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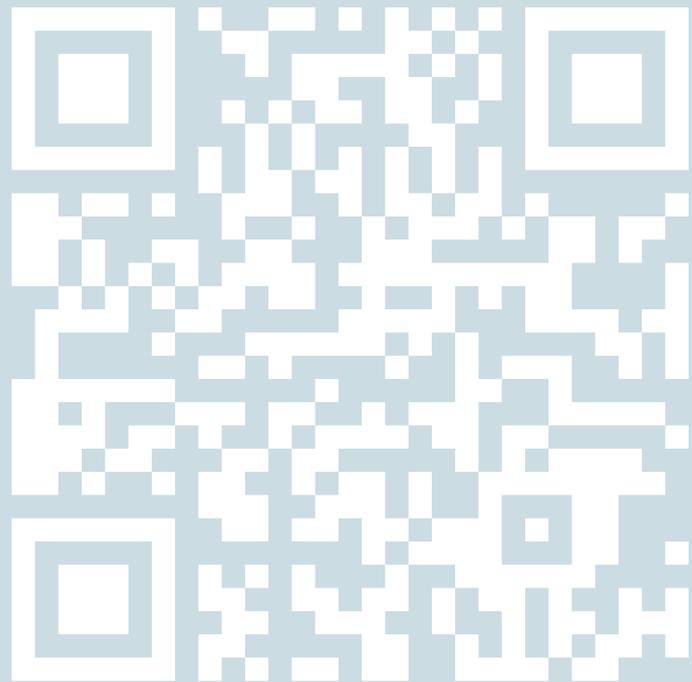
CZASOPISMO INDEKSOWANE  
NA LIŚCIE CZASOPISM  
PUNKTOWANYCH MNiSW  
(40 PKT., CZĘŚĆ B, NR 992)

CZASOPISMO NAUKOWE  
HUMANUM POWSTAŁO  
W 2008 ROKU

CZŁONKAMI REDAKCJI  
I RADY NAUKOWEJ SĄ  
UZNANI BADACZE Z POLSKI  
I ZAGRANICY

#40 (1) / 2021

# HUMANUM



ISSN: 1898-8431



HUMANUM



HUMANUM

Instytut Studiów Międzynarodowych  
i Edukacji w Warszawie

# 40 (1) / 2021

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# HUMANUM

MIĘDZYNARODOWE STUDIA SPOŁECZNO-HUMANISTYCZNE  
INTERNATIONAL SOCIAL AND HUMANITIES STUDIES

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ul. Złota 61, lok. 101, 00-819 Warszawa [www.humanum.org.pl](http://www.humanum.org.pl) / Printed in Poland  
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ISSN 1898-8431

CZASOPISMO INDEKSOWANE W BAZACH ERIH+ ORAZ INDEX COPERNICUS  
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# 40 (1) / 2021



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## The new role of the pharmacist as a result of the market policy situation

### Summary

Healthcare systems that utilize available resources and provide the best care and support to its people is considered as one of the most crucial goals of most countries and their Governments. In order to fulfill this goal it is important for different healthcare professionals to work systematically and help each other to maintain health standards for the patient. It is only possible when all the significant professional groups recognize the importance of the resources that are existing in the current healthcare sectors, use them effectively and hence, particularly, role of the pharmacist becomes important. Pharmacist should be valued for the critical part they play in coordinating drug therapy management (1).

**Keywords:** Healthcare systems, pharmacies, medications, multidisciplinary, Organisation for Economic Co-operation and Development (OECD).

### ROLE OF PHARMACIST

All around the world, medicines form the foundation when it comes to the diagnosis of disease, and its treatment and prevention. A recent report mentioned that medicines account for a large proportion of expenditure, estimated to 20% or more in few countries according to Organisation for Economic Co-operation and Development (OECD) (2). Pharmacies are the key component that maintain and regulate medicine supply, demonstrating the role played by

pharmacist. There are several processes which are under pharmaceutical control such as management of medicines which involves different steps: selection, procurement, delivery, prescription and administration. Furthermore, medicines review is undertaken by the pharmacist to ensure that patient achieves the desired outcome maximizing his overall health and well-being (3).

