary interaction with man, society and the natural environment and maintaining a harmonious communication of these elements is inevitable for the success of any design.

4) Ethical decision-making always aims at the well-being of the decision-maker and the organization affected by it. We cannot talk about good decisions if they create disorganization and unhappiness for all parts involved. An organization must derive maximum efficiency from its parts, but this efficiency must not create unhappiness in them, if the parts are unhappy, it creates disfavor in the whole organization. If the hand or foot is not in perfect natural condition, it cannot perform well and this also affects the overall health of the human organization. The same thing happens in an organization with its parts, if they are in disfavor, it spreads throughout the range of organizational functioning. Therefore, organizational ethics as correct decision-making aimed at the happiness of every part of the organization is decisive for the successful managerial ability of the leader. Also, an organization belongs to a larger whole, such as political society or the state, so its action should not create disfavor to the whole, as it will affect it as well. Corporate social responsibility becomes an inescapable factor in the success of leadership and the happiness of the organization.

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CONTRIBUTION OF SUFISM TRILOGY IN THE FORMATION OF RELIGIOUS BEHAVIOR: A PROPOSED MODEL

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Abstract: *Sufism is teachings that can play a significant role in shaping one's religious behavior. Studies of Sufism and the Sufi behaviors have been carried out extensively, yet generally by their domains. This article is presented to fill this gap by offering the logic and the mechanism by which 'Irfani, Philosophical, Moral Sufism (Sufism Trilogy) shape individual religious behavior. This paper focuses on three main discussions. First, the Sufism Trilogy's underlying concept was discussed based mainly on the founders of Sufism's work. Second, it delineates the orientation and goals of the Sufism Trilogy to depict their similarities and differences. Third, it proposes a model of the Sufism Trilogy contribution to the formation of human religious behavior. The study concludes that despite seemingly having different orientations and goals, Sufism Trilogy ends with the same purpose: to get close to and be with God; hence adherence to only one dimension of Sufism would sway one from being real closeness to God. Then, the trilogy of Sufism with these three approaches turns out to be able to make a social contribution in society, namely with the purity of one's heart can see everything the same so as not to feel higher than others, with a mind that is always used to think able to form an advanced mindset and committed to fostering progress and civilization with togetherness, with noble behavior (morals) can unite relationships between individuals, so that social can establish togetherness and unity in the midst of differences.*

Keywords*: 'Irfani, philosophical, moral Sufism, religious behavior, Sufism Trilogy*

Sufism, the knowledge of purifying the soul, refining morality, developing outer and inner states, and obtaining eternal happiness, is essential to study in the current era. Many argue that modern society has

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prioritized worldly nature: materialistic and hedonistic.[1] Advances in science and technology have changed human life rapidly,[2] which urges the individual to continue to exist and make various efforts to fulfill all their desires without end. This condition eventually causes anxiety, stress, and insecurity.[3]

Religion and religious obedience have broad implications on human life. Several studies have found a positive correlation between religiosity with one's mentality, spirituality, behavior, health, inner peace, and life satisfaction.[4] When a person has a high level of obedience to a believed religion, his physical and mental conditions tend to be better.[5] In addition, education integrated with religion breeds tolerant attitudes such as respect differences.[6] Mental based on religion will form a religious attitude on one's

[1] Arif Zamhari, "Socio-Structural Innovations in Indonesia's Urban Sufism: The Case Study of the Majelis Dzikir and Shalawat Nurul Mustafa," *Journal of Indonesian Islam* 7, no. 1 (2013): 119–44, doi:10.15642/JIIS.2013.7.1.119-144.

[2] Nur Kholis, "Islamic Universities Facing Disruptive Era: Implication for Management Change," in *Proceedings of the 19th Annual International Conference on Islamic Studies, AICIS 2019, 1-4 October 2019, Jakarta, Indonesia*, ed. Noorhaidi Hasan et al. (EAI, 2020), 1–4, doi:10.4108/eai.1-10-2019.2291688.

[3] L. Makhasin, "Urban Sufism, media and religious change in Indonesia," *Ijtima'iyya* 1, no. 1 (2016): 23–36, doi:https://doi.org/10.24090/ijtimaiyya.v1i1.925.

[4] H.G. Koenig, D.E. King, and V.B. Carson, *Handbook of Religion and Health*, 2nd ed. (New York, NY: Oxford University Press, 2012); N. Krause, "Religious Meaning and Subjective Well-Being in Late Life," *Journal of Gerontology: Series B: Social Sciences* 58 (2003): 160–70, doi:https://doi.org/10.1093/geronb/58.3.S160; J. Levin and L.M. Chatters, "Religion, Aging, and Health: Historical Perspectives, Current Trends, and Future Directions," *Journal of Religion, Spirituality, and Aging* 20 (2008): 153–72, doi:10.1080/15528030801922103; Jeff Levin, "Religious Behavior, Health, and Well-Being among Israeli Jews: Findings from the European Social Survey.," *Psychology of Religion and Spirituality* 5, no. 4 (2013): 272–82, doi:10.1037/a0032601; C. Lim and Robert Putnam, "Religion, Social Networks, and Life Satisfaction," *American Sociological Review* 75 (2010): 914–33, doi:10.1177/0003122410386686; R. Stark and J. Maier, "Faith and Happiness," *Review of Religious Research* 50, no. 1 (2008): 120–25.

[5] Amber Haque, "Psychology and religion: Two approaches to positive mental health," *Intellectual Discourse* 8, no. 1 (2000): 81–94; E.J. Krumrei, S. Pirutinsky, and D.H. Rosmarin, "Jewish Spirituality, Depression and Health: An Empirical Test of a Conceptual Framework," *International Journal of Behavioral Medicine. Advance Online Publication*, 2012, doi:10.1007/s12529-012-9248-z; S. Pirutinsky et al., "Does Negative Religious Coping Accompany, Precede, or Follow Depression among Orthodox Jews?," *Journal of Affective Disorders* 132 (2011): 401–5, doi:10.1016/j.jad.2011.03.015; S. Pirutinsky et al., "Intrinsic Religiosity as a Buffer of the Relationship between Physical Illness and Depressive Symptoms among Jews: Mediators and Moderators," *Journal of Behavioral Medicine* 34 (2011): 489–96, doi:10.1007/s10865-011-9325-9.

[6] Evgeny A. Naumenko and Olga N. Naumenko, "Pedagogical Experience on Formation of Tolerant and Multicultural Consciousness of Students," *European Journal of Contemporary Education* 17, no. 3 (2016): 335–43, doi:10.13187/ejced.2016.17.335.

life.[7] Religion can also improve social attitudes, namely good cooperation among individuals and groups, cooperation as a form of mutual help, and togetherness,[8] and it is an expression of social solidarity.[9] Finally, people with a high religious level tend to buy halal products.[10]

Religious behavior is a person's attitude toward religion universally.[11] Religious behavior is related to the intrinsic aspect of establishing good relations with humans and nature. The extrinsic aspect is the spiritual establishment of an intense relationship with God.[12] Individuals are religious when they have a solid commitment to and use their religion to achieve their life goals.[13] Sufism as a soul education program describes the human aspect as God's perfect creature, both functional and ontological.[14] Sufism can be an essential alternative to the next generation's spiritual needs and moral development.[15]

Many studies on Sufism have been conducted, especially concerning Sufism figures, their teachings, and their behaviors, and their impact on Muslim lives. However, the study dealing with developing the conceptual relationships between Sufism and religious behavior is still not widely revealed. This conceptual article aims to analyze and uncover the relationships between' *Irfani*, Philosophical and Moral Sufism (Sufism Trilogy) and the formation of religious behavior. This article presents four

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[7] Amber Haque and Khairol A. Masuan, "Perspective: Religious Psychology in Malaysia," *The International Journal for the Psychology of Religion* 12, no. 4 (October 1, 2002): 277–89, doi:10.1207/S15327582IJPR1204_05.

[8] Dimitris Xygalatas, "Effects of Religious Setting on Cooperative Behavior: A Case Study from Mauritius," *Religion, Brain & Behavior* 3, no. 2 (2013): 91–102, doi:10.1080/2153599X.2012.724547.

[9] Richard Sosis and Candace Alcorta, "Signaling, Solidarity, and the Sacred: The Evolution of Religious Behavior," *Evolutionary Anthropology: Issues, News, and Reviews* 12, no. 6 (November 24, 2003): 264–74, doi:10.1002/evan.10120.

[10] Muniaty Aisyah, "The Influence of Religious Behavior on Consumers' Intention to Purchase Halal-Labeled Products," *Business and Entrepreneurial Review* 14, no. 1 (2014): 15–32.

[11] Frank N. Magill, *Survey of Social Science: Psychology Series*, vol. 6 (Pesadena, California: Salem Press, 1993).

[12] Indah Diati, "Hubungan antara religiusitas intrinsik dan religiusitas ekstrinsik dengan sikap terhadap aborsi yang disengaja" (unpublised master's thesis, Fakultas Psikologi Universitas Indonesia, 2000); Masri Mansoer, "Perilaku keberagamaan remaja kasus pada siswa SLTAdi kota Jakarta Selatan, kabupaten Sukabumi dan kabupaten Lebak" (unpublished doctoral dissertation, Pascasarjana Institut Pertanian Bogor, 2008).

[13] Roland Robertson, *The Sociological Interpretation of Religion*, Blackwell's Sociology Series (Oxford: Blackwell, 1970).

[14] Mizrap Polat, "Tasawwuf-Oriented Educational Philosophy and Its Relevance to the Formation of Religion and Ethics Course Curriculum," *Universal Journal of Educational Research* 5, no. 5 (May 2017): 806–14, doi:10.13189/ujer.2017.050514.

[15] S. Bilqies, "Understanding the Concept of Islamic Sufism," *Journal of Education & Social Policy* 1, no. 1 (2014): 55–72.

main discussions: a brief description of the Sufism Trilogy, followed by the emphasis and purpose of Sufism Trilogy, the Sufism Trilogy strategies in shaping religious behavior, and the proposed conceptual relationship between Sufism Trilogy and the formation of religious behavior. The expected result is a comprehensive and complete picture of the role of the Sufism Trilogy in shaping religious behavior that can be reflected in everyday human life.

Sufism Trilogy

Sufism is a method in Islam that emphasizes more on inner activities than on rituals and performances of external aspects (sharia). Sufism internalizes transcendental experiences. The Sufi intends to investigate the human soul and open the veil to reach the highest truth. In addition, Sufism is a guide of heart that becomes the initial journey of departure that leads to the destination. Sufi is someone who has genuinely been purified from worldly impurities and lusts as if they have occupied a high position by feeling a complete closeness with God.[16] A Sufi goes on an inner journey to attain self-knowledge, leading to Divine understanding (*Angha*). That knowledge is called inner knowledge *('ilm al batin*), which is sometimes in conflict with the knowledge of reality *('ilm al zahir)*,[17] as their objects are different. Reality knowledge can be seen and tested, and its orientation is the reason, while inner knowledge cannot be seen and tested scientifically because its orientation is a transcendental heart.

Sufism can be grouped into three main dimensions: '*irfani* Sufism, philosophical Sufism, and moral Sufism[18] referred to as Sufism Trilogy. '*Irfani* Sufism is the design of Sufism that focuses on the establishment of true truth. The word "*irfan*" in Arabic is the *masdar* form of the word '*arafa,* which means knowledge, knowing, and aware, then known as a mystical terminology which means knowledge of God (*ma'rifa*).[19] *Ma'rifa* cannot be obtained through logic, thought, or learning but through a pure heart.[20] Only a heart that is clean from inner impurities and everything

[16] William Stoddart and Nicholson R.A, *Sufism: The Mystical Doctrines and the Idea of Personality* (Delhi: Adam Publishers & Distributors, 1998).

[17] Eric Geoffroy and Roger Gaetani, *Introduction to Sufism: The Inner Path of Islam*, The Perennial Philosophy Series (Bloomington, Ind: World Wisdom, 2010).

[18] Mujamil Qomar, "Ragam pengembangan pemikiran tasawuf di Indonesia," *Epistemé: Jurnal Pengembangan Ilmu Keislaman* 9, no. 2 (December 11, 2014): 249–84, doi:10.21274/epis.2014.9.2.249-284; Dahlan Tamrin, *Tasawuf Irfani Tutup Nasut Buka Lahut* (Malang: UIN Maliki Press, 2010).

[19] Totok Jumantoro and Samsul Munir Amin, *Ilmu tasawuf* (Jakarta: Amzah, 2005).

[20] Mukhtar Solihin and Rosihon Anwar, *Ilmu tasawuf* (Bandung: Pustaka Setia, 2008).

other than Allah can anchor at *maqam ma'rifa*.[21] Among '*irfani* Sufism figures are Zun Nun al-Misri, known as the "originator" of *ma'rifa* concept,[22] and Rabi'ah al-Adawiyah.[23]

Philosophical Sufism is Sufism whose teachings and concepts are arranged in-depth with philosophical symbolic language. Sufis who use the philosophical Sufism will experience ecstasy (spiritual drunkenness) and issue an odd statement (*shathahat*) that seems unreasonable, such as Ibn' Arabi's famous slogan "*ana al-haqq*." Among figures of the philosophical Sufism is Abu Yazid-Busthami, Al-Hallaj, Ibn' Arabi, al-Jilli, As-Suhrawardi al-Maqtul, and Mulla Sadra.[24] Called philosophical Sufism is due to its teaching, which combines mystical attainment and enlightenment with the presentation, rational philosophical expressions. In short, it is a blend of philosophical and Sufism concepts.[25]

Moral Sufism is a doctrine of Sufism that discusses the perfection and purity of the soul formulated in the regulation of mental attitudes and strict discipline of behavior. It makes oneself good by leaving all the despicable behavior (*takhalli*), supported by always adorning themselves with good deeds (*tahalli),* to feel closeness with God.[26] Among the moral Sufism figures are Al-Junaid Al-Baghdadi, Al-Qushairi, and Al-Ghazali.[27]

Orientation and Goals of Sufism Trilogy

The three dimensions of Sufism each have different orientations and goals (see Table 1), but all hold the same aim: to draw closer to Allah. The orientation of *'irfani* Sufism is the purification of the soul and inner connection to the Creator until one truly knows His substance, which in the world of Sufism is known as "*wahdah al shuhud*" (the attainment of a Sufi in seeing the substance of Allah through his inner eye (*bashirah*).

In the view of *'irfani* Sufism, the mystical travel is only up to the level of *ma'rifa* (knowing the secrets of God and His rules about everything that exists). Knowledge attained by *ma'rifa* is higher than that attained by reason. In the view of sufi, the heart has the essential function of obtaining

[21] Ahmad Bachrun Rifa'i and Hasan Mu'ids, *Filsafat Tasawuf* (Bandung: Pustaka Setia, 2010).

[22] Abdul Qadir Mahmud, *Falsafatu ash Shufiyyah fiy al Islam* (Kairo: Dar al Fikr al Arab, 1996).

[23] Harun Nasution, *Falsafah dan mistisme dalam islam* (Jakarta: Bulan Bintang, 1983).

[24] Asep Usman Ismail, "Tasawuf," in *Ensiklopedi Tematis Dunia Islam: Ajaran*, ed. Taufik Abdullah (Jakarta: PT. Ichtiar Baru Van Hoeve, 2002).

[25] Abul Wafa al-Ghanimi Al-Taftazani, *Al-Madkhal ila al-Tasawwuf al-Islami* (Kairo: Daruts Tsaqafah, 1979); Alwi Shihab, *Islam Sufistik: "Islam Pertama" Dan Pengaruhnya Hingga Kini Di Indonesia*, Cet. 1 (Bandung: Mizan, 2001).

[26] Bertrand Russell, *Mysticism and Logic* (Mineola, N.Y.: Dover Publications, 2004).

[27] Asmaran As, *Pengantar Studi Tasawuf* (Jakarta: Raja Grafindo Persada, 2002).

ma'rifa. Only a heart that is clean from inner impurities and everything other than Allah can anchor at the seat of *ma'rifa*. Inner purity is a prerequisite for reaching the light of the *ma'rifa*.[28] The *ma'rifa* relies on intuitive observation *(dzauq),* rather than sensory observation or reason. The hallmark of intuitive observation is its directedness, which is the object's direct recognition without an intermediary. It occurs because there is an identity of the subject and object or the knowing and the known.[29] As-Suhrawardi holds that intuition precedes understanding text and is a condition for achieving true meaning.[30]

Table 1: Orientation and Goal of Sufism Trilogy

Sufism	Orientation	Goals
'Irfani	Purifying the heart	Reaching *ma'rifa*
Philosophical	Utilizing intellect deeply	Reaching unity with Allah
Moral	Improved behavior, character, morals	Forming pious behavior and attitudes

Intuition is the process of meditating on the attainment of active substances that polarize them from static substances. Intuition can be equated with *kashf* (disclosure) and *al 'llm al ladunni,* referring to the knowledge inspired and bestowed directly by God without going through a process of learning or study.[31] Besides, intuition is obtainable through the process of spiritual practice by undergoing spiritual stages systematically. The state of the soul (*hal*) acts as a bridge to reach intuition to lead to the *ma'rifa*.[32] Thus, intuitive observation is attainable from *'alami* (theoretical) and *'amali* (practical).[33] Remembering that without purifying the mind, humans will find it difficult to know and get close to God, the process of inner purification becomes a priority scale in the' *irfani* Sufism.[34]

[28] Rifa'i and Mu'ids, *Filsafat Tasawuf*.

[29] Mulyadi Kertanegara, *Nalar religius: memahami hakikat tuhan, alam dan manusia* (Jakarta: PT Gelora Aksara Pratama, 2007); Mulyadi Kertanegara, *Integrasi ilmu sebuah rekonstruksi holistik* (Bandung: PT Mizan Pustaka, 2005).

[30] Syihab Ad-DinDin Yahya As-Suhrawardi, *Hikmah al-isyraq: Teosofi cahaya dan metafisika huduri*, trans. Muhammad Al-Fayyadl (Yogyakarta: Islamika, 2010).

[31] Hassan Hanafi, *Islamologi 2: Dari Rasionalisme Ke Empirisme*, trans. Miftah Faqih (Yogyakarta: LKiS, 2004).

[32] Solihin and Anwar, *Ilmu tasawuf*.

[33] Awaliyah Musgamy, "Korelasi Antara Poligami, Tasawwuf Falsafi, Dan Irfani," *AN-NISA : Jurnal Studi Gender Dan Anak* 11, no. 1 (2018): 384–99, doi:10.30863/an.v11i1.305.

[34] Abu Harist Al-Muhasibi, *Risalah al mustarsyidin* (Halb: Dar as Salam, 1964); Reynold A Nicholson, *The Mystic of Islam* (London: Routledge and Kegan Paul, 1975);

The orientation of philosophical Sufism in shaping religious behavior is in the process of optimizing the role of *'aql* in unmasking between himself and God. This notion suggests that that philosophical Sufism is a tenet whose teachings are already more philosophical because it extends to the problem of metaphysics, namely the process of human union with God.[35] Philosophy-based thinking is used to analyze mystical problems, not least the problem of the emanation of Neo-Platonism, which says that through the path of Sufism, a person can free his soul from the physical element and obtain direct divine light.[36] The philosophical Sufi figures developed this thought, which synergizes aspects of Sufism as purification of the soul with philosophical elements as the optimization of reason in-depth to investigate the nature of God.

Heavily using *'aql* the philosophical Sufism attempts to achieve unification with the Creator (*wahdah al wujud*). When a person is far from God and experiences a spiritual crisis leading him to astray, he will lose stability in life. The estrangement of the relationship between humans and God will produce the urge to return to Him.[37] The philosophical Sufism proposes the reunion of humans with God. Sufis begin their spiritual journey with loving and devotion paths leading to reunification with God's substance. That is why Sufis aim to connect physical reality with eternal and no-space dimensions, that is, to unite self with God by submerging with God without the slightest distance.[38]

The concept of *fana', baqa'* and *ittihad* by Abu Yazid al Busthami, *hulul* by Abu Manshur al-Hallaj, *wahdah al wujud* by Ibn' Arabi, and *insan kamil* by al-Jilli,[39] all focus on achieving unity with Allah. Reaching this degree, one often expresses odd words (*shathahat*).[40] In the philosophical Sufism, the "unity" views humans as perfect beings who are emanations or descendants of the True Being who transmits His manifestations from the spiritual realm to the material realm. This descent process is known as *tanazzul*,[41] departing from the *fana'*-concrete to the *baqa'*- abstract,[42] and

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Muhammad Solikhin, *17 jalan menggapai mahkota sufi syaikh Abdul Qadir al Jilani* (Jakarta: PT Buku Kita, 2009).

[35] Muhammad Afif Anshori, "Kontestasi Tasawuf Sunni dan Tasawuf Falsafi di Nusantara," *Teosofi: Jurnal Tasawuf dan Pemikiran Islam* 4, no. 2 (2014): 309–27.

[36] Muis Sad Iman, "Peranan tasawuf falsafi dalam metodologi pendidikan islam," *Tarbiyatuna* 6, no. 2 (2015): 153–71.

[37] Suzanne R. Kirschner, *The Religious and Romantic Origins of Psychoanalysis: Individuation and Integration in Post-Freudian Theory* (Cambridge: Cambridge UP, 1996).

[38] Geoffroy and Gaetani, *Introduction to Sufism*.

[39] Ihsan Ilahi Zhahir, *Dirasat fi al-Tashawwuf*, trans. Fadhli Bahri (Jakarta: Darul Falah, 2000).

[40] Ismail, "Tasawuf."

[41] Amatullah Armstrong Chishti, *Sufi Terminology (Al-Qamus al-Sufi): The Mystical Language of Islam* (Lahore: Ferozsons, 2001).

the revelation process between beings and God, called *tajalli*.[43] Someone who reaches this level has no fear in the presence or amid life limitations.[44]

The philosophical Sufism developed by Ibn' Arabi, in addition to focusing on concentrating oneself to be close and united with Allah, also teaches about the concept of justice (*'adl*), which according to him, is only achievable through the attitude of wisdom (*hikmah*). Wisdom is to act appropriately in every circumstance, while justice puts everything in its place a. This noble attitude is a sign of God's loving.[45] In Islam, the principle of unity, which splits itself into duality and then becomes plurality, is essential; this is a sign of God's perfection. The duality aspect equates to equality between men and women who can discover the aesthetic reality of God.[46] The teachings of equality, justice, and wisdom initiated by Ibn' Arabi> are a strong foundation that Islam indeed upholds and requires Muslims to have a wise attitude, tolerance, mutual respect, uphold equality over differences, and be fair in all attitudes, actions, and deeds.

The orientation of Moral Sufism is in the formation of behavior, character, and heart, leading people to establish closeness with God[47] and behave well to other humans and nature[48] as a form of spiritual, moral, and social piety. In short, the goal of moral Sufism is to shape people to hold *akhlaq al karimah*. Al-Ghazali is one of the figures of moral Sufism who succeeded in integrating aspects of Sharia and Sufism and cleaning Sufism from elements that are not under Islamic teachings. The implication is that Sufism becomes an integral part of Islamic teachings and has a wide acceptance among Muslims.[49]

Moral Sufism can be an alternative way to respond to the spiritual and moral crisis that is now widely occurring globally. Spiritual and moral crises

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[42] Dipanjoy Mukherjee, "A Monarch of Mysticism: Re-Reading Wordsworth," *Research Journal of English Language and Literature* 4, no. 1 (2015): 134–39, http://www.rjelal.com/3.4a.2015.html.

[43] Ibnu 'Arabi, *Fushuhs al-Hikam (Mutiara Hikmah 27 Nabi)*, trans. Sibawaihi (Jakarta: Diadit Media, 2009); Sirajuddin Zar, *Filsafat Islam: filosof dan filsafatnya* (Jakarta: Rajawali Pers, 2009).

[44] Todd LeRoy Perreira, "'Die before You Die': Death Meditation as Spiritual Technology of the Self in Islam and Buddhism," *The Muslim World* 100, no. 2–3 (April 2010): 247–67, doi:10.1111/j.1478-1913.2010.01319.x.

[45] Amin Syukur, *Intelektualisme tasawuf, studi intelektualisme tasawuf al-Ghazali* (Semarang: Lembkota bekerjasama dengan Pustaka Pelajar, 2012).

[46] Sachiko Murata, *The Tao of Islam: A Sourcebook on Gender Relationships in Islamic Thought* (Albany: State University of New York Press, 1992).

[47] Amin Syukur, *Tasawuf kontekstual: Problem manusia modern* (Yogyakarta: Pustaka Pelajar, 2003).

[48] J.D. Howell, "Indonesia's Salafist Sufis," *Journal Modern Asian Studies* 44, no. 5 (2010): 1029–51, doi:10.1017/S0026749X09990278.

[49] Ahmad Zaini, "Pemikiran tasawuf imam al-Ghazali," *Esoterik: Jurnal Akhlak Dan Tasawuf* 2, no. 1 (2016): 146–59, doi:10.21043/esoterik.v2i1.1902.

cannot be overcome only by the advance and sophistication of technology and science. The ideology of socialism-communism has seemed to fail while capitalism-liberalism is considered fragile and unstable. Futurologists, especially scientists who study scientific prognosis, assert that future situations and conditions almost agree with such predictions. It is not surprising that religion is now beginning to be glimpsed and seen as hope in saving human civilization from destruction.[50] Moreover, the forms of spirituality in Sufism have intermingled with philosophy, scientific thought, and specific spiritual disciplines based on Islamic teachings.[51]

Moral Sufism is a magnet with extraordinary powers in modern materialistic life developed into a constructive direction, both concerning personal and social life. Guidelines for life require capital spiritual strength to maintain integrity to answer and determine solutions to existing difficulties.[52] Sufism trains people to have the sharpness and inner refinement that make followers of its teachings always consider every problem they face.[53]

In the light of Psychology, the aspect of the social relations (*habl min al nas*) built by moral Sufism means a social interaction that influences individuals and the environment mediated by behavior. This interaction builds interpersonal and intrapersonal relationships of an individual based on attitudes, values, and morality.[54] In this light, the combination of spirituality and psychosynthesis mark transpersonal psychology as a holistic approach.[55]

The strategy of Sufism Trilogy and Religious Behavior

Each of the dimensions in the Sufism Trilogy has and uses different strategies in shaping religious behavior. Table 2 summarizes the forms of religious behavior because of Sufism's trilogy strategy.

Irfani Sufism

The primary orientation of *'irfani* Sufism in forming religious behavior lies in the process of soul and heart purification from other than Allah to

[50] Howell, "Indonesia's Salafist Sufis."

[51] N. Yamamoto, "Understanding the Multidimensional Islamic Faith through 'Abd al-Ghanī al-Nābulusī's Mystical Philosophy," *Al-Jami'ah* 51, no. 2 (2013): 389–407, doi:10.14421/ajis.2013.512.389-407.

[52] Amin Abdullah, *Islamic studies di perguruan tinggi: Pendekatan integratif-interkonektif*, 2nd ed. (Yogyakarta: Pustaka Pelajar, 2010).

[53] Ridhwan, "Development of Tasawuf in South Sulawesi," *Qudus International Journal of Islamic Studies* 5, no. 2 (2017), doi:http://doi.org/10.21043/qijis.v5i2.2412.

[54] Alfaiz, "Sufism Approached in School Counseling Service: An Analysis of Perspective Spiritual Counseling," *Schoulid: Indonesian Journal of School Counseling* 2, no. 1 (2017): 1–7, doi:10.23916/008621423-00-0.

[55] Paul F Cunningham, *A primer of transpersonal psychology: Bridging psychological science and transpersonal spirit* (Rivier College, Nashua, NH, 2011).

reach *ma'rifa*. To achieve this *ma'rifa* level, *irfani* Sufism uses several essential strategies, including *riyadhah* and *mujahadah al nafs, maqa>mat* and *ahwal*, and *muraqabah ila Allah*.

Table 2: Strategies and Behaviors

Sufism	Strategies	Religious Behaviors
'Irfani	- *Riyadhah* and *mujahadah al nafs* - *Takhalli, tahalli, tajalli* - Taking maqamat and *ahwal* in the Sufistic world - *Muraqabah ila* Allah (introspection)	- Behave as the nature and character of God - Always obey His commands and prohibitions - Be aware of all his actions are supervised by Him - Social, moral, and spiritual attitudes can be formed - The heart is always adrift and remembers God in every circumstance
Philosophical	- Meditation, contemplation; *khalwat* or *'uzlah* - *Tafakkur* - *Takhalli, tahalli, and tajalli*	- Believes that nothing in His creation is in vain - Act and be fair - Always pondering His power to increase piety and faith - Believing other than Allah is *fana'*, and the *baqa'* is only Allah - The absence of arrogance, hate, revenge, *riya'*, idolatry and lies in his soul - Only Allah is addressed so that he is always sincere, happy, and *tawakkal* - There is no sense of restlessness in life because of a strong belief in Allah - There is nothing to aim for, to remember but Him - Sublime spiritual, social and moral behavior always envelops his personality
Moral	- *Takhalli* and *Tajalli* - *Istiqamah* recitation - *Tazkiyah an nafs*, *muhasabah an nafs* - Always repent to Allah	- Birth of a balanced attitude between duties as a servant (*'abdullah*) and as a representative of Allah (*khalifah fil ardh*) - Always do good to others, nature. Besides doing obedience to Allah - Be moderate, tolerant, wise, and uphold social attitudes - Promoting affection, compassion, patience, optimism, and passion in life. - Being obedient to worship, active in social activities, reactive to social problems, and always being kind - Have high solidarity, deep faith, and commendable kindness to integrate social, spiritual, and moral piety.

To get to know God requires taking a spiritual journey through certain stages (*maqamat*) and mental conditions (*ahwal*)[56] as a step to cleanse the mind from the dark despicable attitude, evil thoughts, and impurities of the heart. The lucidity of the heart also increases through the process of continual *riyadhah* and *mujahadah*,[57] and perfected with *muraqabah* (being constantly aware that Allah is watching over us).[58]

Philosophical Sufism

The philosophical Sufism uses several strategies based on *'aql*, including meditation or contemplation, or *tafakkur*, and *khalwat* or *'uzlah*. One way to get close to and unite with God is through contemplation, meditation, or *tafakkur*.[59] In Sufism, *tafakkur* is a structure of the epistemic stage of a complex spiritual path as a mystical realization process about God. Contemplation is a combination of imagination, meditation, and cognition. In the imagination process, the contemplator switches from the imaginal realm (*al-mitha>l*) to the spiritual truth (*al-haqiqah*), from the realm of the world (*fana'*) to the realm of *malakut* (subsistence; *baqa'*).[60] Testimony in the contemplation process is a witness of unity about the existence of absolute Divine reality. The path to awareness of God's entity is to glorify Him as the Creator, who teaches humans to think constantly and observe all signs of His power in the universe.[61]

Imagination in contemplation is essential for Sufi in his journey to reach Divine truth.[62] This situation is a kind of "romance" between a servant with his Lord because he succeeded in reintegrating revelation and oneness with Him.[63] Sufi insists that God is the only reality during contemplation, meaning that other than God is a relative thing, and He is the only veracious existence. When Sufi succeeds in uniting with God, death is not something

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[56] Murtadha Muthahhari and S.H.M. Thabathaba'i, *Menapak Jalan Spiritual*, trans. M.S Nasrullah (Bandung: Pustaka Hidayah, 1995).

[57] Azyumardi Azra et al., *Ensiklopedi tasawuf* (Bandung: Angkasa, 2008).

[58] Muhamamd Fethullah Gulen, *Tasawuf untuk kita semua tasawuf untuk kita semua*, trans. Fuad Syaifuddin Nur (Jakarta: Republika, 2013); Simuh, *Tasawuf dan perkembangannya dalam Islam* (Jakarta: Raja Grafindo Persada, 1997).

[59] Titus Burkhardt, *Introduction to Sufi Doctrine* (Indiana: World Wisdom, 2008).

[60] Georges Tamer, ed., *Islam and Rationality: The Impact of al-Ghazali: Papers Collected on His 900th Anniversary*, Islamic Philosophy, Theology and Science, v. 94 (Leiden; Boston: Brill, 2015).

[61] Raid Al-Daghistani, "Taffakkur and tadthakkur – two techniques of Islamic spirituality," *Kind Logos*, 2016, http://kud-logos.si/2016/tafakkur-and-tadthakkur/.

[62] Hend Hamed Ezzeldin, "A Flight within: Keat's Nightingale in Light of the Sufis," *Advances in Language and Literary Studies* 9, no. 3 (June 30, 2018): 121, doi:10.7575/aiac.alls.v.9n.3p.121.

[63] Anne T. Ciecko, "Androgyny," in *Encyclopedia of Romanticism: Culture in Britain*, ed. Ed Laura Daburdo (Oxford: Routledge, 2010), 1780–1830.

terrible or frightening, and it is an opportunity to separate the body from the spirit to live a faithful life with God.[64] To be able to feel "oneness" with Him, humans must be able to destroy everything in him that is material (*fana'*), towards being in God (*baqa'*).[65]

A complete closeness and oneness with God signify that a person's heart and mind are clean from other than Him. People who successfully unite with God have purified their hearts and minds from other than Him and removed all negative attitudes so that their souls are full of divinity and morality attributes.

Moral Sufism

Some strategies used by moral Sufism in shaping religious behavior include *tazkiyah al nafs, dhikr, muhasabah, takhalli* and *tahalli*, *tawbah* and *taqarrub*. *Tazkiyah al nafs* is an act of sanctification of the self continuously from all deeds or despicable attitudes. The *tazkiyah al nafs* process can transform consistent individual inclination of mind, body, and soul and make them aware of changes that should be made about themselves. The process of *tazkiyah al nafs* can be used as a step in Sufistic psychotherapy which later becomes one of the paradigms applicable to change people attitudes, behavior, and mindset so that they will have quality soft skills with ornamental characters that have integrity in living all aspects of personal, social, educational, career and religious lives.[66] The integration of heart and mind will form behavior in social interactions.[67] In order to have positive social behavior, the heart and mind must be clean first. For this reason, the process of soul purification, in this case, is vital.

Other strategies include *dhikr* (invocation) continuously to connect the soul with the Creator permanently.[68] Through continuous *dhikr*, the heart and soul will be cleaner and always remember Allah. A *muhasabah*-a practice of self-evaluation of the acts, deeds, and committed sins- must accompany *dhikr*.[69] Moral Sufism also implements the process of *takhalli* and *tahalli*. *Takhalli* is interpreted as a process to eliminate all evil deeds,

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[64] Caroline F. E. Spurgeon, *Mysticism in English Literature* (Cambridge: Cambridge University Press, 2011).

[65] Leonard Lewisohon, "Romantic Love Is Islam," in *Encyclopedia of Love in World Religion*, ed. Ed Yudit Kornberg (Greenberg: California ABC-CL10, 2008).

[66] Alfaiz, "Sufism Approached in School Counseling Service: An Analysis of Perspective Spiritual Counseling."

[67] M.H.B. Adz-Dzaky, *Konseling Psikoterapi Islam: Penerapan Metode Sufistik* (Yogyakarta: Fajar Pustaka Baru, 2002).

[68] Muhamad Basyrul Muvid, *Zikir Penyejuk Jiwa; Panduan untuk Membersihkan Hati dan Membangun Akhlak Mulia* (Jakarta: Alifia Books, 2020).

[69] Ahmad Isa, *Hakikat Tasawuf* (Bandung: Pustaka Hidayah, 2010).

while *tahalli* is efforts to decorate self with good deeds.[70] *Takhalli* and *tahalli* can be represented by the implementation of repentance and *taqarrub ila Allah* (seeking closeness to Allah).

Contribution of Sufism Trilogy to the Formation of Religious Behavior

Figure 1 depicts the contribution of the Sufism Trilogy (*'irfani*, philosophical and moral) in the formation of religious behavior. Even though *'irfani*, philosophical, and moral Sufisms have a different style, they have the same goal of getting closer to God by carrying out Islamic teachings. Adherence to the Sufism Trilogy will improve individual, societal morality in all aspects of life.[71] So, in essence, the Sufism Trilogy contributes significantly to the improvement of the human being. By improving themselves, humans will achieve the purity of the soul that makes them closer to Allah to the extent that the space between them and Allah disappears (*'irfani*); this disappearance will lead them to unite to Him (philosophical), and this unity will encourage humans to behave well (moral) continuously.

Humans whose hearts are clean constantly link their souls to God and will behave as His attributes. The outcome of the real Sufism Trilogy is to synergize between spiritual, moral, and social aspects,[72] strengthen in the heart love, tolerance, affection,[73] and keep away from the spiritual crisis.[74] Social piety makes humans busy establishing closeness with God and

[70] A. Rivay Siregar, *Tasawuf dari Sufisme Klasik ke Neo Sufisme* (Jakarta: Rajawali Pers, 1999).

[71] Al-Taftazani, *Al-Madkhal ila al-Tasawwuf al-Islami*; Nurul Anam, "Instructional of Character Education in the Context of Irfani-Akhlaqi Tasawuf," in *International Conference On Education; Education In The 21th Century: Responding To Current Issues*, 2016, 668–76; Khusnul Khotimah, "Interkoneksitas dalam ajaran sosial tasawuf sunni dan falsafi," *Jurnal Komunika* 9, no. 1 (2015): 35–57, doi:10.24090/komunika.v9i1.829.

[72] Ali Imron, "Muhammad Arkoun Sang Pemikir Islam Modernis Dan Tokoh-Tokoh Yang Mempengaruhinya," *Jurnal IAIT Kediri* 28, no. 2 (2017): 317–32, doi:10.33367/tribakti.v28i2.486; Ali Imron, "Tasawuf dan Problem Psikologi Modern," *Jurnal IAIT Kediri* 29, no. 1 (2018): 23–35, doi:10.33367/tribakti.v29i1.561; Muhamad Basyrul Muvid and Nelud Darajaatul Aliyah, "Konsep Tasawuf Wasathiyah Di Tengah Arus Modernitas Revolusi Industri 4.0;Telaah Atas Pemikiran Tasawuf Modern Hamka dan Nasaruddin Umar," *Tribakti: Jurnal Pemikiran Keislaman* 31, no. 1 (2020): 169–86, doi:10.33367/tribakti.v31i1.1008.

[73] Muhammad Anas Ma'arif, "Konsep Pemikiran Pendidikan Toleransi Fethullah Gulen," *Jurnal Pemikiran Keislaman* 30, no. 2 (July 6, 2019): 295–307, doi:10.33367/tribakti.v30i2.812.

[74] M. Arif Khoiruddin, "Peran Tasawuf Dalam Kehidupan Masyarakat Modern," *Tribakti: Jurnal Pemikiran Keislaman* 27, no. 1 (2016): 113–30, doi:10.33367/tribakti.v27i1.261.

building harmony with fellow creatures, actively wading through world life towards the afterlife.[75] This act is the essential face of Sufism, which always teaches the beauty of morals, character, and coolness.[76]

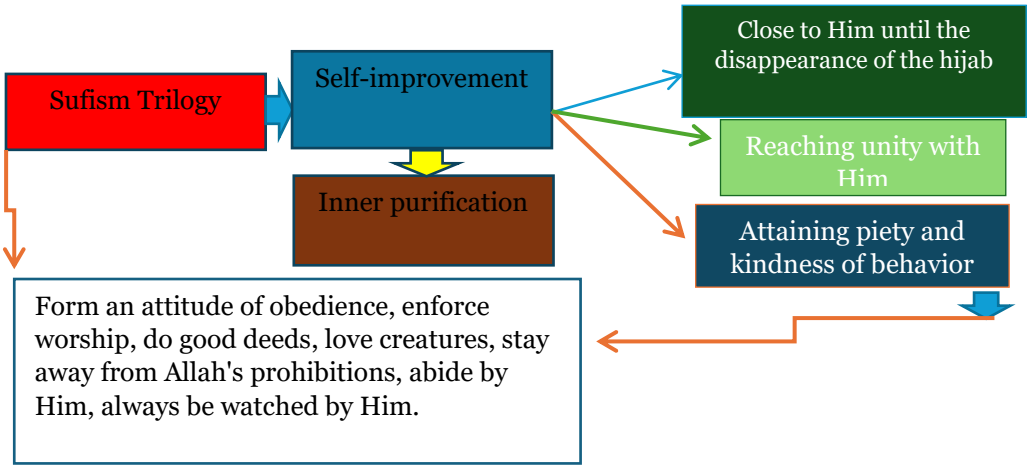

Figure 1: Concept of Sufism Trilogy Contribution in Forming Religious Behavior

Sufism is very instrumental in improving human character, inner cleansing, and clarity of mind. Through moral goodness of heart and mind, humans will always act, say, and behave according to Allah's rules; and only clean souls will be able to apply the noble attributes of God. Sufism becomes a path for the perfection of a balanced, wise, and just human life, which always spreads benefits, goodness, and affirming obedience to God. Thus, humans will find calm, peace, coolness, and happiness in real life, ultimately delivering it to good luck in the world to the hereafter.

The Contribution of the Tasawwuf Trilogy in the Social Dynamics of Society

Sufism both conceptually and practically has a strong influence on people's social life. In the context of the trilogy of Sufism, each has a role in

[75] M.A. Achlami Hs, "Tasawuf Sosial Dan Solusi Krisis Moral, Ijtimaiyya," *Jurnal Pengembangan Masyarakat Islam* 8, no. 1 (2015): 90–102, doi:10.24042/ijpmi.v8i1.864; Ahmad Munji, "Profesi sebagai Tarekat," *Theologia* 26, no. 2 (2015): 184–97, doi:10.21580/teo.2015.26.2.427; Syofrianisda and M. Arrafie Abduh, "Corak Dan Pengaruh Tasawuf Al-Ghazali Dalam Islam," *Jurnal Ushuluddin* 25, no. 1 (2017): 69–82, doi:10.24014/jush.v25i1.2559; Ova Siti Sofwatul Ummah, "Tarekat, Kesalehan Ritual, Spiritual Dan Sosial: Praktik Pengamalan Tarekat Syadziliyah Di Banten," *Al A'raf : Jurnal Pemikiran Islam dan Filsafat* 15, no. 2 (2018): 315–34, doi:10.22515/ajpif.v15i2.1448.