Pharmacist play a pivotal role in maintaining all types of pharmaceutical services, although research suggests that they are detached from new rules and policies related to healthcare sectors (3). There are few regions such as UK where the Chief Pharmaceutical Officers perform the role and duties as professional advisors to the Government in the areas of Scotland, Wales, England and Northern Ireland (4). Importantly, while implementing health care policies, pharmacist should be also taken into consideration to optimize overall outcome of patient care and ensure medicines utilization properly. Hence, engagement of pharmacist will profoundly promote the success and efficiency of health system as a whole.

## PROGRESS

In recent times, significant policies and strategies have been implemented aiming to improve the collaboration between the pharmacy and governments. This will in turn improve patient treatment outcomes by providing effective and necessary drug therapies which support patient's health. Currently, integrated programs are being executed that involve professionals from all kinds of medical fields, new models of electronic health systems with advances in rules and regulations are also developed. It aims to enhance education and training across medical practitioners as well as the pharmaceuticals. Despite all these efforts, additional focus is required so that patients are benefitted to maximum extent in these technology based economy (5).

Pharmacy education is aiming to increase awareness and medical knowledge among pharmacist. This will help them to be prepared and understand their roles and responsibilities in the present evolving healthcare environment with complex and advanced patient requirements pertaining to their medical condition (6).

Another significant part is played by the pharmacists themselves. According to a study, overall attitude of the pharmacists was found to impact the effective execution of their roles and responsibilities. It was shown that pharmacist personality trait such as negligence, fear to take additional responsibilities, carelessness, and risk aversion approach affected the medical safety extensively (7)

## CHALLENGES AND CURRENT APPROACH

### A Rational use of medications

Inadequate use of medicines increases financial burden of many countries such as US and UK, therefore pharmacists constitute an integral component considering their medication expertise (4). Most of the times, the key problem is caused due to improper adherence to medications, where pharmacist can engage with the patient and implement methods (motivational interviewing).

According to a recent meta-analysis, the growing trend of antimicrobial resistance was observed due to self-medication and treatment undertaken by the patient (8).

Pharmacist should provide appropriate medication usage and develop treatment regimens suitable for patients. An individualized approach with medication education will benefit the patient in understanding the optimal drug and its significance. This will impact not only an individual patient but the entire healthcare system by reducing excessive drug use, minimizing healthcare cost and promoting patient's care (9).

## B Trivialization of medicine

With medical advances and research progress, it is considered that every medical condition can be adequately treated and there is a solution to every disease. This is largely due to the hype and distorted propaganda created by social platforms or other online websites. Currently, medicines are considered as a key to all our health problems whether it is annoyances, anxiety and frustrations. It is important to understand that medicines cannot be considered as a part of our routine life. Medical conditions that are not pathological in nature cannot be treated with medicines. For example, the trivialization of medicine can be explained by the ESOVAL study. In this study, the impact of drug therapies and improper use of diagnostic tests such as densitometry was observed to impose a higher risk of fractures and osteoporosis (10). The medical professional and the pharmacist should make an attempt to diagnose the condition, and if at all it is indicated for medication (the most suitable treatment intervention) then only it should be prescribed.

## C Medication safety

Inadequate and substandard medications can significantly impact the health and safety of a patient. This can have negative implications as the medicine composition is altered and lacks appropriate level of active ingredients, imposing risk of morbidity and mortality. A recent study demonstrated that on evaluating a large sample of medications (16000 samples), it was reported that 9%–41% of them did not meet adequate quality standards (11). Hence, it compromises the treatment outcome and medication safety significantly.

## NEW ROLES AND RESPONSIBILITIES OF THE PHARMACIST

Pharmacist constitute an important aspect in the quality assurance of various pharmaceutical systems. They should regulate, design and plan new models and programs that can mitigate medication errors. Additionally, efforts towards improvement of medicine quality and health aspect should also be undertaken in different healthcare settings. Another predominant role of pharmacist around medication safety includes detection and timely management of adverse drug reactions or pharmacovigilance (12).