[76] Andrian Restu, "Modernisasi Tasawuf Dalam Pengembangan Pendidikan Karakter," *Jurnal Mudarrisuna* 9, no. 1 (2019): 36–50, doi:10.22373/jm.v9i1.3796.

the process of shaping people's social attitudes, 'irfani Sufism with its intuition approach has succeeded in shaping people's social sensitivity as Frishkopf studied,[77] which explains that Sufism through its spiritual approach is able to bring a person closer to his Creator, which is then followed by an attitude of compassion for others as Allah treats all His creations. This is supported by Karamatilloevich's research, et.al,[78] which emphasizes that Sufism with its spiritual approach can form a spirit of tolerance among others. In line with Anshari's research that Sufism and social society are inseparable parts, meaning that it is through Sufism that the concept of religious moderation wrapped in Nusantara Islam can be realized.[79] In field data, 'irfani Sufism provides space for the process of forming social attitudes and also social strength so that a harmonious relationship is established between individuals, a strong spiritual embrace turns out to have an impact on the tenderness of the heart that is able to open social space so that no one feels the most righteous or holy, thus social brotherhood can easily be realized.[80]

Falsafi Sufism also takes a place in responding to the social aspects of society, namely by transforming the values of critical reasoning for progress by always building a spirit to strive, advance, and build civilization and knowledge which will have a positive impact on the social life of society in general, Sufism does not teach a setback.[81] Through this falsafi Sufism approach, Sufism wants to provide meaning that humans must advance and use their intellect to the fullest to analyze His various creations so that they can be used for human survival with the conclusion that none of His creations are in vain.[82] In the context of the field study conducted by

[77] Michael Frishkopf, "Authorship in Sufi poetry." *Alif: Journal of Comparative Poetics* 23 (2003): 78-108.

[78] Karamatilloevich, Akhatov Lutfillo, Madalimov Timur Abduvaliyevich, and Xaytmetov Raimberdi Kudratullayevich. "The spiritual connection of Sufism and Tolerance in the works of Jami." *International Journal of Multidisciplinary Research and Publications (IJMRAP)* 2.11 (2020): 1-4.

[79] M. Afif Anshori, Zaenuddin Hudi Prasojo, and L. A. I. L. I. A. L. Muhtifah. "Contribution of sufism to the development of moderate Islam in Nusantara." *International Journal of Islamic Thought* 19.1 (2021): 40-48.

[80] Anam Nurul, "Instructional of Character Education in the Context of Irfani-Akhlaqi Tasawuf." *International Conference on Education (ICE2) 2018: Education and Innovation in Science in the Digital Era*. 2016.

[81] Polat Mizrap, "Tasawwuf-Oriented Educational Philosophy and Its Relevance to the Formation of Religion and Ethics Course Curriculum." *Universal Journal of Educational Research* 5.5 (2017): 806-814.

[82] Ayis Mukholik, "The Sufistic Thoughts of Nashruddin Hodja In The Works of Comical Tales." *Proceedings of the 2nd International Conference on Strategic and Global Studies, ICSGS 2018, October 24-26, 2018, Central Jakarta, Indonesia*. 2019.

Wajdi,[83] that modern-era falsafi Sufism is able to form critical, creative and divine reasoning habits of society, considering that the dimension of falsafi Sufism invites to utilize the mind of thinking about God's power which can form a person who is always grateful, humble, appreciates creation, and does not destroy all creations on earth. Social character development in the dimension of falsafi Sufism is an embodiment of the essence of tafakkur to Allah's substance and all His powers.[84] This means that falsafi Sufism in concept and practice can open the social aspects of society to respect differences and not destroy existing creations.[85]

Then, moral sufism focuses on aspects of behavior wrapped in Sufistic values in the practice of tariqa.[86] The practice of tariqa in the world of Sufism cannot be separated from the role of the tariqa teacher (murshid), who guides him towards closeness to God without leaving social responsibility.[87] Tariqa can be used as a path to Sufistic behavior that emphasizes the balance between spiritual and social. Dodi & Amir's research,[88] mentioned that the tariqa in Indonesia have a full sense of love for their nation and have a deep social sensitivity towards others. This is supported by facts in the field as studied by Abdurrahman,[89] that the tariqa people have a sense of social solidarity which is manifested in an attitude of cooperation and mutual respect for differences without feeling better.[90] The dhikr activity of tariqa that they practice turns out to be able to shape their behavior and paradigm to be open.[91] In line with the findings of Ashoumi &

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[83] Firdaus Wajdi, "Turkish Sufi Organizations and The Development of Islamic Education in Indonesia." *Analisa: Journal of Social Science and Religion* 5.01 (2020): 31-49.

[84] J.G. Taspanova, "Ajiniyaz Khosybaiuly's World Outlook And The Issues Of Youth Education." *Theoretical & Applied Science* 9 (2020): 49-54.

[85] Michael Ellison, and Hannah McClure. "Performance philosophy and spirituality: The way of tasawwuf." *The Routledge Companion to Performance Philosophy*. Routledge, 2020. 42-52. Bakhriyevich, Namozov Bobir, and Narziyev Zubaydillo Ibodilloyevich. "Anthropology of tasawwuf and the problems of human existence in Hujviri Views." *Central Asian Journal of Literature, Philosophy and Culture* 2.3 (2021): 1-12.

[86] A. Gani, "Urgency education morals of sufism in millennial era." *Journal for the Education of Gifted Young Scientists* 7.3 (2019): 499-513.

[87] Julia Day Howell, "Revitalised Sufism and the new piety movements in Islamic Southeast Asia." *Routledge handbook of religions in Asia* (2014): 276-292.

[88] Dodi Limas, and Amir Maliki Abitolkha. "From Sufism to Resolution: Examining the Spiritual Teachings of Tarekat Shiddiqiyyah as the Theology of Peace in Indonesia." *QIJIS (Qudus International Journal of Islamic Studies)* 10.1 (2022): 141-174.

[89] Dudung Abdurahman, "Islam, Sufism, and Character Education in Indonesia History." *Tawarikh* 9.2 (2018): 159-176.

[90] Welhendri Azwar, "The Resistance of Local Wisdom Towards Radicalism: The Study of the Tarekat Community of West Sumatra, Indonesia." *Pertanika Journal of Social Sciences & Humanities* 26.1 (2018).

[91] Ainal Gani, "Islamic Wasatiyyah teaching in Indonesian education: An analysis of the Tasawuf approach." *Opción: Revista de Ciencias Humanas y Sociales* 89 (2019): 190.

Muhammad, that akhlaki Sufism which is transformed into the practice of tariqa is able to open up space for a person's paradigm so that they are able to apply Islamic values that are friendly, balanced and full of ethics.[92]

The impact of the contribution of the trilogy of Sufism on the social dynamics of society above is an affirmation that in fact Sufism with all its dimensions can make a positive contribution to the social life of society, not only religious spirituality, and ethics. Sufism with various approaches both taste *(dzauqiyah),* mind *(aqliyah),* and behavior *(akhlaqiyah)* can all give a social touch to the perpetrators of Sufism and society, so that a complete togetherness is realized.

Each Sufism trilogy has an orientation and a goal. 'Irfani Sufism emphasizes the intuition aspect *(dhau>q);* inner purification to reach *ma'rifa* degrees to Allah. Philosophical Sufism stresses utilizing the ratio as much as possible always to admire, remember, and inspire His qualities so that they succeed in union with Him. Moral Sufism accentuates improving one's mind, behavior, and attitude by implementing noble morals and abandoning lousy behavior to become a pious human being.

Sufism trilogy has a central strategy in shaping religious behavior. 'Irfani Sufism uses *riyadhah and mujahadah* strategies coupled with spiritual stages to cleanse the mind for shaping behavior inspired by Allah's nature and morals. It is the heart that always remembers Him and is always introspective. The strategy of Philosophical Sufism is through contemplation and meditation as an effort to utilize the intellect producing a sincere, wise attitude, and only Allah has the right to be exalted. Moral Sufism uses *tazkiyah al nafs*, *dhikr*, *muhasabah* as an effort to clean the heart or soul and bad morals to achieve noble morals. With the loss of badness in oneself, goodness and virtue will remain by forming a pious attitude, spiritual, social, and moral.

Sufism trilogy contributes to the formation of one's religious behavior. It teaches humans always to draw closer to God, cleanse the mind, stay away from everything wrong and always maintain communication with Him while still paying attention to relationships with others and nature. Understanding the contribution of the Sufism trilogy and seriously practicing it will form a straight pattern of behavior, which is noble vertically and horizontally.

[92] Hilyah Ashoumi, and Muhammad Kris Yuan Hidayatulloh. "Internalization of Religious Moderation Values Through Learning Moral Sufism with Implications for Student Association Ethics." *SCHOOLAR: Social and Literature Study in Education* 2.2 (2022): 131-138.

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BACK TO THE ORIGINAL GOALS – PEACE AND PROSPERITY

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Abstract: *Stated or not, assumed with certainty, the two objectives of the European construction have accompanied its entire evolution in the 70 years since the first Constitutive Treaty, the one dedicated to the European Coal and Steel Community.*

Today, with the war in Ukraine, the European Union - a temple of peace and well-being - is confronted with belligerence. Not on its territory but on its borders. Not in the case of a member state, but with an associated one[1] and with the prospect of accession. Without directly affecting its territory (currently and apparently), but on the map of Europe as it appeared in the projection of the founding fathers[2].

Consequently, we see the need for a return of the EU towards its original objectives. As stated in Article 3 of the TEU[3], peace, values and well-being seem to need renewed attention. Who expected that in the third millennium there would be a need for such reorientations?

Keywords: *peace, well-being, European values, major crises, European construction*

Research Question: *The current deep security crisis caused by the war in Ukraine puts the Union in a position to safeguard its original objectives of peace and prosperity?*

Introduction

To reach the current form of recognition, the values and objectives of the EU have registered a consistent evolution, so that the fan visible today,

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[1] EU Association Agreements between Ukraine and the European Union; https://eur-lex.europa.eu/RO/legal-content/summary/association-agreement-with-ukraine.html, accessed on 05.03.2024;

[2] Statement Schumann, https://www.eesc.europa.eu/sites/default/files/files/20_69_schuman_declaration1950_a5_en.pdf, accessed on 05.03.2024;

[3] Consolidated version of the Treaty on European Union, art. 3; https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF, accessed on 12.03.2024;

consistent and explicit, can even constitute a model of good practice. Referring to the actuality of the last treaty, Lisbon 2009, the argument is somewhat objective. The situation of the EU on the side of the entities that explicitly and supported a whole host of values and objectives, comes in a context where, according to some authors, there was a need for clarifications, even confirmations. "First of all, Declarations of Human Rights are undoubtedly noble, but much more vague than laws and National Constitutions. If we rely above all on Human Rights, the "way to do justice" can only be "constant"."[4]

Returning to "peace and well-being" as objectives of the EU, we find that we can identify them in every constituent treaty throughout the historical evolution, even with the nuances emphasized by some authors. "The fundamental objective of European integration - peace in a Europe traditionally torn by conflicts - did not appear explicitly among the objectives of the European Communities or the European Union. (...) The truth is that any expert who knows the history of Europe has this objective clearly in mind, even if it does not appear explicitly in the founding texts of the Communities."[5] However they were specified, we are facing an insurmountable reality: **for almost 70 years, the Communities and then the European Union, ensured a climate of peace that we were going to celebrate in the seventh decade[6],** on July 23, 2022, 70 years after the entry into force of the first constituent treaty.

Starting from the premise that the entire European construction has delivered, with tangible evidence, consistent results regarding its objectives, we emphasize the fact that the orientation of the EU has visibly tilted from the perspective of the objectives, especially after the Treaty of Lisbon, towards a concept well known today, that of "European values". Somehow, with the assurance of "peace and well-being", the Union moved to a higher level, that of the values of human dignity, i.e. to a discourse pronounced ethically and oriented towards the individual. The last 15 years especially, have meant the emphasis of this new perspective of values, somewhat "peace and well-being" remaining in the background, once delivered and secured. "Proclamation of the European Union, a political structure with clear federal ambitions, renewed keen interest in values more profound than the economic ones, which was reflected in the

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[4] Pierre Manent, *How can we still live together?,* Humanitas Publishing House, Bucharest, 2017, p. 303;

[5] Francisco Aldecoa Luzarraga, *Europe of the Future – The Treaty of Lisbon*, Polirom Publishing House, Iași, 2011, pp. 104-105;

[6] #On this day 70 years ago, The Treaty of Paris entered into force (euagenda.eu) https://twitter.com/EU_Commission/status/1550729925992124418, accessed on 12.03.2024;

new Treaties. In this context, the 1992 Maastricht Treaty on the European Union contains a reference to human rights. In its preamble, the treaty declared the Union's commitment "to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law," in fact formulating the catalogue of the Union's fundamental values. Furthermore, in the second paragraph of Article F it said that "the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law." Thus, human rights became, at least de iure, the leading principles of European integration."[7]

The current conjuncture, of deep crisis, puts the Union in a position to return to the two initial objectives? This is the research question to which we will seek an answer during the present paper, it seems obvious to us that both are endangered by Russia's unprovoked aggression in Ukraine, crisis that has appeared successively after another, this time global – the pandemic crisis. Also, it is precisely with the study of these crises that we will begin our analysis.

70 years of peace / 50 years of consolidated evolution

If we were to consider the year 1957 and the Treaty of Rome as a milestone of sustained European integration, the year 2007 with its global financial crisis may mean precisely the end of half a century of rectilinear and consistent evolution of the increasingly integrated economies of the European Union, all this towards ensuring the objective of prosperity for European citizens, as it is provided for in Article 2 of the Treaty of Rome.

But if we refer to peace as the objective of European construction, we can consider the year 1952 and the Treaty of Paris as an assumed milestone, so that the year 2022 and Russia's unprovoked aggression mark 70 years of its assurance.

The 50 years of prosperity, the 70 years of peace, together, have contributed to the achievement of the objectives of the EU as we see them stipulated in the founding treaties. The positive differences brought to the lives of European citizens can easily be seen not only in the post-war situation. At the beginning of the third millennium, the lives of Europeans are incomparable with those of previous generations, or with those of the inhabitants of the vast majority of the planet. In the global economic and social evolution, Europe stands alongside the US at the top of the pyramid

[7] Michal Gierycz, Dorin Dobra, *Foundations of the Rule of Law – The EU as a Community of values*, p.220, Ed. Vandenhoeck & Ruprecht, (emerging 2024);

of modernization and progress. Which makes us declare that from the perspective of the initial objectives - peace and prosperity - the European Union has delivered more than it seemed imaginable, at the time of the initiation of the common European construction. "The correlation between Growth and the European Union must then be analysed. For about 30 or 40 years, a strong idea has marked the inhabitants of Western Europe: by achieving the unification of the Western European market, those responsible for European construction have opened the way to a constant improvement (or acceleration) of economic growth. The identity of Western Europe is therefore defined by a rapid development, due to the efficiency, productivity of the production and distribution sectors, cutting-edge technology."[8]

Peace and prosperity on the territory of the Union are, therefore, for many - consciously or not - pillars of the entire European edifice. "What has become apparent is that EU's substantive performance - bringing about peace and prosperity - was until recent times deemed sufficient to legitimize the EU."[9] Questioning them, especially after the constant crisis period of the last 15 years, puts the Union in a position to reorient its concerns towards objectives it considers fulfilled. The belligerence on the Ukrainian-Russian border and the ongoing tensions in the Western Balkans area, as well as the enormous economic difficulties produced by the former (the reorientation of the supply of mineral resources, the massive fluctuations in their prices, the maritime insecurity in the Black Sea), overshadow the achievements of the Union built by over 7 decades of integration and expansion.

Crisis as normality

Was the first half century of European construction an exception to normality? No, because the period of peace was then due to him, that period also had its crises, which we rather call institutional (the empty chair, the rejection of the draft constitution, Brexit).

Has the Union or even the continent entered a period of normalization or perpetuation of crises? It is possible, but nothing that was predictable (the financial crisis or the war in Ukraine) could be avoided, just as nothing that was unpredictable (the COVID crisis) could be minimized.

We will have to start from an implacable premise: with the enlargement of the EU, unsafe proximities have proven to be more and more present, with globalization the management of stability has become

[8] Rene Girault, *European identity and consciousness in the 20th century,* Curtea Veche Publishing House, Bucharest, 2004, pp. 205-206;

[9] Alexander Stubb, Elisabeth Bomberg, *The European Union: How Does It Work?*, Oxford University Press, 2003, p. 172;

more and more difficult. One by one, the two situations have drawn the Union into an increasingly dangerous and uncontrollable carousel so that nothing can be reproached from this perspective of the Union. Moreover, we can affirm with conviction that **none of the large-scale crises registered by the EU have their origins in the Union**. We are therefore talking about exogenous crises, which have affected the Union, and they still do, given the evolution of the war in Ukraine. At most, we can speak of a "certain slowness" in reacting and subsequently managing crises. But it can be explained by the logic of European institutionalism and the dimensions of representation.

But we can say: the crises do not belong to the European Union, but the Union was and is fully affected by their developments, by the implications and assumptions regarding them, without any exception, starting with the Monetary Crisis and ending with the War.

Two aspects of nuance seem important here:

- The first is that of non-belligerence on EU territory, an objective preserved in the founding treaties "Considerando che la pace mondiale puo'essere salvgardata soltento con sforzi commisurati ei pericoli che la minacciano;
- Consideri che il che un'Europa organizzata e viva puó apportare alta civiltá é indispensabile per il mantenimento di relazione pacifiche".[10] In this sense, when we talk about Russian aggression in Ukraine, we are talking about a war between a state associated with the EU - Ukraine, and Russia, the aggressor state.
- The second aspect lies in the assumption by the EU of the obligation of solidarity and aid to Ukraine based on European values and in the light of the non-acceptance of any precedent of an attempt to change the existing borders through armed aggression. Here, therefore, the objective assessment of securing the goal of peace still stands. Consequently, the phrase "armed conflict on the eastern borders of the EU" seems to us the most appropriate, the level of involvement and bilateral relations with Ukraine providing additional nuances and necessary explanations regarding the assumption by the EU of the position known today. "The EU stands united in its solidarity with Ukraine and will continue to support Ukraine and the Ukrainian people together with its international partners, including through additional political, financial, humanitarian and logistical support and through an international donor conference. Following the decision of the EU heads of state or government in December 2016, the European Council recognizes the European

[10] Treaty of Paris, Preamble, 1952; https://eur-lex.europa.eu/legal-content/IT/TXT/PDF/?uri=CELEX:11951K/TXT, accessed on 12.03.2024;

aspirations and the choice of the European path by Ukraine, as stated in the association agreement."[11]

And in this way, we return to principles and values: solidarity, democracy, sovereignty, freedom. All are sufficient reasons for the full effort to support the Ukrainian state in its national, European and Euro-Atlantic aspirations.

In this context, we cannot ignore the situation of the initial objectives assumed by the Union in the treaties - Peace through the Treaty of Paris, Prosperity through the Treaty of Rome. „Assegnando ai loro sforzi per scopo essenziale il miglioramento constante delle condizioni di vita e di occupazione dei loro popoli;"[12] For both seem to us more in danger than ever. Sufficient for this is the rendering of the major implications that Russian aggression has produced.

Conclusions

As they are positioned in the first paragraph of Article 3 of the Treaty on the European Union, the three objectives, "peace, its values and the well-being of its peoples", are today in a questionable situation to say the least. And no matter how pessimistic the statement sounds, the reality confirms that at least the peace and well-being, hardly obtained or preserved during the 70 years of evolution, are called into question by the war in Ukraine.

Two specifications seem of utmost importance to us here:

1. Both the origin and the conflicts that seriously affect the Union, not having a European source, are not imputable to the Union from the perspective of the danger in which peace and well-being are;
2. Looking at the decade of consistent crises that affected both the globe and Europe, it is very likely that the Union will have to learn that the period of peace and calm meant the exception from crisis, any forecasts may show that such a period will be almost impossible to reissue. Simply expanding the EU means incorporating territories where pressures and tensions are still present.

It is very likely that today we are experiencing the most difficult period for any forecast. The way strategies are configured today will potentiate the success rates of crisis management. The resurrection of the European

[11] European Council conclusions, 24 February 2022.

https://www.consilium.europa.eu/ro/press/press-releases/2022/02/24/european-council-conclusions-24-february-2022/, accessed on 06.03.2024;

[12] Tratatul de la Roma, Preambul, 1957; https://eur-lex.europa.eu/legal-content/IT/TXT/PDF/?uri=CELEX:11957E/TXT, accessed on 12.03.2024;

Union, the safeguarding of its objectives and values, the preservation of the identity and positive history already acquired are, however, not debatable.

Only the answer to the question remains debatable: "How much time and how much effort are needed to achieve the ideals of humanity?"

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THE CONTEMPORARY GEOPOLITICAL ORDER IN THE ARCTIC REGION

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Abstract: *This article is dedicated to exploring the essential features of the contemporary geopolitical order in the Arctic, identifying the peculiarities of interaction among leading actors that have led to confrontation in the region. The Arctic is increasingly gaining significance as a source of natural resources and a prospective communication space. In the 21st century, competition has unfolded among circumpolar states regarding the expansion of their continental shelves. The Arctic Council and other international institutions currently lack sufficiently effective mechanisms to ensure efficient regional governance and address numerous issues. Russia's contemporary geostrategy in the Arctic is directed towards expanding its sphere of influence, increasing military capability, and securing control over the Northern Sea Route. NATO's geopolitical positions in the Arctic have significantly strengthened due to Finland and Sweden's accession and the enhancement of military potentials by member states. The geopolitical order in the Arctic region is qualified as confrontational.*

Keywords: *Arctic region, geopolitical order, geostrategy, geopolitical confrontation, NATO, regional governance, Northern Sea Route.*

Introduction

In the contemporary world, there is a tendency towards exacerbation of rivalry among leading states striving for the maximal realization of their geopolitical and geoeconomic interests on various levels of the human society's spatial organization. Competition among powerful actors intensifies for the redistribution of spheres of influence in specific regions of the world, for control over strategic resources, and transportation communications.

The Arctic region is increasingly gaining importance in global politics and economics. The circumpolar countries with access to the North Pole include Russia, the US, Canada, Norway, and Denmark (through Greenland). Sweden, Finland, and Iceland are also Arctic states, although they do not have access to the central part of the Arctic Ocean. According to geological research, there are enormous hydrocarbon and mineral deposits

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on the Arctic basin shelf. Global climate warming leads to improved conditions for extracting minerals from underwater deposits. Due to climate warming, navigation conditions in the Arctic Ocean and its seas, primarily the Northern Sea Route (along the Russian coast), and the Northwest Passage (along the Canadian coast), have improved. The current geopolitical situation in the region is defined by rivalry between NATO and the RF. Russia's full-scale military invasion of Ukraine, which began on February 24, 2022, and continues to date, has led to a sharp intensification of geopolitical confrontation in the Arctic and NATO's expansion following Finland and Sweden's accession. Competition among Arctic countries for the expansion of their continental shelves is increasing. At the same time, a number of non-regional states in the world express their desire to participate in the economic development of the Arctic.

Further intensification of geopolitical competition between Russia the RF and the West in the Arctic region is expected. The geoeconomic essence of the confrontation in the region lies in the competition for control over strategic natural resources and prospective transportation routes. The issues of diagnosing the contemporary geopolitical order in the Arctic and forecasting trends in its development provoke discussions among political elites and in the scientific community. Therefore, the study of the geopolitical order in the Arctic is an important task in both scientific-theoretical and applied dimensions.

Presentation of basic material of the research

The international political order is shaped at various hierarchical levels, ranging from global to sub-regional. A particular international order emerges as a result of interaction among leading actors, primarily sovereign states. Throughout the world or within specific regions, historical observations reveal achievements among leading states concerning a sustainable mutual understanding of the foundational norms, rules, principles, and institutions of international interaction. This ensures the fulfillment of the basic needs of leading actors in terms of secure existence and the pursuit of their interests. Relative stability of the international system is also necessary for the normal existence of other states and many non-state actors within a certain geopolitical framework. In the contemporary world, states and international institutions typically proclaim high democratic principles and norms for organizing the international political order, which are grounded in international law. Simultaneously, the external policy declared by states often conceals (as in historical times) the true interests and activities of ruling elites with their ‘decision-making centers’, both formal and informal. The most powerful actors, relying on their integral potential, seek to establish an international

order that should provide conditions advantageous specifically for their existence. Therefore, we consider it expedient to investigate the international order in the Arctic region specifically within its geopolitical dimension – as the geopolitical order.

The conceptual foundations of studying geopolitical order in the world and its specific regions remain subject to debate. According to the geoeconomic approach of J.A. Agnew and S. Corbridge, geopolitical order is defined as 'the routinized rules, institutions, activities and strategies through which the international political economy operates in different historical periods'[1]. The establishment and development of geopolitical order are undoubtedly influenced by the most powerful geopolitical actors, which interact within a given geopolitical space and establish certain 'rules of the game' – political behavior for other actors. Therefore, the global geopolitical order is interpreted as 'a stable pattern of world politics dominated by an agenda set by the major powers'[2]. In general, geopolitical order can be defined as the balance of power, distribution of spheres of influence, and the nature of interaction among geopolitical actors in a specific geopolitical space[3]. Geopolitical order essentially reflects the functional structure of the global or regional geospatial political system. Leading geopolitical actors, who determine the geopolitical order in a specific region of the world, have been and remain powerful states. However, in certain regions, other sovereign states, international organizations, transnational corporations, and other non-state actors can play significant roles. The formation and development of geopolitical order are influenced by the spatial distribution of political, economic, social, ideological, cultural, and other factors.

When researching the geopolitical order in the Arctic, it is advisable to apply the most appropriate geopolitical model. Modeling real or potential geopolitical objects or processes is intended to be perceived by political elites and society, to guide authorities in making strategic decisions, and to develop strategic and tactical recommendations regarding the policies of a particular actor (state) in a geopolitical space[4]. Geopolitical modeling of objects, phenomena, and processes is useful for developing specific political projects that are implemented in the practical political activities of actors.

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[1] J.A. Agnew, S. Corbridge, *Mastering Space: Hegemony, Territory and International Political Economy* (London: Routledge), 1995, p. 15.

[2] C. Flint, P. Taylor, *Political Geography, World-Economy, Nation-State and Locality*. 7th ed. (London; New York: Routledge), 2018, p. 346.

[3] A. Goltsov, *Geopolitical Dimension of the Strategy of the Russian Federation in the post-Soviet space* (Kyiv: CEL), 2018, p. 77.

[4] A. Goltsov, *op. cit.,* 2018, p. 42.

Researchers develop their geopolitical models based on certain theories. In geopolitics, models created on the basis of realism theory have gained significant prevalence. Such models are still constructed by authors based on the notion that only leading sovereign states are the actors whose interaction determines the essential characteristics of the geopolitical order in a specific region of the world. Non-state actors in these models are represented as dependent subjects under the control of the most influential states. Models created based on neorealist theories to some extent consider the influence of international organizations, transnational corporations, and other non-state actors. The role of international institutions is particularly pronounced in models created on the theoretical principles of neoliberalism. Models of governance for specific international regions have become widely used. Due to the peculiarities of the Arctic region, models of global governance were in demand for it during the late 20th and early 21st centuries. The concept of a regime complex envisages the development of a rational system of governance for a specific region. A regime complex consists of several regimes (or elements) of a certain region that are interconnected in a non-hierarchical manner, interact with each other, and exert mutual influence[5]. In Arctic studies, a constructivist approach is also used, according to which research is conducted on the political identity of state and non-state actors, political narratives used by various actors to shape and present a certain worldview, and justify certain decisions[6]. Models, especially geopolitical ones, regarding a specific region of the world, can significantly differentiate as they reflect certain theoretical concepts and subjective perceptions of different political elites and individual researchers.

The role of the Arctic region in the global economy is expected to strengthen in the future, primarily due to its mineral and resource wealth. Approximately 13% of the world's potential undiscovered oil reserves, 30% of natural gas, and 20% of gas condensate are concentrated here, along with substantial deposits of coal, iron, manganese, copper, lead, nickel, zinc ores, and other valuable minerals. With the implementation of advanced technologies, mineral extraction in the Arctic is projected to increase significantly in the near future. As a result of climate warming, substantial areas of the Arctic Ocean's ice cover are increasingly becoming navigable for longer periods. This trend intensifies the competition among circumpolar states for control over the continental shelf and the waters of the Arctic Ocean. However, numerous non-Arctic countries contend that

[5] O. Young, 'Building an international regime complex for the Arctic: current status and next steps'. *The Polar Journal*. Vol. 2, No. 2. 2012, p. 394.

[6] S. Nabok, 'Main Theoretical Approaches in the Arctic Policy Studies' *Arctic and North*. No. 47. 2022, p. 153.

the central part of the Arctic Basin constitutes the 'common heritage of mankind', and its development should be mutually beneficial for all interested nations, guided by the principles of international law, particularly the United Nations Convention on the Law of the Sea (UNCLOS), signed in 1982. Such aspirations are expressed by China, Japan, India, South Korea, Great Britain, France, Italy, Poland, Turkey, and several other countries.

During the Cold War period, the Arctic effectively served as one of 'the fronts' in the global confrontation between the West and the USSR. For the Soviet Union, the Arctic sector was considered extremely important in military-strategic terms, leading to the placement of Soviet military-naval, aviation, and missile bases in the region. For NATO member states, the concentration of powerful military forces in the Arctic, including American bases, served as a certain guarantee of peace and security in the region. After the end of the Cold War, the issue of international tension in the region practically disappeared from the agenda, and there was a trend in international relations towards the formation of a cooperative regional zone in the Arctic. Due to the unique significance of the Arctic for the entire world, questions arose about the feasibility of global governance of the region. The governance regime in the Arctic could indeed become unique, founded upon mutually beneficial cooperation among all interested actors in accordance with the norms of international law.

In the 21st century, the aspirations of Arctic states to extend their jurisdiction over as much territory of the continental shelf of the Arctic Ocean as possible have become evident. This ambition is driven by the desire to gain control over the mineral and resource-rich areas located there. To achieve this goal, they submit well-founded claims to the Commission on the Limits of the Continental Shelf (CLCS). The importance of controlling transoceanic transportation routes is increasing due to climate warming. The exclusive economic zones' waters are utilized for the exploitation of biological resources. Certain countries justify their territorial claims in the Arctic using norms of international law. For example, circumpolar countries seek to utilize specific provisions of the UNCLOS (particularly Article 234) to substantiate their rights to control 'ice-covered areas' within their exclusive economic zones based on the necessity to protect the environment.

The US, as a circumpolar state, has not ratified the UNCLOS but seeks to utilize advantageous provisions of the Convention to secure its geopolitical and geo-economic interests, particularly in the Arctic Basin. Specifically, the US is interested in the free movement of maritime and aerial vessels through trans-Arctic routes such as the Northwest Passage (NWP) and the Northern Sea Route (NSR). In December 2023, the US

declared an expansion of its continental shelf jurisdiction in the Arctic Ocean, the Bering Sea, and the Gulf of Mexico by approximately 1 million square kilometers. In the Arctic, American claims to the continental shelf cover approximately 520.4 thousand square kilometers and intersect with the claimed zones of other states, including neighboring Canada. The Russian side has protested against the American claims, insisting on the validity of its own claims.

For Canada, one of the strategic priorities is to ensure its sovereign control over the Northwest Passage (NWP). Canada has entered into competition with Russia and Denmark for the central Arctic region by submitting a claim to the CLCS to extend its continental shelf zone by 1.2 million square kilometers, aiming to secure control over the North Pole. The disagreements between the United States and Canada in the Arctic are not antagonistic in nature. Greenland is an autonomous region of Denmark, and the adjacent waters belong to it. There is a territorial dispute between Denmark and Canada regarding Hans Island (Turkupaluk), located in the Northwest Passage. Denmark's (officially jointly with Greenland) assertion of claims to expand the continental shelf by approximately 900 thousand square kilometers, with the establishment of control over the North Pole, has sparked protests from other circumpolar states.

Norway has also submitted a significant expansion claim for its continental shelf, which was granted by the CLCS in 2009. There were issues between the RF (successor state of the USSR) and Norway regarding the delimitation of exclusive economic zones and continental shelves in the Barents Sea in the so-called 'grey zone' – a disputed area. According to the Murmansk Agreement of 2010, the disputed area of approximately 175 thousand square kilometers was divided between the countries roughly equally, which caused dissatisfaction on the part of the RF.

Russia also seeks to expand the outer limits of its continental shelf in the Arctic. The RF has submitted a claim to the CLCS for an increase of nearly 1.2 million square kilometers in the area of its continental shelf. This claim is based on the assertion that a significant portion of the ocean floor in the Arctic Ocean is a natural extension of the continental tectonic structures of Eurasia, particularly the Siberian platform, which constitutes a submarine extension of Russia's landmass. Russia's aspiration to obtain legitimate control over the central Arctic, including the North Pole, conflicts with the claims of other Arctic states, primarily Canada and Denmark.

In 2014-2015, the geopolitical situation in the Arctic region experienced a shift towards increased tension between the West and the RF due to the latter's expansion into Ukrainian territory. Transformations in the international order in Eastern Europe led to geopolitical changes in

neighboring regions as well. It's worth noting that within the Arctic Council (AC), some member countries sought to prevent confrontation between NATO and the RF from unfolding in the region. During that period, geopolitical stability in the Arctic region was maintained as a common interest among Arctic states and was the result of cooperation among them[7]. A certain stability in the Arctic existed thanks to the peaceful interaction among the countries in the region, despite existing contradictions among the actors. Some experts explained the uniqueness of Arctic society by the shared interests of the actors in the region, where there is a tendency towards cooperation[8]. According to these views, Arctic states had essentially agreed among themselves on a regional order based on rules and norms that would serve the interests of all parties, which was manifested in 'the Arctic exceptionalism'[9]. However, the Russian military intervention in Ukraine in 2022 significantly impacted the geopolitical situation in the Arctic, leading to a sharp reduction in cooperation in the region between the West and Russia, increased international tension, and the end of what was termed 'the Arctic exceptionalism'[10]. The 'hard' and principled contradictions between Russia and the West are trending towards intensification.

Contemporary the RF aspires to a geopolitical status as one of the 'poles' of the world and seeks to maximize its interests in its traditional (since the times of the Russian Empire and the USSR) geopolitical space – the Arctic. This region plays a highly significant role in Russian strategic plans, particularly in the context of its unique military-strategic, geopolitical, and macroeconomic importance for Russia. In the Maritime Doctrine of the RF of 2022, the Arctic direction took the top position in the list of six regional directions in the World Ocean – based on their geopolitical and military-strategic significance for Russia. The Arctic basin, located alongside Russia's coastline, including the waters of the NSR, has been designated as 'vital' for the RF in the World Ocean[11].

In Russia's Maritime Doctrine, the declaration of the continental shelf beyond the 200-nautical-mile exclusive economic zone of the RF in the

[7] L. Heininen, 'Arctic Geopolitics from classical to critical approach – importance of immaterial factors'. *Geography, Environment, Sustainability*. Vol. 11, No 1. 2018, p. 181.

[8] H. Exner-Pirot, R.W. Murray, 'Regional order in the Arctic: Negotiated exceptionalism'. *Politik*. Årg. 20, Nr. 3. 2017, p. 57.

[9] H. Exner-Pirot, R.W. Murray, *op. cit.,* 2017, p. 60-61.

[10] T. Koivurova, A. Shibata, 'After Russia's invasion of Ukraine in 2022: Can we still cooperate with Russia in the Arctic?'. *Polar Record*. Vol. 59. 2023, pp. 1-9. DOI: https://doi.org/10.1017/S0032247423000049

[11] 'On approval of the Maritime Doctrine of the Russian Federation'. Decree of the President of the Russian Federation of July 31, 2022 No. 512. Available at: https://base.garant.ru/405077499/ (Accessed 05.03.2024)

Arctic basin as 'vital' for Russia is announced within the boundaries determined by the recommendations of the CLCS[12]. The Russian leadership has exerted considerable efforts to strengthen its economic and military potentials in the region. There is an observable desire within Russia to expand its zone of geopolitical influence in the Arctic basin and secure its growing geo-economic interests associated with the utilization of natural resources. As early as the first decade of the 21st century, the RF intensified its military policy in the Arctic region. The militarization of the Arctic by Russia relied on significant financial, material, and technological resources acquired through its economic achievements during that period. Within the Arctic zone, a powerful grouping of various branches of the Russian armed forces was formed. In 2014, Russia occupied and annexed Crimea, initiated a military conflict in Donbas, and actively supported separatists in armed confrontation against Ukrainian forces. Western countries imposed sanctions against Russia for its expansion against Ukraine, leading to geopolitical confrontation between the RF and the West. In the Arctic region, this confrontation gradually led to a reduction in cooperation between Russia and Western countries. Meanwhile, the militarization of the region significantly accelerated.

The Northern Fleet is the most powerful among the Russian fleets. Over the past years, more than two dozen new military vessels of various classes have been constructed. The ships of the Northern Fleet regularly undertake voyages in the Arctic region, particularly along the NSR, to ensure its reliable protection. Former Soviet bases have been restored and modernized, and new facilities such as military airfields and radar stations are being rapidly constructed. In the Arctic zone, the RF has established a significant air defense system equipped with modern missile complexes and advanced surveillance technologies. The enhancement of the comprehensive monitoring system for the air, surface, and underwater environment in the Arctic zone of the RF is ongoing[13]. For effective integrated management of all maritime, air, and land forces of the RF in the Arctic region, a separate strategic command 'North' operates.

The geo-economic direction of Russian geostrategy in the Arctic is primarily driven by the natural resource potential of the region. Over the past decade, Russia has continued to implement a series of geo-economic projects in the Arctic. For instance, in 2016, the unique oil terminal 'Gate of the Arctic' was put into operation. Among Russia's long-term objectives

[12] 'On approval of the Maritime Doctrine of the Russian Federation', op. cit.

[13] 'On the Fundamentals of State Policy of the Russian Federation in the Arctic for the period until 2035' (with amendments and additions). Decree of the President of the Russian Federation of March 5, 2020 No. 164. Available at: https://base.garant.ru/73706526/ (Accessed 05.03.2024).

in the region is the construction of gas pipelines on the shelves of Arctic seas, connecting extraction complexes with the coastline and forming the country's unified gas transportation system. Prior to the conflict with Ukraine, according to the plans of the Russian government, approximately 150 projects totaling over 5 trillion rubles were earmarked for implementation in the Arctic by 2030. In pursuit of its geo-economic and geopolitical objectives in the Arctic region, the Russian leadership aims to develop a network of transportation communications.

A significant role in Russia's Arctic geostrategy is attributed to ensuring the full exploitation of the NSR and implementing corresponding infrastructure projects. Russia's Maritime Doctrine envisages the comprehensive development of the NSR and its transformation into Russia's national transport route[14]. The international legal regime of internal waters, historically established in the Arctic straits of the NSR, is declared immutable[15]. The NSR is expected to become of great importance for Russia's sustainable development and security, serving as the 'backbone' for the development of Russia's unified Arctic transport system. It is anticipated that the NSR will become a transport corridor of global significance, with its role increasing due to climate change and the development of year-round navigation throughout the NSR's waters[16]. Based on this trans-Arctic route, an even more ambitious project is planned - the creation of the National Arctic Transport Line 'Murmansk-Petropavlovsk-Kamchatsky' with corresponding support ports and infrastructure. According to some assessments, the opening of the NSR (along with corresponding infrastructure) to transoceanic navigation could lead to the formation of a new geostrategic platform in the global system[17]. To gain advantages in Arctic development, the RF employs its world's largest fleet of icebreakers, including a significant role played by new nuclear-powered icebreakers. This provides the RF with the capability to pursue its strategic objectives in the Arctic region, both military and economic, even during the winter period. Russia also plans to take measures to control the military-naval activities of foreign states in the waters of the NSR[18].

[14] 'On approval of the Maritime Doctrine of the Russian Federation', *op. cit.*

[15] 'On approval of the Maritime Doctrine of the Russian Federation', *op. cit.*

[16] 'On the Strategy for the development of the Arctic zone of the Russian Federation and ensuring national security for the period until 2035' (with amendments and additions). Decree of the President of the Russian Federation of October 26, 2020 No. 645. Available at: https://base.garant.ru/74810556/ (Accessed 05.03.2024).

[17] N. Keshri, 'The Arctic region: geopolitical and geostrategic study'. *ZENITH International Journal of Multidisciplinary Research*. Vol. 8, Iss. 6, 2018, pp. 131-148.

[18] 'On approval of the Maritime Doctrine of the Russian Federation', *op. cit.*

For a considerable period, the leadership of the RF has directed the attention of Russian society towards the potential benefits of Arctic development. Concepts regarding the economic viability of the Arctic for Russia, particularly in terms of mineral resource extraction and exploitation of maritime transit routes between East Asia and Europe, are instilled in the population. The geopolitical (and simultaneously geo-economic) image of a highly promising 'Russian Arctic' is not only propagated to the Russian audience but also to Asian countries – potential investors. Presently, Russia lacks sufficient financial and scientific-technological potential for expanding oil and gas extraction in the Arctic, and to build the latest infrastructure. Due to sanctions imposed against the RF, Western multinational corporations have withdrawn from Russian projects, making it impossible for Russia to utilize European and American finances and advanced technologies. China is currently the primary Asian partner of Russia in the Arctic. Chinese companies are involved in the production and transportation of liquefied natural gas, providing Russian enterprises with relevant equipment, constructing a coal terminal in Murmansk, port facilities in Arkhangelsk, and participating in some other Russian projects in the North. Particularly promising for China is the 'Polar Silk Road', intended to connect China with Europe through the Arctic Ocean[19]. Essentially, Russia seeks to attract Chinese investments for the development of NSR infrastructure.

To achieve its goals, the RF sought to utilize international cooperation institutions, particularly the AC, which is considered a 'key' regional association[20]. However, Russia's chairmanship in this organization from 2021 to 2023 proved unproductive due to the effective boycott of the RF by other member countries. Costly military actions against Ukraine led Russia to significant challenges, reducing its military, economic, and demographic potentials. Russia's capabilities for further expanding its military might significantly diminished, while direct foreign investments sharply declined, and the funding volumes for Russian economic projects in the Arctic by Russian entities also decreased. Nevertheless, Russia's military-strategic, geopolitical, and geo-economic positions in the Arctic region remain relatively strong.

The role of international organizations in ensuring international order in the Arctic should be assessed as insufficiently effective. The AC is

[19] G. Grieger, (2018), '*China's Arctic policy. How China aligns rights and interests'*. European Parliamentary Research Service. Available at:
https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/620231/EPRS_BRI(2018)620231_EN.pdf (Accessed 05.03.2024).

[20] 'On the Fundamentals of State Policy of the Russian Federation in the Arctic for the period until 2035' (with amendments and additions), *op. cit.*

considered the most authoritative regional organization. Although its activities have proven to be somewhat ineffective, it holds significant importance as a legitimate institution for addressing regional international issues. Several achievements of the AC in establishing Arctic cooperation in various spheres, particularly in nature conservation and the rational use of natural resources, should be positively acknowledged. Until recently, the AC was considered an international institution capable of ensuring a regional governance regime in the Arctic[21]. The reformed governance regime was expected to be stable and mutually beneficial. However, the current confrontation between the RF and the West (the rest of the seven member states) has effectively 'paralyzed' the productive activity of this organization. Within the AC, Russia finds itself opposed by Western states. There is a possibility of consolidating the Arctic 'Seven', strengthening cooperation in various areas without Russian participation, but with the likely involvement of non-Arctic actors[22]. Joint projects with Russia within the AC are likely to face further deterioration. Overall, there is currently an absence of an institutional mechanism in the Arctic region for security involving Russia[23]. However, according to optimistic assessments, the AC 'may not only survive this crisis but could come out stronger than before'[24].

The activities of other regional organizations are also crucial as they engage both states and non-state actors in addressing numerous issues, primarily environmental ones. In the Barents Sea basin, the Barents Euro-Arctic Council operates at the central level, ensuring cooperation among Russia, Norway, Finland, and Sweden. At the regional level, the Barents Regional Council involves 13 territorial units from the aforementioned four countries. However, the relatively complex organizational structure designed to coordinate cross-border cooperation has shown insufficient effectiveness[25]. Significant problems exist in implementing cross-border

[21] O. Young, 'Is It Time for a Reset in Arctic Governance?'. *Sustainability, MDPI*. Vol. 11, No 16. 2019, pp. 1-12. DOI: https://doi.org/10.3390/su11164497

[22] Kavanagh E., (2024), 'Arctic governance: An analysis of a treaty-based cooperation hypothesis'. *Spanish Yearbook of International Law*. Iss. 27, pp. 257-266. DOI: https://doi.org/10.36151/SYBIL.2024.013.

[23] E. Wishnick, C. Carlson, (2022), 'The Russian Invasion of Ukraine Freezes Moscow's Arctic Ambitions'. *Journal of Indo-Pacific Affairs*. October 3. Available at: https://www.airuniversity.af.edu/JIPA/Display/Article/3172713/the-russian-invasion-of-ukraine-freezes-moscows-arctic-ambitions/ (Accessed 05.03.2024).

[24] A. Tingstad, S. Pezard, (2023), 'What Is Next for the Arctic Council in the Wake of Russian Rule?'. RAND. Available at:
https://www.rand.org/pubs/commentary/2023/05/what-is-next-for-the-arctic-council-in-the-wake-of.html (Accessed 05.03.2024).

[25] M. Łuszczuk, J. Götze, K. Radzik-Maruszak, A. Riedel, D. Wehrmann, 'Governability of Regional Challenges: The Arctic Development Paradox'. *Politics and Governance*. Vol. 10, Iss. 3, 2022, p. 36-37.

projects and programs, particularly concerning environmental protection and indigenous rights. The Nordic Council comprises 87 members from Northern European countries (Denmark, Finland, Iceland, Norway, Sweden), their autonomous territories (the Faroe Islands and Åland), and Greenland (an autonomous region of Denmark). The Northern Forum (NF), established in 1991, encompasses 12 regions: 10 Russian subjects located in Northern Siberia and the Far East; Alaska State (the US); Gangwon Province (Republic of Korea); and nine business partners from various countries. This organization aims to facilitate interregional cooperation among Northern and Arctic countries, focusing on sustainable regional development and improving living standards. The NF coordinates the development and implementation of programs and projects in economics, social affairs, environmental conservation, and more. The participation of non-Arctic states and non-state actors in forums and conferences is beneficial as it fosters dialogue, enhances information exchange, builds a common understanding of issues, and reduces 'barriers to cooperation'[26]. However, in the current environment of regional confrontation, the effectiveness of these organizations has significantly decreased.

The EU and several non-Arctic EU member states demonstrate a desire to actively participate in the development of the Arctic. Countries like France, Germany, the Netherlands, Poland, and others are primarily interested in implementing international economic projects and conducting scientific research on climate change and environmental issues in the region. The EU aims to strengthen its presence in the Arctic by prioritizing political, diplomatic, and economic means. Three EU member states (Denmark, Finland, Sweden) are part of the AC. However, it is recognized that a significant increase in the number of countries seeking to engage in Arctic development could 'transforming the Arctic into an arena of geopolitical competition and harming the EU's interests'[27]. The proposed strategy for the EU in the Arctic should include a defense component to ensure security, cooperation with NATO on regional security issues, organizing a framework dialogue 'Arctic Seven + EU' (excluding Russia) regarding climate change, and promoting '**the creation of the**

[26] B. Steinveg, S.V. Rottem, S. Andreeva, 'Soft institutions in Arctic governance – who does what?'. *Polar Record*. Vol. 60. 2024, pp. 1-7. DOI:
https://doi.org/10.1017/S0032247423000335

[27] A stronger EU engagement for a peaceful, sustainable and prosperous Arctic. 2021. European Commission. Brussels. 13.10.2021. Available at:
https://www.eeas.europa.eu/sites/default/files/documents/Joint%20Communication%20on%20a%20stronger%20EU%20engagement%20for%20a%20peaceful%2C%20sustainable%20and%20prosperous%20Arctic.pdf. (Accessed 05.03.2024).

UN mechanism for the Arctic'[28]. Therefore, the EU has effectively expressed its ambition to become a powerful actor in the Arctic, expand cooperation in the region and beyond, all in the interests of the global community.

As Russia's primary geopolitical rival in the Arctic region, NATO led by the United States has emerged. Given the current situation, the significance of the Arctic for the US global geopolitical interests has substantially increased. In the geopolitical positioning of both the RF and the US, the Arctic plays a unique role, as it serves as the shortest routes for bomber flights or intercontinental ballistic missiles between the two nations. Among all circumpolar countries, only the US possesses such powerful armed forces capable of fully countering potential Russian military expansion. It is worth noting that the US does not wield as formidable military potential in the Arctic as it does in the Atlantic or Pacific oceans. During the period of intensified geopolitical competition in the Arctic, American experts emphasized the necessity of restraining Russia in the Arctic[29]. Amidst the current Russian-Ukrainian conflict, the US leadership believes that Russia's aggressive behavior has led to geopolitical tension in the Arctic region, 'creating new risks of unintended conflict and hindering cooperation'[30]. In response, the US has expressed readiness to ensure its presence in the region while simultaneously reducing risks and preventing 'unnecessary escalation'[31]. The 2022 National Strategy for the Arctic Region encompasses four primary thrusts: security; climate change and environmental protection; sustainable economic development; and international cooperation and governance[32]. In October 2023, the 'Implementation Plan for the United States' National Strategy for the Arctic Region' was adopted, which outlines specific pathways and means for implementing the strategy and includes annual reports from federal departments and agencies on the execution of their

[28] I. Coilan, (2022), 'The EU's geopolitical awakening in the Arctic'. European Policy Centre. Available at: https://www.epc.eu/en/Publications/The-EUs-geopolitical-awakening-in-the-Arctic~47c318 (Accessed 05.03.2024).

[29] E. Rumer, R. Sokolsky, P. Stronski, (2021), 'Russia in the Arctic – A Critical Examination'. Carnegie Endowment for International Peace. Available at: https://carnegieendowment.org/files/Rumer_et_al_Russia_in_the_Arctic.pdf (Accessed 05.03.2024).

[30] National Security Strategy. 2022. The White House. Washington, D.C. October 12. Available at: https://www.whitehouse.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf (Accessed 05.03.2024).

[31] National Security Strategy. 2022, *op. cit.*

[32] National Strategy for the Arctic Region. 2022. The White House. Washington, D.C. October 12. Available at: https://www.whitehouse.gov/wp-content/uploads/2022/10/National-Strategy-for-the-Arctic-Region.pdf (Accessed 05.03.2024)

tasks, the possibility of reviewing specific provisions, a review of the 'plan' every 5 years, and so forth[33].

Currently, there has been a rapid increase in the concentration of American military forces, particularly air and naval, in the territory of the Arctic state of Alaska[34]. The construction of new icebreakers has been planned to ensure navigation in the Arctic basin[35]. The US must take maximum advantage of the capabilities of its allies to collectively ensure geopolitical containment of Russia. The alliance between the UK and the US in the military-political sphere has traditionally been quite advanced, and cooperation in the economic sphere has particularly intensified since the UK's exit from the EU ('Brexit'). The United States, Canada, Denmark, Iceland, and Norway are the founding members of NATO in 1949. In the first decade of the 21st century, NATO countries (except Iceland) became involved in the militarization process of the Arctic in opposition to the RF. The buildup of military capabilities of Alliance countries in the region significantly accelerated after the start of the conflict in Ukraine in 2014. Before the Russian-Ukrainian war, NATO considered it most prudent to act in the Arctic 'with prudence and restraint'[36]. The Alliance demonstrated to Russia a full readiness to defend its interests and, at the same time, a lack of offensive plans against it. The current 2022 Strategic Concept asserts that 'a strategic challenge to the Alliance' arises in the High North due to Russia's ability to hinder Alliance forces there and disrupt freedom of navigation in the North Atlantic[37]. Emphasis is placed on the necessity to coordinate with the EU in the sphere of collective security protection strategy: 'the EU is a unique and essential partner for NATO'[38].

The full-scale war of the RF against Ukraine has prompted the political elite and the vast majority of the population of traditionally neutral Sweden and Finland to seek to protect their security by joining NATO. Finland officially acquired membership in the Alliance on April 4, 2023. Turkey and Hungary had long obstructed Sweden's accession to NATO, but finally, these states ratified the Protocol on Sweden's accession

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[33] Implementation Plan for the United States' National Strategy for the Arctic Region. 2023. The White House. Washington, D.C. October 18. Available at: https://www.whitehouse.gov/wp-content/uploads/2023/10/NSAR-Implementation-Plan.pdf (Accessed 05.03.2023).

[34] D. Francis, (2022), 'When hell freezes over: Russia's Arctic ambitions'. The Hill. Available at: https://thehill.com/opinion/national-security/3609219-when-hell-freezes-over-russias-arctic-ambitions/ (Accessed 05.03.2024).

[35] National Strategy for the Arctic Region. 2022, *op. cit.*

[36] E. Rumer, R. Sokolsky, P. Stronski, (2021), *op. cit.*

[37] NATO 2022 Strategic Concept. Available at:
https://www.nato.int/nato_static_fl2014/assets/pdf/2022/6/pdf/290622-strategic-concept.pdf (Accessed 05.03.2024).

[38] NATO 2022 Strategic Concept, *op. cit.*

to NATO. On March 7, 2024, the Protocol came into force, and Sweden joined the Alliance. As a result, the geopolitical structure of NATO in the Arctic became complete. Effective 'containment and defense' must ensure strategic stability in the Arctic region. The implementation of the geopolitical model of 'NATO versus the RF' in the North creates numerous problems for Russia.

The military capabilities of Arctic allies of the US – Canada, Denmark, Norway, Finland, and Sweden – are quite significant (although much smaller than the American one), they have a very advantageous geopolitical position, and possess substantial economic resources. Additionally, the unique geopolitical and communication significance of the 'non-belligerent' ally Iceland should be taken into account. In early March 2024, under the leadership of Norway, military exercises took place in Northern Scandinavia called 'Nordic Response 24', in which more than 20,000 servicemen from 14 countries participated, including Finland. The conduct of such exercises indicates the Alliance's readiness to ensure its collective defense in the region.

The Paris Agreement of 1920 affirmed Norway's sovereignty over the archipelago of Svalbard. The agreement prohibited the placement of armed forces (demilitarization regime) on the territory of the archipelago while allowing various forms of economic activity for other states. The Soviet Union conducted coal mining operations on the territory of Svalbard, and Soviet vessels engaged in fishing in the archipelago area. In the early 21st century, coal mining on Svalbard became unprofitable, especially as unprofitable mines ceased operations, but Russia continues to maintain its presence on the archipelago. The Russian Maritime Doctrine envisages diversification and intensification of maritime activities not only in Arctic territories belonging to the RF but also in 'the Spitzbergen archipelago'[39]. In contrast, Norway imposes economic sanctions against Russia as an aggressor state; in 2022, a Norwegian customs regime was introduced in the Svalbard territory. In 2023, Norway particularly emphasized its foreign policy course to strengthen its sovereign rights over the continental shelf and utilize biological resources in the archipelago area. Russia's military buildup in the North (especially in the Barents Sea) is considered a danger to Norwegian Svalbard[40]. According to M. Folland's recommendations, it is advisable for Norway to pursue a realistic and pragmatic policy, combining 'containment' of Russia with the

[39] On approval of the Maritime Doctrine of the Russian Federation', *op. cit.*

[40] A. Østhagen, O. Svendsen, M. Bergmann, (2023), 'Arctic Geopolitics: The Svalbard Archipelago'. Center for Strategic and International Studies. Available at: https://www.csis.org/analysis/arctic-geopolitics-svalbard-archipelago (Accessed 05.03.2024).

intensification of political dialogue and cooperation to effectively utilize economic opportunities and address environmental issues in the Arctic[41].

The escalation of military threats from Russia has led to the strengthening of solidarity among NATO countries, prompting Arctic states to enhance their defense systems in the region to safeguard their military and political security. Despite certain geopolitical and geoeconomic disagreements among them, Western states have consolidated in the contemporary confrontation with Russia. Overall, the 'collective' West (represented by the NATO bloc) is implementing a fairly effective joint geostrategy of 'containing' Russia in the Arctic.

The satisfaction of current submissions by Russia, Denmark, Canada, and the US to extend their continental shelves in the Arctic Ocean is unlikely to be fully possible due to the overlap of their territorial claims and the scientific justifications provided by each state. Meanwhile, non-Arctic states demand maximum support for their activities in the Arctic basin and, consequently, an international regime for as much of the Arctic waters and ocean floor areas as possible. The application of Arctic diplomacy mechanisms, in principle, may lead to the development of relatively stable or temporary compromises among Arctic states. A 'geopolitical compromise' entails reaching an agreement among actors regarding the rules and order of interaction in a specific geographic space, as well as the distribution of control (or influence) areas among them[42]. Achieving such compromises among leading actors is generally possible if their key strategic interests are ensured, and concessions are made regarding certain secondary issues. The main goal of geopolitical compromise is to overcome confrontation and achieve a certain strategic balance. Compromises can be presented, for example, in the form of declarations, conventions, 'modus vivendi', permanent international agreements (and protocols to them), treaties, etc. There may also be tacit consent from actors regarding a certain problematic issue – the factual recognition of the status quo. However, under the conditions of the war that Russia is waging against Ukraine, achieving a general geopolitical compromise between the West (which supports Ukraine) and the RF (the aggressor) is fundamentally unacceptable. Geopolitical confrontation in the Arctic may tend to escalate. Thus, the geopolitical order in the Arctic

[41] M. Folland, (2022), 'Arctic Strategy: Deterrence and Détente'. *Journal of Indo-Pacific Affairs, Air University Press*. Available at:
https://www.airuniversity.af.edu/JIPA/Display/Article/3173373/arctic-strategy-deterrence-and-dtente/ (Accessed 05.03.2024).

[42] A. Goltsov, (2017), 'International Order in the Arctic: Geopolitical Dimension'. *World Politics*. Iss. 4. p. 53.

region is currently confrontational due to the Russian-Ukrainian war and is likely to remain so in the near future.

Conclusions

The geopolitical order is interpreted as the balance of power, the distribution of spheres of influence, and the nature of interaction among geopolitical actors in a specific geographic space. The contemporary international order in the Arctic is greatly influenced by several factors: the aspirations of circumpolar states to divide the Arctic basin, existing territorial disputes among them, regional security issues due to the buildup of military potentials of NATO states and Russia, and political and economic rivalry among them. For the RF, the Arctic region plays an exceptionally important role in military-strategic and geo-economic terms. Russian leadership implements a geostrategy in the Arctic aimed at expanding the spheres of its military, political, economic, and communication influence. Indeed, Russia's geopolitics has been a primary factor driving the current process of militarization in the Arctic. The implementation of Russia's geoeconomic projects for resource extraction, construction of transportation routes, and infrastructure development along the NSR faces significant challenges. The UN, the AC, and other international organizations have proven incapable of preventing geopolitical confrontation in the Arctic or taking effective measures to address urgent political, international legal, environmental, economic, and other issues. China seeks to engage in the exploitation of Arctic natural resources and communication projects, potentially improving Russia's geo-economic and geopolitical positions in the region. The consolidation of Arctic states is underway as they collectively confront the RF. The military-political bloc NATO has significantly strengthened as a result of Finland and Sweden's accession to it and the buildup of military potentials by member states. The alliance is now sufficiently robust and capable of ensuring the security of its member states reliably. The confrontational geopolitical order in the Arctic region will persist in the near future. However, despite the growing geopolitical tension between the RF and NATO in the Arctic, the likelihood of a military conflict between them is assessed as low.

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THE OVERBEARING INFLUENCE OF NON-STATE ACTORS IN THE NIGERIAN SOCIO-POLITICAL SPACE AND ITS EFFECTS ON NATIONAL SECURITY

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Abstract: *This work examines the negative impact of non-state actors in Nigeria. As a sovereign nation Nigeria ought to be under the firm control a legally constituted government, but this is apparently not the case as the government appears helpless in the face of daunting challenges orchestrated by the overbearing influence of both civil and uncivil non-state actors (NSAs). This unfortunate situation poses a grave security challenge on the country's corporate existence. This work employing the expository, critical and historical methods examines the negative effects of the overbearing influence of NSAs on Nigeria's security. The work critically appraises the negative effects of NSAs on the Nigerian socio-political and economic life as well as on the overall security of the country. In conclusion the work calls for strict governmental control of NSAs and the provision of good governance where equity, justice and the promotion of common good is basic.*

Keywords: *Non-state actors, Nigeria, National security, Violent non-state actors, NLC, ASUU, IPOB, Bandits.*

Introduction

Nigeria, which is called the giant of Africa, constituted of more than 250 ethnic nationalities and with a population of over 200 million[1] is

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[1] E.K. Iwuagwu, 'Nigeria's Ethno-Religious Crises and its Socio-Political and Economic Underdevelopment', *Cogito*, vol. 14, no.1, 2022, p. 117.

currently struggling to liberate its soul from many contending forces both civil and uncivil. Owing to the conglomeration of these powerful forces and their overbearing pressure on the government, the government appears to be in a weaker position when bargaining for the implementation of its official policies and programs.

The marks of a civil society consist of the presence of a legally constituted authority, laws and law enforcement. Without this the society relapses into Thomas Hobbes' 'state of nature' where everyman is an authority unto himself with the satisfaction of his own whims and caprices at the fore. In such a situation Hobbes' picture of life becoming 'solitary, poor, nasty, brutish and short'[2] becomes a reality as a result of the unimaginable insecurity consequent upon the emergence of a lawless society. It was to forestall such an unhealthy situation that Thomas Hobbes provided an intellectual justification for the absolute power of the sovereign premised on his assertion that the evils of absolute power is preferable to the evils of life in a lawless society without such authority. To avoid such a situation Hobbes advocated for an absolute sovereign and the abolition of all contending powers. The absolutism of Hobbes' *Leviathan* rejects pluralism, localism and sectionalism. He sees social groups such as leagues, guilds, universities, the church, associations, etc., as breeding grounds of dissension and conflict in a unitary state. He compares associations within the state as 'many lesser commonwealths in the bowels of a greater' and as 'worms in the entrails of a natural man.'[3]

In Nigeria these Hobbes' 'many lesser commonwealths in the bowl of a greater', these 'worms in the entrails of a natural man' are struggling with the government for the soul of the country. These contending forces that constitute government within government are what this work refers to as non-state actors (NSAs). Very influential non-state actors abound in Nigeria, civil and uncivil, armed and unarmed, national and local. Some of these non-state actors are so powerful that they dictate the state of affairs within their social, economic and political space and in some instances they command greater respect among the citizens than the legally constituted government in their areas of control.

Among the powerful civil and non-violent non-state actors in Nigeria are: the NLC, TUC, ASUU, NARD, NUPENG, IPMAN, NURTW, Ohaneze, Arewa and Afenifere socio-cultural groups, etc. The powerful uncivil and violent non-state actors in Nigeria include: the Boko Haram terrorist group, the ISWAP, the Fulani Militia, the IPOB, the Niger Delta Militants, different secret cult groups, unauthorized local vigilantes, area boys, unauthorized violent revenue collectors in cities and villages, etc. These

[2] T. Hobbes, *Leviathan*, London, Penguin, 1985, p. 186.
[3] T. Hobbes, *op. cit.,* p. 375.

different non-state actors exert a lot of influence in the Nigerian socio-political space and their activities in different ways ferment insecurity.

This work examines the effects of the overbearing influence of these NSAs on Nigeria's security. Employing the expository, critical and analytic methods as well as textual, conceptual and historical analysis the work examines the activities of these NSAs in the Nigerian social, political and economic life.

Non-State Actors: An Overview

Generally speaking non state actors (NSAs) consist of profit and non-profit organizations, corporations, groups and individuals who, though not affiliated to, funded or directed by government, exercise great influence in the policy affairs of the government. Among these NSAs are: Civil Society Organizations (CSOs), Non-governmental Organizations (NGOs), labour unions, socio-cultural organizations, corporations, banks, business tycoons, lobby groups, Human Rights groups, peoples' liberation movements, religious groups, aid agencies and violent non-state actors (VNSAs) such as paramilitary groups, armed resistance groups and terrorist groups.

Non state actors (NSAs) fundamentally are collaborative agents who assist in facilitating the achievement of national and international development goals. They may assist in opinion building, advocacy, program implementation, building and maintaining of peace, environmental protection, driving economic growth, etc. According to Oparah et al, 'the process of building an efficient and effective service oriented developed state requires the participation of both the government and NSAs'[4]. While not overlooking the significant role of NSAs in nation building, contemporary political philosophers highlight their overbearing influence which in most cases undermines the authority of the government consequently posing security challenges and giving the impression of power vacuum. This other side of the NSAs portrays them as lesser governments within government and as opposition groups.

Theoretical Framework

This work is premised on Thomas Hobbes' political theory which recommends a powerful, centralized state authority and the exclusion of lesser authorities. In his social contract theory Hobbes provided an intellectual justification for absolute power and indeed all civil authority as well as the ground for obedience to such authorities. Hobbes preferred the

[4] F.C. Oparah et al, 'the Role of Non-State Actors in Strengthening the Developmental Capacity of the State: A Case Study of Cross River State, Nigeria', *Business and Economic Research,* vol.10, no.2, 2020, p. 154.

evils of an absolute power to the evils of life in a chaotic society without such authority. He advocated for an absolute sovereign and a subjugation of all other competing allegiances. The absolutism of Hobbes' *Leviathan* rejects pluralism, localism and sectionalism. He sees social groups such as leagues, guilds, universities, the church, and associations as breeding grounds of dissension and conflict in a unitary state. He compares association within the state as 'many lesser commonwealths in the bowels of a greater' and as 'worms in the entrails of a natural man.'[5]

In Hobbes political theory Non-State Actors (NSAs) are unacceptable and are to be subjugated by the absolute sovereign. This work, while not subscribing to Hobbes' absolutism, highlights the dangers of the overbearing influence of non-state actors in the Nigerian socio-political space, a danger envisaged by Hobbes in his political theory. For Hobbes, NSAs weaken the authority and sovereignty of the government and have the tendency of plunging the country into a state of anarchy.

Active Non-State Actors (NSAs) in Nigeria

Nigeria is replete with non-violent and violent non-state actors which include corporations, Civil Society Organizations (CSOs), Non-Governmental Organizations (NGOs), labour unions, socio-cultural organizations, business magnates, financial institutions, armed resistant groups, terrorist outfits, liberation movements, etc. In Nigeria some of these non-state actors have the capacity of undermining government authority and of controlling some social, political and economic spaces.

Civil and Non-Violent Non-State Actors in Nigeria

Prominent among the many civil and non-violent non-state actors in Nigeria are: the Bankers Union (an umbrella of commercial banks and other financial institutions in Nigeria), the Nigerian Labor Congress (NLC), the Trade Union Congress (TUC), the Academic Staff Union of Universities (ASUU) and other University based unions, the Nigerian Medical Association (NMA),the Nigerian Association of Resident Doctors (NARD), the Nigeria Union of Petroleum and Natural Gas Workers (NUPENG), the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN), the Independent Petroleum Marketers Association of Nigeria (IPMAN), the National Union of Road Transport Workers (NURTW), the National Union of Air Transport Employees (NUATE), the Cement Manufacturers Association of Nigeria (CMAN), etc.

Apart from the above NSAs, we also have the socio-cultural organizations, the Civil Society Organizations (CSOs), the professional associations, etc. Among the Socio-cultural organizations are the Afenifere

[5] T. Hobbes, *op. cit.*

(a Yoruba socio-cultural group), the Arewa Consultative Forum ACF (a socio-cultural group of all Northern Nigerians), the Ohaneze Ndi Igbo (an Igbo socio-cultural group), the Pan Niger Delta Forum (PANDEF), the Middle Belt Forum (MBF), etc. These socio-cultural groups have recently become very political and exert great political influence within their geographical space.

Among the Civil Society Organizations (CSOs) include the professional associations (such as NBA, the Nigerian Bar Association), Foundations, Non-Governmental Organizations (NGOs), Community Based Organizations (CBOs), Social Movements, Human Rights Organizations and Faith Based Organizations. These CSOs, as Abati avers, 'are a positive force for change and progress in society, oftentimes helping to bridge the gaps of alienation between government and the people'. They also contribute in fighting 'injustice, man's inhumanity to man, environmental abuses, global health challenges, gender discrimination and the evolution of a rules-based international system.'[6]

Violent Non-State Actors (VNSAs) in Nigeria

There also abound in Nigeria a host of violent non-state actors (VNSAs) who are seen in several places taking the laws into their hands. These VNSAs take illegal charge of some geographical spaces where they extort innocent citizens, command some political authority and brutally deal with citizens who challenge or disobey their orders. Prominent among these VNSAs in Nigeria include terrorist groups such as Boko Haram, the Fulani Militia, killer herdsmen and armed bandits; the liberation movements, freedom fighters and separatists movements such as the Niger Delta Militants, the Indigenous People of Biafra (IPOB), Eastern Security Network (ESN) and the Odua Peoples Congress (OPC); the 'unknown gunmen'('which has recently become a popular catchphrase in Nigeria's insecurity imbroglio')[7], unauthorized local vigilantes, the cultists, etc. In Nigeria many of these violent non-state actors (VNSAs) wield enormous power over some geographical space where they dictate what takes place within the environment.

The Disturbing Activities of some Non-State Actors in Nigeria

Ordinarily non-state actors should be collaborators with the civil government in working for the common good of the people through advocacy, enlightenment, opinion building, program implementation, building and maintaining of peace as well driving of economic growth, but

[6] R. Abati, 'CSOs, NGOs and Their Discontents', *thisdaylive.com*, 21 Sept, 2021.

[7] T.S. Akinyetun et al, 'Unknown Gunmen and Insecurity in Nigeria: Dancing on the Brink of State Fragility', Security *and Defence Quarterly*, vol. 42, no.2, 2023, p. 18.

unfortunately in Nigeria while this may be partially true, non-state actors have become more belligerent and combative than complimentary and collaborative. Some of their activities have become cogs in the wheel of progress of government programs and policies, thus disrupting government activities rather than enhancing them. Many of them have gone beyond being pressure groups and collaborative agents to being direct opponents of government. This work examines the activities of some of these non-state actors in various spheres of the country's life.

The Influence of Non-State Actors in the Nigerian Social and Political Space.

The Nigerian social and political space is populated by the visible presence and activities of NSAs who in most cases point the direction and also control socio-political life. Very prominent among them are the socio-cultural and political organizations such as the Ohaneze Ndi-Igbo, the Afenifere, the Arewa Consultative Forum, the Pan Niger Delta Forum (PANDEF), the Middle Belt Forum (MBF), etc. The socio-political life of an average Nigerian is also highly influenced by faith based organizations and religious bodies such as Christian Association of Nigeria (CAN), Nigerian Supreme Council for Islamic Affairs (NSCIA), Muslim Rights Concern (MURIC) Catholic Bishops Conference of Nigeria (CBCN), Pentecostal Fellowship of Nigeria (PFN), Islamic Movements, etc. Other influential Non-State Actors in the Nigerian socio-political space are the Civil Society Organizations (CSOs) and the Non Governmental Organizations (NGOs). These organizations are very widespread and visible across the country and are ordinarily designed to interact and collaborate with the government in capacity building and development as well as advocacy. It must be truly observed that on the average these organizations do a lot of good works but a close scrutiny of the activities of some of them raises eyebrows and leaves a lot to be desired.

Apart from the thirty-six state structure, Nigeria is also constituted of six geopolitical zones, the South-East, South-West, South-South, North-Central, North-East and North-West. The various ethnic nationalities and languages of Nigeria are scattered across these geo-political zones and states[8]. The Nigerian socio-cultural and political groups constitute the umbrella housing the various ethnic nationalities in the Nigerian political scene. They are mostly constituted along the geo-political alignment. They are the mouthpiece of the ethnic groups on national issues. They defend the interest of the various ethnic nationalities and advocate for their

[8] E.K. Iwuagwu, 'John Stuart Mill's Utilitarianism: A Panacea to Nigeria's Socio-Political Quagmire,' *Cogito – Multidisciplinary Research Journal.* vol. 13, no. 4, 2021, p.70.

proper representation and inclusion both in decision making and in the dispensation of the common good. In recent times their voices appear to be louder than that of the government in their various geographical spaces. They have recently become very controversial, confrontational and domineering when commenting on national issues. Their biased dissenting voices on national issues with threats of secession or of making the country ungovernable as well as the constant mobilization of their constituents to civil disobedience poses great danger to the corporate existence of Nigeria and its national security. There have been several threats at different times from the various Nigerian socio-cultural and political groups for secession especially when they find themselves in a disadvantaged situation.

While the plenary session of the 2014 National Conference was ongoing, the Afenifere Pan Yoruba organization demanded that regional autonomy be granted the Yorubas in the Southwest or they will secede from Nigeria. At a news conference in Lagos at the time with the Logo 'Regional Autonomy or Nothing', the Afenifere among other things demanded 'a parliamentary form of government at the center and the right to self determination on and up to the right to secede … Fiscal Federalism and Resource Control.'[9]

There are also instances of these socio-cultural and political groups threatening other ethnic groups as well as the corporate existence of Nigeria. For instance, on June 7th 2017 the Arewa Youth Consultative Forum (ACYF), a coalition of socio-political groups in northern Nigeria issued a three month ultimatum for all Igbos in the 19 Northern states to vacate the region, threatening to evict them by force if they fail to leave by October 1, 2017. They boasted that no authority will stop them.[10] In the same vein the Ohaneze Ndi Igbo had always threatened secession because of injustices suffered by the region. Recently the group threatened legal action against the federal government for shortchanging the South East in the appointment of ministers.[11] The PANDEF also has on several occasions threatened to shut down all oil exploration in the Niger Delta region from where over 80% of Nigeria's oil is drilled. This threat, they claimed is because of the neglect of the region which is the cash cow of the country.

That these socio-cultural and political organizations threaten the federal government and the Nigerian citizens without any dire consequence shows the level of power they wield as NSAs in Nigeria. These

[9] PM NEWS, 'Afenifere Threatens Secession', 19th May,2014, pmnewsnigeria.com

[10] Premium Times, 'Arewa Groups asks Igbos to Leave Northern Nigeria, Threaten Violence,' June 7, 2017 premiumtimesng.com

[11] Champions Newspaper, 'Appointment of Ministers: Ohaneze Ndigbo threatens to sue FG over Injustice Against South East', 25th October, 2023, https://championnews.com.ng

bodies appear untouchable and uncontrollable when they threaten any action, knowing any action against their leaders will be seen as a declaration of war on their region by the federal government which will consequently be a threat to national unity, security and peace.

The Nigerian social and political space is also highly controlled by the overbearing influence of faith based organizations and religious bodies such as CAN, NSCIA, CBCN, MURIC, PFN, etc. These bodies are always quick to draw religious sentiments on virtually every national issue. In Nigeria politics, ethnicity and religion has become so interwoven that it appears very difficult to separate them. Politicians easily recruit ever willing ethnic and religious bigots to scrutinize every national discussion along these sentiments. As Iwuagwu rightly observed,

> The Nigerian state is replete with divisive ethno-religious sentiments. Consequently when major socio-political issues are discussed, they are vigorously debated along ethnic, religious and regional lines with little objectivity. This sharply biased disposition creates a very delicate balance of the Nigerian state because of the multiple centrifugal forces pulling it apart along the lines of ethno-religious interest. These competing unhealthy rivalry leads to crises and instability in the Nigerian polity.[12]

Hence this very strong outpouring of religious sentiments on national issues is what has come to embolden the faith based NSAs to be overbearing in commanding national followership and swaying national opinions in Nigeria. In this case the average Nigerian is most likely to obey and follow his ethnic and religious leaders rather than the political leaders.

Apart from the socio-cultural and political organizations and the religious bodies, the CLOs, the NGOs, and the Labor Unions in Nigeria are great influencers of public opinions on national issues. They have recently become confrontational, coercive and overbearing rather than collaborative and complimentary with the government in the execution of its policies and programs. Some of them, in creating distrust in the people with regard to government programs and activities, incite the populace against the government thereby instigating civil disobedience which frustrates government plans thereby retarding progress.

The Influence of Non State Actors in Nigeria's Educational System

Education constitutes one of the bedrocks of every progressive country because it is one of the vital indices used in rating the quality of life and development of every country. As Iwuagwu asserts, 'education is the

[12] E.K. Iwuagwu, *op. cit.,* pp. 115-116.

bedrock of every progressive society. To disrupt the education system of any society as a result of insecurity is a very great disservice to its progress and development.'[13] Hence a high level of literacy in any nation upgrades the quality of life of its citizens, enhances its economic growth and promotes its peace and security, whereas a high level of illiteracy downgrades a country's quality of life, its economic growth, its health care system as well as its peace and security. Education is therefore the anchor point of the Sustainable Development Goals (SDGs). As the United Nations report rightly says, 'Education is the key that will allow many other Sustainable Development Goals (SDGs) to be achieved. When people are able to get quality education they can break from the circle of poverty.'[14]

In Nigeria the government's little and inadequate efforts in promoting quality education with the support of the private sector and some non-profit oriented agencies has in many instances being thwarted by some NSAs. These non-state actors include the Nigerian Union of Teachers (NUT), the Academic Staff Union of Universities (ASUU), the Academic Staff Union of Polytechnic (ASUP), Senior Staff Association of Nigerian Universities (SSANU), the Non-Academic Staff Union of Universities and Allied Institutions (NASU), etc. These NSAs, rather than the government, seemingly dictate the pace of the educational activities in Nigeria. Their overwhelming influence in this sector determine the smooth or disordered academic calendar in Nigeria. The incessant industrial actions by these bodies, mostly been justified on the grounds of government underfunding of the educational sector as well as the very poor remuneration of staff, causes a lot of disruption of academic activities in the school calendar of Nigeria. It is on record that at the national level between March 23rd, 2020 and December 23rd, 2020 ASUU shut down all government owned universities in Nigeria.[15] The same union together with its sister union NASU paralyzed the academic calendar of government owned universities for another eight months when it declared an indefinite strike between February 14th and 14th October 2022.[16] The Polytechnics and other tertiary institutions in Nigeria are not left out of this disruption of academic calendar. Within a period of five years the ASUP went on strike on five occasions.[17]

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[13] E.K. Iwuagwu, *op. cit.,* p. 128.

[14] United Nations, 'Sustainable Development Goals Report 2023, Goal 4: Quality Education'

[15] This day Newspaper, 30th December, 2020. 'Year of ASUU Strike, Schools Closure, New Normal'.

[16] Peoples Gazette Newspaper, 14th October, 2022. 'ASUU Calls of Strike after Eight Months.'

[17] D. Tolu-Kolawole, 'ASUP on Strike for 147 Days Under Buhari', Punch Newspaper, 19thMay, 2022.

At the national level ASUU has embarked on 16 industrial actions in a space of 23 years between 1999 and 2022.[18] Within this 23 years of 16 national strikes by ASUU, Nigerian students at government owned universities lost a cumulative four academic sessions.[19] The above account does not include the numerous internal strikes by these same unions in particular institutions across the country.

These incessant disruptions of academic programs and disengagement of students leaves them prey to all kinds of social ills. Since the idle mind is the devil's workshop, these idle youths become security threats as they seek to explore their energy by engaging themselves. As Tolu-Kolawole lamented 'Nigeria is sitting on a time bomb if ASUU strike is allowed to linger as there are connections between rising criminality and out-of-school students.'[20] The out-of-school students are easily recruited by criminal gangs, terrorist outfits, bandits and promoters of social ills. Iwuagwu affirms this when he said that,

> Massive unemployment, poverty, youth restiveness and all forms of criminalities are catalysts of ethno-religious conflicts and crises. An idle mind, it is said is the devil's workshop. Idle youths are easily recruited by political elites to instigate ethnic and religious violence for their own selfish purpose. The pauperized population is also easy prey to recruitment by religious extremists, ethnic bigots and freedom fighters such as Boko Haram, Maitatsine, Fulani Militia, ISWAP, the Niger Delta Militants and the Indigenous People of Biafra IPOB.[21]

The Influence of Non-State Actors on the Nigerian Economy

The Nigerian economic space is populated by myriads of non-violent non-state actors with overbearing influence on the economy. These influential NSAs include: the Multinational Companies, business magnates, the bankers union, the labour unions such as the Nigerian Labour Congress (NLC), the Trade Union Congress (TUC), the Nigeria Union of Petroleum and Natural Gas Workers (NUPENG), the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN), the Independent Petroleum Marketers Association of Nigeria (IPMAN), the National Union of Road Transport Workers (NURTW), the National Union of Air Transport Employees (NUATE), the Nigerian Aviation Handling

[18] D. Tolu-Kolawole, 'ASUU Embarks on 16 Strikes in 23 Years, FG, Lecturers Disagree Over 13-year MOU', The Punch Newspaper 16th May, 2022

[19] Leadership Newspaper, 'In 23Years: Students Lose Cumulative 4 Years To 16 ASUU Stakes', December, 2022

[20] D. Tolu-Kolawole, *op. cit.*

[21] E.K. Iwuagwu, *op. cit.,* p. 125

Company (NAHCO), the Cement Manufacturers Association of Nigeria (CMAN), the National Association of Nigerian Traders (NANTS), Market Traders Association of Nigeria (MATAN) Market Women Associations, etc.

Among the Multinational Companies are those engaged in the oil upstream and downstream sector such as Shell Petroleum Development Company (SPDC), Chevron Oil and Gas , Mobil Oil and Gas and Total Oil and Gas; those engaged in the telecommunication business such as MTN, Airtel, Glo, 9Mobile and Multichoice Nigeria; those in cement business such as Lafarge Group and Dangote Groups; those in the pharmaceutical business such as GlaxoSmithKline and those engaged in the food and beverages business such as Coca-cola, Unilever, Cadbury, Nestle and PZ Cussons.

That these Multinational Companies dictate the growth and stability of the Nigerian economy is very well known to an average Nigerian. A force majeure declared by any of the Oil and Gas companies sends shivers across the country as that will cause crises in Nigeria's revenue inflow. It is often alleged that some of these companies have become uncontrollable that they explore the country's oil without proper records to the extent that the actual quantity of barrels explored and exported are unknown. Many of them have been accused of collaborating with oil thieves in stealing the country's oil. Recently the Nigerian Navy came out with this damaging allegation of these companies conniving with syndicates in the crude oil theft ring in the Niger Delta region.[22] The Multinational companies in the oil and gas sector in Nigeria are also known for their flagrant violation of the laws of the land with regard to environmental degradation, host community development, tax remittance and other contents of the Petroleum Industry Act (PIA) 2021. They operate with an air of indispensability in their open disregard of the regulations in the industry. These overbearing attitudes in most cases cause disaffection in the host communities who feel shortchanged by the exploitative attitude of these Multinational Companies. The consequences of this are violent agitations from the oil producing regions which in turn affect national security as well as the economic progress of the country.