## A Inclusion of global health policies and regulations in pharmacy education

Pharmacists have the necessary technical expertise required for medication use contributing to global health efforts, but they often lack the basic knowledge that may particularly improve public health and improve their standing as global health practitioners. Governments should involve pharmacist training and education so that they understand the role of public health services and are competent to assess the patient needs and requirements which can improve the health outcome of the community as a whole (13). Interestingly, such models have been implemented across several regions of European countries that are providing accredited standards to pharmacy schools. This involvement will lay the foundation of quality improvement, adequate monitoring, evaluation and assessment of medications safety and use. Consistent advancement in their knowledge and technical skills will improve their ability, and empower them to facilitate health promotion activities in their community and abroad (14).

## B Monitoring and evaluation of data

Regular monitoring and assessment of pharmaceuticals should be conducted to allow successful and efficient scaling up of their systems. The data systems under pharmaceutical controls should be integrated with various government policies and plans to strengthen the pharmacy systems and allow their active participation in public health services (15).

## C Identification of quality indicators

When it comes to different pharmaceutical set ups, the type of remuneration system that meets the expectations of pharmacist especially in primary care pharmacy is important to recognize. It may be challenging to demarcate the structure and what parameters should be assessed such as payment should be for the product, service or the skill set and performance. Therefore, it is critical to link all these factors together when designing a new payment model. This should include development of a quality based system where the performance and an attitude towards patients care is the most significant part associated with medical services. Similar approach has been adopted by government and community pharmacist of few countries (16). Certain quality indicators should be analysed and measured that directly evaluate the outcome rather than emphasizing on the process (17).

## D Patient-centric approach

The pharmacist should maintain a stable approach and always center his thinking and actions around patient care. For example, Northern Ireland has found a novel strategy where it demonstrates that community health can become better through pharmacy and pharmacist engagement (18). This approach focused on patients and will have a positive impact at a local and national level. Health care

policy should provide cost effective treatments and formulate simple and patient care oriented programs rather than targeting the outcome in terms of financial gains.

## E Effective use of technology

Technology has become an integral part of today's world and has immense capacity to allow exchange of health information across any region of the world. Adoption of electronic health systems in different healthcare settings effectively promotes sharing of medical information between patients and professionals. This tool can be used to track and monitor the medicine adherence, especially in chronic patients and support appropriate medicines management by utilizing this information technology (19, 20).

Therefore, a collaborative approach involving the patient, healthcare providers and the pharmacist will ensure a multidisciplinary involvement. Particularly, the pharmacist can regulate all the activities and responsibilities associated with medicines management which will help to build trust, and mutual respect for skills and knowledge brought by each team member to ensure maintenance of quality care and support to the patient (21, 22).

## EVIDENCED-BASED POLICY

According to a summit report (2012), several key policy makers and health ministers of different countries joined together to investigate, plan and assess the benefits and significance of proper use of medicines, addressing better and cost-effective policies in the health care system (22, 24). It was observed that responsible use of medicines helps the healthcare systems to focus on new innovative models and invest money in existing services (25). The role of pharmacist has been widely acknowledged by the UK government where they are considered to be an important link between the patient and the medical professional.

The UK government aims to establish more pharmacist-oriented services such as management of chronic diseases by the pharmacist, effective use and maintenance of medicines for patients, healthy living and well-being, improving health information and education. This demonstrates that in the future, the pharmacist will be actively involved in regulating not only quality standards of medicines but ensuring healthy status of the patient, community and their country as well (26).

## CONCLUSION

Pharmacist should understand the challenges and problems encountered by national policy makers, contribute their expertise and knowledge to help them develop new and effective policies. An evidence based approach should be undertaken where the center of all the policies and regulations is the patient and health care services that are being provided to them.

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## Nomina Anatomica: pela morfologia latina

### Summary

#### According to Latin Morphology: The Anatomical Nomenclature

On this article, I explain the grammatical rules about the *Nomina Anatomica*. Meanwhile, there is here a new synchronic formulation to the *Nomina Anatomica*, according to systematic cases and declinations with yours applications to the entity of the human body, and the very important indications about the diachronic grammar. Therefore the morphologic grammar plays a very important role to the interpretations of Human Anatomy.

**Key words:** *Nomina Anatomica*, declinations, Latin cases, Morphology, and Human Anatomy.

### INTRODUÇÃO

A publicação, em 1543, em Basileia, da grandiosa obra *De Humani Corporis Fabrica liberi septem* define uma época na história da Anatomia, antes e depois de Vesálio, bem como marca o início da *Nomina Anatomica*. Hoje, após a última reunião de anatomistas, designada como *Terminologia Anatomica*.

Certamente que muitos erros ficaram por emendar e também algumas imprecisões se encontram no texto redigido em latim. Mas será necessário dizer que a sistemática do conhecimento anatómico, como ramo do saber humano, apresenta-se como ordenação da “morfologia humana”, como constante disciplina de exposição, pelo rigor das descrições e pelo valor demonstrativo das suas magníficas iluminuras, fazem da *Fabrica Vesalii* o primeiro tratado moderno de Anatomia. (1)

Também nas famosas “Tábuas Anatômicas”, de 1538, onde os nomes das peças estão ordenadas com designativos em latim (2). Estas tábulas anatómicas estavam ainda em inteira conformidade com as descrições galénicas, tendo sido traduzidas do grego para latim as respectivas legendas. Daqui, naturalmente, surgirem alguns erros em latim. A última revisão da *Terminologia Anatómica* vem aperfeiçoada no latim e apresenta-se de forma bilingue (latim e inglês).

Vesálio, ao mesmo tempo, que impôs a necessidade de estudar o cadáver humano, contribuiu para o descrever, definitivamente, em latim e determinou a que da anatomia de *Claudius Galenus*, que parecia infalível (3).

Mas, o que nos prende, após esta circunspeção histórica sobre a *Nomina Anatomica*, será um estudo gramatical sincrónico (normativo) dos termos latinos, que formam a respectiva *Nomina*. Assim, o grande objectivo desta reflexão gramatical encontra-se centrado na morfologia, o que nos levou a dar como título deste trabalho: *Morfologia da Morfologia Humana*, já que a Anatomia Sistemática é uma ciência morfológica por excelência. Logo, a Anatomia é a ciência que estuda a forma (*morfé*) e a estrutura do corpo humano ou dos animais *in genere*.

Assim esta refere-se à organização e estrutura que apresentam, no todo ou nas partes, os diferentes organismos, quer microscópica (anatomia descritiva) quer microscopicamente (histologia). (4)

O estudo ou descrição das distintas partes ou órgãos do corpo quanto à sua localização, forma, dimensões, peso, inserção na correlação com a *Nomina Anatomica*, constitui-se como anatomia descritiva, que tem vários ramos: osteologia, miologia, sindesmologia, esplanologia, etc

Com efeito, procuraremos analisar desde a casuística latina até às declinações, dos substantivos e adjectivos às preposições sufixais, bem como alguns elementos da sintaxe ora quanto à derivação, ora quanto à justaposição.

## CASOS LATINOS NA NOMENCLATURA DE ANATOMIA HUMANA

Os casos latinos, que derivaram da casuística grega (com cerca de cinco casos), são ao todo seis, constituindo-se o ablativo directamente do indo-europeu. Esta língua abstracta tinha ainda o locativo e o instrumental. (6)

Assim, aplicando à *Nomina Anatomica*, os únicos casos usados são o nominativo, ora no singular ora no plural, bem como o genitivo, também no singular e /ou no plural. Os outros casos (dativo, ablativo e vocativo, bem como o acusativo) não se usam na construção da *Nomina Anatómica*. Além do nominativo, o acusativo poderá ser usado aquando da derivação de qualquer termo da *Nomina* para qualquer idioma vernáculo (português, inglês, alemão, italiano, etc.)

O nominativo é o caso que designa o sujeito, como entidade da oração, sendo de longe o mais frequente quer quanto a substantivos, quer quanto a adjectivos. Na verdade, o genitivo menos frequente é o caso que determina a posse ou o complemento

determinativo. (7) Assim com alguns exemplos poderemos verificar a regra gramatical: *Musculus flexor digitorum longus* (músculo flexor longo dos dedos).

O termo *musculus* está no nominativo do singular masculino e significa “músculo” sendo um substantivo. Da mesma forma, *flexor* também está no nominativo do singular masculino, como substantivo (3ª declinação). Assim, também, o adjectivo triforme *longus; a; um*. Porém *digitorum* encontra-se no genitivo do plural masculino, de *digitus; i,* substantivo masculino, singular, da 2ª declinação. (8) Da mesma maneira, encontramos o *musculus flexor hallucis longus*. Aqui, a única diferença reside no *hallucis*, que é o genitivo do singular *hallux, cis* (gordo) da 3ª declinação.