In the same vein the Multinational Companies in the telecommunication industry appear uncontrollable and have silenced the regulatory agencies in this sector such as the Nigerian Communications Commission (NCC) and the Consumer Protection Council (CPC) to the extent that they not only have poor service delivery but also continuously increase the cost of their products and services without regard to the existing regulations.

[22] Daily Trust Newspaper, 'Navy Fingers IOCs in Multi-Billion Dollars Crude Oil Theft Ring', 11th October 2022.

Other Multinational Companies in other sectors in Nigeria and some business magnates are not exempted from this overbearing attitude in their operations which constitute a threat to national security. The incessant increase of cement prices as well as company induced scarcity of products in this sector and other manufacturing sectors appears to be the norm in Nigeria, leaving the government and the people helpless.

The labor unions appear to be among the most vibrant NSAs that dictate the economic growth rate of any nation. To enhance production, which is indispensable for economic growth, labor is vital. Stressing the importance of labor in productivity Iwuagwu did acknowledge that though Africa is blessed with abundant human and natural resources its productive capacity is below average in world ranking because of inadequate human capital development, poor infrastructure, unmotivated workforce and insufficient capital base.[23] This implies that a vibrant labor force is the engine room of every economic growth while an inefficient labor force is the doom of economic growth.

It will be an understatement to say that, because of the very poor welfare scheme and unconducive enabling environment for the Nigerian workers, the labor unions have become a torn in the flesh of the government economic policies and programs. Just as the government has the authority to shut down all activities in the country through its pronouncements, some of these labor unions have the capacity to shut down economic and social activities in Nigeria through their collaborations. When the NLC and TUC and all their affiliates declare industrial action in Nigeria all government offices and schools are closed down, all financial institution, airports and railway stations are shut down. When the unions in the petroleum industry such as NUPENG, IPMAN and PENGASSAN down tools, the distribution and sales of petroleum products such as PMS or petrol, diesel, liquefied gas, kerosene, etc., are stopped and economic activities, transportation and power generation industries and homes are heavily affected. When the NURTW and the Market Unions such as NANTS, MATAN and Market Women Associations Join industrial actions in Nigeria, motor parks and markets are closed down and the people groan as the government watches helplessly. The capacity of these labor unions to bring the country to a social and economic standstill underscores their overbearing influence and their capacity as NSAs to undermine national peace and security.

Recently in Nigeria nineteen unions joined the NLC and TUC in paralyzing the social and economic space of the country to protest the

[23] E.K. Iwuagwu et al, 'Employing John Stuart Mill's Utilitarian Philosophy of Economics as a Catalyst to Africa's Social and Economic Development', *Cogito – Multidisciplinary Research Journal*. vol. 14, no. 3, p. 20.

government's failure to address issues pertaining the workers minimum wage, insecurity, etc.[24]

The Overbearing Influence of Non-State Actors in the Nigerian Health Sector

The Nigerian health sector is not spared from the overbearing influence of civil and non-violent non-state actors. Owing to the poor remuneration of the Nigerian health workers by the government, the Nigerian health sector is incessantly plagued by industrial action by the various unions in this sector. Prominent among these unions are the Medical and Health Workers Union of Nigeria (MHWUN), Nigeria Medical Association (NMA), the Nigerian Association of Resident Doctors (NARD), the Joint Health Sector Unions (JOHESU) etc. These recurrent strikes cause significant disruption in healthcare delivery which in turn leads to avoidable loss of lives, damage to healthcare system, decline in the quality of services, increased health-related complications and loss of experienced health professionals to other countries where remuneration is better.[25] According to a Dataphyte research, since the year 2000 the Nigerian health workers were on strike for 319 days. This mostly occurred between 2015 and 2023, which witnessed 164 days of strike. Of these strikes NARD protested more, accumulating 232 days of the 319. It is on record that the longest of such strike by JOHESU lasted for 44 days, between April 17 and May 31st 2018.[26] Since this strike was total and comprehensive as well as nationwide involving federal, state and local government owned hospitals and all health workers, it crippled the entire nation's public health services.

The Overbearing Influence of Uncivil and Violent Non-State Actors in Nigeria

When Nigeria is being described as a failed state it is because of the many ungoverned spaces in the country. The ever-growing security challenges beclouding Nigeria is consequent upon the occupation of these multiple ungoverned spaces by various forms of uncivil and violent non-state actors. These uncivil or Violent Non-State Actors (VNSAs) according to Adekoye may be non-sovereign entities that exercise significant political

[24] The Punch Newspaper, 'Full List: 19 Unions Shut Workspaces, Join NLC Nationwide Strike', 14th November, 2023.

[25] Leadership Newspaper, 'Ending Recurring doctor's Strike,' August, 2023, www.leadership.ng

[26] Dataphyte. 'Health Workers' Strike Longest Under Buhari-led Government,' 17th May, 2023.
www.dataphyte.com

power and territorial control or which are outside the control of a sovereign government or groups that often employ violence in pursuit of their objectives.[27] Some of these VNSAs in Nigeria include: the area boys, cultists, unauthorized vigilantes, bandits, Fulani Militia, Boko Haram, Eastern Security Network (ESN), the 'Unknown Gunmen', the Niger Delta Militants, Odua People's Congress (OPC) and all sorts of illegal violent revenue collectors on the Nigerian roads, towns and villages. All these uncivil and violent outfits have the capacity to hurt anyone at any time when one is within their jurisdiction. Some of them have the capacity to challenge and engage the Nigerian security forces. Some have carved out areas of jurisdiction where they give orders to the inhabitants and collect taxes and tolls. In whichever form these VNSAs operate in Nigeria, 'they present a common challenge to national security that may affect not only the immediate society but the world at large.[28]

It is on record that every part of Nigeria has been occupied by violent non-state actors (VNSAs). In the Northeast Boko Haram and ISWAP hold sway for many years where they have sacked villages and towns, killed, maimed, raped and abducted thousands of the population. In these areas under the control of Boko Haram all social and economic activities have been paralyzed and the inhabitants of these areas are settled in camps for Internally Displaced People (IDP camps). In the Northwest and North Central, the Fulani Militia and bandits are terrorizing the citizens burning down villages, killing, maiming, raping, preventing farmers from going to farm, kidnapping for ransom as well disrupting educational activities through mass abduction of school children. In the Southeast the Indigenous People of Biafra (IPOB), the Eastern Security Network (ESN) and the Unknown Gunmen are in charge and dictate social and economic activities. The Sit-At-Home declared by IPOB which direct all the inhabitants of this area to shut down all markets, schools, banks, transport vehicular businesses, and all social and economic activities every Monday and on some special days is religiously adhered to. Those who disobey this order may not be alive to tell their story. The previously peaceful Southeast now bleeds as a result of violence perpetuated by these VNSAs. In the first five months of 2021 about 254 people were killed in 63 violent incidents and more than four trillion Nigerian Naira were lost between 2021 and 2022 as a result of insecurity and sit-at-home protests in this zone.[29] In the

[27] A. Adekoye, 'Are Armed Non-State Actors Taking Control,' *Vanguard News*, July 29, 2022.

[28] D.C. Ndidigwe et al, 'The State and the Emergence of Non-State Actors in Nigeria'. *International Journal of Management, Social Sciences, Peace and Conflict Studies*, vol.4, no.4, 2021, p. 55.

[29] Businessday Newspaper, 'South-East Bleeds N4trn in 2 years over insecurity, Sit-at-home protests', 13th December, 2022.

Southwest and South-south Nigeria many forests have been occupied by armed bandits who kidnap for ransom, these zones have also been plagued by cultists, ritualists, illegal oil bunkerers, illegal vigilantes, area boys and unauthorized toll collectors who at will obstruct vehicular movement extorting money from road users.

In November 2022 alone at least 275 people were killed and 285 others abducted by non-state actors across Nigeria according to a survey released by the Nigeria Security Tracker (NST)[30]. Reliable information from the Council on Foreign Relations (CFR) and National Security Tracker (NST) analyzed by TheCable Index, holds that 4,545 people were killed by VNSAs while 4,611 others were kidnapped in 2022. Further analysis by TheCable Index revealed that an average of 12 people were killed, 13 people kidnapped daily in violent attacks reported in the media from January to December 2022.[31]

The greatest threat to national security in Nigeria comes from the VNSAs who have carved out a niche for themselves as running a parallel administration with the Nigerian government. The overbearing influence of VNSAs in Nigeria has caused irreparable loss of lives and property, disruption of social and economic life as well as untold discomfort to innocent citizens.

Many factors contribute to emergence of these Violent Non-State Actors (VNSAs) in Nigeria. These include: injustice, marginalization, exploitation, poor governance, unemployment, religious extremism, land-grabbing and ethnic expansionist agenda. With regard to marginalization and injustice, the emergence of many ethnic militia, separatist groups and freedom fighters such IPOB, Niger Delta Militants and ESN can be traced to this. As Iwuagwu observed many Nigerian citizens are treated as aliens and second-class citizens in their own country.[32] Also to be blamed is the failure of the government to recognize and employ 'the freedom, creativity and industry of individuals and lesser social entities for the accomplishment of the common good' in the spirit of subsidiarity in the oil producing Niger Delta especially in the areas of exploration and refining of crude oil.[33] Also fueling the increasing militancy and agitation for

[30] Premium Times Nigeria, 'Northern Nigeria leads as 275 Killed by Non-state Actors,' 12th December,2022 premiumtimesng.com

[31] TheCable, Non-state Actors Killed 4,545 people, kidnapped 4,611 in 2022, January 18, 2023, 9:10 am, www.thecable.ng

[32] E.K. Iwuagwu, 'The Concept of Citizenship: Its Application and Denial in the Contemporary Nigerian Society', *International Journal of Research in Arts and Social Sciences*. vol.8, no.1, 2015, pp.171-174.

[33] E.K. Iwuagwu, 'The Socio-Ethical Principle of Subsidiarity: A philosophical Appraisal of Its Relevance in the Contemporary World', *Research in Humanities and Social Sciences*. vol.6, No.12, 2016, p.182.

secession in the Southern part of Nigeria is the constitutional unjust inclusion of many catalysts of socio-economic development in the exclusive list where only the federal government have right to perform. Such items in the exclusive list include electricity, railway construction, federal road construction, oil exploration, mining, army, police, immigration, import and export, etc. This presumed injustice is seen by many agitators as a move to retard the development of a section of the country while giving undue advantage to the North thereby frustrating the principle of subsidiarity which is a 'potent drive of economic development.'[34] The resurgence and radicalization of some liberation and separatist movements such as IPOB, OPC and Niger Delta Militants can also be traced to the progressive deployment of brute force against their activities.[35] The above factors and many others promote the emergence of violent non-state actors in various parts of the country.

The Overbearing Influence of Nigerian Non-State Actors and Its Effects on National Security

The primary purpose of government is the protection of life and property. A situation where the multiple non-state actors appear to have wrestled power out of the government's hands in many areas of a country's social, political and economic life is a harbinger to a state of anarchy which is totally detrimental to national security. The sad thing about the Nigerian situation is that numerous non-state actors have constituted themselves governments in government and are causing serious security breaches resulting to untold humanitarian crises. The tenacity with which the VNSAs operate unchallenged and the sophistication of the weapons some of them operate with puts to question governmental control of its territories and the regulation of the use of Small Arms and Light Weapons (SALWs) in the country. The overbearing influence of VNSAs has had adverse effects on food security in Nigeria because farmers could no longer go to farm in many areas as many farmers are killed, raped, abducted from their farms or meant to forfeit or part with a substantial part of their harvests. As a result of this, Nigeria is currently facing food crisis. The activities of VNSAs have also scared away investors in the various sectors of the economy.

[34] E.K. Iwuagwu, 'Employing the Principles of Subsidiarity and Participation as Veritable Catalysts for Africa's Socio-Political and Economic Development', *International Journal of Research in Arts and Social Sciences*. vol.9, no.1, 2016, pp.144-148.

[35] C. Nwangwu, 'Neo-Biafra Separatist Agitation, State Repression and Insecurity in South-East, Nigeria', *Society*, vol. 60, 2023, p.43

The VNSAs are truly making life unbearable for Nigerian citizens who no longer feel safe in their homes, in the farms and business premises, on the roads, on the railways and on the seas because of the activities of bandits, kidnappers, pirates, terrorists, unknown gunmen, area boys, cultists, illegal toll collectors, etc. The Catholic Bishops Conference of Nigeria (CBCN) in a recent communique captures this mood of the country occasioned by the unprecedented activities of VNSAs. It said,

> Insecurity has attained yet a higher scale than we had ever seen before in the land. Insurgents, armed herdsmen, bandits and the so-called unknown gunmen have continued to unleash terror in different parts of the country. Kidnapping for ransom has reached homes and areas where in the past it was thought impossible. The result is that many have fled their homes, abandoned their farms, shops, businesses and other sources of livelihood. The number of internally displaced persons in our country is ever growing.[36]

The incessant strikes by the various civil NSAs in the various areas of the country's socio-political and economic life has disrupted the social life in these areas and has fermented security challenges. The strikes by the university based unions such ASUU, NASU, etc., by throwing the youths on the streets makes them prey for recruitment by VNSAs who threaten national security. The disruptive activities of the non-state actors (NSAs) in the health sector also pose adverse effect on the country health security. Sometimes the avoidable loss of lives during the NMA, NARD and JOHESU strikes, outnumbers the lives claimed by kidnappers, bandits and other VNSAs for the same period.

The overbearing influence of the socio-cultural and political groups as well as that of the religious bodies is also a threat to national security. The constant inciting pronouncements and threats by these bodies, which in most cases are divisive, constitute a serious threat to national security. Also posing a threat to national security is the economic sabotage promoted by the multinational companies, the business magnates, oil and gas workers and marketers, the telecommunication industries, the cement manufacturers, the transportation workers, etc. These NSAs by their unwholesome activities cause hardships thereby threatening national security and peace.

Finally, the overbearing activities of the labour unions, the NGOs and civil liberty organizations CSO pose a serious threat to national security. Though these unions and organizations undeniably play vital roles to the socio-political and economic development of the country, they also

[36] CBCN, Communique after First Plenary Meeting 2024, no.4

sometimes constitute a cog in the wheel of progress. The constantly reoccurring industrial actions and protests by these labour unions and organizations which in recent times are being infiltrated and hijacked by thugs, area boys and cultists poses threat to national security. One can therefore assert that the uncontrollable influence of both civil and violent non-state actors in Nigeria constitutes a serious threat to national security in various ways and spheres.

Conclusion

The primary purpose of every legitimate government is to secure lives and property. When a government fails in this regard its legitimacy becomes questionable. Thomas Hobbes who foresaw the imminent overbearing influence of non-state actors (NSAs) proposed absolute power for the sovereign (government) and the subjugation and destruction of all other contending powers to achieve peace and security in the state.[37] According to Hobbes the power of the sovereign must be absolute for him to be able to suppress all contending forces and be able the secure the conditions of order, peace and law. Hobbes did say, 'Covenants without the Sword, are but Words, and of no strength to secure a man at all.'[38] This work, though not subscribing to Hobbes absolutism, seem to agree with Hobbes that when non-state actors are left unchecked or are allowed to possess undue powers, they can pose a serious threat to national security. Legitimate NSAs can be very vital collaborative agents of the government when they operate within their legitimate boundaries, but when they try to constitute an uncontrollable government within a government, when they run a parallel administration inimical to the advancement of the government policies and programs, when they consistently challenge the authority of the government, they threaten the sovereignty of the country and become threats to national security. Illegitimate and violent non-state actors (VNSAs) that take up arms against the government and its citizens have no place in a civil society irrespective of how noble their cause may be. There are many legitimate and conventional ways of fighting for one's rights which must be exhaustively explored.

This work, though condemns the overbearing influence of all NSAs which ferments insecurity in Nigeria, also identified what causes the emboldening of these NSAs to challenge the legitimate government authority. These include: the failure of government in providing the common good, corruption, injustice, marginalization, denial of rights, unemployment, ideological radicalization, highhanded suppression of legitimate agitations, proliferation of small arms and light weapons

[37] T. Hobbes, *op. cit.,* p. 377.
[38] T. Hobbes, *op. cit.,* p. 223.

(SALWs), weakness of government and government insincerity. The work concludes that for government to check the excesses of non-state actors, it must be efficient in discharging its responsibilities to its citizens, be accountable to the citizens on how their resources are managed and effectively protect their lives and property. The government should also lead by example in all spheres of public life so as not to bring to question its legitimacy which is often challenged by the NSAs. A government that has legitimacy and integrity will always have the political will and audacity to curtail the excesses of non-state actors with the support of the citizens. The works submits therefore that the overbearing influence of both violent and civil NSAs constitutes a serious threat to national security and must be curtailed by the government.

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TORTURE IN SCHOOLS: FROM THE PERSPECTIVE OF THE CRIMINAL CODE OF THE REPUBLIC OF MOLDOVA

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***Abstract**: According to the Criminal Code of the Republic of Moldova, the following persons may commit the crime of torture, inhuman or degrading treatment: (i) public person; (ii) the person who, de facto, exercises the powers of a public authority; (iii) any other person acting in an official capacity; (iv) any other person acting with the express or tacit consent of a person acting in an official capacity. These special qualities are alternative. Under this aspect, in judicial practice, the question arose as to whether teachers can be included in any category as subjects of the crime in question. Judicial practice does not provide a clear answer. Ill-treatments in schools/educational institutions are a pressing problem (and not only in the Republic of Moldova) and which calls for prompt and fair intervention by the state. In this sense, we have proposed solutions suitable for consideration by the courts and by the Parliament taking into consideration the practice of other states and international standards.*

***Keywords**: teachers, torture, inhuman or degrading treatment, jurisprudence, Criminal Code of the Republic of Moldova.*

1. Introduction

In line with the international treaties to which it is a party of, the Republic of Moldova is obliged to create effective mechanisms to prevent and eradicate torture, inhuman and/or degrading treatments. The application of any form of torture or ill-treatment is absolutely[1] prohibited

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[1] For example, see in this regard: Steven Greer, *Should Police Threats to Torture Suspects Always be Severely Punished? Reflections on the Gäfgen Case*, in: Human Rights Law Review, 2011, Volume. 11, Issue 1, pp. 67-89,

in all circumstances,[2] including in the context of the fight against terrorism and other serious crimes. This principle has always been supported by the European Court of Human Rights (ECtHR).[3]

Thus, article 166[1] of the Criminal Code of the Republic of Moldova (hereinafter – CC RM) establishes liability for torture, inhuman or degrading treatment. This article provides the following:

"(1) The intentional infliction of physical or mental pain or suffering, which represents inhuman or degrading treatment, by a public figure or by a person who, de facto, exercises the powers of a public authority, or by any other person acting in the capacity officially or with the express or tacit consent of such a person, shall be punished with imprisonment from 2 to 6 years with the deprivation of the right to hold certain positions or to exercise a certain activity for a period of 3 to 5 years.

(2) The actions provided for in para. (1):

a) knowingly committed against a minor or a pregnant woman or taking advantage of the known or obvious state of helplessness of the victim, which is due to advanced age, illness, disability or another factor;

b) committed against 2 or more people;

c) committed by 2 or more people;

d) committed by using a weapon, special tools or other objects adapted for this purpose;

e) committed by a person in a position of responsibility or by a person in a position of public dignity;

f) who recklessly caused a serious or moderate injury to bodily integrity or health;

g) who due to imprudence caused the person's death or suicide;

h) committed on bias motivation,

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https://doi.org/10.1093/hrlr/ngr001; Stijn Smet, *The 'absolute' prohibition of torture and inhuman or degrading treatment in Article 3 ECHR. Truly a question of scope only?* In: Eva Brems and Janneke Gerards (eds), *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining the Scope of Human Rights*. Cambridge: Cambridge University Press, 2013, pp. 273-293; Natasa Mavronicola and Francesco Messineo, *Relatively Absolute? The Undermining of Article 3 in Ahmad v UK*, in The Modern Law Review, 2013, Volume 76, Issue 3, pp. 589-603; Natasa Mavronicola, *Torture, Inhumanity and Degradation under Article 3 of the ECHR. Absolute Rights and Absolute Wrongs*, Oxford: Hart, 2021, pp. 27-56 etc.

[2] Michelle Farrell, *The Prohibition of Torture in Exceptional Circumstances,* Cambridge: Cambridge University Press 2013, pp. 175-202; Corina Heri, *Responsive Human Rights. Vulnerability, Ill-treatment and the ECtHR*, Oxford: Hart, 2021, pp. 5-16.

[3] Daniel Goinic, *Trial and punishment of torture and ill-treatment – case law analysis*. Chisinau, 2022. Available at: https://crjm.org/wp-content/uploads/2022/12/Judecarea-si-sanctionarea-torturii-ENG_final.pdf [accessed: 01.11.2024].

shall be punished with imprisonment from 3 to 8 years with the deprivation of the right to hold certain positions or to exercise a certain activity for a period of 5 to 10 years.

(3) Torture, i.e. any intentional act by which a person is inflicted with severe physical or mental pain or suffering with the aim of obtaining information or confessions from this person or a third person, to punish him or her for an act that he or she third person has committed it or is suspected of having committed it, to intimidate her or to exert pressure on her or on a third person, or for any other reason, based on a form of discrimination, whatever it may be, when such pain or suffering is caused by a public person or by a person who, *de facto*, exercises the powers of a public authority, or by any other person acting in an official capacity or with the express or tacit consent of such a person,

shall be punished with imprisonment from 6 to 10 years with the deprivation of the right to hold certain positions or to exercise a certain activity for a period of 8 to 12 years.

(4) The actions provided for in para. (3):

a) knowingly committed against a minor or a pregnant woman or taking advantage of the known or obvious state of helplessness of the victim, which is due to advanced age, illness, disability or another factor;

b) committed against 2 or more people;

c) committed by 2 or more people;

d) committed by using a weapon, special tools or other objects adapted for this purpose;

e) committed by a person in a position of responsibility or by a person in a position of public dignity;

f) who recklessly caused a serious or moderate injury to bodily integrity or health;

g) who due to imprudence caused the person's death or suicide,

shall be punished with imprisonment from 8 to 15 years with the deprivation of the right to hold certain positions or to exercise a certain activity for a period of 10 to 15 years."

In this context, the following question arises: can teachers be held liable based on the said article? We wonder, because the statistical data show that in the period 2013-2022, 8% of the crimes aimed at ill-treatment of students were committed by teachers and, respectively, directors of educational institutions.[4]

2. The position of the General Prosecutor

In 2021, the Prosecutor General of the Republic of Moldova submitted an appeal to the Supreme Court of Justice in the interest of the law. The

[4] *Ibidem*.

General Prosecutor requested the Supreme Court of Justice to answer the question formulated above, specifying that, in the practice of courts of all levels, including the jurisprudence of the Supreme Court of Justice of the Republic of Moldova, when applying article 166[1] CC RM, there is no unified point of view regarding the possibility of the development of teaching staff, who are employed in public educational institutions, as subjects of the crimes of torture, inhuman or degrading torture.

Thus, there are two divergent jurisprudential orientations. The first jurisprudential orientation presupposes the impossibility of the development of teaching staff, who are employed in public educational institutions, as subjects of the crimes provided for in article 166[1] CC RM.[5] The second jurisprudential orientation assumes that, on the contrary, such teaching staff can appear as subjects of the crimes provided for in article 166[1] CC RM.[6]

The General Prosecutor opted for the second jurisprudential orientation. He supported the idea, according to which the teacher, who is employed in a public educational institution, refers to the notion of "any other person acting in an official capacity", used in article 166[1] CC RM.

3. *Amicus Curiae* Opinion

We submitted an *amicus curiae* Opinion to the Supreme Court of Justice. In what follows, we will present the main points of reference

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[5] See, e.g.: Decision of the Supreme Court of Justice of the Republic of Moldova of 21.03.2017. File no. 1ra-333/2017. Available at: http://jurisprudenta.csj.md/search_col_penal.php?id=8404 [accessed: 01.01.2024]; Decision of the Supreme Court of Justice of the Republic of Moldova of 04.07.2017. File no. 1ra-938/2017. Available at: http://jurisprudenta.csj.md/search_col_penal.php?id=9088 [accessed: 01.01.2024]; Decision of the Supreme Court of Justice of the Republic of Moldova of 12.12.2017. File no. 1ra-1398/2017. Available at: http://jurisprudenta.csj.md/search_col_penal.php?id=10039 [accessed: 01.01.2024]; Decision of the Supreme Court of Justice of the Republic of Moldova of 18.11.2020. File no. 1ra-1378/2020. Available at: http://jurisprudenta.csj.md/search_col_penal.php?id=17477 [accessed: 01.01.2024].

[6] See, e.g.: Decision of the Supreme Court of Justice of the Republic of Moldova of 03.05.2017. File no. 1ra-849/2017. Available at: http://jurisprudenta.csj.md/search_col_penal.php?id=8747 [accessed: 01.01.2024]; Decision of the Supreme Court of Justice of the Republic of Moldova of 24.05.2017. File no. 1ra-333/2017. Available at: http://jurisprudenta.csj.md/search_col_penal.php?id=8994 [accessed: 01.01.2024]; Decision of the Supreme Court of Justice of the Republic of Moldova of 31.07.2018. File no. 1ra-1266/2018. Available at: http://jurisprudenta.csj.md/search_col_penal.php?id=11726 [accessed: 01.01.2024].

(which we will highlight in italics) of the reasoning stated by the General Prosecutor. At the same time, we will present our observations and/or reflections:

1) by "any other person acting in an official capacity", must be understood the person who cannot be considered a public person, but who does not exercise, de facto, the powers of a public authority, but who, due to the way of establishing the activity exercised and of the nature of the activity exercised, acquires an official character.

We cannot disagree with the statement that the notion of "public person"[7] does not intersect with the notion of "any other person acting in an official capacity". Such a statement results even from the provision of article 166[1] CC RM, in which the subject is described as follows: "public person or [...] person who, de facto, exercises the powers of a public authority, or [...] any other person who acts in an official capacity or with the express or tacit consent of such a person". From this wording it follows that the subject of the crimes, provided in article 166[1] CC RM, is characterized by four alternative special qualities: i) public person; ii) the person who, de facto, exercises the powers of a public authority; iii) any other person acting in an official capacity; iv) any other person acting with the express or tacit consent of a person acting in an official capacity.

It is not possible for a person to possess both the special quality of a public person and the special quality of any other person acting in an official capacity. This is due to the alternative character of the special qualities stated above, but especially the use in article 166[1] CC RM of the phrase "any other". This phrase excludes the possibility of the same person cumulating the special qualities specified in points i) and iii) presented above.

However, as will be seen below, the General Prosecutor did not take this aspect into account. More specifically, in the appeal filed by the Prosecutor General, any other person, who acts in an official capacity, is assigned the status of a person exercising the functions of the public authority. Through this assimilation of the public person with any other person acting in an official capacity, the will of the legislator is neglected, who resorts to the phrase "any other" in article 166[1] CC RM;

2) the use in article 166[1] CC RM of the word "official" means that the reference situation involves the exercise of state authority.

[7] This notion is defined in para. (2) article 123 CC RM: "[a] public person means: a public servant, including a public servant with a special status (collaborator of the diplomatic service, customs service, defence, national security and public order bodies, other person holding special or military ranks); the employee of autonomous or regulatory public authorities, of state or municipal enterprises, of other legal entities under public law; the employee from the cabinet of persons with positions of public dignity; the person authorized or vested by the state to provide public services on its behalf or to perform activities of public interest."

The notion of "exercise of state authority" is contained, for example, in the Criminal Code of Romania. Specifically, in para. (1) article 282 "Torture" in this code refers to "the act of a public official who performs a function involving the exercise of state authority or of another person who acts at the instigation or with his express or tacit consent [...]".[8] As can be seen, in the opinion of the Romanian legislator, the function, which involves the exercise of state authority, is performed by a civil servant. A person who does not have the status of a civil servant cannot perform a function involving the exercise of state authority.

It is mentioned in the Romanian literature that, "by public official, who performs a function that involves the exercise of state authority, [...] is meant only that official who is part of the bodies through which state power is achieved or who according to the law or other normative acts assimilated to the law, is empowered to take mandatory measures and impose their compliance or ensure compliance with such provisions or measures taken by the competent bodies. They belong to the category of such officials: senators, deputies, members of the Constitutional Court, members of the Government, advisers of the Court of Accounts, prosecutors, judges, policemen or gendarmes".[9] As is natural, teaching staff, who are employed in public educational institutions, are not mentioned in this list.

The exercise of state authority, evoked by the Prosecutor General, represents, in fact, the exercise of public authority functions within the meaning of para. (1) article 123 CC RM. According to this rule, "a person with a position of responsibility means the person who, in an enterprise, institution, organization of the state or of the local public administration or in a subdivision thereof, is granted, permanently or temporarily, by the stipulation of the law, by appointment, election or by virtue of an assignment, certain rights and obligations in order to exercise the functions of the public authority (our emphasis) or of the administrative disposition or organizational-economic actions".

From the Judgement of the Constitutional Court of the Republic of Moldova no. 1 of January 11, 2001 regarding the control of the constitutionality of the provisions of article 183 of the Criminal Code[10] we

[8] The Criminal Code of Romania. Available at: https://codexpenal.just.ro/laws/Cod-Penal-Romania-RO.html [accessed: 01.01.2024].

[9] Versavia Brutaru et al. *Explanations of the new Criminal Code,* Vol. 4. Bucureşti: Universul Juridic, 2016, p. 23.

[10] Article 183 of the Criminal Code of the Republic of Moldova from 1961 is considered. According to para. (1) of this article, "a responsible person, according to this code, is considered the person who, in the public authorities, in an enterprise, institution, organization, regardless of the type of ownership and the legal form of organization, is granted permanently or provisionally – by virtue of the law, by appointment, election or by entrusting a task - certain rights and obligations in order to exercise the functions of

find that the person, who exercises the functions of the public authority, is the person vested, on behalf of the state, with legal powers to carry out actions that carry legal consequences for all or for the majority of citizens, and his actions in the line of duty are not limited by the framework of a certain department, system etc.[11] From this interpretation it emerges that "to exercise the functions of public authority" means to exercise attributions and responsibilities, established under the law, in order to realize the prerogatives of the legislative, executive or judicial power. Thus, the person who exercises the functions of the public authority is the person who: holds a legislative, executive, or judicial mandate; exercise state power on behalf of the Republic of Moldova; has attributions and responsibilities that are opposable in relation to persons who are not subordinate to him.

By assigning the quality of a person, who exercises the functions of public authority, to a teaching staff, who is an employee of a public educational institution, the General Prosecutor reports such a teaching staff to the category of public persons. In R. Popov's opinion, to which we mostly agree, "the notion of 'person with responsibility', defined in para. (1) article 123 CC RM, and the notion of 'public person', defined in para. (2) article 123 CC RM, is in a 'part-whole' relationship."[12] On this occasion, we specify that only the following persons with a position of responsibility are not public persons: councillors from the village (communal), city (municipal), district councils; deputies of the People's Assembly of the Gagauzia autonomous territorial unit.[13]

Developing the idea regarding the relationship between the notions of "person with responsibility" and "public person", Ruslan Popov claims: "[T]hose from the staff of medical-sanitary institutions and from the staff of educational institutions – who exercise administrative dispositional or organizational-economic actions or *functions of the public authority* (our emphasis) – fall under the scope of either the notion of 'person with a position of responsibility' (and, implicitly, of the broader notion of 'public person'), or of the notion of 'person who manages a commercial, public or

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the public authority or the enterprise of dispositional or organizational-economic administrative actions."

[11] Judgment of the Constitutional Court no. 1 of 11.01.2001 regarding the control of the constitutionality of the provisions of article 183 of the Criminal Code. In: *Official Gazette of the Republic of Moldova*, 2001, no. 8-10.

[12] Ruslan Popov, *The subject of the crimes provided for in Chapters XV and XVI of the special part of the Criminal Cod,* Chisinau: CEP USM, 2012, p. 176.

[13] For more details, see: Stati Vitalie. *Does any person with a position of responsibility have the status of a public person?* In: Integration through Research and Innovation. National Scientific Conference with International Participation: Legal and Economic Sciences: Abstracts of Communications. Chisinau: CEP USM, 2019, pp. 135-139.

other non-state organization' (but not of the notion of 'person who works for a commercial, public organization or another non-state organization')".[14]

Continuing the idea, it is necessary to reproduce the following explanation from point 6.1 of the Decision of the Plenum of the Supreme Court of Justice of the Republic of Moldova no. 11 of 22.12.2014 regarding the application of the legislation on criminal liability for corruption offenses:

"[P]ersons who perform purely professional duties (for example, doctors, teachers, cashiers, etc.) are not public persons, since the fulfilment of these duties do not produce legal effects (that is, it cannot give rise to modify or extinguish legal relationships). Carrying out the obligations of a professional nature, such persons have no way to appear in the position of a public figure. Only if, in the presence of certain circumstances, these persons end up exercising functions producing legal effects (for example, granting rights or releasing from obligations), the 'sub-administrative' activity of doctors, teachers, cashiers, etc. it can turn into an administrative activity. For example, in the case of issuing the medical leave certificate by the doctor or in the case of the evaluation by the teaching staff of students, master's students, they exercise functions producing legal effects [...]".[15]

Respecting the logical line, Vitalie Stati and Ruslan Popov state:

"[T]he competence of a public person, in the sense of para. (2) article 123 CC RM includes, among other things, its prerogative to carry out relevant legal actions. Such actions produce legal effects. It is considered that the public person has the right or the obligation to create, modify or extinguish legal relations through his actions. In other words, the public person has the prerogative to grant rights and obligations to other persons, to modify the volume of these rights and obligations or to terminate them. This is precisely the criterion that allows the delimitation of the notion of 'public person' (in the sense of para. (2) article 123 CC RM) from the notions of 'administrative-technical staff' and 'person exercising purely professional functions'."[16]

Therefore, the teaching staff, who is employed in a public educational institution, is a public person not when they exercise their professional

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[14] Ruslan Popov, *The application of articles 256 and 324 of the Criminal Code for crimes committed by the staff of medical and sanitary institutions or the staff of educational institutions*, in: National Law Review, 2015, no. 4, pp. 12-22.

[15] Decision of the Plenum of the Supreme Court of Justice of the Republic of Moldova no. 11 of 22.12.2014 regarding the application of the legislation on criminal liability for corruption offences. Available at:

http://jurisprudenta.csj.md/search_hot_expl.php?id=248 [accessed: 01.01.2024].

[16] Vitalie Stati and Ruslan Popov, *Some clarifications regarding the meaning of the notion "public person" (para. (2) article 123 of the CC RM)*, in: National Law Review, 2015, no. 10, pp. 19-28.

obligations, but only when they carry out administrative activity. In his appeal, the General Prosecutor did not make any differentiation between these two qualitatively different positions that the teaching staff employed in a public educational institution can have;

3) between the notions of "public educational institution" and "private educational institution", on the one hand, and the notion of "exercise of state authority", on the other hand, there is a "part-whole" relationship.

Unlike the public authority, neither the public institution nor the private institution exercises the authority of the state. No law and no statute provide such a prerogative for the public institution and the private institution. As we stated above, the exercise of state authority, evoked by the Prosecutor General, represents the exercise of public authority functions within the meaning of para. (1) article 123 CC RM.

Popov rightly states: "[p]ublic institution and public authority are different public entities, which cannot be confused. The public authority is the one that constitutes the public institution on the basis of an act it issues, and which fully or partially finances the public institution from its budget".[17] A public institution cannot have the prerogatives of its founder, i.e., the public authority. Thus, for example, according to para. (1) article 32 of Law no. 98 of 04.05.2012 regarding the specialized central public administration, "for the performance of administrative, social, cultural, *educational functions* (our emphasis) and other functions of public interest, for which the ministry or other central administrative authority is responsible, *with the exception of those of normative-legal regulation, state supervision and control, as well as other functions that involve the exercise of the prerogatives of public power* (our emphasis), public institutions may be established within their sphere of competence."[18]

Therefore, a public institution cannot exercise prerogatives of public power or, in other words, cannot exercise state authority.

Moreover, a private institution cannot exercise state authority. From para. (3) article 1 of Law no. 86 of 11.06.2020 regarding non-commercial organizations[19] (Law no. 86/2020), we learn that the private institution is a non-commercial organization. In accordance with para. (3) article 11 of the same law, "public [...] authorities [...] cannot constitute non-commercial organizations". Likewise, from article 6 "The activity of the non-commercial organization" and article 7 "The rights and obligations of

[17] Ruslan Popov, *The subject of the crimes provided for in Chapters XV and XVI of the special part of the Criminal Code*. Chisinau: CEP USM, 2012, p. 116.

[18] Law no. 98 of 04.05.2012 regarding the specialized central public administration. In: *Official Gazette of the Republic of Moldova*, 2012, no. 160-164.

[19] Law no. 86 of 11.06.2020 regarding non-commercial organizations. In: *Official Gazette of the Republic of Moldova*, 2020, no. 193.

the non-commercial organization" do not in any way imply that a private institution can exercise state authority;

4) the teaching staff acquires official duties and acts in an official capacity in order to fulfill the state policy in the field of education.

We believe that this point of reference must be corroborated with point of reference 1) from the reasoning stated in the appeal of the Prosecutor General, according to the fact that by "any other person acting in an official capacity", he must understand the person who cannot be considered a public person, but no person. does not, de facto, exercise the powers of a public authority, but which, due to the way of establishing the activity exercised and the nature of the activity exercised, acquires an official character.

In our opinion, teaching staff, who are employed in a public educational institution, cannot acquire official duties, and cannot act in an official capacity. The manner of establishing the activity exercised by this staff, as well as the nature of the activity exercised by the teaching staff, who are employed in a public educational institution, do not allow us to support the opposite.

First of all, no one denies that public educational institutions are established by public authorities or with the approval of public authorities. Of course, state policies in the field of education are carried out within educational institutions. However, it cannot be argued that teaching staff, who are employed in a public educational institution, exercise state authority.

Educational activity is regulated by the state. But, at the present time, there are no activities (except those against the law and those related to private life) that are not, in one way or another, subject to state regulation. Accreditation of institutions, issuance of entrepreneurial patents or permissive documents (license, authorization, or certificate), registration of political parties, public associations, religious cults, or their component parts, etc. - all these are examples of state regulation of activities that do not involve the exercise of state authority. The fact that the state regulates such activities does not mean that the state delegates the prerogatives of exercising state authority to those whose activity is subject to state regulation.

Secondly, teaching staff, who are employed in a public educational institution, do not have official duties, as they are not official persons.

We believe that only official persons can have official duties. The notion of official person has the meaning resulting from the systemic interpretation of the following provisions of the Administrative Code[20]:

– "By petition, in the sense of this code, is meant any request, notification or proposal *addressed to a public authority* (our emphasis) by a natural or legal person" (para. (1) article 9);

[20] Administrative Code. In: *Official Gazette of the Republic of Moldova*, 2018, no. 309-320.

– "The public authority or the official person (our emphasis) has the right not to examine in substance the petitions that contain uncensored or offensive language, threats to national security, public order, the life and health of the official person, as well as his family members" (para. (3) article 76).

So, the petition is addressed to a public authority. At the same time, the public authority or official has the right to examine the petitions. In conclusion, in the sense of the Administrative Code, official person is the person who represents a public authority. Only one person, representing a public authority, can have official duties;

5) the notion of "compulsory schooling" is close to the notion of "public custody", as formulated in the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment[21] *(hereinafter – Optional Protocol): „any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority".*

First, the Optional Protocol does not contain the notion of "public custody" or its definition. According to para. 2 article 4 of this Protocol, "[f]or the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority".[22] From this perspective, it is not clear how the notion of "compulsory schooling" could be close to the notion of "deprivation of liberty". The situation was different, for example, in the case of *D.L. v. Bulgaria*. In this case, the ECtHR decided that the detention of a minor in a closed educational institution because of her antisocial behaviour and the danger that she would become a prostitute constituted a deprivation of liberty, considering especially the regime of permanent supervision and authorization of exits, as well as the duration of the placement (i.e., the duration of the measure had not been specified, but it could extend, according to the law, up to three years).[23]

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[21] This protocol was signed in New York on 18.12.2002, being ratified by the Republic of Moldova through Law no. 66 of 30.03.2006. In: *Official Gazette of the Republic of Moldova*, 2006, no. 66-69.

[22] Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Available at:

https://www.ohchr.org/en/professionalinterest/pages/opcat.aspx [accessed: 01.01.2024].

[23] Case of *D.L. v. Bulgaria*, Application no. 7472/14, Judgment of 19 May 2016. Available at: https://hudoc.echr.coe.int/?i=001-163222 [accessed: 01.01.2024].

Secondly, the following provisions from the Education Code of the Republic of Moldova are relevant[24]:

– "Compulsory education begins with the preparatory group of preschool education and ends with secondary education" (para. (1) article 13);

– "The obligation to attend compulsory education ends at the age of 16" (para. (2) article 13);

– "Schooling becomes compulsory after the age of 7" (para. (4) article 27).

The obligations, provided by para. (1) and (2) article 13 and para. (4) article 27 of the Education Code, does not demonstrate in any way that the teaching staff, who are employed in a public or private educational institution, are represented by persons acting in an official capacity.

These obligations are imposed by the state, not by educational institutions, not by teachers who are employed in public or private educational institutions. From lit. a) para. (1) article 141 and letter a) article 142 of the Education Code, we find that the authorities of the local public administration of the first and second level, as well as of the UTA Gagauzia, within the limits of the competences established by the legislation, have powers to ensure compliance with the legislation in the field of education in the administered territory. Teaching staff, who are employed in public or private educational institutions, do not and cannot have such an attribution;

6) must be considered subjects of the crimes, provided for in article 166[1] CC RM, only the persons who are part of the management staff of the educational institution, the teaching staff, the scientific staff, and the scientific-didactic staff within the meaning of article 131, in conjunction with articles 53, 70 and 117 of the Education Code.

We agree that the persons, who are part of the management staff of the educational institution (for example, director, deputy director, head of department, rector, vice-rector, dean, head of department, head of department, etc.), being public persons, may be subjects of the offenses provided for in article 166[1] CC RM. As for the teaching staff, as we mentioned above, those who represent them can be considered public persons only when they carry out administrative activities (for example, in the case of the evaluation by the teaching staff of students, students, master's students, doctoral students, audience etc.), not when exercising their professional obligations (for example, during a lesson that does not involve an assessment of learning outcomes). Such a finding is valid in the case of scientific and scientific-didactic personnel.

The management staff of the educational institution, the teaching staff, the scientific staff and the scientific-teaching staff do not fall under

[24] The Education Code. In: *Official Gazette of the Republic of Moldova*, 2014, no. 319-324.

the scope of the notion of "any other person acting in an official capacity", which is used in article 166[1] CC RM. Such a conclusion will emerge from the analysis of the notion of "any other person acting in an official capacity", which we will carry out below;

7) the quality of subjects of crimes, provided for in article 166[1] CC RM, possess those from the management staff, teaching staff, scientific staff and scientific-didactic staff from all types of educational institutions, provided by article 15 of the Education Code.

According to para. (3) article 15 of the Education Code, "depending on the type of ownership, educational institutions are classified as follows: a) public educational institution; b) private educational institution".

The management staff of the private educational institution, the teaching staff, the scientific staff, and the scientific-didactic staff within such an institution do not possess the quality of subjects of the offenses provided for in article 166[1] CC RM. From the analysis I carried out above, it can be deduced without any doubt that the persons employed in a private educational institution cannot have the status of public persons. Also, this conclusion results from comparing articles 123 and 124 CC RM, as well as from the comparison between the provisions of Chapters XV and XVI of the special part of the Criminal Code.

The management staff of the private educational institution, the teaching staff, the scientific staff, and the scientific-teaching staff within such an institution do not fall under the notion of "any other person acting in an official capacity", which is used in article 166[1] CC RM. Such a conclusion will emerge from the analysis of the notion of "any other person acting in an official capacity", which we will carry out below.

3.1. "Any other person acting in an official capacity"

In what follows, we propose to establish the meaning of the notion "any other person acting in an official capacity", which is referred to in article 166[1] CC RM.

To this end, we note that an almost identical notion – "person acting in an official capacity" – is used in Section 134 (1) "Torture" in the Criminal Justice Act of the United Kingdom of Great Britain and Northern Ireland (hereinafter – the United Kingdom) of 29 July 1988 (hereinafter – CJA): "A public official or person acting in an official capacity, whatever his nationality, commits the offence of torture if in the United Kingdom or elsewhere he intentionally inflicts severe pain or suffering on another in the performance or purported performance of his official duties."[25] We note that, in this norm, the notion of "person acting in an official capacity" is

[25] See in this regard: Criminal Justice Act 1988. Part XI. Torture. Section 134. Available at: https://www.legislation.gov.uk/ukpga/1988/33/section/134 [accessed: 01.01.2024].

used in opposition to the notion of "public official". Similarly, in article 166[1] CC RM, the notion of "any other person acting in an official capacity" is used in opposition to the notion of "public person", as well as to the notion of "person who, *de facto*, exercises the powers of a public authority".

As article 166[1] CC RM, Section 134 CJA transposes into domestic legislation certain obligations of the United Kingdom, assumed in accordance with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).[26] Article 1 of this Convention provides: "For the purposes of this Convention, the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or *other person acting in an official capacity*" (our emphasis).[27]

Starting from this premise, it should be noted that, in the case of *R v. Reeves Taylor*, the Supreme Court of the United Kingdom provided the answer to the following questions raised in the appeal: "What is the correct interpretation of the term 'person acting in an official capacity' in section 134(1) CJA; in particular does it include someone who acts otherwise than in a private and individual capacity for or on behalf of an organisation or body which exercises or purports to exercise the functions of government over the civilian population in the territory which it controls and in which the relevant conduct occurs?"[28]

In the Judgement *R v. Reeves Taylor* (which has been analyzed by several authors[29]), the greatest interest is the following fragments that

[26] The Republic of Moldova acceded to this convention in 1995.

[27] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Available at: https://www.ohchr.org/sites/default/files/cat.pdf [accessed: 01.01.2024].

[28] Judgement *R v. Reeves Taylor (Appellant)* given on 13 November 2019, heard on 24 and 25 June 2019. Available at: https://www.supremecourt.uk/cases/docs/uksc-2019-0028-judgment.pdf [accessed: 01.01.2024].

[29] Lord Lloyd-Jones, *International Law before United Kingdom Courts: A Quiet Revolution*, in: International & Comparative Law Quarterly, 2022, Volume 71, Issue 3, pp. 503-529; Manfred Nowak, *Can Private Actors Torture?*, in Journal of International Criminal Justice, 2021, Volume 19, Issue 2, pp. 415-423; Hannah Woolaver, *R. v. Reeves Taylor (Appellant). [2019] UKSC 51*, in: American Journal of International Law, 2020, Volume 114, Issue 4, pp. 749-756.

contain the reasoned and consistent answer to the question reproduced above:

> "23. Section 134 CJA was intended to give effect to UNCAT in domestic law. As a result, the words 'person acting in an official capacity' *must bear the same meaning in section 134 as in Article 1, UNCAT* (our emphasis) [...] The principles of international law governing the interpretation of treaties are to be found in Articles 31[30] and 32[31], Vienna Convention on the Law of Treaties, 23 May 1969 [...].
>
> [...]
>
> 30. [...] The UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by General Assembly resolution 3452 (XXX) of 9 December 1975 [...] defined 'torture' in article 1 in terms which required that it be inflicted by or at the instigation of a public official. By Resolution 32/62 of 8 December 1977, the UN General Assembly requested the Commission on Human Rights to draw up a draft convention against torture. The Commission examined the matter at its 34th session and invited comments on the draft articles from the governments of member states of the United Nations and its specialized agencies in advance of its 35th session. The comments received are summarised in three documents published by the Commission on Human Rights (E/CN.4/1314, 19 December 1978; E/CN.4/1314/Add 1, 18 January 1979; E/CN.4/1314/Add 2, 31 January 1979). At that stage, the

[30] This article provides: "1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose. 2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes: (a) any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty; (b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty. 3. There shall be taken into account, together with the context: (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions; (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation; (c) any relevant rules of international law applicable in the relations between the parties. 4. A special meaning shall be given to a term if it is established that the parties so intended.

[31] This article provides: "Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31 (a) leaves the meaning ambiguous or obscure; or (b) leads to a result which is manifestly absurd or unreasonable."

definition of torture in draft article 1 required that it be inflicted 'by or at the instigation of a public official'. In its response the Austrian Government proposed that the concept of 'public official' be expanded, for example by using the words 'persons, acting in an official capacity'[32] (E/CN.4/1314, para 43). [...]

31. [...] The term 'other person acting in an official capacity' goes, however, clearly beyond State officials. It was inserted on the proposal of Austria in order to meet the concerns of the Federal Republic of Germany that certain non-State actors whose authority is comparable to governmental authority should also be held accountable. These de facto authorities seem to be similar to those 'political organizations' which, according to article 7(2)(i) of the International Criminal Court Statute (ICC)[33], can be held accountable for the crime of enforced disappearance before the ICC. One might think of rebel, guerrilla or insurgent groups who exercise de facto authority in certain regions or of warring factions in so-called 'failing States'.[34]

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[32] Most likely, this proposal was the basis of the provision from para. (3) § 312a "Torture" from the Criminal Code of the Republic of Austria: "public officials within the meaning of this provision shall also be those who, in the event of the absence or default of the public authorities, are effectively acting as officials". See: Criminal Code of the Republic of Austria. Available at: codexpenal.just.ro/laws/Cod-Penal-Austria-RO.html [accessed: 01.01.2024].

[33] Article 7(2)(i), ICC Statute provides: "'Enforced disappearance of persons' means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts so those persons, with the intention of removing them from the protection of the law for a prolonged period of time." See: Rome Statute of the International Criminal Court. https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf [accessed: 01.01.2024].

[34] In this context, it should be noted that, in a commentary to the UNCAT, in Section 3.1.6.2 – Meaning of the phrase 'another person acting in an official capacity', in point 126, it is explained: "In the case of *Elmi v Australia*, the Committee had to decide whether the forced return of a Somali national belonging to the Shikal clan to Somalia, where he was at a [...] substantial risk of being subjected to torture by the ruling Hawiye clan, constituted a violation of the prohibition of refoulement pursuant to Article 3 UNCAT. The Committee found a violation of Article 3 and explicitly rejected the argument of the Australian Government that the acts of torture the applicant feared he would be subjected to in Somalia would not fall within the definition of torture set out in article 1 UNCAT. The Committee has noted that since Somalia has been without a central Government for years and a number of warring factions de facto exercise prerogatives that would normally be practised by legitimate Governments, the members of these factions could fall within the phrase 'public officials or other persons acting in an official capacity' contained in article 1 UCAT". See: Manfred Nowak, Moritz Birk, and Giuliana Monina, *The United Nations Convention Against Torture and its Optional Protocol: A Commentary, 2nd ed.* Oxford: Oxford University Press, 2020. Available at:

[...]

36. [...] The words 'a public official or other person acting in an official capacity' in Article 1 UNCAT were intended to achieve that result, they should not exclude conduct by rebels, outside the authority of the State, exercising governmental functions over the civilian population of territory under its control. On the contrary, such conduct is properly the concern of the international community and requires international regulation, albeit implemented at national level.

[...]

54. Before the Court of Appeal the prosecution sought to rely on principles concerning the responsibility of an insurrectional movement which ultimately succeeds in replacing the government of a State, as the NPFL[35] did in Liberia. The General Commentary to the International Law Commission Draft Articles on State Responsibility explains that whereas the conduct of an unsuccessful insurrectional movement is not in general attributable to the State, where the movement achieves its aims and installs itself as the new government of the State it would be anomalous if the new regime could avoid responsibility for conduct earlier committed by it. *The continuity which exists between the new organisation of the State and that of the insurrectional movement leads to the attribution to the State of conduct which the insurrectional movement may have committed during the struggle* (our emphasis). [...]

[...]

76. [...] 'A person acting in an official capacity' in section 134(1) CJA includes a person who acts or purports to act, otherwise than in a private and individual capacity, for or on behalf of an organisation or body which exercises, in the territory controlled by that organisation or body and in which the relevant conduct occurs, functions normally exercised by governments over their civilian populations. Furthermore, it covers any such person whether acting in peace time or in a situation of armed conflict.

[...]

78. [...] [I]nsurrectional forces engaged in fighting the forces of the central government of a State may nevertheless exercise sufficient governmental authority over territory and persons under their

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https://opil.ouplaw.com/view/10.1093/law/9780198846178.001.0001/law-9780198846178-chapter-3#law-9780198846178-chapter-3-div7-125[accessed: 01.01.2024].

[35] Refers to the National Patriotic Front of Liberia, a Liberian rebel group that initiated and participated in the First Liberian Civil War from 1989 to 1996.

control for acts done on their behalf to be official acts for this purpose. [...]." [36]

The conclusions, which are required, are the following: in states characterized by socio-political stability, official behaviour is carried out by public agents. In case of cataclysms (for example, war, foreign military intervention, local military conflict, military coup, etc.) certain entities may assume governmental or administrative functions. In article 1 UNCAT, the phrase "any other person acting in an official capacity" refers to representatives of such entities. Such an interpretation is intended to prevent impunity by extending the prohibition of torture and other cruel, inhuman or degrading punishment or treatment to de facto authorities who should not admit such treatment when they arrogate to themselves the powers that the de jure authorities of a state.

On a portion of the territory of the Republic of Moldova, which is controlled by the so-called "Transnistrian authorities", we attest to the existence of a "de facto government". Other examples of "authorities" are those of: "Republic of Abkhazia"; "Republic of South Ossetia"; "Donetsk People's Republic"; "Luhansk People's Republic"; "Turkish Republic of Northern Cyprus"; "Sahrawi Arab Democratic Republic"; "Somaliland", etc. In other cases, insurgency movements (e.g.: PCP (SL) (Republic of Peru); ELN (Republic of Colombia); EZLN (United Mexican States); IFPG, KŞZK, PJAK, MEK (Islamic Republic of Iran), etc.) do not and proclaim statehood, but have effective control over a portion of the territory. Regardless of these nuances, the important thing is that the de facto authorities assume powers that should have been exercised by the de jure authorities.

Therefore, in the sense of article 166[1] CC RM, by "any other person acting in an official capacity" is meant the person who represents the de facto authorities (i.e., the authorities acting outside the field of constitutionality) who assume duties that should have been exercised by the de jure authorities.

Obviously, this interpretation of the notion of "any other person acting in an official capacity" is not compatible with the interpretation promoted in the Prosecutor General's appeal.

In the Prosecutor General's appeal, the interpretation of the notion any other person acting in an official capacity" from article 166[1] CC RM is so broad that it reduces the notion of special subject to zero. As we mentioned above, there is no activity (except illegal and private) that is not

[36] Judgement *R v. Reeves Taylor (Appellant)* given on 13 November 2019, heard on 24 and 25 June 2019. Available at: https://www.supremecourt.uk/cases/docs/uksc-2019-0028-judgment.pdf [accessed: 01.01.2024].

regulated, in one way or another, by the state. From the interpretation, proposed by the General Prosecutor, it follows that practically any natural person, who represents a certain entity and who meets the requirements of age and responsibility, can be the subject of the crimes provided for in article 166[1] CC RM. Such an approach does not take into account that the notion of torture in article 166[1] CC RM reproduces the notion of torture from article 1 UNCAT. In this way, article 166[1] CC RM received not only the characteristic terminology of article 1 UNCAT, but also the legal content of the respective terms used in the UNCAT, as well as the legal effects implied by the application of the rules containing such terms.

3.2. A confusion?

In our opinion, the extremely broad interpretation of the notion "any other person acting in an official capacity" in article 166[1] CC RM, which is promoted by the Prosecutor General, is based on the conceptual confusion between torture and inhuman or degrading treatment within the meaning of article 166[1] CC RM, on the one hand, and baiting and torturing within the meaning of Ministry of Health Regulation no. 199 of 27.06.2003 on medico-legal assessment of the seriousness of the bodily injury (hereinafter – Regulation of the Ministry of Health no. 199/2003).[37] This regulation provides, *inter alia*: "[...] 77. Baiting represents actions that cause suffering to the victim by depriving them of food, drink or heat, or by placing or abandoning the victim in conditions harmful to life. 78. Torturing is manifested by actions that produce persistent, repeated or prolonged pain (by whipping, whipping, by stabbing with sharp objects, by cauterization with thermal or chemical agents, etc.). [...]".[38]

The Criminal Code of the Republic of Moldova in the version up to the entry into force of Law no. 252 of 08.11.2012 for the amendment and completion of some legislative acts (hereinafter – Law no. 252/2012) contained the phrases:

– "by mutilation or torture" [letter e) para. (2) article 151 (Intentional severe bodily injury or damage to health) and letter f) para. (2) article 152 (Intentional less severe bodily injury or damage to health) CC RM];

– "accompanied by torturing the victim" [letter f) para. (2) article 171 (Rape) CC RM];

– "accompanied by the torture of the victim" [letter g) para. (2) article 172 (Violent actions of a sexual character) CC RM];

[37] Regulation of the Ministry of Health no. 199 of 27.06.2003 on medico-legal assessment of the seriousness of the bodily injury. In: *Official Gazette of the Republic of Moldova*, 2003, no. 170-172.

[38] *Ibidem*.

– "by mutilation, torture, inhuman or degrading treatment" [letter d) para. (3) article 188 (Burglary) CC RM];

– "accompanied by mutilation, torture, inhuman or degrading treatment" [para. (3) article 189 (Blackmail) CC RM].

Such a concept was abandoned as a result of the entry into force of Law no. 252/2012. So, instead of the phrases specified above, others appeared: "with particular cruelty, as well as for sadistic reasons" (letter e) para. (2) article 151 and letter f) para. (2) article 152 CC RM); "committed with particular cruelty, as well as for sadistic reasons" (letter f) para. (2) article 171 CC RM); "committed with particular cruelty, as well as for sadistic reasons" (letter g) para. (2) article 172 CC RM); "with particular cruelty" (letter d) para. (3) article 188 CC RM); "committed with particular cruelty" (para. (3) article 189 CC RM).

One of the characteristics of "particular cruelty" is highlighted by S.N. Drujkov: special cruelty is inconceivable without torture, maltreatment, molestation.[39] In the same sense, other authors claim that the concepts of "torturing", "mistreatment", "molestation", "mutilation", "mockery", etc. they are part of the same notional register, representing cases of manifestation of cruelty.[40]

Thus, in the Criminal Code in force of the Republic of Moldova, the notion of "particular cruelty" has the same semantic load that the notions of "mutilation" and "torturing" had before the entry into force of Law no. 252/2012. In the provisions in force of letter d) para. (3) article 188 and para. (3) article 189 CC RM, the notion of special cruelty has the semantic load that the notions of "torture" and "inhuman or degrading treatment" had before the entry into force of Law no. 252/2012.

Any natural person, who meets the requirements of age and responsibility, can be the subject of the offenses provided for in articles 188 and 189 CC RM. Appealing to the analogy, some practitioners deduced that, in the case of the crimes provided for in article 166^1 CC RM, the subject can also be any natural person, who represents a certain entity and who meets the requirements of age and responsibility. Probably, this would be the cause of the confusion we were talking about above.

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[39] S.N. Druzhkov, *Criminal-legal functions of special cruelty in the composition of murder: questions of theory and practice: Abstract of the dissertation for the degree of candidate of legal sciences,* Izhevsk, 2002, p. 16.

[40] A.N. Popov, *Aggravated murders*, St. Petersburg: Legal Center Press, 2003, p.471; Bagun E.A., *Responsibility for beatings and torture under the Criminal Code of the Russian Federation: dissertation abstract for the degree of candidate of legal sciences*. Moscow, 2007, p. 19; Babiy N., *Theoretical foundations of criminalization and qualification of compound violent crimes,* in: Court Gazette, 2005, p. 50.

It should also be mentioned that, in the initial version of the Criminal Code of the Republic of Moldova, there was article 154 "Intentional ill-treatment or other acts of violence":

"(1) Intentional ill-treatment or other acts of violence, if they did not cause the consequences provided for in articles 151-153, are punished with a fine ranging from 200 to 500 conventional units or with imprisonment of up to 3 years.

(2) The same actions committed: a) on the husband (wife) or a close relative; b) knowingly on a pregnant woman; c) on a minor; d) on a person in connection with his performance of service or public obligations; e) by two or more people; f) taking advantage of the victim's powerlessness; g) with the use of special instruments of torture; h) to order, are punished with a fine of 500 to 1000 conventional units or with imprisonment of 3 to 6 years."

When characterizing the *actus reus* provided for in article 154 CP RM, Serghei Brînza makes an interesting finding: "[T]aking into account the interpenetration of the notions of 'ill-treatment or other acts of violence' and 'torture', we must recognize that not only physical suffering, but also mental suffering can constitute the prejudicial consequences of the offense provided for in article 154 CC RM".[41] This "interpenetration" of the two notions increases the confusion between the crime, which was provided for in article 154 CC RM, and the crimes provided for in article 166[1] CC RM. However, as will be seen below, the subject of the crime, which was provided for in article 154 CC RM, cannot have the special quality of the subject of the crimes provided for in article 166[1] CC RM.

In this sense, we draw attention to the fact that article 154 was excluded from the Criminal Code by Law no. 292 of 21.12.2007 regarding the amendment and completion of some legislative acts, which entered into force on 08.02.2008.[42]

At the same time, by Law no. 139 of 30.06.2005 for the amendment and completion of the Criminal Code of the Republic of Moldova[43], the Criminal Code was supplemented with article 309[1] "Torture". We emphasize that this law entered into force on 22.07.2005. In para. (1) article 309[1] CC RM, torture was defined as follows: "The intentional infliction of severe, physical or mental pain or suffering on a person,

[41] Serghei Brînza et al., *Criminal law. The special part*. Chisinau: Cartier, 2005, p. 116.

[42] Law no. 292 of 21.12.2007 regarding the amendment and completion of some legislative acts. In: *Official Gazette of the Republic of Moldova*, 2008, no. 28-29.

[43] Law no. 139 of 30.06.2005 for the amendment and completion of the Criminal Code of the Republic of Moldova. In: *Official Gazette of the Republic of Moldova*, 2005, no. 98-100.

especially with the aim of obtaining information or confessions from this person or from a third party, to punish her for an act that she or a third person has committed or is suspected of having committed, to intimidate or put pressure on her or on a third person, or for any other reason based on a form of discrimination, whatever it may be, if such pain or suffering is caused *by a person with a responsible position or by any other person acting in an official capacity* (emphasis added), or at the instigation or with the express or tacit consent of some such persons, with the exception of pain or suffering resulting exclusively from legal sanctions, inherent in these sanctions or caused by them [...]".

Therefore, during the period 22.07.2005 – 08.02.2008, in the Criminal Code co-existed article 154 "Intentional ill-treatment or other acts of violence" and article 309[1] "Torture". The scopes of these two articles were different. So, they could not overlap. In the case of the crimes provided by these two articles, the subject could not have the same quality.

In continuation of this idea, we reproduce some passages from the Decision of the Plenum of the Supreme Court of Justice of the Republic of Moldova regarding the application of Law no. 252 of 08.11.2012:

> "The Plenum of the Supreme Court of Justice of the Republic of Moldova supports the scholars' position, presented by the Department of Criminal Law and Criminology of the Faculty of Law of the State University of Moldova, which interpreted the provisions of article 309[1] CC RM [...] in correlation with the provisions of article 166[1] CC RM (introduced by Law no. 252 of 08.11.2012), under the aspect that there was no decriminalization of the acts incriminated in article 309[1] CC RM [...] by repealing [this] rule from the Criminal Code. [...] [It] has been ascertained with certainty that the act of torture, once repealed by Law no. 252 of 08.11.2012 of article 309[1] CC RM [...], was not decriminalized, the qualification of torture being found in para. (3) and (4) of article 166[1] CC RM. [...] Comparing the components provided for in article 309[1] CC RM (Torture) in the version up to the entry into force of Law no. 252 of 08.11.2012 and article 166[1] CC RM (Torture, inhuman and degrading treatment), we conclude that the *corpus delicti* provided for in article 309[1] para. (1) CC RM is equivalent to the *corpus delicti* from para. (3) of article 166[1] CC RM, and the *corpus delicti* from para. (3) of article 309[1] CC RM (torture in aggravating circumstances) is relatively equivalent to the *corpus delicti* from para. (4) article 166[1] CC RM".[44]

[44] The decision of the Plenum of the Supreme Court of Justice of the Republic of Moldova from 06.30.2014 regarding the application of Law no. 252 of November 8, 2012. File no. 4-1ril-3/2014. Available at:
http://jurisprudenta.csj.md/search_interes_lege.php?id=4 [accessed: 01.01.2024].

Through this decision, the Plenum of the Supreme Court of Justice of the Republic of Moldova ruled that the scope of para. (3) and para. (4) article 166[1] CC RM is relatively equivalent to the scope of article 309[1] CC RM, which was repealed. Regarding the phrase "any other person acting in an official capacity", it can be argued that the scope of para. (3) and (4) article 166[1] CC RM is absolutely equivalent to the scope of article 309[1] CC RM. The legislator uses this phrase in para. (3) and (4) article 166[1] CC RM, as well as in article 309[1] CC RM.

As we noted above, the scope of article 309[1] CC RM could not coincide with the scope of article 154 CC RM. Keeping consistency, we must recognize that the scope of para. (3) and (4) article 166[1] CC RM cannot be extended to the scope of article 154 CC RM. After the repeal of article 154 CC RM, a gap was formed that for the time being could not be filled by another norm. In para. (1) and (2) article 166[1] CC RM, the subject of the offense is described in the same terms as the subject of the offenses provided for in para. (3) and (4) article 166[1] CC RM. The phrase "any other person acting in an official capacity" is used in this description. As a result, it is logical to state that neither the scope of para. (1) and (2) article 166[1] CC RM cannot be extended to the scope of article 154 CC RM.

The emerging conclusion is the following: the criminal law in force does not provide for liability for an act like the one provided by article 154 CC RM. Article 166[1] CC RM provides liability for torture, inhuman or degrading treatment. This article does not provide liability for the act of intentional ill-tratament or other acts of violence, which was criminalized in article 154 CC RM. The gap, formed after the repeal of article 154 CC RM, could not be replaced by article 166[1] CC RM, nor by any other norm. Any attempt to apply article 166[1] CC RM in the hypothesis, which was provided by article 154 CC RM, would mean the application by analogy of the criminal law. Such an application of the criminal law beyond its content would imply that the court exceeds its powers, trying to fix what only the legislator can fix.

3.3. The example of other states

We mentioned above that the subject of crimes, provided for in article 166[1] CC RM, it is special, not general. Article 166[1] CC RM does not use general formulations regarding the subject of the crime, such as those used, for example, in the Criminal Code of the Kingdom of Belgium:

– "Whoever who torture a person shall be punished with imprisonment from ten to fifteen years"[45] (article 417ter);

[45] The Criminal Code of the Kingdom of Belgium. Available at: codexpenal.just.ro/laws/Cod-Penal-Belgia-RO.html [accessed: 01.01.2024].

– "Whoever who subjects a person to inhuman treatment shall be punished with imprisonment from five to ten years"[46] (article 417quater);

– "Whoever e who subjects a person to degrading treatment will be punished with imprisonment from fifteen days to two years and a fine from fifty euros to three hundred euros, or only one of these two punishments"[47] (article 417quinquies).

It is pertinent that the formulations regarding the subject of crimes, provided in article 166[1] CC RM, to be compared with the wording of the criminal laws in which the subject of torture (and of inhuman or degrading treatment) is a special one. Moreover, in these criminal laws phrases are used that are similar to the phrase "any other person acting in an official capacity", used in article 166[1] CC RM.

Thus, for example, para. (1) § 312a "Torture" of the Criminal Code of the Republic of Austria provides: "[t]he act of the person who, as a public agent (our emphasis) within the meaning of § 74 para. (1) point 4a letter b) or c)[48], at the instigation of such a public agent or with the express or tacit approval of such a public agent causes another person great physical or mental pain or suffering, in particular in order to obtain from him or a third party a statement or a recognition, in order to punish her for an act committed or alleged to have been committed by her or by a third party, in order to intimidate or coerce her or for a reason of discrimination, is punishable by imprisonment from 1 year to 10 years".[49] Of greater interest, however, is para. (3) § 312a Criminal Code of the Republic of Austria. According to the rule in question, "[a] public agent within the meaning of this provision is also the person who, in the absence or lack of state institutions (our emphasis), acts as a public agent".[50] It is obvious that the provision of para. (3) § 312a of the Criminal Code of the Republic of Austria refers to any other person acting in an official capacity within the meaning of article 1 UNCAT.

[46] Ibidem.

[47] Ibidem.

[48] At para. (1) § 74 "Other definitions" of the Criminal Code of the Republic of Austria states: "For the purposes of this law: [...] public agent is the person who [...] b. exercises for the Federation, a land, a commune , another person under public law, with the exception of the church or religious community, for another state or for an international organization, legislative, administrative or judicial prerogatives as a body or employee thereof, c. is authorized to exercise other functions official on behalf of the bodies mentioned in letter b and in law enforcement, [...]".

[49] Criminal Code of the Republic of Austria. Available at: codexpenal.just.ro/laws/Cod-Penal-Austria-RO.html [accessed: 01.01.2024].

[50] Ibidem.

Article 104 "Torture and other cruel, inhuman or degrading treatment or punishment" of the Criminal Code of the Republic of Croatia provides: "[a] public official or other person who at the instigation of or with the consent or acquiescence of a public official *or other person acting in an official capacity* (our emphasis) inflicts on another severe pain or suffering, whether physical or mental, for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, shall be punished by imprisonment from one to ten years."[51]

Article 243(1) "Torture and other cruel, degrading or inhuman treatments" of the Criminal Code of the Portuguese Republic provides: "[w]hoever, having as duty the prevention, pursuit, investigation or knowledge of criminal, administrative or disciplinary infringements, the enforcement of penalties of the same nature or the protection, custody or surveillance of detained or arrested person, tortures or treats such person in a cruel, degrading or inhuman way in order to: a) obtain from such person of from another confession, testimony, statement or information; b) punish such person for an act committed or supposedly committed by such person or by another; or c) intimidate such person or to intimidate another; is punished with sentence of imprisonment from one to five years, if a more serious sentence is not applicable to him by virtue of another legal provision."[52] Of greater interest, however, is paragraph 2 of this article: "In the same sentence incurs whoever, by own initiate or by a superior order, *usurps the duty mentioned in the previous number* (our emphasis) to commit any of the acts described therein".[53]

In other states, the legislators went the other way, namely – as the subject of torture (and inhuman or degrading treatment) they specified only the public agent (and the person who acts at the instigation or with his express or tacit consent), not any other person acting in an official capacity. Perhaps, this was done for reasons of avoiding divergent interpretations of the notion "any other person acting in an official capacity". Although such an approach simplifies the process of criminal law enforcement, its disadvantage is that it only partially respects the commitment assumed when ratifying the UNCAT.

[51] Criminal Code of the Republic of Croatia. Available at: codexpenal.just.ro/laws/Cod-Penal-Croatia-RO.html [accessed: 01.01.2024].
[52] Criminal Code of the Portuguese Republic. Available at: codexpenal.just.ro/laws/Cod-Penal-Portugalia-RO.html [accessed: 01.01.2024].
[53] *Ibidem.*

For example, section 149 (1) "Torture and other cruel and inhumane treatment" of the Criminal Code of the Czech Republic provides: "[w]hoever causes bodily or mental suffering by means of torture or some other inhuman or cruel treatment to another person *in connection to exercise of powers of a public authority, a local authority, a court, or another public authority* (our emphasis), shall be sentenced to imprisonment for from six months to five years".[54]

Pursuant to article 157a (2) of the Criminal Code of the Kingdom of Denmark: "The infringement is considered committed by torture, if committed in the *exercise of Danish, foreign or international public officials* (our emphasis) by adding another person injury to body or health, or severe physical or mental pain or suffering 1) to obtain information or a confession from someone 2) to punish, intimidate or coerce anyone to do, tolerate or refrain from doing something or 3) because of his political beliefs, gender, race, colour, national or ethnic origin, religion or sexual orientation."[55]

Pursuant to § 290[1] (1) "Torture" of the Criminal Code of the Republic of Estonia: "[c]ausing of great or consistent physical or mental pain *by an official* (our emphasis) without legal grounds to a person with the intention of receiving statements from him or her or third persons, punishment, frightening, coercion or discrimination, as well as instigation by an official to such act or consent to such acts punishable by one to seven years' imprisonment."[56]

Pursuant to section 9(a) "Torture" from Chapter 11 of the Criminal Code of the Republic of Finland:

> "(1) If a public official causes another strong physical or mental suffering 1) in order to get him or her or another person to confess or to provide information, 2) in order to punish him or her for something that he or she or some other person has done or is suspected of having done, 3) in order to frighten or coerce him or her or another person, or 4) on the basis of race, national or ethnic origin, skin colour, language, gender, age, family relations, sexual orientation, inheritance, incapacity, state of health, religion, political opinion, political or vocational activity or other corresponding grounds, he or she shall be sentenced for torture to imprisonment for at least two and at most twelve years and in addition to removal from office.

[54] Criminal Code of the Czech Republic. Available at: codexpenal.just.ro/codex.html [accessed: 01.01.2024].

[55] Criminal Code of the Kingdom of Denmark. Available at: codexpenal.just.ro/laws/Cod-Penal-Danemarca-RO.html [accessed: 01.01.2024].

[56] Criminal Code of the Republic of Estonia. Available at: codexpenal.just.ro/laws/Cod-Penal-Estonia-RO.html [accessed: 01.01.2024].

(2) Likewise, a public official who explicitly or implicitly approves an act referred to in subsection 1 committed by a subordinate or by a person who otherwise is factually under his or her authority and supervision shall also be sentenced for torture.

[...]

(4) The provisions in this section regarding public officials apply also to persons performing a public fiduciary function and to a *person exercising public power and, except for the sanction of removal from office, also to the employee of a public corporation and to a foreign public official* (our emphasis)."[57]

Pursuant to article 137A (1) "Torture and other violations of human dignity" of the Criminal Code of Greece: "[t]he act of the *official or the military cadre of the [Greek] army, whose duties involve the questioning or examination of crimes or disciplinary violations, the execution of punishments or the detention or supervision of detainees* (our emphasis) is punishable by detention if, in the course of the exercise of these duties, he subjects the person in his power to torture for the purpose: a) to obtain from him or from a third party a confession, deposition, information or declaration, in particular of denial or acceptance of a political or other type of ideology; b) to punish [the respective person]; c) to intimidate the person and third parties. The same punishment is also applied for the act of the civil servant or the military cadre who, on the order of his superiors or on his own initiative, improperly takes on such duties and commits the acts provided for in the previous sentence."[58]

Pursuant to article 282 (1) "Torture" of the Criminal Code of Romania: "The act of a public servant holding an office that involves the exercise of state authority or of other person acting upon the instigation of or with the specific or tacit consent thereof to cause an individual pain or intense suffering, either physically or mentally: a) to obtain information or statements from that person or from a third-party; b) to punish them for an act committed by them or by a third party or that they or a third party is suspected to have committed; c) to intimidate or pressure them or a third-party; d) for a reason based on any form of discrimination, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights."[59]

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[57] Criminal Code of the Republic of Finland. Available at: codexpenal.just.ro/laws/Cod-Penal-Finlanda-RO.html [accessed: 01.01.2024].

[58] Criminal Code of Greece. Available at: codexpenal.just.ro/laws/Cod-Penal-Grecia-RO.html [accessed: 01.01.2024].

[59] Criminal Code of Romania. Available at: codexpenal.just.ro/laws/Cod-Penal-Romania-RO.html [accessed: 01.01.2024].

Pursuant to § 420 (1) "Torture and other inhuman or cruel treatment" of the Criminal Code of the Slovak Republic: "[*a]ny person who, in connection with the exercise of his powers of the public authority official* (our emphasis), from his motion or with his explicit or implicit approval, causes another person physical or mental suffering by ill-treatment, torture or other inhuman and cruel treatment shall be liable to a term of imprisonment of two to six years."[60]

Pursuant to article 174 (1) of the Criminal Code of the Kingdom of Spain: "Torture is committed by the public authority or officer who, abusing his office, and in order to obtain a confession or information from any person, or to punish him for any deed he may have committed, or is suspected to have committed, or for any reason based on any kind of discrimination, subjects that person to conditions or procedures that, due to the nature, duration or other circumstances thereof, cause him physical or mental suffering, suppression or decrease in his powers of cognizance, discernment or decision, or that in any other way attack his moral integrity. Those found guilty of torture shall be punished with a sentence of imprisonment from two to six years if the criminal offence is serious, and of imprisonment from one to three years if it is not. In addition to the penalties stated, in all cases, the punishment of absolute barring shall be imposed, from eight to twelve years."[61] Paragraph 2 of this article provides: "[t]he same penalties shall be incurred, respectively, by the authority or officer of prison institutions or correctional or protection centres for minors who may commit the deeds referred to in the preceding paragraph in relation to the detainees, interns or prisoners."[62]

In relation to the concept, promoted by the legislators of the Czech Republic, the Kingdom of Denmark, the Republic of Estonia, the Republic of Finland, Greece, Romania, the Slovak Republic and the Kingdom of Spain, it is useful to reproduce the following observation from the Opinion of the Legal Department of the Secretariat of the Parliament of the Republic of Moldova on the Draft Law which was the basis for the pass of article 166[1] CC RM: "[...] [w]e consider that the expression from para. (1) and (3) [article 166[1] CC RM] – "by a public person or by a person acting in an official capacity" – is wrong, ambiguous and needs to be revised".[63]

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[60] Criminal Code of the Slovak Republic. Available at: codexpenal.just.ro/laws/Cod-Penal-Slovacia-RO.html codexpenal.just.ro/laws/Cod-Penal-Slovacia-RO.html [accessed: 01.01.2024].

[61] Criminal Code of the Kingdom of Spain. Available at: codexpenal.just.ro/laws/Cod-Penal-Spania-RO.html [accessed: 01.01.2024].

[62] *Ibidem.*

[63] Opinion of the Legal Department of the Secretariat of the Parliament of the Republic of Moldova on the Draft Law for the amendment and completion of some legislative acts (no. 1945 of 05.09.2012). Available at:

In our view, this expression does not require revision. Otherwise, it would deviate from the concept in article 1 UNCAT. We believe that the solution must be different.

3.4. Our solution

Before presenting our solution, we will review the evolution of the description of the subject of torture and inhuman or degrading treatment in the Criminal law of the Republic of Moldova: "an agent of the public authority or any other person acting in an official capacity" (article 101^1 CC RM from 1961); "a person with a position of responsibility or any other person acting in an official capacity" (article 309^1 CC RM); "a public person or a person who, de facto, exercises the powers of a public authority, or any other person who acts in an official capacity" (article 166^1 CC RM).

For comparison, in article 1 UNCAT, the following phrase "an agent of the public authority or any other person acting in an official capacity" is used.

We note that the description of the subject of torture and inhuman or degrading treatment in article 166^1 CC RM constitutes an improvisation that deviates from the provision of article 1 UNCAT. The disjunction of the notion of "another person acting in an official capacity" (which was used in article 101^1 CC RM from 1961 and in article 309^1 CC RM) into two notions – "a person who, de facto, exercises the powers of a public authority" and "any other person acting in an official capacity" – generated confusion and complicated the interpretation of article 166^1 CC RM. We emphasize that such a disjunction is attested only in the Criminal Code of the Republic of Moldova. No similar assumptions can be identified in the criminal laws of other states.

It is necessary for the legislator to abandon this disjunction and adjust the provision of article 166^1 CC RM at the disposal of article 1 UNCAT. *In concreto*, in article 166^1 CC RM, the phrase "by a person who, de facto, exercises the powers of a public authority, or by any other person acting in an official capacity" must be replaced by the phrase "by any other person acting in an official capacity". The notion "person who, de facto, exercises the powers of a public authority" exhausts the content of the notion "any other person acting in an official capacity".

Apart from this, the Criminal Code must be completed with article 134^{21} "Any other person acting in an official capacity": "By any other person acting in an official capacity, within the meaning of article 166^1 of this code, it means the person who, in conditions of political instability or

https://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/1344/language/ro-RO/Default.aspx [accessed: 01.01.2024].

the impossibility of the exercise by a state recognized by the international community of sovereignty over its territory or over a part of its territory, usurps and exercises de facto the powers of a public authority of a state recognized by the international community."

We are firmly convinced that pupils/students must be protected by the criminal law against ill-treatment committed by those who do not have the special quality required by article 166[1] CC RM. Now, the Criminal Code of the Republic of Moldova does not offer such protection. Application by analogy of article 166[1] CC RM in cases of ill-treatment of minors, committed by those who do not have the special capacity required by this article (application by analogy which is admitted in cases related to the second jurisprudential orientation, revealed in the appeal of the General Prosecutor), reveals a loophole in the criminal law. However, it is not the competence of the General Prosecutor's Office or the Supreme Court of Justice to fill this gap. This competence rests with the Parliament.

Therefore, we suggest the legislator to intervene and identify the optimal solution to criminalize the ill-treatment of minors and persons in difficult situations, committed by those who do not have the special quality required by article 166[1] CC RM. In this plan, it is useful to analyse the experience of other states.

For example, § 92 "Ill-treatment of minors, young or defenceless persons" of the Criminal Code of the Republic of Austria provides:

> "(1) The act of the person who causes physical or moral torment to a person under his authority or protection and who has not reached the age of 18 or who due to an infirmity, illness or mental disability is defenceless is punishable by imprisonment of up to 3 years.
>
> [...]
>
> (3) If the act results in lasting bodily harm (§ 85), the perpetrator is punished with imprisonment from 6 months to 5 years, and if it results in the death of the victim, with imprisonment from 1 to 10 years."[64]

Pursuant to article 187 of the Criminal Code of Bulgaria: "A person who tortures a minor or underage person, who is under his care or with whose education he has been entrusted, shall be punished by imprisonment for up to three years or by probation, as well as by public censure, provided the act does not constitute a graver crime."[65]

[64] Criminal Code of the Republic of Austria. Available at: codexpenal.just.ro/laws/Cod-Penal-Austria-RO.html [accessed: 01.01.2024].

[65] Criminal Code of the Republic of Bulgaria. Available at: codexpenal.just.ro/laws/Cod-Penal-Bulgaria-RO.html [accessed: 01.01.2024].