No caso de *ligamentum capitis costae radiatum*, então apresentaremos o estudo morfológico gramatical, da casuística para as declinações:

*Ligamentum; i,* é um substantivo neutro da 2ª declinação no nominativo do singular, que será a “palavra – primeira” e será sempre um substantivo. Logo de seguida *radiatum*, é o nominativo neutro, do singular, do adjectivo triforme (*radiatus; -a; -um*) “radiado”. Todavia, *capitis* é o genitivo do singular neutro de *caput; capitis* (cabeça), da 3ª declinação, e *costae* é, igualmente, um genitivo no feminino do singular, de *costa; -ae* (costela) da 1ª declinação latina. (9)

Existem entidades anatómicas que, quer o substantivo, quer o adjectivo, que dependem do dito nome e se encontram no nominativo do singular masculino, feminino ou neutro. Poderemos colocar como exemplo: *lobulus semilunaris cranialis superior*.

Todos os adjectivos biformes (*semilunaris; -e et cranialis; -e*) bem como *superior; -ius* concordam em género, número e caso com o substantivo que dependem, que será *lobulus; -i* (lóbulo): substantivo masculino, nominativo no singular da 2ª declinação. A determinação do caso, ora nominativo, ora genitivo, é fundamental para nos orientar nas concordâncias gramaticais.

## DECLINAÇÕES DA MORFOLOGIA LATINA

A língua latina apresenta-nos, na sua morfologia gramatical, cerca de cinco (5) declinações. Todas as entidades anatómicas encontram-se desde a 1ª declinação até à 3ª declinação. Raramente poderão surgir nomes na 4ª ou 5ª declinações, tal como acontece nas taxonomias. Assim, poderemos ver pelos exemplos seguintes:

*Foramina papillaria* (orifícios papilares). *Foramina* é um substantivo que está no nominativo do plural neutro (*foramen; -inis*), como substantivo da 3ª declinação. Mas, o adjectivo *papillaria* encontra-se no nominativo plural neutro a concordar com o substantivo *Foramina* (*foramen; inis*), sendo um adjectivo triforme: *papillarius; -a; -um* (papilar). (10)

*Plexus choroideus ventriculi lateralis* (plexo coroideu do ventrículo lateral): *plexus; -i* (plexo) é um substantivo da 2ª declinação masculino no singular. Sendo o adjectivo *choroideus; -a; -um* como entidade gramatical triforme, que concorda com o substantivo, que depende, que é *plexus*. *Ventriculi* está no genitivo do singular de *ventriculus; i* (ventrículo) do coração, sendo um substantivo da 2ª declinação no masculino.

*Cornu temporale inferius* (aste temporal inferior). Assim o substantivo, elemento principal e primeiro da designação anatómica, é um nome da quarta declinação. *Cornu*; -*us* (genitivo) e está no nominativo do singular e no género neutro. Logo, os dois adjectivos ou qualificativos que se seguem: *temporale* e *inferius* situam-se no nominativo singular, neutro, segundo as concordâncias, respectivamente: *temporalis*, *temporale* (neutro), e *inferior*, nominativo masculino e feminino e o neutro (que se enuncia em latim: *inferior*; - *ius*). Aqui encontra-se no neutro (11) e são adjectivos biformes.

*Apertura mediana ventriculi quarti* (abertura média do quarto ventrículo): *apertura*; -*ae* é um substantivo da 1ª declinação latina, que está no nominativo singular, feminino (*apertura*), sendo o genitivo *aperturae*.

Segue-se um adjectivo triforme: *medianus*; -*a*; -*um* (médio/mediano). Finalmente, surge um numeral ordinal *quartus*; -*a*; -*um* (quarto), que se encontra no genitivo do singular masculino, dependente de outro “genitivo”, como seu qualificativo, a saber: *ventriculi*; de *ventriculus*; -*i* (sub. da 2ª declinação).

*Corpus cavernosum*: *corpus*, *oris*, substantivo da 3ª declinação, no nominativo, singular, neutro. O plural do nominativo será: *corpora*, segundo a morfologia latina.