Pursuant to § 225 (1) "Ill-treatment of persons in one's charge" of the German Criminal Code: "[w]hoever tortures or roughly ill-treats or by maliciously neglecting their duty of care for a person damages the health of a person under 18 years of age or a person who is defenceless due to frailty or illness and who: 1. is in their care or custody, 2. belongs to their household, 3. has been left under their control by the person who has the duty of care or 4. is subordinate to them within a service or employment relationship incurs a penalty of imprisonment for a term of between six months and 10 years."[66]

Pursuant to article 571 "Abuse of correctional or disciplinary means" of the Criminal Code of the Republic of Italy: "[t]he one who abuses the means of correction or discipline to the detriment of a person subject to his authority or entrusted to him for reasons of education, instruction, care, supervision or guard, or for the practice of a profession or an occupation, is punished, if as a result of the act results in the danger of physical or mental illness, with imprisonment up to 6 months. If a bodily injury results from the act, the penalties established in articles 582 and 583, reduced by one third; if death results, imprisonment from 3 to 8 years applies".[67]

Pursuant to section 174 "Cruelty towards and violence against a minor" of the Criminal Law of Latvia:

> "(1) For a person who commits cruel or violent treatment of a minor, if physical or mental suffering has been inflicted upon the minor and if such has been inflicted by persons upon whom the victim is financially or otherwise dependent and if the consequences provided for in Section 125 or 126 of this Law are not caused by these acts, the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.
>
> (2) For a person who commits the criminal offence provided for in Paragraph one of this Section, if it has been committed against an underaged person, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine."[68]

[66] See in this regard: German Criminal Code. Available at: https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html [accessed: 01.01.2024].

[67] Criminal Code of the Republic of Italy. Available at: codexpenal.just.ro/laws/Cod-Penal-Italia-RO.html [accessed: 01.01.2024].

[68] Criminal Law of the Republic of Latvia. Available at: https://likumi.lv/ta/en/en/id/88966-criminal-law [accessed: 01.01.2024].

Pursuant to article 152-A "Ill-treatments" of the Criminal Code of the Portuguese Republic:

> "1. The one who has the care, custody or service of, or is in charge of guiding or educating the minor or the defenceless person, by virtue of age, deficiency, illness or pregnancy, and: a) repeatedly applies ill physical treatment to him or psychological, including corporal punishment, deprivation of liberty and sexual abuse or treats her with cruelty; b) uses it in dangerous, inhuman or prohibited activities; or c) burdens her with excessive work; shall be punished with imprisonment from one to five years, unless, under another legal provision, a greater penalty falls upon him.
>
> 2. If the facts provided for in the previous paragraphs result in: a) the crime of serious bodily injury, the perpetrator is punished with imprisonment from two to eight years; b) death, the perpetrator is punished with imprisonment from three to ten years."[69]

Last but not least, pursuant to article 197 "Ill-treatments applied to minors" of the Criminal Code of Romania: "[s]erious jeopardy, through measures or treatments of any kind, of the physical, intellectual or moral development of an underage person, by parents or by any person under whose care the underage person is, shall be punishable by no less than 3 and no more than 7 years of imprisonment and a ban on the exercise of certain rights."[70]

We note that, in the criminal laws of the Republic of Austria and the Portuguese Republic, the criminal norm regarding the ill-treatment of minors and persons in difficult situations coexists with the norm regarding torture (and inhuman or degrading treatment), in which the subject of the crime is specified, among others, any other person acting in an official capacity. Which proves that, in the context of the Criminal Code of the Republic of Moldova, such coexistence is also possible.

By the way, in 2009, an attempt was made to incriminate in article 153 CC RM of the act of hitting and causing slight bodily injuries to children. According to paragraph (1) of this draft article, "[p]remeditated infliction of light bodily injuries, mistreatment, hitting and other acts of violence committed on a child who has not reached the age of 14, which caused physical pain, or a short-term disturbance of the child's health, is punishable by a fine from 200 to 300 conventional units or with unpaid work for the benefit of the community from 140 to 240 hours, or with

[69] Criminal Code of the Portuguese Republic. Available at: codexpenal.just.ro/laws/Cod-Penal-Portugalia-RO.html [accessed: 01.01.2024].

[70] Criminal Code of Romania. Available at: codexpenal.just.ro/laws/Cod-Penal-Romania-RO.html [accessed: 01.01.2024].

imprisonment of up to 6 months".[71] Paragraph (2) of this article stated: "[t]he same acts committed by the parents, by the guardian or guardian, attending physician, teacher, educator, person in employment with child care institutions, or by any other person to whom the child was entrusted, shall be punished with a fine of to 300 to 500 of the conventional unit or with imprisonment of up to 1 year."[72]

However, now, there is no need to supplement the Criminal Code of the Republic of Moldova with a rule that would protect children's health. This objective is achieved in the provisions of article 151 (2) (b) and article 152 (2) (c^1) CC RM. According to these rules, liability for serious or moderate intentional injury to bodily integrity or health is aggravated if the act is committed, inter alia, knowingly against a minor. In article 78 "Injury to bodily integrity" of the Contravention Code[73],[74] the minor is not explicitly mentioned as a victim. However, the minor's bodily integrity and health are implicitly protected against the acts provided for in article 78 of the Contravention Code.

It is necessary to protect the dignity of the minor and the person in a difficult situation, as well as their physical or mental integrity, against ill-treatment committed by those who do not have the special quality required by article 166^1 CC RM. On this occasion, it should be noted that the notions of "physical or mental integrity" and "bodily integrity" should not be confused. Bodily integrity is damaged because of bodily injuries (without causing damage to health), specified in Part V of the Regulation of the Ministry of Health no. 199/2003. In contrast, physical or mental integrity is damaged because of causing physical or mental pain or suffering.

Consequently, we recommend the legislator to supplement the Criminal Code of the Republic of Moldova with article 166^2 "Ill-treatments" which would have the following content:

> "The intentional infliction of pain or physical or mental suffering on a minor, a pregnant woman or a helpless person by the staff of educational institutions, medical institutions, or residential social

[71] The draft law for the amendment and completion of some legislative acts. Available at: http://www.parlament.md/download/drafts/ro/173.2009.doc [accessed: 01.01.2024].

[72] *Ibidem*.

[73] Contravention Code. In: *Official Gazette of the Republic of Moldova*, 2014, no. 319-324.

[74] This article provides: "(1) Maltreatment or other violent actions that have caused insignificant bodily harm are sanctioned with a fine from 15 to 30 conventional units or with unpaid work for the benefit of the community from 20 to 40 hours, or with contravention arrest from 5 to 10 days. (2) Intentional slight injury to bodily integrity that caused a short-term disturbance of health or an insignificant but stable loss of work capacity is sanctioned with a fine of 30 to 45 conventional units or with unpaid work for the benefit of the community from 40 to 60 hours, or with contravention arrest from 10 to 15 days."

institutions, if there are no signs of torture, inhuman or degrading treatment, shall be punished with imprisonment from 3 to 7 years with the deprivation of the right to hold certain positions or to exercise a certain activity for a period of 5 to 10 years."

This provision will ensure a fair balance between the principle of the legality of criminalization and the imperative of effectively combating inhumane treatment of minors.

Finally, considering the above, we recommended the Supreme Court of Justice of the Republic of Moldova to establish that teachers, who are employed in public or private educational institutions, cannot be the subjects of the crimes provided in article 166[1] CC RM.

4. Decision of The Supreme Court of Justice

In a 2022 decision, the Supreme Court of Justice rejected the appeal of the Prosecutor General. According to the Supreme Court, the General Prosecutor would not have presented decisions certifying that there is a divergent judicial practice.[75]

The decision of the Supreme Court was not supported by all judges. Thus, two judges formulated a separate opinion, in which they showed that, indeed, there is a non-unitary judicial practice, and that the intervention of the Supreme Court was indispensable to make it clear. In the separate opinion, it is emphasized that it was necessary to admit the appeal of the Prosecutor General and to establish that the acts of violence that reach the threshold of gravity specific to inhuman or degrading treatment, or that of torture committed by persons who are part of the teaching staff, scientific staff and staff scientific-didactic within all types of educational institutions, will be able to be included under article 166[1] CC RM, because such persons have the status of special subjects, i.e., "persons acting in an official capacity".[76]

5. In the end

Ill-treatments in schools/educational institutions are a pressing problem (and not only in the Republic of Moldova[77]) and which calls for

[75] Decision of the Supreme Court of Justice of February 3, 2022. File no. 4-1ril-3/2021. Available at: http://jurisprudenta.csj.md/search_interes_lege.php?id=19 [accessed: 01.01.2024].

[76] See: Separate opinion of the judges Timofti Vladimir and Cobzac Elena at the Decision of the Supreme Court of Justice of February 3, 2022. File no. 4-1ril-3/2021. Available at: http://jurisprudenta.csj.md/search_interes_lege.php?id=19 [accessed: 01.01.2024].

[77] See, e.g.: Leila Nadya Sadat, *Torture in Our Schools?*, in: Harvard Law Review Forum, 2022, Volume, 135(8), pp. 512-524.

prompt and fair intervention by the state. However, in this field, the courts of the Republic of Moldova do not "speak with single voice". While in some court judgements it was decided that teachers can be held liable based on article 166[1] (Torture, inhuman or degrading treatment) of the CC RM, in others – the opposite was stated. The Supreme Court of Justice of the Republic of Moldova itself issued diametrically opposed judgements, becoming a source of legal uncertainty.

Unfortunately, the Supreme Court of Justice of the Republic of Moldova missed the opportunity to clarify and exercise its role as guardian of fundamental rights, rights that must be practical and effective, but not theoretical and illusory. She left the courts and litigants in the dark. We hope that things will change, and that the solution proposed by us will be implemented. The test of time will show.

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PRIVATE INTERNATIONAL LAW AND THE NEW FRONTIER: NAVIGATING LEGAL CHALLENGES IN SPACE

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Abstract: *The exploration of outer space has ushered in a new era of challenges for international law, particularly in the realm of Private International Law (PIL). As the space industry continues to evolve, it is imperative to assess how PIL can effectively address these emerging legal complexities. This research employs the doctrinal method to critically analyse the existing framework of space law, exploring the historical and theoretical foundations of PIL in the context of space activities. It highlights the need for adaptation and innovation in legal norms to ensure the regulation of activities beyond Earth's boundaries. Examining international agreements and conventions governing space endeavours, this study identifies gaps in the legal landscape, particularly concerning liability issues, resource extraction, and dispute resolution mechanisms. In conclusion, this research calls for a comprehensive review of PIL in the context of space exploration, advocating for adjustments to existing legal instruments to accommodate the unique challenges posed by the new frontier.*

Keywords: *private international law, space law, outer space, jurisdictional disputes, property rights.*

1. Introduction

The transformation of space exploration is nothing short of remarkable. The "New Space Age" has witnessed unprecedented

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technological advancements and reduced costs, enabling private companies to participate in an industry once monopolized by governments.[1] SpaceX's ambitious Mars colonization plans, the proliferation of satellite mega-constellations like Starlink,[2] and lunar exploration initiatives by NASA and international partners all exemplify the diversification of space activities.[3] Such developments necessitate a re-evaluation of the legal frameworks that govern these complex and multifaceted endeavours.

The shift from space exploration as primarily a government-led venture to one that involves a multitude of private actors is a defining feature of this evolving landscape.[4] Private entities have made significant strides in reducing the cost of access to space, propelling commercial satellite launches, asteroid mining ventures, and space tourism into the realm of feasibility. Companies like SpaceX and Blue Origin, with their ambitious missions to colonize Mars and establish a lunar presence, challenge the traditional paradigm of space exploration. These endeavours have the potential to redefine humanity's relationship with space, from being purely exploratory to becoming a domain for commercial enterprise and perhaps even habitation.

Furthermore, the launch of massive satellite constellations, such as Starlink, signifies the increasing reliance on space-based infrastructure for global telecommunications, broadband internet, and Earth observation. The sheer number of satellites deployed raises concerns about space debris, collision avoidance, and the sustainability of Earth's orbital environment. The vast scope of these endeavours, involving both governmental and private actors, complicates the already intricate landscape of international space law and necessitates a fresh perspective on the role of PIL.

As the arena of space activities continues to expand, PIL must adapt to the evolving dynamics. The legal challenges posed by this transformation

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[1] Klara Anna Capova, "The New Space Age in the Making: Emergence of exo-mining, exo-burials and exo-marketing" *International Journal of Astrobiology,* (2016), Vol. 15, pp. 307-310.

[2] Francisco Del Canto Viterale, "Transitioning to a New Space Age in the 21st Century: A Systemic-Level Approach" *Systems*, (2023), Vol. 11, p. 232; Gil Denis and others, "From New Space to Big Space: How Commercial Space Dream Is Becoming a Reality" *Acta Astronautica*, (2020), Vol. 166, p. 431.

[3] S. Plattard and A Smith, "Optimising Human Space Exploration Policies and Strategies", *69th International Astronautical Congress (IAC)* (International Astronautical Federation (IAF) 2018)
<https://discovery.ucl.ac.uk/id/eprint/10079940/> accessed 9 November 2023.

[4] Daniel Deudney, *Dark Skies: Space Expansionism, Planetary Geopolitics, and the Ends of Humanity* (Oxford University Press 2020) 24.

are not only numerous but also unique. Ensuring regulatory frameworks that promote both the responsible conduct of space activities and legal certainty in an increasingly commercial and competitive environment is a pressing concern. To address these challenges, it is essential to examine how PIL can effectively shape the legal contours of this new frontier.

The following sections of this article will delve into the historical and theoretical foundations of PIL, the international legal framework for space activities, liability issues, doctrinal analysis, dispute resolution mechanisms, and finally, a conclusion that emphasizes the urgency of adapting PIL to the complexities of space activities. This research aims to provide a thorough understanding of the intricate relationship between PIL and space law, offering insights for scholars, policymakers, and legal practitioners grappling with the legal implications of this transformative era in space exploration.

2. Historical and Theoretical Foundations

The evolution of Private International Law (PIL) in the context of space activities necessitates a deep understanding of its historical and theoretical foundations. In this section, I will embark on a journey through the historical development of PIL and explore the theoretical underpinnings that have shaped its traditional application on Earth. Understanding these foundations is vital for comprehending the challenges and opportunities presented by the application of PIL to the new frontier of outer space.

2.1 PIL in Terrestrial Context

PIL, colloquially known as conflict of laws, holds a venerable position in the realm of jurisprudence, with its historical antecedents extending back to the annals of ancient civilizations. The Roman Empire, as a paragon of legal governance, laid the foundational principles of PIL by invoking notions of comity and reciprocity to navigate the intricate web of legal conflicts arising from interactions among denizens of divergent regions.[5]

Through the inexorable march of time, PIL has metamorphosed into a multifaceted and intricate field of legal inquiry, attaining a zenith of complexity, particularly within the crucible of European legal thought. In this continental context, PIL has emerged as the vanguard, navigating through the labyrinth of legal intricacies spawned by the interactions between sovereign states. Its evolution has been marked by a nuanced

[5] P. Sean Morris, 'The Private Foundations of International Law: Intellectual Property Rights and Pashukanis' *Jus Gentium,* (2020), Vol. 5, p. 37.

approach to legal problem-solving, adapting to the exigencies of an ever-changing global landscape.

The pre-eminence of PIL becomes particularly conspicuous in the facilitation of international trade, commerce, and interpersonal interactions. A linchpin in the architecture of global legal order, it serves as the *sine qua non* for the orderly resolution of disputes and the harmonization of disparate legal systems. This harmonization, crucial for the seamless functioning of transnational affairs, is predicated on the understanding that different sovereign entities may espouse divergent legal norms.

On Earth, PIL operates on the foundational premise that distinct states may wield disparate legal paradigms, necessitating a judicious framework for determining the applicability of legal systems in cases imbued with foreign elements. This framework, often grounded in principles of equity and justice, strives to strike a delicate balance between respecting the autonomy of individual legal systems and fostering a coherent international legal order.

2.2. Adaptation for Space Activities

The evolution of PIL, hitherto entrenched in the terrestrial milieu, encounters an unprecedented challenge with the burgeoning domain of space activities.[6] The extant legal framework, meticulously crafted to govern human interactions on Earth, confronts a paradigm shift in the extra-terrestrial realm, where the conventional contours of territorial jurisdiction become obsolete. The vastness and absence of clear national boundaries in space necessitate a different approach to legal jurisdiction.

At its core, the theoretical underpinnings of PIL demand a substantial reconfiguration to accommodate the idiosyncrasies of space-related endeavours. In terrestrial PIL, the principle of territoriality is paramount, and states have clear geographic boundaries. Instead, celestial bodies are subject to international agreements, superseding the sovereignty of individual nations.[7] This seismic shift necessitates a profound re-evaluation of the foundational tenets that have historically underpinned PIL.

In response to these challenges, the theoretical framework of PIL must undergo a deliberate expansion to assimilate the distinctive features of space activities. The traditional adherence to the doctrine of *lex lata*, representing the law as it exists, must be supplemented with *lex ferenda*, denoting the law that ought to be. This augmentation is imperative not

[6] Elena Cirkovic, "The next Generation of International Law: Space, Ice, and the Cosmolegal Proposal" German Law Journal, (2021), vol. 22, pp. 147-167.

[7] Sara Bruhns and Jacob Haqq-Misra, "A Pragmatic Approach to Sovereignty on Mars" *Space Policy*, (2016), vol. 38, p. 57.

only for the expeditious resolution of contemporary legal quandaries arising in the cosmos but also for the prescient anticipation of prospective scenarios. These scenarios include disputes concerning celestial resource allocation, the burgeoning prospect of interplanetary mining, and the nascent contemplation of extra-terrestrial colonization.

The adaptation of PIL to the exigencies of space activities is not a mere doctrinal refinement but a fundamental recalibration to ensure the continued efficacy and relevance of legal norms in the face of the uncharted complexities posed by the cosmos. As humanity ventures further into the cosmos, the malleability and foresightedness of PIL become indispensable tools for fostering a legal environment conducive to the peaceful and equitable exploration of celestial frontiers.

3. International Legal Framework

The regulation of space activities constitutes a nuanced tapestry woven from the threads of international agreements, treaties, and conventions meticulously crafted over the span of decades. Understanding this international legal framework is essential to grasp the intricacies of applying Private International Law (PIL) to the realm of outer space.

3.1. Exploration of Space Treaties and Conventions

3.1.1. Outer Space Treaty of 1967[8]

The bedrock of international space law, the 1967 Outer Space Treaty, serves as the seminal cornerstone upon which the regulatory framework for space exploration and utilization was erected. Aptly christened the "Magna Carta of Space Law,"[9] this treaty, which came into force on October 10, 1967, epitomizes a watershed moment in the evolution of international legal norms governing activities beyond Earth's confines.

The profound significance of the Outer Space Treaty emanates from its prescient articulation of principles that transcend the temporal and spatial confines of its drafting. Foremost among its provisions is the categorical prohibition on the placement of nuclear weapons in outer space, a foundational commitment to the preservation of celestial realms as zones of peace.[10] Article IV clearly states that "The moon and other celestial bodies shall be used by all States Parties to the Treaty exclusively for

[8] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (adopted 27 January 1967) 610 UNTS 205.

[9] Tanja Masson-Zwaan and Roberto Cassar, “The Peaceful Uses of Outer Space” in Chesterman Simon, David M Malone and Santiago Villalpando (eds), *Oxford University Press eBooks* (Oxford University Press 2019).

[10] Outer Space Treaty 1967, art IV.

peaceful purposes..." This prohibition not only reflects the international community's aversion to the weaponization of space but also establishes a normative bulwark against the potential militarization of the cosmic domain.

Equally noteworthy is the treaty's unequivocal assertion that celestial bodies are beyond the purview of national appropriation. The provision states that “Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.”[11] This principle safeguards the collective heritage of humankind by precluding unilateral claims of sovereignty over extra-terrestrial entities. It fosters an ethos of shared stewardship, emphasizing the exploration and utilization of outer space for the benefit of all nations, irrespective of terrestrial origin.

A defining characteristic of the Outer Space Treaty is its declaration of outer space as the province of all humankind. It states, “The exploration and use of outer space, including the moon and other celestial bodies, shall be carried out for the benefit of all countries.”[12] This visionary proclamation, articulated in Article I, underscores the egalitarian ethos that permeates the treaty. It signifies a departure from parochial interests and affirms the cosmic commons as a realm where the interests and aspirations of the global community take precedence over narrow national considerations.

As the "Magna Carta of Space Law," the Outer Space Treaty not only laid the foundation for subsequent treaties and conventions but also established a normative paradigm that continues to resonate in the ongoing development of space law. Its enduring relevance underscores the foresight of its drafters in crafting a legal instrument that transcends the contingencies of time and space, serving as an enduring guide for the exploration and utilization of the cosmic frontier.

3.1.2. The Rescue Agreement of 1968[13]

The Rescue Agreement of 1968, also known as the Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects Launched into Outer Space, constitutes a pivotal element within the corpus of international space law. This agreement was made against the backdrop of the burgeoning space age, with the recognition that the exploration and exploitation of outer space inherently carried risks and necessitated a cooperative framework to address potential contingencies.

[11] Outer Space Treaty 1967, art II.

[12] Outer Space Treaty 1967, Art I.

[13] Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (adopted 22 April 1968) 672 UNTS 119.

The primary objective of the Rescue Agreement is encapsulated in its commitment to the prompt and safe return of astronauts in the event of an emergency.[14] This commitment reflects a recognition of the inherently risky nature of space endeavours and establishes a framework for international cooperation in ensuring the well-being of astronauts, regardless of their national origin.

Beyond the rescue of astronauts, the agreement delineates procedures for the return of space objects to the launching state.[15] This provision acknowledges the potential hazards posed by space debris and establishes a mechanism for mitigating the consequences of space activities by facilitating the return of objects to their country of origin.

3.1.3. The Liability Convention 1972[16]

Officially known as the Convention on International Liability for Damage Caused by Space Objects, is one of the five United Nations treaties governing outer space activities. It was adopted in the context of the emerging space age, seeking to address the potential risks and liabilities associated with space exploration and satellite launches.

The convention establishes a system of absolute liability for damage caused by space objects to other countries' space objects or to persons and property on Earth.[17] This absolute liability means that a launching state is held responsible for any damage caused by its space objects regardless of fault[18]. This approach is crucial in the context of private space activities, as it ensures that parties engaging in space endeavours, including private entities, are accountable for the potential consequences of their actions.

3.1.4. Registration Convention (1976)[19]

The Registration Convention of 1976, formally titled the Convention on Registration of Objects Launched into Outer Space, is a significant international treaty that outlines the principles and procedures for the registration of objects launched into outer space. This convention establishes a framework for transparency and information sharing regarding space activities. It mandates that states launching objects into

[14] Rescue Agreement 1968, Art 2.

[15] Rescue Agreement, 1968, Art 5.

[16] Convention on International Liability for Damage Caused by Space Objects (adopted 29 March 1972) 961 UNTS 187.

[17] Liability Convention 1972, Art II and Art III.

[18] Ioana Bratu, Arno Lodder and Tina van der Linden, "Autonomous Space Objects and International Space Law: Navigating the Liability Gap" *Indonesian Journal of International Law*, (2021), vol. 18, p. 430.

[19] Convention on Registration of Objects Launched into Outer Space (adopted 12 November 1974) 1023 UNTS 15.

outer space must register those objects.[20] This requirement is fundamental for transparency, identification, and documentation of space objects.

States are obligated to include specific information in the registration, such as the launching state's name, a designator for the space object, launch date, and information about the object's function.[21] This data forms the basis for a comprehensive database of space objects.

The convention allows both states and international intergovernmental organizations to register space objects.[22] This inclusivity recognizes the diverse range of entities involved in space activities, including governmental and non-governmental actors.

The launching state retains jurisdiction and control over the registered space object and is responsible for ensuring ongoing compliance with the convention's registration requirements.[23] This provision has implications for the legal responsibilities of states and, by extension, private entities involved in space endeavours.

The convention ensures that registration information is made available to all parties on a non-discriminatory basis.[24] This promotes transparency and facilitates international cooperation by providing access to information about space activities.

3.1.5. Moon Agreement of 1984

The Moon Agreement, officially titled the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, is an international treaty crafted by the United Nations to regulate the utilization and exploration of the Moon and other celestial bodies. Formally adopted in 1979, this agreement serves as an extension of the Outer Space Treaty of 1967, with a specific focus on lunar activities. Despite its creation, the Moon Agreement has not seen widespread ratification, and major spacefaring nations, such as the United States, Russia, and China, have opted not to become parties to this accord.

The Moon Agreement underscores the Moon and its resources as the shared heritage of all humankind.[25] It explicitly discourages any attempts at national appropriation of the Moon or any of its components through any means.[26]

The treaty prohibits the placement of any weapons of mass destruction on the Moon or its orbit.[27] Additionally, the Moon Agreement forbids the

[20] Registration Convention, Art II.
[21] Registration Convention, Art IV.
[22] Registration Convention, Art V.
[23] Registration Convention, Art VI.
[24] Registration Convention, Art VIII.
[25] 11(1).
[26] 11(2)
[27] Article 3(4)

establishment of military bases, installations, and fortifications on the lunar surface.[28]

3.2. Identification of Legal Gaps

The challenges of applying PIL to the international legal framework for space activities are twofold. First, the traditional framework, epitomized by key treaties like the Outer Space Treaty (1967), The Rescue Agreement (1968), Liability Convention (1972), Registration Convention (1976), and the Moon Agreement (1984), was initially designed with the role of states in mind and lacks specificity in addressing the legal status of private actors in space.

Second, there are notable gaps in the current legal framework. However, this design limitation results in a lack of specificity when addressing the legal status of private actors in space, creating ambiguities regarding liability, responsibility, and applicable law in cases involving non-state space activities.

3.2.1. Ambiguities in Liability within the Liability Convention (1972):

The Liability Convention, which primarily assigns liability to states for damage caused by their space objects, encounters challenges in accommodating the growing role of private entities. As private actors engage in space activities, legal ambiguities arise concerning the attribution of liability. For instance, if a private satellite causes damage, the current framework may not clearly define the responsibility and liability of the private entity.[29] This gap highlights the need for revisiting the Liability Convention to establish mechanisms for holding private actors accountable.

3.2.2. Responsibility of Private Actors under the Outer Space Treaty (1967):

The Outer Space Treaty lacks explicit provisions addressing the distinct roles and responsibilities of private entities. As the space industry has evolved, with an increasing number of private companies participating in space exploration, satellite launches, and other activities, the treaty's limitations become more apparent. This results in uncertainties regarding the responsibilities of private actors in areas such as environmental protection and space debris mitigation. Additionally, the Outer Space Treaty does not provide specific guidance on resource extraction from celestial bodies. Questions regarding property rights, equitable

[28] Ibid.

[29] Ioana Bratu, Arno Lodder and Tina van der Linden, (n 18) 432.

distribution of benefits, and dispute resolution in such cases remain largely unaddressed.[30]

3.2.3. Applicable Law Challenges in the Registration Convention (1976):

The Registration Convention focuses on the registration of space objects but provides limited guidance on determining the applicable law for non-state space activities.[31] Traditional PIL principles of territoriality and nationality may not adequately address the legal status of private entities. Consequently, legal gaps emerge, impacting the determination of the governing law for private actors in space. Enhancing the Registration Convention to account for the unique challenges posed by private activities is crucial for maintaining legal clarity in this regard.

3.2.4. Emerging Norms and the Moon Agreement (1984):

The Moon Agreement, addressing issues related to the Moon's exploration and use, lacks widespread ratification but serves as a relevant example.[32] This limited acceptance raises questions about the practical applicability and effectiveness of its provisions on a global scale.

To overcome these challenges and uncertainties, the application of PIL to space activities demands a nuanced and thorough analysis. Adapting PIL to the nuances of space, while respecting the existing international legal framework, is essential to ensure that the legal frameworks are not only relevant but also effective in this evolving landscape.

4. Liability Regime for Space Activities

The liability regime for space activities stands as a cornerstone in space law, serving to assign responsibility and facilitate redress in instances of damage or harm arising from space enterprise. This section delves into three pivotal aspects of the liability regime: responsibility for space debris, legal aspects of resource extraction, and addressing interstate disputes.

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[30] Megan Alexa MacKay, "Property Rights in Celestial Bodies: A Question of Pressing Concern to All Mankind" *Marquette Law Review*, (2020), vol. 104, p. 575 <https://scholarship.law.marquette.edu/mulr/vol104/iss2/9/> accessed 9 November 2023.

[31] Henry R Hertzfeld, "Unsolved Issues of Compliance with the Registration Convention" *Journal of Space Safety Engineering*, (2021), vol. 8, p. 238.

[32] Brian Wessel, "The Rule of Law in Outer Space: The Effects of Treaties and Nonbinding Agreements on International Space Law" *UC Law SF International Law Review*, (2012), vol. 35, p. 309
<https://repository.uclawsf.edu/hastings_international_comparative_law_review/vol35/iss2/1/> accessed 9 November 2023.

4.1. Responsibility for Space Debris

Space debris, or space junk, poses a substantial challenge in the domain of space activities due to the potential damage it can inflict on operational satellites or space stations.[33] The Liability Convention of 1972 assigns absolute liability to the launching state for damages caused by its space objects.[34] However, a critical issue arises in the convention's definition of "launching state," primarily tailored to governmental entities.[35] This introduces ambiguity when private companies and non-state actors partake in space activities.

To address this gap, the adaptation of Private International Law (PIL) is indispensable. PIL can serve as a mechanism to bridge the divide and establish liability for private entities engaged in space activities, thus contributing to effective space debris mitigation.

4.2. Legal Aspects of Resource Extraction

The potential for resource extraction from celestial bodies such as the Moon, asteroids, and Mars introduces a new frontier in space activities. While the Outer Space Treaty of 1967 prohibits national appropriation of celestial bodies,[36] it lacks specificity on how resource extraction should be regulated.[37] The Moon Agreement of 1984 attempts to provide a framework for resource utilization, but its limited adoption and lack of clarity on implementation pose challenges.[38]

The application of PIL becomes essential in the context of resource extraction, as it can provide a mechanism to address issues of property rights, equitable distribution of benefits, and the resolution of disputes that may arise among states and private actors involved in these activities. Adapting PIL to accommodate these unique challenges of space resource extraction is imperative for ensuring the orderly and lawful utilization of celestial resources.

4.3. Addressing Interstate Disputes

Space activities can give rise to disputes between states regarding issues such as orbital slots for satellites, radiofrequency allocations, and

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[33] Joel A. Dennerley, 'Managing the Risks Associated with Space Debris' in MA Pozza and JA Dennerley (eds), *Risk Management in Outer Space Activities. Space Law and Policy* (Springer 2022).

[34] Liability Convention, Article I.

[35] C. Isnardi, "Problems with Enforcing International Space Law on Private Actors" *Columbia Journal of Transnational Law*, (2020), vol. 58, p. 504.

[36] Outer Space Treaty, Article II.

[37] Mathias Gautier, 'The Need for a Common Heritage of Mankind Based Regime for the Exploitation of Outer Space Resources: The Deep Seabed as Inspiration for Outer Space' (Masters Thesis2020) 33.

[38] Moon Agreement, Article 11.

collisions in space. Dispute resolution mechanisms are crucial for maintaining peace and cooperation in space.

States are advised to attempt diplomatic resolution before considering alternative methods of settling disputes.[39] Consequently, the resolution of conflicts related to space has not been adequately addressed within the framework of international law.[40]

Scholars generally hold the view that the UN treaty framework is considered unsatisfactory, if not insufficient, to effectively address the increasing commercialization of outer space.[41]

The primary issue seems to stem from the lack of a dedicated mechanism for resolving disputes.

However, PIL can contribute to enhancing the dispute resolution mechanisms by providing a structured framework for arbitration or mediation, particularly in cases involving private entities.

5. Role of International Organizations in Global Space Governance

International organizations play a crucial role in shaping and governing global activities, especially in domains like outer space. Their primary functions include facilitating cooperation, setting standards, and resolving disputes among member states. In the realm of space governance, one of the prominent bodies is United Nations Committee on the Peaceful Uses of Outer Space (COPUOS).

5.1. COPUOS and Its Mandate:

COPUOS, established in 1959, operates under the umbrella of the United Nations. Its mandate revolves around the peaceful exploration and use of outer space.[42] This committee provides a platform for member states to discuss and coordinate activities related to space, addressing issues such as satellite communication, space debris management, and the equitable use of space resources.

COPUOS has been instrumental in the formulation of significant international agreements, including the Outer Space Treaty of 1967. The committee also addresses emerging challenges such as space debris

[39] Outer Space Treaty, Article IX.

[40] Rossana Deplano, "The Peaceful Settlement of Space Disputes: Prospects and Challenges" [2022] SSRN Electronic Journal, <10.2139/ssrn.4138070>.

[41] Jan Frohloff, "*Per Arbitrum Ad Astra*" *Journal of International Arbitration*, (2020) vol. 37, p. 721; Fabio Tronchetti, "The PCA Rules for Dispute Settlement in Outer Space: A Significant Step Forward" *Space Policy*, (2013), vol. 29, p. 181, 182.

[42] Kiran Krishnan Nair, "The Principle of Peaceful Use of Outer Space: Reviewing the Scope of "Peaceful" in the Changed Context", *Small Satellites and Sustainable Development - Solutions in International Space Law* (Springer, Cham 2019).

mitigation, satellite collision avoidance, and the responsible use of space technologies. Its work extends beyond legal frameworks, encompassing technological cooperation and the promotion of scientific research for the benefit of all nations.

5.2. Harmonizing Private International Law in Global Space Governance:

Private international law in the context of global space governance is a complex area that requires careful consideration. As commercial entities increasingly engage in space activities, there is a growing need to harmonize legal frameworks to ensure fair and equitable practices.

Harmonization involves aligning laws across jurisdictions to create a cohesive legal environment. In the context of global space governance, this could entail developing standardized regulations for issues like liability, intellectual property rights, and commercial space activities. Achieving harmony in private international space law is essential to foster collaboration, reduce legal uncertainties, and encourage responsible behaviour among private entities.

Efforts toward harmonization should involve collaboration between states, international organizations, and the private sector. Developing a comprehensive legal framework requires addressing jurisdictional challenges, defining liability mechanisms, and establishing dispute resolution mechanisms.

6. Toward a Specialized Legal Regime for Space

In recent years, the need for a specialized legal regime for space has become increasingly apparent. The complexities and challenges associated with space activities demand a tailored approach to address the unique characteristics of this domain. This section will focus on the necessity for adaptation and the delicate balance required to achieve justice and fairness in the formulation of such a specialized legal framework.

6.1. Need for Adaptation:

The adaptation of legal frameworks for space activities is imperative due to the distinctive nature of outer space. Traditional legal systems, designed for terrestrial concerns, may not adequately address the complexities and nuances associated with space exploration and use. Several factors underscore the need for adaptation:

i. Technological Advancements: Rapid advancements in space technology, including satellite launches, space tourism, and resource exploration, have outpaced existing legal frameworks. New regulations must be dynamic enough to accommodate

evolving technologies and ensure their responsible and equitable use.

ii. Global Collaboration: Space activities often involve collaboration among multiple nations and private entities. A specialized legal regime would facilitate international cooperation, defining clear responsibilities, liabilities, and dispute resolution mechanisms to govern joint ventures in space.

iii. Environmental Considerations: The environmental impact of space activities, such as space debris and resource extraction, necessitates specific regulations to preserve the celestial environment.[43] A specialized legal regime can address environmental concerns and establish guidelines for sustainable space exploration.

iv. Security and Militarization: With the potential militarization of space, there is a need for regulations that prevent an arms race beyond Earth. A specialized legal framework can contribute to demilitarizing space and ensuring its peaceful use for the benefit of all nations.

6.2. Balancing Justice and Fairness:

The formulation of a specialized legal regime for space must strike a delicate balance between justice and fairness. Achieving this equilibrium is essential to promote international cooperation, prevent the exploitation of space resources, and ensure equitable access to the benefits of space exploration. Key considerations in achieving this balance include:

i. Equitable Resource Allocation: Space is rich in resources, and any legal framework must address the fair distribution of these resources among nations. This involves establishing mechanisms that prevent monopolies and promote inclusivity, allowing both developed and developing nations to benefit from space exploration.

ii. Liability and Accountability: The legal regime must define clear liability mechanisms for space activities, holding entities accountable for any damages caused. Balancing this with justice requires ensuring that liability is proportional and that legal frameworks do not stifle innovation or exploration.

iii. Access to Space: Fair and non-discriminatory access to space is crucial. The legal regime should promote open access for all nations, irrespective of their economic or technological

[43] JA. Dallas and others, "An Environmental Impact Assessment Framework for Space Resource Extraction" *Space Policy*, (2021), vol. 57, p. 101441.

capabilities, fostering a collaborative and inclusive approach to space exploration.

iv. Ethical Considerations: Justice in space activities also involves ethical considerations, such as the protection of celestial bodies from undue harm and the responsible use of emerging technologies. The legal framework should incorporate ethical guidelines to guide the conduct of space-faring nations and entities.

7. Conclusion

The exploration of outer space presents a novel frontier characterized by technological advancements and emerging legal complexities. This article thoroughly explores the role of Private International Law (PIL) in navigating the intricate legal landscape of space activities. As private entities increasingly join traditional state-led initiatives in space endeavours, PIL, rooted in conflict of laws, becomes more relevant for addressing the legal challenges of this new era of space exploration. The adaptation of PIL to space activities demands a re-evaluation of existing legal paradigms, blending conventional law with forward-looking perspectives to accommodate the unique features of space. However, applying traditional international legal frameworks, such as the Outer Space Treaty of 1967, to non-state entities presents challenges, requiring detailed analysis to determine their limitations and potential adaptations for inclusive participation in space activities.

Identifying legal gaps, particularly in resource extraction from celestial bodies, underscores the need for adaptability and innovation. This research serves as a significant contribution to the ongoing discourse in space law, providing valuable insights for scholars, policymakers, and legal practitioners. Adapting PIL to this new frontier is not just a legal matter but a crucial step in facilitating the peaceful, sustainable, and lawful exploration of the cosmos. As humanity ventures further into space, the evolution of PIL will ensure that law and order prevail in the final frontier.

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INTERNATIONAL PEACEKEEPING DISCOURSE: LINGUISTIC COMPATIBILITY OF UKRAINIAN PEACEKEEPERS WITH THEIR INTERNATIONAL COUNTERPARTS

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Abstract: *The effective cooperation of countries engaged in peacekeeping missions depends on many conditions and factors, including a common working language and a set of standards among military forces participating in peacekeeping operations. This article provides an overview of previous studies on the development of military discourse and English for the military. It demonstrates that linguistic compatibility is essential for achieving operational alongside technical interoperability. The study explores the international peacekeeping discourse to ensure the complete linguistic compatibility of Ukrainian peacekeeping units with their allies. It offers a profound analysis of English peacekeeping documentation maintained according to UN and NATO standards, outlining their basic features and usage. It reveals various types of military texts, exploring their functional purposes that indicate semantic features and linguistic characteristics essential for effective communication in peacekeeping missions. The research suggests an in-depth examination of the structure of military texts, providing further analysis aimed at developing the military sublanguage and standardizing Ukrainian military terminology. The results of this study can serve as a groundwork for future investigations of different aspects of international peacekeeping discourse, being particularly*

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useful for military translators and other specialists involved in multinational peacekeeping operations.

Keywords*: international peacekeeping discourse, linguistic compatibility, military terminology, multinational military communication, standardization.*

Introduction

Military cooperation between Ukraine and NATO member countries began in 1991 when Ukraine joined the North Atlantic Cooperation Council and in 1994 the Partnership for Peace program. This cooperation has continued successfully. Despite the challenges posed by the Russian invasion of Ukraine, the country's National Security Strategy outlines the development of a distinctive partnership with NATO, with the aim of future membership in this organization.

NATO-Ukraine cooperation is supported by numerous decrees and legislative acts at the national level, as well as numerous treaties, agreements, and memoranda at the inter-state level. These documents serve as valuable reference material for our study, containing international military peacekeeping terms and their definitions, which we used in the analysis. Performing duties in peacekeeping missions and participation in joint military exercises require the use of many documents, often distinct from those employed in the Armed Forces of Ukraine. The participation of the Ukrainian military in multinational peacekeeping operations demands high standards of language competence and training, along with the ability to work with documents written in accordance with UN and NATO standards.

The aim of the article is to study the international peacekeeping discourse through the terminology of military peacekeeping documentation, ensuring linguistic compatibility for Ukrainian peacekeeping units with their counterparts from NATO-member countries. To achieve this research goal, the following tasks were set: to substantiate the usage of the term 'international peacekeeping discourse' and determine its functional area and features; to outline the structure of the international peacekeeping discourse by considering the function and composition of the analyzed military texts; to study numerous peacekeeping and military terms, acronyms, and abbreviations, including their rendering into Ukrainian; to analyze lexical challenges that future Ukrainian peacekeepers may encounter in achieving compatibility with the units of the multinational peacekeeping force.

The topicality of this paper lies in the necessity to systematize English military, politico-military, and peacekeeping vocabulary, with the prospect of compiling an English-Ukrainian dictionary for UN and NATO

peacekeeping operations, thus, reflecting the current state of the international peacekeeping discourse.

Material and methods of research

The study was based on over 10320 pages of documents, sampled from the period 2011 to 2021, including both original and translated versions. These documents encompassed combat command documents of multinational peacekeeping contingents, official correspondence, information reference and information-analytical texts, as well as military and civilian periodicals covering peacekeeping missions and the military-political situation in conflict zones.

To get the objective results, we used a set of general scientific methods. The descriptive method was applied to classify military documentation and generalize the collected materials. The comparative method aimed to establish common and divergent features of the military texts under consideration. This analysis helped compare the obtained results, carry out the research of the theoretical material and examples, and draw valid conclusions. It was applied to examine context-dependent military terms, acronyms, and abbreviations. Contextual and translation analyses were used to identify a common cause of errors in the understanding of abbreviations, and to distinguish senses of abbreviations not semantically related but in a relation of homonymy. Linguocultural analysis was applied to consider the national and cultural specificity of message content and avoid ambiguity and misinterpretation of term usage.

Theoretical background

The military sphere has historically been associated with interlingual mediation. Interlingual relations presuppose the relations between states, armed forces participating in international missions, and all those who mediate across linguistic boundaries. The way the military use language in the world arena directly influences global politics. It is a well-known fact that words have the power to both destroy and create. Sometimes a single word can change everything. In the way that war, trade, migration, and myriad other global processes are products of conflict, negotiation, and exclusion, the same is true about language, the way it is used for action and exchange[1].

The need for effective communication between multinational peacekeeping forces has led to the development of norms and standards of

[1] M.J. Caraccioli, E. Wigen, J.C. Lopez, A. Cheney, J. Subotic, 'Forum: interlingual relations: approaches, conflicts, and lessons in the translation of global politics.' *International studies review*, 23(3), 2021, pp. 1015-1045.

a single working language, called 'English for Military Purposes'[2] or 'Military English', the term used by Bhinder[3], Bogusz[4], Bowyer[5], Likaj[6]. The standards mentioned above cover all areas of the Alliance's military activity, including communications standards, terminology, staffing procedures, and guidance documents. The more active NATO-Ukraine and EU-Ukraine military cooperation has contributed to the accumulation of theoretical and empirical material on major European and Eastern languages, leading to the systematization of foreign military terminology database. This process establishes the theoretical basis for the linguistic support of the Armed Forces of Ukraine.

Considering the role of English as an international language, Cohen – an authoritative specialist on cross-cultural communication, diplomacy, and conflict resolution – acknowledges that "English is indispensable for the efficient handling of international affairs"[7]. It plays "an essential role as a common denominator in negotiation"[8]. According to Cohen[9], English has become "the modern global interlanguage," functioning as "a global lingua franca" devoid of cultural bias. "It may even be thought of as a metalanguage beyond culture, depicting the world in a completely objective way, like a system of mathematical notation"[10]. The statements above prove the benefits of using a universal language, which can play a pivotal role in preventing and resolving armed conflicts today. Modern world leaders, military officials, diplomats, and international organizations conduct many international negotiations and resolve conflicts in English.

Taking into account the role of the United States, Great Britain, and Canada in multinational peacekeeping operations and the development of military discourse, it is evident that English has become the official language in the field of peacekeeping. It serves as a means of communication for

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[2] W. Hao, M. Song, 'A demand analysis and teaching design of English for specific military purposes for non-commissioned officers.' *Journal of literature and art studies*, 10(10), 2020, pp. 923-928.

[3] N. Bhinder, 'Teaching military terminology in the English classroom.' *English for specific purposes*, 8, 2021, pp. 24-29.

[4] D. Bogusz, 'Teaching English military terminology in military classes.' *Safety and defense,* 3, 2017, pp. 31-36.

[5] R. Bowyer, *Check your vocabulary for military English*. London, New Delhi, New York, Sydney: Bloomsbury, 2008.

[6] M. Likaj, 'Teaching listening as a communicative skill in military English.' *Journal of education and practice*, 6(24), 2015, pp. 64-70.

[7] R. Cohen, 'Language and negotiation: A Middle East lexicon.' *Language and diplomacy*, 2001a, p. 89.

[8] *Ibid*, p. 91.

[9] R. Cohen, 'Language and conflict resolution: The limits of English.' *International studies review*, 3(1), 2001b, pp. 25-51.

[10] *Ibid*, p. 31.

peacekeepers of different nationalities. Accordingly, language training is vital for NATO, as "linguistic interoperability" significantly contributes to NATO missions, broader Alliance activities, and other forms of interoperability[11]. Crossey emphasizes that the effectiveness of international military communication in peace-support operations is based on "International Professional English," not Standard British or Standard American English[12]. Hence, language learning has been considered critical to NATO integration and a priority for countries seeking NATO membership. A necessary precondition for mastering the language of peacekeepers has become a Military English course in NATO's member countries and the study of Peacekeeping English under NATO and EU auspices.

In 2020-2021 a series of training sessions were held in Ukraine as a joint project of the British Embassy, the Ministry of Defense of Ukraine, and the British Council in Ukraine. In these training sessions, Buckmaster, a well-known instructor-methodologist for teaching ESP, introduced his course 'English for Peacekeeping Operations'[13]. Its target audience is military personnel who are to be deployed in multinational peace support operations. In this course, they learn how to operate effectively in international tactical and peacekeeping operations.

To substantiate the terminology used in the research, particularly the term 'international peacekeeping discourse,' it was essential to turn to the experience of linguists who studied different aspects of discourse. The number of discourse studies, including those by Ariel[14], Anchimbe[15], and Putri[16], demonstrates that discourse has evolved into one of the most commonly used concepts in modern linguistics. It is evidently dependent on both text and context[17]. According to Poliuzhyn[18], discourse is the unity of speech activity and its integral part – the text, which can be written as a

[11] M. Crossey, Improving linguistic interoperability. *NATO review*, 2005. Available at: https://www.nato.int/docu/review/articles/2005/06/01/improving-linguistic-interoperability/index.html

[12] M. Crossey, *ibid.*

[13] R. Buckmaster, *Military English: Tactical and peacekeeping operations*. Independently published, 2019.

[14] M. Ariel, 'Discourse, grammar, discourse.' *Discourse studies*, 11(1), 2009, pp. 5-36.

[15] E.A. Anchimbe, '"Motions of support' and the communicative act of thanking in political discourse.' *The pragmatics of political discourse: Explorations across cultures*, 2013, pp. 219-242.

[16] A.G. Putri, 'Discourse in mass media: A study of critical analysis research agenda.' *Journal of English teaching and research*, 3(1), 2018, pp. 40-51.

[17] F. Cornish, '"Text" and "discourse" as "context": Discourse anaphora and the FDG contextual component.' *Working papers in functional discourse grammar: The London papers I*, 1(1), 2009, pp. 97-115.

[18] M. Poliuzhyn, 'A cognitive approach to discourse analysis.' *Foreign philology*, 120, 2008, pp. 90-98.

sequence of graphic symbols or oral. Discourse also encompasses the processes of its formation and perception over time.

The discourse of peace support operations is addressed in the article by the Italian translator Monacelli[19]. The author introduced this term for the practical purpose of developing and implementing a course to training military translators for future peacekeeping operations. She outlined the main features of this discourse, which are relevant to all types of peacekeeping operations. Ukrainian linguists got interested in this type of discourse when Ukraine became a member of the North Atlantic Cooperation Council in 1991. This membership fostered cooperation between Ukraine and NATO member countries, raising questions about a comprehensive analysis of peacekeeping and military terminology.

Many domestic military experts and linguists, including Kozii, Tarasiuk[20], Melnyk, Cherviakov[21], and Polyakov[22], have been working on linguistic compatibility with the North Atlantic Alliance, the development of the military sublanguage, and the standardization of Ukrainian military terminology. Their works on the effectiveness of multinational peacekeeping operations emphasized the necessity to ensure full linguistic compatibility of Ukrainian peacekeeping units with active members of the international peacekeeping discourse.

The works under consideration, which are devoted to the issues of military language capabilities, linguistic compatibility with the North Atlantic Alliance, the development of the military sublanguage, and the standardization of military terminology, may serve as the theoretical basis for a profound analysis of the international peacekeeping discourse and the sublanguage of military peacekeeping documentation. The need for a comprehensive analysis of the international peacekeeping discourse arises from Ukraine's active participation in multinational peacekeeping missions and, simultaneously, the lack of a theoretical basis for creating an appropriate linguistic component of operational and tactical compatibility.

Results

In 2021 peacekeepers from over 120 countries served in 12 missions, protecting civilians, preventing conflicts, and creating conditions for

[19] C. Monacelli, 'Interpreters for peace.' *Interpreting in the 21st Century: Challenges and opportunities.* Garzone, G. & Viezzi, M. (eds.). John Benjamins Publishing Company, 2002, pp. 181-193.

[20] I. Kozii, T. Tarasiuk, 'NATO standards: Implementation progress in Ukraine.' *Reanimation package of reforms*, 2019. Available at: https://rpr.org.ua/en/news/nato-standards-implementation-progress-in-ukraine/

[21] S. Melnyk, O. Cherviakov, 'Implementation of NATO standards in the training system for the Security Service of Ukraine.' *Problems of legality*, 153, 2021, pp. 8-17.

[22] L. Polyakov, *U.S.-Ukraine military relations and the value of interoperability*. Strategic Studies Institute. U.S. Army War College, Carlisle, 2004.

sustainable peace. Their activity contributed to the effectiveness of peacekeeping operations in conflict zones and the need to use one common language of peacekeepers. Over time, this language has been enriched by many lexical units, idioms, and abbreviations.

To distinguish the professional sublanguage of multinational peacekeeping operations from a number of other international and professional sublanguages, the term *Peaceglish* was introduced by Yanchuk[23]. It was formed using standard word-formation models, combining the word *peace* (the key semantic element of the term 'peacekeeping') with the suffix *-glish,* indicating language affiliation.

The study of different types of military texts (original and translated): combat documents, official correspondence, analytical materials, publications covering peacekeeping missions, military and political situations in conflict zones, their main features and structure allowed Yanchuk to introduce the term *international peacekeeping discourse*[24]. Functional areas and the nature of communication are the main criteria that determine the discourse. In the case of the international peacekeeping discourse, the functional area is rather broad, ranging from the involvement of international, political organizations, and different military units in peacekeeping missions to a variety of media coverage on the issues related to peacekeeping missions, challenges for multinational peacekeeping operations, and the military-political situation in the world. The nature of multinational peacekeeping communication relies on the political hierarchy or the system of military subordination in which interaction occurs.

Depending on the military chain of command or the management level, there are downlink and uplink communications. Downlink communications presuppose the delivery of information from higher-ranking members to lower ones. It is used to guide and organize interaction and cooperation, as well as to monitor the situation in the area of responsibility of a peacekeeping contingent. Through downlink communications, subordinates receive fragmentary and operational orders. On the contrary, uplink communications involve the delivery of information from lower command and administrative levels to higher ones. Overall, these two types of communication provide commanders with information on the state of affairs in the theater of operations, in the area of operations, on the ground, and at the lower levels of military

[23] S. Yanchuk, *Translation features of military documentation of UN and NATO peacekeeping missions*. Kyiv: Logos, 2013.

[24] S. Yanchuk, 'Peculiarities of rendering communicative and pragmatic features of international peacekeeping discourse in Ukrainian.' *Scientific notes of Kirovohrad Volodymyr Vynnychenko State Pedagogical University. Philological sciences*, 89(1), 2010, pp. 236-241.

management. This includes daily personnel summaries, standard operational reports, intelligence summaries, situation reports, etc. Military-political texts of civil periodicals are mainly aimed at target readers. This type of communication is mostly manipulative.

The study focuses on the linguistic reality manifested in specific speech patterns of the participants of multinational peacekeeping missions. The international peacekeeping discourse is viewed as a type of professional communication with the predominance of military-political style features taking place in the field of international peacekeeping. It is a particular communicative subsystem in which fragments of different discourses interact, including political and military.

Many scholars, including Janičatová, Mlejnková[25], Kopsch[26], Michael[27], Moshkina, Kramarenko, and Bogdanova[28], use a much broader term compared to the international peacekeeping discourse, combining political and military discourses. The term *political-military discourse* became widespread after the Cold War and is mainly used in communication theory, sociolinguistics, journalism, etc. Political-military discourse as a philosophical and linguistic phenomenon covers vast arrays of social institutions and military-political processes in the modern globalized world. The analysis of the terminology in the texts under consideration shows that the terms *political* and *military* serve as key components in compounds (such as *military-political* and *political-military*), and most scholars, journalists, translators / interpreters, and military experts currently use them with the same frequency. This observation is evident in the works of Korolova, Popova[29], Michael, Even[30], and Vasylenko[31].

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[25] S. Janičatová, P. Mlejnková, 'The ambiguity of hybrid warfare: A qualitative content analysis of the United Kingdom's political-military discourse on Russia's hostile activities.' *Contemporary security policy*, 42(3), 2021, pp. 312-344.

[26] T. Kopsch, *Time and the paradigm of operational art – authority and responsibility of the operational artist in the political military discourse.* Kansas. Fort Leavenworth: School of Advanced Military Studies, United States Army Command and General Staff College, 2017.

[27] J. Michael, *The discourse trap and the US military: from the war on terror to the surge*. New York: Palgrave Macmillan, 2013.

[28] Yu. Moshkina, O. Kramarenko, O. Bogdanova, 'Structural and content features of military-political discourse: theoretical aspects (based on the English Language).' *Philology. Theory and Practice*, 14(5), 2021, pp. 1616-1620.

[29] T. Korolova, O. Popova, 'Psycholinguistic aspects of reproducing the Chinese military and political discourse in Ukrainian.' *Psycholinguistics*, 25(2). 2019, pp. 92-116.

[30] K. Michael, Sh. Even, 'Principles of the Israeli political-military discourse based on the recent IDF strategy document.' *Military and strategic affairs*, 8(1), 2016, pp. 19-40.

[31] D. Vasylenko, 'Metaphorical allusion in military political discourse.' *Scientific journal of Polonia University*, 50(1). 2022, pp. 138-143.

The notion of *international peacekeeping discourse*, used in the research, unites many communicators of different nationalities who use one common language and specific communicative standards to achieve a common goal. The international peacekeeping discourse is developing rapidly, combining lexical units of host and contributing nations. It is important to note that the United States, Great Britain, and Canada had the most significant influence on the development of international peacekeeping discourse, primarily due to the active participation of these countries in military operations around the world. One can observe the above-mentioned English-speaking countries' cultural dominance in the standardization of staff procedures, material and technical base, and NATO logistics and terminology.

The analysis of different types of military texts allowed identifying the varieties that differ in content and functional purpose. The latter becomes the most important criterion for classifying military genres, significantly distinguishing them from fiction genres, where functional purpose plays a less significant role. It is worth mentioning that the functional purpose of a text indicates its semantic features and linguistic characteristics. Based on their functional purpose, it is possible to distinguish informative texts, primarily intended to inform readers about different military topics, including current issues related to military operations, missions, capabilities, etc. However, it is not entirely accurate to refer to a specific military informational genre because different military spheres can fulfill the task of providing information. This is evident in military research, technology, journalism, or military reference books. The same is true for the genre of military memoirs, which is somewhat limited. The authors of these works include not only direct participants in military operations but also civilian researchers who may not possess an in-depth knowledge of military affairs and peacekeeping missions in particular. Considering current realities, it would be appropriate to substitute the term 'genre of military memoirs' with 'genre of documentary military prose and memoirs', as it would be more accurate in the study of international peacekeeping discourse.

Taking into account the results of numerous discourse studies, compositional features of professional speech and its product – the text, the schematical structure of the international peacekeeping discourse was outlined (Figure 1).

The international peacekeeping discourse is common to all multinational structures involved in multinational peacekeeping activities. It is a relatively standardized type of speech due to the military's stereotypical situations in peacekeeping missions. An essential factor in the successful cooperation of all multinational peacekeeping contingents is

the ability to present concise but at the same time complete and accurate information within a short period. Compliance with national standards and ambiguity are unacceptable for peacekeeping documentation. To facilitate mutual understanding, national contingents use standard terms in full and abbreviated forms, different clichés in the typical military or potential conflicts, or for regular peaceful purposes.

One of the Ministry of Defense of Ukraine's key priorities is the earliest possible introduction of standardized military terminology, documentation, and staff procedures in the Armed Forces of Ukraine. NATO's standardized documentation is based on Anglo-American standards, guiding all Allies and Partnership for Peace countries to achieve interoperability. Therefore, the current domestic system objectively aligns with the principles of harmonization with NATO's standardization and codification system, comprising 30 independent member countries. The compatibility of Ukrainian peacekeeping vocabulary with international counterparts is attained through various linguistic means and the appropriate use of peacekeeping and military terminology.

Considering military terminology, it is essential to define military vocabulary. It encompasses all words and phrases that denote military concepts directly related to the armed forces, military affairs, war, etc. Additionally, it includes scientific and technical terms used in conjunction with military concepts (for example, *track* refers to the caterpillar track of a tank or an armored fighting vehicle moving on caterpillar treads). The military use many unique items and concepts that civilians aren't exposed to. Some are self-explanatory, and others are entirely cryptic, but all these items have a specific and essential meaning. This makes the linguistic world of the military markedly different from the daily life of civilians. Considering the features of international peacekeeping discourse and the specifics of peacekeeping missions, military vocabulary is viewed as specialized terms used to denote concepts related to military affairs, armed forces, war, etc.

It is important to note that the composition of modern military and political terminology is not stable. Military terms originate for various reasons and change throughout time. They constantly evolve due to the obsolescence of words, changes in meaning, the addition of new terms in connection with the reorganization of the armed forces, the emergence of new models of weapons and military equipment, and the development of new methods of military operations, among other factors. According to Ozymai and Demydenko[32], terminology is an exceptionally dynamic and actively developing lexical category. "At this stage in the development of

[32] I. Ozymai, O. Demydenko, 'Semantic and functional features of translation of English military terms in fiction.' *Young scientist*, 10(86), 2020, pp. 478-484.

society, military terminology is continually adding new lexical units and becoming more expansive"[33].

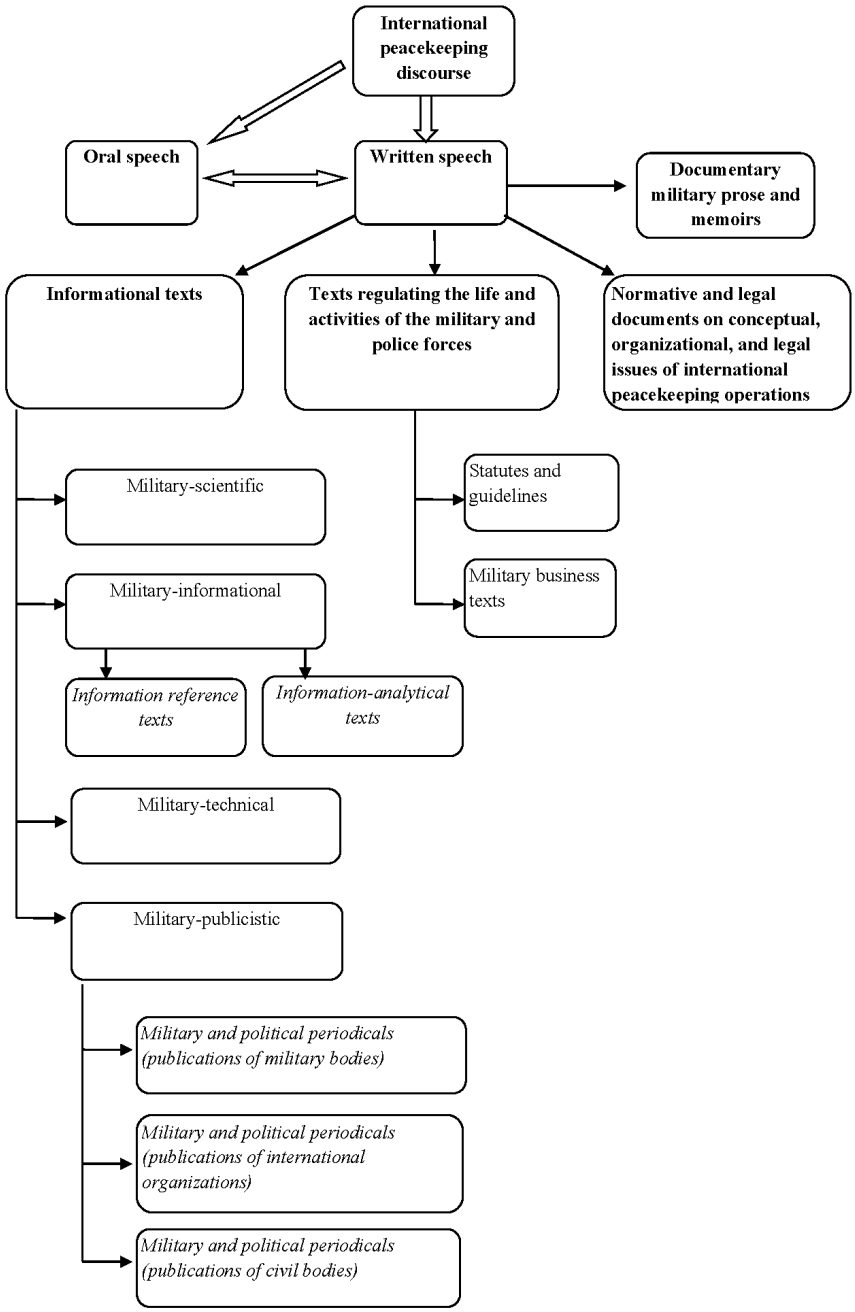

Figure 1. Structure of international peacekeeping discourse

[33] *Ibid.*, p. 478.

Some terms undergo shifts in meaning based on changes in the global political arena. An example of this phenomenon is the term *enclave*, which was incorporated into the lexicon of Ukrainian peacekeepers through adaptive transcoding as *анклав* (an enclosed territory that is culturally distinct from the foreign territory that surrounds it). However, it is crucial to mention that the U.S. armed forces use the word with different meanings: *a bridgehead, a stronghold – плацдарм, опорний пункт*. This divergence in usage may lead to communication misunderstanding.

English military terms used in international peacekeeping discourse may become irrelevant and obsolete. An illustrative example of this is the term *nation-state – національна держава*. In the era of globalization and mass population migration, especially when refugees flee the war, the idioms like *fading away of the state* (denoting the decline, disappearance, or disintegration of the state – *занепад, зникнення, розпад держави*) and *stateless / gray zone* (referring to contested territory, an intermediate area between two opposing sides – *територія, над якою держава частково чи повністю втратила контроль*) are increasingly prevalent.

The practice of introducing foreign words into Ukrainian peacekeeping and military terminology through transliteration has become quite common. It aims to ensure the compatibility of Ukrainian peacekeeping vocabulary with its international counterparts. However, it can arise from the occasional inability of linguists to find Ukrainian equivalents for certain terms in the domestic language: *contributor – контрибутор*, *eventual neutrality – евентуальний нейтралітет*, *collimated display – коліматорний дисплей, the Stinger missile – ракета Стінгер*.

Analyzing different types of abbreviations in scientific and technical literature, Karaban[34] concluded that abbreviations account for 50% of the total. This characteristic feature of scientific and technical texts is also inherent in military documents. The frequent use of abbreviations in combat documents demonstrates their adherence to the requirements of a concise, clear, and succinct military style, essential for avoiding ambiguity when exchanging critical information. However, the use of such abbreviations is not a word-forming process. In this context, abbreviated forms of existing words are used, such as: *VIC* for *vicinity – поблизу; TF* for *Task Force – оперативно-тактична група, EM 068 79* (representing a topographic index and coordinates of the object's location in the grid system).

[34] V.I. Karaban, *Translation of English scientific and technical literature. Grammatical difficulties, lexical, terminological, and genre-stylistic problems*. Vinnytsia: Nova Knyha, 2004.

Particular difficulties in translating abbreviations are observed not because of the absence of their Ukrainian equivalents, but due to a relatively common phenomenon of homonymy, for example:

Table 1. Ways of translating English *AA* abbreviation into Ukrainian

Abbreviation	Full form	Translation
AA[1]	air armament	авіаційне озброєння
AA[2]	air army	повітряна армія
AA[3]	air-to-air	клас "повітря-повітря"
AA[4]	alerting authority	повноваження на приведення військової частини у бойову готовність
AA[5]	area of action	район бойових дій
AA[6]	avenue of approach	шлях підходу

A common cause of errors in the understanding of abbreviations is the inability to recognize the functional purpose of acronyms related to military texts, which leads to a misinterpretation of their conceptual meanings. According to the functional purpose, acronyms in the military sphere can be divided in the following groups:

Table 2. Groups of military acronyms

Groups of acronyms	English	Ukrainian
Procedure word / proword	WILCO (*I* understand and *will comply*)	Зрозумів. *Виконую*.
Brevity code	ECHO (electronic warfare weapons system (EWWS) / System M / Mode X reply)	ЕКО (засоби радіоелектронної боротьби (РЕБ) / Система М / Відповідь у режимі Х)
Callsign	ECHO (Call sign for electronic warfare test range at China Lake, U.S.)	ЕКО (Позивний полігону для випробування засобів РЕБ в Чайна Лейк, що знаходиться у північно-східній частині каліфорнійської пустелі Мохаве, США)
Standard military term in NATO documents and publications	ECHO (evolutionary capability for HQ operations)	ЕКО (еволюційний потенціал для штабних операцій)
Name of the organization	ECHO (European Community Humanitarian Office)	ЕКО (Бюро Європейського співтовариства з гуманітарних питань)

The translation difficulties related to abbreviations include the so-called homonym acronyms. For example, the phonetic structure of the acronym *HULC* (Human Universal Load Carrier) coincides with the phonetic structure of the word *hulk*. Such terms may pose difficulties for military translators and require some background knowledge to avoid ambiguity and misinterpretation.

Analyzing different features of abbreviations used in military documentation of peacekeeping missions, one can observe the tendency to use acronyms as ordinary words. These acronyms are characterized by transitioning from one part of speech to another without affixes (i.e., through conversion) while preserving their conceptual meaning. For example, *MEDEVAC* – an acronym (with the full form *medical evacuation – медична евакуація*), *medevac* – a noun, and *to medevac* – a verb. Taking into consideration that the verb *to medevac* is one of the most frequently used in the analyzed texts, it is possible to render it in Ukrainian through loan translation/calque *мед-евакуювати*. Descriptive translation is not the optimal choice in this case. Newly created terms such as *мед-евакуювати* and *мед евакуація* can be considered new formations or translator's neologisms. Since they are formed in response to the need to convey much information with a few linguistic signs, one can assume that they transition from occasional use to usus (commonly used linguistic units). Including terms like *a medevac* and *to medevac* in specialized dictionaries allows for the recognition of the emergence of a new word-forming model: K-A-C, where K stands for a correlate (elements of words from which a combination is formed), A – an acronym, C – a common word.

A characteristic feature of the terminological lexicon of international peacekeeping activity is the continuity of terminologization processes – the creation of terms from general language words. The research results indicate that the terminologization of professionalisms is most common. Scholars introduce such terms into professional dictionaries and supplement them with definitions and commentaries while retaining their emotional colouring. For example, the professionalism *nap-of-the-Earth* and its abbreviated form *NOE* are not even found in many specialized dictionaries but are documented, defined, and explained in detail in narrowly specialized sources by Condon[35], Luttwak, Koehl[36], Tamilselvam and Prasanalakshmi[37]. "DOD dictionary of military and associated

[35] G.W. Condon, *Simulation of nap-of-the-Earth flight in helicopters*. California, Moffett Field: NASA Ames Research Center, 1991.

[36] E. Luttwak, S.L. Koehl, *The Dictionary of modern war*. Gramercy, U.S., 1998.

[37] N. Tamilselvam, B. Prasanalakshmi, 'Optimization of NOE flights sensors and their integration.' *Advances in human and machine navigation systems*. Rȯka, R. (ed.). IntechOpen. United Kingdom: London, 2019, pp. 71-86.

terms"[38] and "The Oxford essential dictionary of the U.S. military"[39] include the term *nap-of-the-Earth* without a definition but with reference to the synonymous term *terrain flight*.

Table 3. Ways of defining the term *nap-of-the-Earth (NOE)* in English specialized sources and its rendering into Ukrainian

Term	Definition (English)	Definition (Ukrainian)
nap-of-the-Earth (NOE)	a flight profile flown by helicopters for maximum terrain cover (only a few feet off the ground, usually below the trees)[40].	режим польоту вертольотів, що передбачає максимальне використання місцевості в якості прикриття (всього в декількох футах над землею, як правило, нижче верхівок дерев).
	a very low-altitude flight route utilized by military plane to keep away from enemy detection and assault in the high-threat environment[41].	маршрут польоту на дуже низькій висоті, який використовується військовим літаком, щоб уникнути виявлення та нападу ворога в середовищі високої загрози.
terrain flight	flight close to the Earth's surface during which airspeed, height, and/or altitude are adapted to the contours and cover of the ground in order to avoid enemy detection and fire[42].	політ, що виконується близько до поверхні землі, під час якого швидкість, висота над землею та/або висота над рівнем моря повторюють контур місцевості та покрив земної поверхні, і здійснюється для того, щоб уникнути виявлення та обстрілу противником.

The standardization of the working language of the peacekeeping community is achieved through the meticulous efforts of individual institutions within the NATO military structure. The normalization of the working language enhances mutual understanding among all members of multinational peacekeeping operations discourse, facilitated by a shared

[38] *DOD dictionary of military and associated terms*. Washington, D.C., 2021. Available at: https://irp.fas.org/doddir/dod/dictionary.pdf

[39] *The Oxford essential dictionary of the U.S. military*. Oxford: Oxford University Press, 2002. Available at: https://www.oxfordreference.com/display/10.1093/acref/9780199891580.001.0001/acref-9780199891580

[40] E. Luttwak, S.L. Koehl, *op. cit.*, p. 419.

[41] N. Tamilselvam, B. Prasanalakshmi, *op. cit.*, p. 71.

[42] *DOD dictionary of military and associated terms, op. cit.*, p. 215.

terminology and standardized criteria for military documentation. Standardization serves as a prerequisite for efficiently using material resources and consolidating human resources. It is an important factor in the integrity and effectiveness of the Alliance's military structure and is considered a necessity for all NATO members. These standards are currently being adopted and implemented by NATO Partner countries, including Ukraine.

Conclusions

The comprehensive analysis of English peacekeeping documentation, adhering to UN and NATO, served as the foundation for substantiating the terminology used in the article. The research provided an overview of previous studies on the development of military discourse and English for the military. The extensive use of practical material, both in its original and translated forms, used in the investigation facilitated a thorough examination of the structure and key features of the analyzed texts. This analysis led to the introduction of the term 'international peacekeeping discourse', covering a functional spectrum from the engagement of different military units in peacekeeping missions to diverse media coverage of issues related to multinational peacekeeping operations.

The study of modern military and peacekeeping terminology proves that it constantly changes due to the obsolescence of some words, shifts in meanings, the introduction of new terms following armed forces reorganization, advancements in military operations, the development of new military equipment, and other factors. One way to ensure compatibility between Ukrainian peacekeeping vocabulary and its international counterparts is through adaptive transcoding, transliteration, the appropriate use of abbreviations common in international peacekeeping discourse, etc.

The research results allow explaining the difficulties the military experts encounter when dealing with military and peacekeeping abbreviations. They might happen due to homonymy, the inability to recognize the functional purpose of acronyms related to military texts, the lack of background knowledge that helps to avoid ambiguity and misinterpretation. Professionalisms that do not have a clear scientific definition and found in narrowly specialized texts may also pose a problem in multinational peacekeeping operations. Terms that change their meaning depending on changes in the global political arena and the nationality of their users may also be the cause of communication misunderstanding.

The schematical structure of the international peacekeeping discourse described and substantiated in the article can be the basis for further

deeper analysis of international peacekeeping discourse. The peacekeeping process remains an inexhaustible source of research material for terminology, lexicography, translation studies, and other disciplines, due to its specific features such as the dynamic evolution of the lexicon in multinational peacekeeping operations, the international choice of a common language, issues related to terminology standardization, the inclusion of terms in dictionaries, etc. The obtained results can be helpful for military translators and other specialists involved in various activities of international military cooperation, particularly international peacekeeping discourse.

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JAPANESE INTEREST ON CAUCASUS OIL

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Abstract: *Oil has had a great impact on the formation of modern social structure due to its impact on industry, transportation, logistics and military. For a long time, the use of oil in industrial and military fields has been of great importance for the economic stability of countries as well as for their defense policies. For this reason, states had to create oil policies. Accessing this energy source is of strategic importance, especially in oil-poor countries where access to oil is difficult.*

In this article, the changing conjuncture after World War I, Japan's interest in Caucasus oil fields in the parallel period with the establishment of the Soviet Union will be discussed. Japan supported White Army during Russian Civil War, did not have officially any diplomatic relations with the Soviet Union. Even if official diplomatic relations were not concluded, Japan has shown great interest in the oil potential of Caucasus, especially in Grozny and Baku.

The concession that Japan was trying to obtain within the scope of its oil policy, the initiatives aimed at this, and its relationship with the Great Powers that obtained concessions in the region will be discussed.

Keywords: *Japan, oil, concession, Caucasus*

Japan's Increasing Oil Need

Japan has realized the importance of oil since the Meiji Era (1868-1912). The transportation of oil to Japan took place through Chinese traders in 1869, and in 1872 American anthropologist and linguist Benjamin Smith Lyman, upon the invitation of the Japanese Government as an expert, conducted coal mine research in Hokkaidō and extensive oil field research in Shinano[1] and Echigo.[2]

During the Taisho Era (1912-1926), oil began to be preferred and widely used because it was more efficient than coal. This need increased even more when the Japanese Navy adopted a policy of using petroleum-derived fuels since 1915. Japan has become weak in terms of oil supply due to domestic production that is insufficient to meet the ever-increasing need.

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[1] Old province of Japan, which includes Nagano Prefecture now.

[2] Uwatoko Uzuhiko, "Waga Koku no Sekiyu Kōgyō no Kaiko to Mondaiten", *Sekiyu Gijutsu Kyōkaishi (Journal of the Japanese Association of Petroleum Technologists)*, Vol. 38, No 5, Sept., 1973, p. 255.

In this respect, the Imperial Japanese Navy tried to determine the necessary oil needs in times of peace and war by emphasizing the need to develop an oil policy. Because of the switch of the Navy to heavy oil as fuel, oil has become the achilles heel for Japan.[3] Accordingly, in 1923, it was predicted that Japan would have an average stock requirement of 300,000 tons in peace and 1 million 500 thousand tons in case of war.[4] Due to its importance for defense, the Japanese navy supported oil exploration abroad. Although the Japanese Navy supported the acquisition of the oil extraction concession to be sold by Colonial Oil Co. in the Dutch Indies, it was not realized due to the rejection of Economy Minister Takahashi Korekiyo.[5]

The oil need of the Japanese Empire increased greatly with the Taisho Period. The annual consumption rate, which ranged from 430 to 540 million litres from 1912 to 1921, increased by 16% in 1922 and increased by 6.7 times until 1934.[6] The Japanese Empire's desire to obtain oil concessions abroad was aimed at meeting this need. In addition to the increase in domestic oil consumption, oil exploration has increased domestically to supply oil that is of strategic importance for the country's defense, efforts have been made to obtain concessions abroad.

Grozny and Baku Oil

One of the first reports in Japan regarding Caucasus oil potential and the activities of other foreign countries was the report sent by Japan's Hague acting ambassador Itō Nobufumi to the Minister of Foreign Affairs on October 20, 1922. The report quotes an item of news in the Nieuwe Totterdamsche Courant newspaper. Accordingly, "Royal Dutch Shell and Standard (Oil), where negotiations continue in Paris, plan to send their joint representatives to the Ankara government for negotiations to obtain concessions to explore oilfields in the Black Sea Coast and Trans-Caucasus"[7], these regions were previously conceded by Germany and

[3] The War History Office of the National Defense College of Japan, and Willem Remmelink, eds. "The Circumstances Leading to Japan's Invasion of the Dutch East Indies." In The Operations of the Navy in the Dutch East Indies and the Bay of Bengal, 1–14. Leiden University Press, 2018, p. 1.

[4] Uwatoko Uzuhiko, "Waga Koku no Sekiyu Kōgyō no Kaiko to Mondaiten", *Sekiyu Gijutsu Kyōkaishi (Journal of the Japanese Association of Petroleum Technologists)*, Vol. 38, No 5, Sept., 1973, p. 256.

[5] Uwatoko Uzuhiko, "Waga Koku no Sekiyu Kōgyō no Kaiko to Mondaiten", *Sekiyu Gijutsu Kyōkaishi (Journal of the Japanese Association of Petroleum Technologists),* Vol. 38, No 5, Sept., pp. 1973, p. 256.

[6] Ishida Fumihiko, "Taishō Kara Shōwa Shoki ni Okeru Sekiyu Seiyu Gijutsu no Hatten", *Gijutsu to Bunmei*, Vol 14, No 2, Dec., 2003, p. 27.

[7] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 1.

Standard Oil. It is emphasized that there are regions where two companies trying to obtain concessions. Itō informed Minister of Foreign Affairs Uchida Kōsai that it is interesting for Royal Dutch Shell and Standard Oil to pursue joint ventures.

The Japanese government has tried to deepen its knowledge by examining the companies and countries operating in the oil fields of Grozny and Baku. In this context, especially the Japanese embassy in Britain, France and Turkey played a key role in obtaining information about the oil fields.

The report sent by Ambassador Ishii Kikujirō from Paris in October 1923 contains information about Baku oil. This telegraph discusses their conversation with the former government representative of Azerbaijan who lives in Paris. According to this report; "He knows the former oil field owners in the Baku region, they want to cooperate with Japanese investors, there are still many undiscovered oil fields in the region, and although the political situation is not suitable at the moment, if a preliminary contract is signed to work in the future, it will form the basis for obtaining a concession from Soviet Russia in the future".[8] According to Ishii, the Azerbaijani people have great sympathy for Japan as same Asian race, and therefore he informed the Minister of Foreign Affairs Ijūin Hikokichi that joining oil business here could be productive. Ishii requested a reply telegraph sent to the Paris embassy in case there were any Japanese investors interested in the oil business in Baku.

Due to the importance of the oil fields in the region, Japanese embassy in Turkey has prepared a detailed report including the oil fields in Turkey and the status of oil concessions granted to Great Powers. In the report dated 17 January 1924 prepared by Kasama Akio, the first secretary of the Japanese Embassy to Turkey, the concessions of Britain, Germany and America in Caucasus oil were discussed in detail. In the introduction of the report, Mosul oilfields also mentioned. But it is emphasized that even Turkey's new borders were determined by the Lausanne Peace Treaty, the Iraqi border issue has not yet been resolved and it will be resolved through negotiations between Britain and Turkey in the near future.

Japan was also interested in Grozny oilfields. But Japan's interest in the region was noticed by the Shell company, which has a concession in the region. Japanese diplomats thought that activities in the Caucasus were leaked to the Shell group, stating in the telegraph sent by Ishii Japan's Ambassador to Paris to Foreign Minister Matsui Keishirō on February 12, 1924: "The telegraph from Shell's representative in Japan asks whether our

[8] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 7.

country is in talks with the Satorovs"[9] another telegraph wired on February 15; "The leak of the purchase of shares in Grozny to Shell's Tokyo representative made our business difficult. This oil business brought great profits when it was under private company management, but the situation has changed after it was nationalized. It is not clear when the Soviet administration will privatize these oilfields and it is useless to ask the company about this. It is necessary to make an urgent decision whether to continue or not, as continuing the negotiations may cause unexpected losses.[10] Ishii recognized any intervention on this business may damage relations with Shell group which is one of the important oil suppliers of Japan.

In the information note sent by Hayashi Gonsuke Japan's Ambassador to Britain, to the Foreign Minister Matsui on February 16, 1924, it was stated that

> Negotiations regarding the Caucasian oil continued between the Hokushinkai Company and a group doing business in the oil fields in the region, upon the request of Takahata who is in the region, to our French embassy through secretary Matsuyama to investigate. It has been confirmed that. I told our French ambassador that due to our Empire's privileged relationship with the Shell group, special attention should be paid to the terms of the agreement, and the necessary precautions should be taken to prevent information on this issue from being leaked to the Shell side. According to the document sent by French embassy, it appears that information was leaked to Shell. It is not clear whether the Hokushinkai Company contacted the authorities because they are willing to buy the oil business, considering the oil fields here to be valuable, or to examine the oil fields in this region. This will create a situation to our detriment[11]

It can be understood from the document that the interest on Grozny oil came into agenda with Takahata Seiichi, the manager of the UK branch of Suzuki Trade and also the representative of the Hokushinkai company. It is interesting that Hokushinkai was interested in oil venture in Caucasus. During the civil war after the Russian Revolution, the Japanese

[9] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 9.

[10] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) pp. 9-10.

[11] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) pp. 11-12.

Navy organized five domestic oil companies (Mitsubishi, Kuhara, Ōkura Trade, Suzuki Oil Co. and Takarada Oil Co.) into the Hokushinkai Co. and began oil drilling in Sakhalin (Okha), embarked on oil exploration.[12]

Hayashi thought Shell group may considered that Japan has secret plans to betray them. On the other hand, this situation may have created a loss of confidence in the oil companies in Grozny, because Japan had the intention to take a share in stake, but it never materialized. Hayashi approached the attempts for oil concessions here cautiously.

In another information note sent on February 16, 1924, Hayashi appears to have conveyed in detail his reservations about entering into competition with Shell in this field to the Ministry of Foreign Affairs. Hayashi points out that oilfields which distance is not known, also poses a logistical problem due to the difficulty of transporting it to Japan.