*Cavernosum* é o neutro do adjectivo triforme, *carvenosus*; -*a*; -*um*, no masculino do singular, que está em concordância com o substantivo de que depende: *corpus*, -*oris*.

*Tractus spinocerebellaris dorsalis posterior* (tracto espinocerebeloso dorsal posterior) de *Flechsi*. Também existe o tracto espinocerebeloso anterior de Gowers. O substantivo *tractus*, -*i* (tracto) pertence à 2ª declinação latina (*tractus*; -*i*), no nominativo singular, masculino. Os adjectivos *spinocerebellaris* e *dorsalis* são formas qualificativas do substantivo *tractus*, -*i*, que se apresentam biformemente como *spinocerebellaris*; -*e*, *dorsalis*; -*e*, que se encontram no nominativo, singular, masculino. Os objectivos *posterior*; -*ius*, e *anterior*; -*ius* são biformes, encontrando-se no nominativo do singular, masculino. (12)

*Discussatio pyramidum* (discussão das pirâmides ou discussão motora). O termo *discussatio*; -*onis* pertence à 3ª declinação, substantivo, feminino no singular do nominativo. O substantivo da 3ª declinação *pyramis*; -*idis*, (pirâmide) encontra-se, aqui, no genitivo do plural feminino.

*Paries tympanicus ductus cochlearis (membrana spiralis)*: parede timpânica do canal coclear ou membrana espiral. O substantivo fundamental será -*paries*, -*eties*, no masculino do singular, na 3ª declinação. (13)

O adjectivo *tympanicus* surge como sendo triforme: *tympanicus*; -*a*; -*um* (timpânico), encontra-se no nominativo do singular, masculino a concordar com *paries*.

*Ductus*; -*us* (como *sensus*, *sensus*) é um substantivo da 4ª declinação, no genitivo do singular, masculino, como complemento determinativo ou de posse de *paries* (parede).

O adjectivo *cochlearis*; -*e* é uma forma biforme, masculina e feminina e com o neutro em *cochleare* (coclear), estando, neste caso, no genitivo do singular, dependente de *ductus* (canal).

Mas, em Osteologia, poderemos apresentar os seguintes nomes anatómicos para análise morfológica:

*Os cuneiforme intermedium* (osso cuneiforme intermédio): o substantivo, *os, ossis*, pertencente à terceira declinação, irregular, encontra-se no nominativo singular, neutro.

O adjectivo *cuneiforme* encontra-se no nominativo, singular, do neutro na forma “biforme” (*cuneiformis; -e*) e o adjectivo triforme, também, no nominativo do singular neutro *intermedium* (*intermedius; -a; -um*), concordando em género, número e caso. (14)

*Facies articularis talaris medialis* (superfície articular talar média). O substantivo *facies, faciei* pertence à 5ª declinação latina. Trata-se de um substantivo que se encontra no nominativo singular feminino. O adjectivo *articularis; -e* (articular) é biforme e está no nominativo singular feminino, na dependência de *facies*, bem como *talaris, -e* (talar), também segundo a mesma concordância e sendo biforme. Porém *media*, vem do adjectivo triforme: *medius, -a, -um* (médio). (15)

*Sulcus tendinis musculi flexoris hallucis longi* (sulco do tendão do músculo flexor longo). *Sulcus, -i* é um substantivo masculino da 2ª declinação (como: *dominus; i* – Senhor) no nominativo do singular. Depois deste substantivo, no nominativo, seguem-se uma série de substantivos e um adjectivo no genitivo do singular, como complementos determinativos ou de posse.

Assim, *tendinis*, vem de *tendo*; *tendinis*, substantivo derivado do verbo *tendo*, da 3ª declinação, no genitivo do singular, masculino. (16)

*Musculi* surge no genitivo do singular, masculino, do substantivo *musculus; -i* (substantivo de 2ª declinação, singular, no nominativo). O *flexor -oris*, substantivo da 3ª declinação, masculino, singular no genitivo como posse ou determinação.

*Hallux; -cis*, de origem grega, que significa “inchado, gordo”, etc. Encontra-se no genitivo do singular, masculino, na 3ª declinação. Finalmente, salienta-se *longi* que é o “genitivo” do singular, masculino, do adjectivo triforme: *longus; -a; -um* (extenso).