Hayashi also discussed the competition with Shell over oil concessions in terms of defense policy. Hayashi developed a concept according to a possible war scenario; it was emphasized that there should be no competition with Shell. According to Hayashi;

> The reason why I stated that we should be careful about our relations with Shell; It does not matter whether our relations with Shell are bad if we can supply all the oil required for our country's Land Forces and Navy from America or another country. However, oil supply from America will also depend on the discretion of the American government and there is no guarantee that a situation that we cannot demand from America will not arise.[13]

Hayashi emphasized that Japan is dependent on the Royal Dutch Shell company for oil supply and that he has reservations about Caucasian oil because in case of cooperation with America, there may be difficulties in terms of oil supply in a possible war scenario. The information note also stated, “The most reliable oil supply point of our Empire is the Borneo oils which is associated with Shell group, and the demands of our Empire regarding the oil here must be guaranteed to be met under any circumstances. He also warned that they might be unable to supply oil, as being hostile to the Shell group would be equivalent to being hostile to the

[12] “Miscellaneous documents relating to rights of oilfield/ Part of Russia, Vol. 1/ 2. Documents relating to contract of "Sutahe-ev" with Hokushinkai and Mitsubishi: From July 1920” Japan Center for Asian Historical Records (JACAR) Ref.B04011077200, Miscellaneous documents relating to rights of oilfield/ Part of Russia, Vol. 1 (1-7-6-4_1_001) (Diplomatic Archives of the Ministry of Foreign Affairs), p. 28.

[13] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 12.

British government."[14] He particularly emphasized that although the attempts to obtain concessions in the region were carried out by the Hokushinkai Co., state aid would be needed in the future, and that the deterioration of the relations with Shell would affect diplomatic relations with Britain. As known, the allies agreed to terminate the Anglo-Japanese Alliance on December 13, 1921, at the Washington Conference with the signing of the Four-Power Treaty, which formally ended on August 17, 1923.[15] It can be seen that, in the twilight of the former alliance, Japanese diplomats were cautious about taking an attitude against Britain.

However, Japan's Ambassador to France, Ishii, approached the matter differently from Hayashi. In the telegraph sent on April 24, 1924, Ishii stated that the negotiations with the Satorov group were carried out by Takahata Seiichi. Regarding the necessity of searching for oil in foreign countries, According to Ishii;

> There is a worldwide struggle regarding oil concessions. There is no reason for our Empire to obtain privileges in any part of the world to the extent not to interfere with the privileges of other countries, which would cause objections. Before obtaining a concession, the imperial government must conduct extensive research, obtain and examine documents. Therefore, it is a natural method to communicate with the concessionaires and there is no need to hesitate in this.[16]

Ambassador Ishii claimed that it is pointless to hesitate from the Shell group. He also thinks that if they make a plan with the Shell group, Shell will try to prevent Japan from obtaining a concession, so it is a better plan to first cooperate with the Satorov group and negotiate with Shell after obtaining the concession.

According to Ishii, if Japan stops being interested in Caucasian oil or oil fields in other regions is accepted, "We (Japan) cannot operate in oil business anywhere in the world other than a corner of Northern Karafuto (Sakhalin). The policy on obtaining oil and oil refined products, which is directly related to our economic development, should be decided on the basis of peace conditions. Storage of large amounts of oil and other oil products should be also considered, especially in times of peace in case of

[14] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 13.

[15] Christina L. Davis, "Linkage Diplomacy: Economic and Security Bargaining in the Anglo-Japanese Alliance, 1902-23", *International Security*, Vol. 33, No. 3, Winter, 2009, p. 174.

[16] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 26.

war or other unexpected international developments"[17] emphasizing the necessity of obtaining oil concessions abroad for the defense of the country. For this reason, he submitted to the Ministry of Foreign Affairs that, even if it is not in the Grozny oil fields where the Shell group operates, it is necessary to try to obtain privileges on the Baku oil fields, where foreign capital is not yet involved, with reference to Mirza Asadullayev.

The reason why Ishii attaches great importance to Grozny and Baku oil is Mirza Asadullayev who is the son of the famous oil tycoon Shamsi Asadullayev and served as Minister of Industry and Trade of Azerbaijan until the Bolshevik occupation. Although he was arrested after the occupation, he was allowed to immigrate to France, and the oil businesses inherited from his father were nationalized by the Soviets. Asadullayev thought he could take the oil business back after the Soviet government privatize it again.

The document also contains other information about Asadullayev. It is noted that Asadullayev was an influential businessman in the Caucasus, well known especially among the Tatars. Asadullayev met with embassy secretary Matsushima Hajime during his stay in Paris. At the meeting about Baku oil, Matsushima asked if he could provide detailed documents about the oil reserves in the region. Asadullayev said that he could not make this decision alone, that he talked to Alimerdan Topchubashov (former foreign minister and deputy speaker of Azerbaijan) after the meeting, and Topchubashov showed interest in establishing a partnership with Japanese investors, and they agreed that they would meet again on this issue after returning from America.[18] Another purpose of Asadullayev's visit to America is to improve commercial relations between Turkey and America.

The report sent from the Paris Embassy on May 16, 1924 includes the meeting between Asadullayev and Matsushima upon his return to America. According to this record Asadullayev told Matsushima, "The Shell group is meeting with Standard Oil's American representative in London to monopolize the oil business in Russia. If an agreement is reached, the Asadullayev group will have to cooperate with Shell in order to obtain oil concessions from Muslims in the Caucasus region"[19] adding

[17] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) pp. 26-27.

[18] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 27-29.

[19] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 30.

that the Shell group was in talks with Standard Oil for the concession of oil fields nationalized by Soviets. According to the report Asadullayev said to Matsushima; "The Turkish Government does not want Europeans gaining political influence in Turkey through concessions. They mostly plan to achieve economic rapprochement with America. From this perspective, Japan is in the same conditions as America in terms of Turkey"[20] he conveyed Turkey's negative approach towards granting concessions to Europeans. In addition, Asadullayev stated that Japan could develop economic relations with Turkey in areas such as railways, mines and agriculture, apart from the oil business, and therefore, it would be beneficial for the relations between the two countries if Japanese investors open branches in Istanbul and Izmir and operates in these areas. Matsushima thought that Asadullayev's influence on the Turkish bureaucracy and Tatar Muslims can be used.

The Japanese Ministry of Foreign Affairs requested the Japanese Embassy in Turkey to investigate the issue in order to confirm the information obtained through the French embassy. Kasama Akio, the First Secretary of the Japanese Embassy in Turkey, prepared a report about Asadullayev and the oil affairs in Turkey and sent it to the Japanese Ministry of Foreign Affairs on June 6, 1924. In the report, "Asadullayev is the former owner of the rich oil fields in the region and they assume that the Soviet Russian government will collapse. American companies also invest considering this danger. Most of them expect the British-Russian negotiations will be successful, and there are also those who have established contacts with Soviet regime"[21] noting that Asadullayev used to have privileges in the Caucasian and Baku oil fields and it would be beneficial for Japan to take care of relations with the Soviet Government regarding the Caucasian and Azerbaijani oils. Japanese-Soviet relations which diplomatic negotiations were being held in Beijing matured with the Soviet Japanese Basic Convention of 1925, establishing diplomatic relations and granting Japan concessions for the exploitation of natural resources "in all the territories of the USSR" including the oil and coal of northern Sakhalin.[22] Kasama were more positive to oil concession in Turkey, as Japanese Soviet relations were not established. According to Kasama, "Experts focus more on Grozny, Tbilisi and Erzurum in Turkey

[20] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 30.

[21] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 32.

[22] D. I. Hitchcock, "Joint Development of Siberia: Decision-Making in Japanese-Soviet Relations", *Asian Survey*, 11(3), 1971, p. 280.

rather than Baku. The Turkish Government is trying to take back the concessions given to foreigners. But due to economic difficulties, sooner or later they will have no choice but to accept foreign investors."[23] He analyzed that the Turkish government does not think much about granting concessions to foreigners. However, he emphasized that with a possible change in this policy of the Turkish government due to economic difficulties, significant gains could be achieved by using its sympathy towards Japan, and the need for rapid research in this region due to the importance of Japan's oil policy. In this context, he pointed out that Ishimoto Keikichi's deputy, Ishimoto Heiji, was in the region and continued his research, trying to find documents related to the mentioned oil fields.

Matsushima, as acting ambassador to France, sent a telegram to the Minister of Foreign Affairs, Shidehara Kijūrō, on June 15, 1924, containing information that Asadullayev secretly leaked the draft agreement with the Turkish government.[24] Accordingly, the surface area of the oil fields in 14 areas in the Northeast of Turkey was 120 thousand hectares, and it was thought to be more productive than the Mosul region. It has been noted that in these regions, exploitation rights, building oil pipelines, using sea-land transportation vehicles, and establishing facilities, warehouses, telegraph lines, telephone lines, train lines and even ports will be granted. In addition, the right to export petroleum and refined products tax-free within 3 years will be given. In return, the establishment of one or more companies in Turkey, the payment of two million liras to the Turkish government within six years, including at least two hundred and fifty thousand in the first year, the giving of 15% of the profits to the Turkish government, and the payment of ten oil reserves within the first five years opening a well is required.

In return for Asadullayev receiving this privilege from the Turkish government, 120 thousand liras should be paid for technical research reports, 400 thousand liras should be paid to transfer the privilege that Asadullayev would receive from the Turkish government to the Japanese company, and if the agreement is approved in the parliament, an amount between 700 thousand and one million liras should be paid to the Turkish government as deposit. In addition to these conditions, Asadullayev stipulated to become a partner of 1/3 of the Japanese company. In the

[23] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) pp. 32-33.

[24] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) pp. 34-36.

telegram, Matsushima stated that the provisions of this agreement were quite favorable as they included the right to railway construction as well as the oil concession, therefore he asked the Minister of Foreign Affairs to seek Japanese investors whether there was anyone who wanted to obtain the concession.

In the telegraph sent by Matsusima on June 18; reported that the negotiations between Shell and Soviet Russia had failed, and Asadullayev was elected as the chairman of the Baku oil community with the participation of seven large companies that separated from Shell and Standard Oil. It was noted that the seven companies that make up this group represent 30% of Baku's industry and they have the self-confidence to restart their work as soon as possible by taking back their privileges from Soviet Russia.[25]

The Ministry of Foreign Affairs sent a proposal to the Ministry of Agriculture and Trade on June 19, 1924 regarding oil affairs in the Caucasus and Turkey, asking to investigate whether there were companies that wanted to receive privileges in this field. Deputy Minister of Agriculture and Trade Mitsuchi Chūzō replied to Deputy Minister of Foreign Affairs Matsudaira Tsuneo regarding the oil fields in Baku and Turkey in a telegram he sent on July 1, 1924. Accordingly,

> The necessity of obtaining oil concessions abroad to meet our country's oil needs is an indisputable fact. It is not possible to decide the value of the mine without a concrete research on the location of the oil fields, the characteristics of the concession and other factors. For this reason, when we invited the Hokushinkai Company and talked, I think it is necessary for the company to do the necessary work to investigate the mentioned issues with the relevant people operating in the same field in Europe, emphasizing the importance of obtaining oil concessions abroad and conducting preliminary research on the region where the Hokushinkai company wants to make oil investments abroad.[26]

Mitsuchi stated that it was necessary for Asadullayev to meet with the oil group of which he was the president, in order to do so. Although the Hokushinkai company met with Asadullayev's Baku oil group, the negotiations were interrupted. In the telegraph sent by French

[25] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 37.

[26] Japan Center for Asian Historical Records (JACAR) Ref.B04011142200, Miscellaneous documents relating to rights of oilfield/ Turkey (1-7-6-4_4) (Diplomatic Archives of the Ministry of Foreign Affairs) p. 44.

Ambassador Ishii to Minister of Foreign Affairs Shidehara on August 14, 1924, it is understood that Asadullayev can give his research, but in case the Hokushinkai company conducts research again, 50-60 thousand dollars must be deposited to the bank as collateral.

Hokushinkai company insisted that it could not deposit the money in advance and the conditions should be discussed after determining the value of the mine. Asadullayev, on the other hand, didn't give the results of the research he had conducted for four years free of charge. Hokushinkai Co. withdrew from the negotiations as it would take months to complete a new research and concession might be taken by another foreign investor in this process. Additionaly, uncertainity of Asadullayev and relations with Soviet regime made.

Conclusion

The Japanese government, lacking formal diplomatic ties with Soviet Russia, pursued indirect avenues to access Caucasian oil resources during the interwar period. In particular, the nationalization of oil fields in Baku and Grozny by the Soviet regime, coupled with uncertainties surrounding the status of influential oil magnates such as Asadullayev, hindered Japan's engagement in oil affairs in the region. The absence of robust diplomatic relations between Japan and Soviet Russia further complicated Japan's endeavors in Grozny and Baku.

Moreover, Japan's quest for oil concessions in Grozny faltered due to reservations expressed by diplomats about Shell, a reflection of the post-war dynamics in Anglo-Japanese relations. Reports from Kasama Akio, the First Secretary of the Japanese Embassy in Turkey, provided critical insights into the challenges inherent in drilling oil and logistical operations in the Caucasus. These reports underscored the independent operations of businessmen, notably of Turkish origin, in the region, raising questions regarding their alignment with the Ankara government's approval.

Consequently, the Hokushinkai Co. encountered obstacles in establishing collaborative ventures with figures like Asadullayev, ultimately impeding Japan's access to Caucasian oil resources.

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OBJECT AND SUBJECT CATEGORIES IN VETERINARY TERMINOLOGY OF THE ENGLISH LANGUAGE

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Abstract: *The article is dedicated to the study of conceptualization of the categories of object and subject in veterinary terminology. The relevance of the research is determined by the need to study object and subject categorization in the formation, structuring, and functioning of English veterinary medical terminology. The research material consists of English veterinary terms obtained by the method of total sampling from specialized dictionaries. The author analyzes productive ways of term formation representing the category of object and subject, morphological, semantic, and syntactic aspects. The categories of object and subject find wide application in veterinary terminology as they are fundamental categories that play an important role both in the emergence of scientific concepts and in the formation of the terms that reflect them.*

Keywords: *categories, object, subject, categorization, conceptualization, verbalization, veterinary medicine, terminology.*

Introduction

The linguistic expression of reality categorization is one of the cardinal problems of modern cognitive sciences and cognitive linguistics in particular. Linguists actively and diversely research the terminology of various branches of science. In the realm of language, scientific concepts are organized by scholars into categories based on specific characteristics. This practice stems from the presence of these conceptual types within each term system, which in turn governs the distribution of the core terminological vocabulary within a particular field of knowledge.

The terminology of various scientific disciplines and their subject areas has its own set of categories. The conceptual field of veterinary medicine is characterized by such epistemological categories as time, space, object, cause, process, sign, quantity, and subject.

The most important categories for veterinary terminology are the categories of object and subject. The significance of these categories in

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veterinary terminology stems from their fundamental role in describing and understanding the various aspects of veterinary medicine. The category of "object" refers to the entities or things that are the focus of veterinary attention, such as animals, diseases, treatments, or diagnostic procedures. For example, in veterinary practice, the object of examination could be an animal patient presenting with a specific set of symptoms or a particular disease.

On the other hand, the category of "subject" typically refers to the individuals or entities performing actions or undergoing processes within the veterinary context. This can include veterinarians, veterinary technicians, researchers, or even the animals themselves. Understanding the subject category helps delineate roles, responsibilities, and perspectives within the field of veterinary medicine.

Overall, the categories of object and subject serve as foundational elements for organizing, describing, and communicating various aspects of veterinary medicine, from diagnoses and treatments to research and education. They provide a framework for structuring the knowledge and practices within the field, making them essential considerations in veterinary terminology.

Modern cognitive science allows us to review these concepts from new positions, taking into account psychological, philosophical and linguistic aspects. Therefore, the relevance of our article is determined by the need to study object and subject categorization in the formation, structuring and functioning of the English terminology of veterinary medicine.

The study and description of terminological units and methods used to implement object and subject categories in veterinary terminology have not yet been the subject of separate research, therefore it contains many unresolved issues and determines the relevance of further investigation.

The aim of this work is to study the conceptualization of object and subject categories and the linguistic means of their representation in the English terminology of veterinary medicine.

Materials and methods of research

The material for observations was reference literature and specialized dictionaries: "Veterinary Medicine: A Textbook of the Diseases of Cattle, Horses, Sheep, Pigs, and Goats" by Peter D. Constable[1], "Black's Veterinary Dictionary" by Edward Black[2], "Saunders Comprehensive Veterinary

[1] P.D. Constable, K.W. Hinchcliff, S.H. Done, W. Grünberg, *Veterinary medicine: a textbook of the diseases of cattle, horses, sheep, pigs and goats*. Amsterdam: Elsevier Health Sciences, 2016. 515 p

[2] B. Edward, *Black's Veterinary Dictionary*. London: Bloomsbury, 2015. 514 p.

Dictionary" by Virginia P. Studdert[3], "Concise Colour Medical Dictionary" by Elizabeth Martin[4]. The analysis is carried out using definitional, word-formation, semantic, categorical, and conceptual methods.

Literature Review

The study of the processes of categorization of natural objects and phenomena and their reflection in language has been extensively developed in numerous works by renowned linguists, both foreign and domestic, such as G. Lakoff[5], L. Manerko[6], B. Rudzka-Ostyn[7], O. Selivanova[8] and others.

The relevance of studying the problem of categorization in the fields of medicine and veterinary medicine is evidenced by numerous works that have recently paid attention to this issue. For example, E. Bekisheva's[9] study presents the forms of linguistic representation of epistemological categories in clinical medical terminology, while V. Lashkul's[10] work focuses on conceptual categories represented by English-language epizootological terms. Additionally, V. Lashkul explored the epistemological categories of the sign and process in English epizootological terminology[11][12]. The object of Kiseleva's research is the language means of the "cause-effect" categories in nosological units[13]. Yu. Rozhkov's scientific investigations addressed conceptual categories used to denote animal diseases in the English language[14], the causal categorization

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[3] V.P. Studdert, *Saunders comprehensive veterinary dictionary*. Amsterdam: Elsevier Health Sciences, 2020. 450 p.

[4] E.A. Martin, *Concise colour medical dictionary*. Oxford University Press, 2015. 312 p.

[5] G. Lakoff, *The Contemporary Theory of Metaphor. Metaphor and Thought*, Cambridge, New York: Cambridge University Press, 1994. 288 p.

[6] L.A. Manerko, *Modern tendencies of domestic cognitive linguistics development*. Cognitive linguistics: new problems of perception, Collection of scientific works, 5, 2007. P. 136-140.

[7] B. Rudzka-Ostyn, *Topics in cognitive linguistics*. Amsterdam: Benjamins, 1988. p. 154.

[8] E. Selivanova, *Cognitive onomasiology*. Kyiv: Phytosociocenter, 2000. 95 p.

[9] E.V. Bekisheva, Forms *of linguistic presentation of epistemological categories in clinical terminology*. Abstract of Dissertation to obtain the doctor of philological sciences degree. Astana: Science, 2007. 50 p.

[10] V.A. Lashkul, *Gnoseological category of feature in English epizootological terminology*. International journal of philology, 12(3), 2021. P. 85-89.

[11] V.A. Lashkul, *Language means of process category in the English epizootological terminology*. International journal of philology, 12(4), 2021. P. 50-54.

[12] V.A. Lashkul, *Conceptual categories represented by English language epizootological terms*. International journal of philology, 13(4), 2022. P. 50-57.

[13] O.H. Kiselova, *Linguistic means of category "cause-result" in nosological units*. Kyiv: Studia linguistic. 6(1), 2012. P. 107-117.

[14] Yu.H. Rozhkov, *Causal categorization of animal diseases' English term system*. Studia humanitatis, 3, 2021 Retrieved from: https://st-hum.com/tags/veterinarnaya-terminologiya.

of the English terminological system of animal diseases[15] and the feature category in the English clinical veterinary terminology[16]. Furthermore, the categories of process, space and time in English veterinary terminology are discussed in the articles by O. Syrotina[17][18].

Despite the large number of linguistic studies devoted to the problem of categorization in veterinary terminology, its object and subject categories have not received sufficient coverage.

Results

Veterinary medicine terminology is a collection of terms that denote concepts within veterinary science and specific nomenclature terms within the field of veterinary professional activity.

The professional specificity of terminological units in veterinary medicine in the English language is reflected in categories and concepts. An analysis of linguists' works (O. Bekisheva[19], N. Boldyrev[20], O. Selivanova[21], Ye. Holovanova[22]) has shown that humans generalize and categorize existing knowledge into groups. This is due to the necessity to group objects that one comprehends as similar or dissimilar based on certain characteristics compared to an existing standard.

The very idea of categorical division of reality in an ontological key and in specialized languages puts the necessity of studying not an individual term, but a whole category of terms for verbalizing concepts to the forefront in terminological studies. The categorical approach is based on the general scientific principle of systematicity, as any science is characterized by systematicity (unlike non-scientific or pre-scientific

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[15] Yu.H. Rozhkov, *Conceptual categories to denote animal diseases terms in English*. International journal of philology, 12 (1). 2021. P. 108-112. https://doi.org/10.31548/ philolog2021.01.108

[16] Yu.H. Rozhkov, *Linguistic representation of the feature category in the English clinical veterinary terminology*. Cogito-Multidisciplinary research Journal, (1), 2022. P. 188-203.

[17] O.O. Syrotina, *Gnoseological Category of Sign in the English Epizootological Terminology*. International Journal of Philology, 12(3), 2021. P. 77-84.

[18] O.O. Syrotina, *Representation of the category of process in the English-language clinical terminology of veterinary*. Studia Humanitatis, 3, 2021.

[19] E.V. Bekisheva, Forms *of linguistic presentation of epistemological categories in clinical terminology*. Abstract of Dissertation to obtain the doctor of philological sciences degree. Astana: Science, 2007. 50 p.

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[21] E. Selivanova, *Cognitive onomasiology*. Kyiv: Phytosociocenter, 2000. 95 p.

[22] Ye. I. Holovanova, *Cognitive aspects of categorization in languages for specific purposes*. Reality, language and perception. Tambov: Derzhavin's publishing house, 2(3), 2002. P. 220-227.

knowledge), which is expressed in the combination of a certain number of objects and presupposes relations between them.

Therefore, in terms of formation, any category is a set of objects combined on the basis of a common concept. A category, as a format of knowledge, is knowledge of both the class of objects and the common concept that serves as the basis for combining these objects into one category[23].

According to modern views on the process of categorization, a conceptual understanding of categories is approved in modern linguistics: "A category is a conceptual association of objects, or an association of objects based on a common concept"[24]. Categories form classes of terms around themselves, integrated by categorical features on the basis of a general concept. They organize a separate level in the conceptual and subject hierarchy of a special subject area. As a generic concept, these categories are used to denote objects of scientific-technical and natural-scientific spheres. The selected categories serve as a support and guide for professional thinking and professional activity. Therefore, for our research, it will be necessary to identify those scientific concepts and methods of their verbalization, which form object and subject categories in the English terminology of veterinary medicine.

Category of "object"

One of the most important categories for veterinary terminology is the object category. Modern cognitive science allows us to look at the concept of "object" from psychological, philosophical and linguistic points of view from new perspectives.

Britannica Dictionary defines an object as "something that is a visible entity, something that can be perceived by the senses"[25]. Collins English Dictionary proposes such definition of an object: “anything that has a fixed shape or form, that you can touch or see, and that is not alive”[26].

While the general definition from Collins English Dictionary suggests that an object is something "that is not alive," the application of the term "object category" in veterinary terminology considers living beings, specifically animals, as objects in the sense that they are entities with distinct

[23] N.N. Boldyrev, *Cognitive studies of a language*. Derzhavin’s Publishing House, 2009. P. 45-47.

[24] Ye.I. Holovanova, *Cognitive aspects of categorization in languages for specific purposes*. Reality, language and perception. Tambov: Derzhavin’s publishing house, 2(3), 2002. P. 220-221.

[25] *Britannica Dictionary*, *Object*, 2020 Retrieved from: https://www.britannica.com/dictionary/object

[26] *Collins*, *Object*, 2020 Retrieved from: https://www.collinsdictionary.com/us/dictionary/english/object

characteristics that can be categorized for various purposes like diagnosis, treatment, and research. In the context of veterinary terminology the term "object" is used more broadly to include living organisms, and "object category" is about grouping or categorizing these living entities. This use of language might deviate slightly from the everyday understanding of "object" as something inanimate, but it aligns with the specialized language and concepts used in veterinary science and medicine[27].

An object in the veterinary field is a specific subject of research, treatment, or observation, which constitutes an objective focus of veterinary interest.

In the context of veterinary medicine, the category "object" is used to structure animal diseases, determining the specific entity or subject on which or in which the pathological process occurs. This category aims to identify the specific animal that is the subject of study, treatment, or population subjected to pathological influence. The use of the "object" category helps veterinary professionals more effectively classify, diagnose, and treat diseases in specific animals, as well as manage the risk of infection and spread of infections among different animal populations.

The animal organism can also be represented as an object with all its characteristic features of integrity and, at the same time, divisibility. Furthermore, all animal diseases are somehow related to zoological objects (animal species).

Terms representing the object category in veterinary medicine can be divided into three groups: 1) terms denoting affected anatomical objects; 2) terms denoting pathological objects; 3) terms denoting specific animals. Below, in the figure, the structure of the object category in veterinary terminology is presented.

[27] Yu. H. Rozhkov, *Linguistic representation of the feature category in the English clinical veterinary terminology*. Cogito-Multidisciplinary research Journal, (1), 2022. P. 190-191.

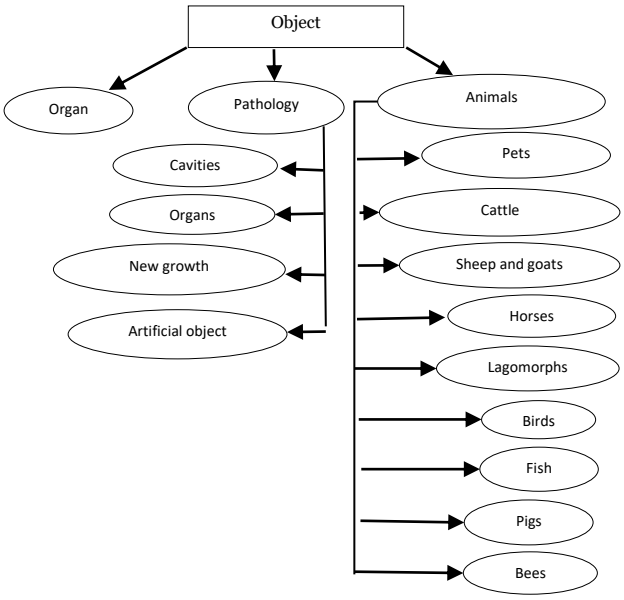

Figure: Structure of the object category in veterinary terminology

Let's consider the groups of nominations related to the object category in more detail. The first group comprises terms denoting affected anatomical objects. These are terminological units that designate diseases based on anatomical localization (abdomen diseases, diseases of the digestive system, diseases of the heart and blood vessels, diseases of urinary ways, diseases of the reproductive system, etc.). In the examples provided, the indication of the anatomical object is the main topographic feature by which the clinical term is classified. Typical lexical representatives of affected anatomical objects in the studied terminology are complex and derivative terms denoting animal diseases. The indication of the affected anatomical object can be made through lexical and word-formation means: in English terms (heart failure); in partially English terms with assimilated classicisms (vestibular disease), as well as through Greek term elements (pancreatitis, from Gr. pancreas - pancreas). Affix morphemes specifying the site of damage in the anatomical object are used to express local signs. These include prefixes of Greek (endo-, exo-, pan-, hemi-, epi-, para-) and Latin (infra-, intra-, sub-, retro-, inter-) origin.

The second group of terms representing the object category comprises terms denoting pathological objects, reflecting prototypical conceptual features. Most terms represent the presence of features of the result of a certain action or the influence of supernatural forces in their conceptual structure. The second prototypical conceptual feature is the reflection in

the term of the form of the pathological object denoted by the name of geometric characteristics (cyst, fistula), as well as by comparison (hunch, papilloma).

Terms denoting pathological objects are divided into several thematic subgroups: 1) names of pathological cavities; 2) names of tissue and organ damage; 3) names of skin pathological objects; 4) names of defects and neoplasms; 5) names of concrements and pathological formations; 6) names of artificial objects.

1. The names of pathological cavities include such terms as: abscess, hernia, aneurysm, cyst and the term element – meta[28].

2. The names of tissue and organ damage are represented by terms of English origin (wound, ulcer, scar; bed sore, decubital ulcer, pressure sore; grazed wound, abraded wound, as well as non-English terms (fistula, cicatrix, erosion, infarct, infiltration)[29].

3. The names of skin pathological objects are represented by numerous terms of English origin (wart, blister, agnails, bead, birthmark) and terms of Greek-Latin origin (callus, nodule, comedo, pustule, anbury (vet.), papilloma, papule, petechia, roseola, eczema, furuncle)[30].

4. The names of defects and neoplasms as a reflection of the object category can be represented by English terms (hunch, crop, spur, etc.) and terms of non-English origin (polyp, caruncle, etc.)[31].

5. Names of concrements and pathological formations. The term "concretion" (concrētiōn-, concrētiō – formation of something solid) borrowed from Latin denotes “dense formation in the cavities or tissues of the body”[32].

Therefore, the object category is widely used in veterinary terminology, as it is one of the principles of classification of animal diseases, on the basis of which the process of knowledge of the objects of veterinary medicine, as well as the formation, structuring and functioning of English terminology for the designation of animal diseases, is realized.

Names of concrements are primarily formed syntactically using the term component "calculosus" (Latin "calculus" - stone), for example, urinary calculus, biliary calculus, renal calculus; or with the use of the term component "lith-" (Greek "lithus" - stone), for example, nephrolith, uroliths, and so on.

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[28] B. Edward, *Black's Veterinary Dictionary*. London: Bloomsbury, 2015. P. 50-51.

[29] Ibidem, p. 161.

[30] Ibidem, p. 78.

[31] D.R. Lane, S. Guthrie, S. Griffith, *Dictionary of Veterinary Nursing E-Book*. Amsterdam: Elsevier Health Sciences, 2007. p.103.

[32] V.P., Studdert, *Saunders comprehensive veterinary dictionary*. Amsterdam: Elsevier Health Sciences, 2020. p. 150.

These term elements, "lith-" and "calculus," are used in the names of diseases associated with the formation of concrements (nephrolithiasis, calculus cholecystitis, etc.)[33].

The sixth group of terms representing the object category comprises terms that indicate the relationship of a disease to a specific animal, in other words, they indicate the object of the disease (the animal).

Animal disease nominations can be divided depending on specific objects (animals, groups of animals, etc.). Terminological units that differentiate diseases by animal species are divided into nine subgroups: 1) diseases of domestic animals; 2) diseases of cattle; 3) diseases of sheep and goats; 4) diseases of horses; 5) diseases of lagomorphs; 6) diseases of birds; 7) fish diseases; 8) swine diseases; 9) bee diseases. Examples of animal disease nominations representing the object category are provided.

1. Disease names of domestic animals include: Canine influenza; Canine coronavirus, Feline leukemia, Feline juvenile osteodystrophy, Feline influenza, Feline stomatitis, Malignant jaundice of dogs.

2. Disease names of cattle are represented by terms such as: Bovine ephemeral fever, Bovine spongiform encephalopathy, Malignant catarrhal fever, Bovine tuberculosis, Bovine babesiosis, Bovine brucellosis, Mad cow disease.

3. Disease names of sheep and goats are reflected in such English terms as: Malignant aphtha of sheep, Nairobi sheep disease, Contagious caprine pleuropneumonia, Caprine arthritis, Sheep pox and goat pox, Bradzot in sheep.

4. Disease names of horses include terms like: Contagious equine metritis, Equine scabies, Equine influenza, Equine suffocation or cold.

5. Disease names of lagomorphs are represented in terms such as: Rabbit hemorrhagic disease, Rabbit calicivirus disease.

6. Disease names of birds are represented by terms such as: Avian chlamydiosis, Fowl pox, Fowl typhoid, Avian tuberculosis, Crazy chick disease, Fowl cholera, Quail bronchitis.

7. Disease names of fish include terms like: Spring viraemia of carp, Red sea bream iridoviral disease.

8. Disease names of swine are represented by terms such as: Atrophic rhinitis of swine, Porcine brucellosis, Porcine cysticercosis, Greasy pig disease, Swine dysentery, Reproductive and respiratory syndrome of pigs, Swine influenza, Swine dysentery, Swine fever.

9. The term Acariosis of bees belongs to the disease names of bees, along with Acute Bee Paralysis virus, Kashmir bee virus.

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[33] V.P. Studdert, *Saunders comprehensive veterinary dictionary*. Amsterdam: Elsevier Health Sciences, 2020. p. 112.

Therefore, the object category is widely used in veterinary terminology, as it is one of the principles of classifying animal diseases, on the basis of which the process of understanding the objects of veterinary medicine, as well as the formation, structuring, and functioning of English terminology for the designation of animal diseases, is realized.

Category of subject

The category of the subject is one of the significant categories with a long history in science. Initially, for example, in the works of Aristotle, the concept of "subject" denoted the bearer of properties, states, and actions and in this respect was identical to the concept of substance, meaning it did not have a direct relation to the understanding of such a type of being as a human. However, as a result of the final crystallization of the theoretical postulates of the philosophy of the New Time, this concept began to be applied primarily to humans, and it is precisely humans who became the "exclusive" subject[34]. From the perspective of contemporary philosophy, a subject is 1) a being that exercises agency, undergoes conscious experiences, and is situated in relation to other things that exist outside itself; thus, a subject is any individual, person, or observer[35]; 2) an individual (or social group) as a bearer of objective-practical activity and cognition aimed at an object[36]. In linguistics, the subject refers to the agent, the doer of the action, the object of thought[37].

In veterinary medicine, the category of the subject refers to the category of the professional practitioner, namely the veterinarian. They are professionals who actively interact with animals, communicate with their owners, and care for the health and well-being of animals. In this context, a veterinarian can be considered a subject of veterinary practice, as they make decisions, perform diagnoses, prescribe treatments, and conduct medical procedures on animals[38].

As linguistic evidence demonstrates, designations of actors in professional spheres emerge at the stage when all other nominatively significant "participants" in the activity have already been identified: the

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[34] I.T. Frolova, *Dictionary of Philosophy*. 5th edition. Moscow: Political publications, 1987. p. 465.

[35] J. Heartfield, *Postmodernism and the 'Death of the Subject*, 2002. Retrieved from: https://www.marxists.org/reference/subject/philosophy/works/en/heartfield-james.htm

[36] *Concise academic dictionary*. Retrieved from: https://gufo.me/dict/philosophy/%D0%A1%D0%A3%D0%91%D0%AA%D0%95%D0%9A%D0%A2

[37] L.L. Neliubin, *Dictionary of Translation studies*. Moscow: Flinta, 2016. 552 p.

[38] N. Brown, G. Innes, *History of the veterinary profession*. Northern Tablelands LLS, 2019. Retrieved from: https://www.flockandherd.net.au/other/ireader/vet-profession-history.html

action itself, the object of the activity, its product, and the instrument. Creating the name of the actor completes, closes the circle of cognitive objects included in the concept of activity, thus definitively shaping the distinction, isolation of a separate sphere of activity in the nominator's consciousness. Confirmation of the thesis about the interconnection of the linguistically formed designation of the actor with the representation of a certain area of activity in the nominator's consciousness can be found in the tradition that emerged in the 19th century and became a norm: the designation of a profession (as a type of activity) by the name of the practitioner, that is, metonymically[39].

Persons serving as doctors to animals have existed since the earliest recorded times, and veterinary practice was already established as a specialty as early as 2000 BCE in Babylonia and Egypt. The ancient Greeks had a class of physicians who were called “horse-doctors,” and the Latin term for the specialty, veterinarius (“pertaining to beast of burden”). Its first known use as animal doctor dates to 1646 (Merriam-Webster) while the adjective 'veterinary' was first used in 1791[40].

According to Lenglet's explanation, the word "veterinary" derives from the Celtic "vee" (hence the German "Vieh"), meaning cattle, "teeren" (hence the German "zehren"), meaning to ail, and "aerts" or "arts" (German "Arzt"), meaning physician. According to this version, the Romans borrowed this term from Celtic druids, basing it on the words "veterinaria" and "veterinarius," which literally translate to "one who cares for cattle," "one who treats cattle," or "one who attends to cattle." In the Roman Empire, the term "veterinarius" was standard for denoting a person who dealt with the treatment of animals. At the same time, the Romans also used the words "mulomedicina" and "mulomedicus," literally meaning "doctor of mules." Thus, the interpretation of the actor in the professional field of veterinary medicine occurs through the relation to the object (animal) and the process (treatment, care)[41].

"Veterinarian" was first used in print by Thomas Browne in 1646. Although "vet" is commonly used as an abbreviation in all English-speaking countries, the occupation is formally referred to as a veterinary

[39] Ye. I. Holovanova, *Cognitive aspects of categorization in languages for specific purposes*. Reality, language and perception. Tambov: Derzhavin’s publishing house, 2(3), 2002. P. 226-227.

[40] N. Brown, G. Innes, *History of the veterinary profession*. Northern Tablelands LLS, 2019. Retrieved from: https://www.flockandherd.net.au/other/ireader/vet-profession-history.html

[41] J.N. Adams, *Pelagonius and Latin veterinary terminology in the Roman Empire*. Leiden; New York; Koln : Brill, 1995. p. 195.

surgeon in the United Kingdom and Ireland and now as a veterinarian in most of the rest of the English-speaking world[42].

Veterinarian is a general term used to refer to a veterinary medical professional. Britannica Dictionary proposes such definition of this word: "Veterinarian means a person who is trained to give medical care and treatment to animals: an animal doctor — called also vet, (British, formal) veterinary surgeon"[43].

The names of persons by profession refer to special vocabulary that unites all lexical means that are in one way or another connected with a person's professional activity[44].

The names of various professions represent a large semantic group. In veterinary terminology, terms reflecting the category of a professional figure can be divided into two subgroups: general industry words and highly specialized words.

General terms representing the category of professional practitioners in the veterinary field are presented by synonymous lexemes: veterinarian, veterinary doctor, vet, veterinary surgeon.

Narrow-specialized terms include terminology that nominates veterinary medicine specializations and subspecialties. The 22 different organizations recognized by the American Veterinary Medical Association (AVMA) represent 41 distinct veterinary medicine specializations and subspecialties. Below are examples of the names of veterinary specialists in English: Veterinary Dermatologist, Veterinary Ophthalmologist, Veterinary Cardiologist, Veterinary Technician, Food Animal Veterinarians, Food Safety and Inspection Veterinarians, Research Veterinarians.

Categories of individuals by professional feature are formed based on two productive models. In general, grammatical morphemes, categories, and constructions take the form of symbolic units. In our case, they serve as symbols denoting the category of a person. The first model is the suffixation method: suffixes traditionally used to form the category of an agent (actor) are added to the base of nouns (or verbs) – names of diseases or names of sciences. An example is the suffix "-ian" (veterinary – veterinarian).

The second model, widely represented in veterinary terminology, is terminological phrases. Examples of two-component terminological phrases nominating veterinary specialists in English include the following patterns:

1. Attributive phrases consisting of a structural type "noun + noun": Veterinary anesthesiologists, Veterinary dentists, Veterinary dermatologists,

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[42] E.A. Martin, *Concise colour medical dictionary*. Oxford University Press, 2015. p. 112.

[43] Ibidem, p. 75.

[44] A.V. Superanskaya, N.V. Podolskaya, N.V. Vasileva, *General terminology*. Questions of theory, 2003. p. 86.

Veterinary nutritionists, Veterinary ophthalmologists, Veterinary pathologist, Veterinary radiologists, Veterinary toxicologists, Veterinary Technician (Veterinary Assistant), Veterinary Microbiologist, Veterinary Oncologist, Veterinary Hygienist;

2. Attributive phrases consisting of a stem noun and a complete adjective agreed with it (adverb) as a defining word; structural type "adjective (adverb) + noun": Marine veterinarian, Emergency Veterinarian, Equine veterinarian, Military veterinarian.

A small number are three-component phrases of the structural type "noun + noun" + noun": food safety veterinarian, lab animal veterinarian, Veterinary Rehabilitation Therapist, food animal veterinarian.

Thus, the formation of professional terms, such as "veterinarian" or "veterinary doctor," contributes to the precise definition and verbalization of the category of practitioner in veterinary medicine, as well as forms professional identity in this field. Terms used for classifying individuals engaged in veterinary practice, such as veterinarians, veterinary technicians, and assistants, play a crucial role in effective communication among professionals. The accuracy and clarity of terminology by professionals ensure that everyone understands their roles and responsibilities.

The formation of terms representing the category of practitioners in veterinary medicine is the result of using various linguistic tools, such as suffixes, terminological phrases, and specialized professional terms.

Conclusion

The categories of object and subject find wide application in veterinary terminology as they are fundamental categories that play an important role both in the emergence of scientific concepts and in the formation of the terms that reflect them. Utilizing these categories helps establish standards for veterinary practice and research, promoting efficiency and reducing ambiguity in communication among professionals.

Object categorization assists veterinarians in accurately identifying the type of animal or disease under consideration, which is critical for diagnosis and treatment. It allows for grouping objects based on common characteristics, simplifying the analysis and understanding of veterinary concepts and issues. Terms representing the category of object in veterinary medicine can be divided into three groups: 1) terms for designating affected anatomical objects; 2) terms for designating pathological objects; 3) terms for designating specific animals.

In veterinary medicine, the category of subject defines the professional practitioner, namely the veterinarian, who actively interacts with animals, communicates with their owners, and cares for their health and well-being. The designation of professionals in veterinary terminology indicates the

establishment and recognition of a specific sphere of activity in the minds of professionals. Terms representing the category of professional practitioner can be classified into general and specialized, which simplifies communication and understanding of veterinary concepts and processes. Terms representing the category of practitioner in veterinary medicine are formed through the use of professional terms, specialized suffixes, and terminological phrases.

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