*Tuberositas ossis metatarsi primi vel quinti*. O substantivo principal é *tuberositas; tatis* (tuberosidade) que está na 3ª declinação, feminino, no singular e no nominativo. O termo *os, ossis*, da 3ª declinação, como substantivo irregular, está no genitivo do singular.

*Metatarsus; -i* é um substantivo da 2ª declinação, no masculino do singular, no genitivo quer *primi*, quer *quinti*, que são ambos numerais ordinais: *primus; -a; -um* e *quintus; -a; -um*, no genitivo do singular. (17)

*Valvula foraminis ovalis* (válvula do buraco oval): o termo *válvula; -ae*, substantivo da 1ª declinação, feminino, do singular no nominativo. Deste substantivo qualifica-se um substantivo que se encontra no genitivo do singular, neutro: *foraminis* (*foramen; -ini*) da 3ª declinação, que significa buraco. Segue-se o adjectivo biforme: *ovalis, ovale* (oval), no genitivo do singular neutro.

*Arteria colica sinistra* (artéria esquerda do cólon): *artéria*; *-ae* pertence à 1ª declinação, como substantivo feminino, singular, no nominativo e *colica* é um adjetivo triforme: *colicus*; *-a*; *-um*, no nominativo do singular, feminino, e, finalmente *sinistra* (esquerda) do adjetivo triforme: *sinister*; *-ra*; *-rum*, no nominativo singular, feminino, segundo as concordâncias. (18)

## VALOR E LIMITES SINTÁTICOS DA NOMINA ANATOMICA

Todas as regras da concordância da gramática latina são observadas em todas as entidades anatómicas (osteologia, angiologia, miologia, esplancnologia, etc), tal como ficou definido na última revisão da *Terminologia Anatomica*.

Em alguns casos, surge a formação de prefixos e de sufixações, com alguns adjetivos, que são fáceis de identificar. (19)

Também, segundo a Sintaxe, aparecem as teorias da derivação e da justaposição para formação do termo anatómico. Mas, este termo tem, em muitos casos, variadas conotações, com origem em termos gregos, donde são provenientes.

A origem grega dos termos anatómicos (*halux, foramen, tarsus, metatarsus et cetera*) é normal e depois será devidamente adaptada para o idioma de Cícero.

A nova *Terminologia Anatomica* aperfeiçoou muitos deles, para que surgisse uma *Nomina Anatomica* mais precisa e muito mais adequada sem quaisquer erros.

A conjugação da fonética, morfologia e sintaxe latinas é fundamental para definir uma gramática normativa da *Nomina Anatomica*. Também existe uma gramática diacrónica (histórica) e um estudo etimológico da *Terminologia Anatomica*, porque alguns nomes possuem conotações mitológicas, como é o caso de *patela* (rotula), que era um prato onde se levavam as oferendas aos deuses, segundo civilizações ancestrais. (20)

Naturalmente, as gramáticas, sincrónica e diacrónica, conlevam uma semântica, *in genere et sub specie*, para fundamentarem o verdadeiro sentido normativo e lógico-formal das descrições anatómicas. O estudo gramatical latino é fundamental no desenvolvimento linguístico da *Terminologia Anatomica*.

## CONCLUSÃO

Como se verificou, ao longo deste estudo, sobre o sentido morfológico da Morfologia Humana, encontramos presente as “cinco declinações”, desde a primeira à quinta, que aparecem como substantivos. Os qualificativos, que surgem na *Nomina Anatomica*, apresentam-se sob a forma de adjetivos que poderão ser biformes ou triformes.

O substantivo aparece sempre no “nominativo”, ora do singular, ora do plural, sendo os designativos apresentados, também, como nominativos, devido à concordância ou então encontram-se sob a forma de genitivo. Aqui, o genitivo é muito frequente, porque marca *de facto* uma determinação ou uma “posse anatómica”.

Existem, igualmente na *Nomina Anatomica*, algumas referências a elementos estilísticos, como *ligamentum capitis costae radiatum*, sendo a ordem da tradução, a seguinte: *ligamentum radiatum capitis costae*. São raros, mas também aparecem e dão valor e sentido à *Nomina Anatomica*.(21 )

Quanto à fonética, os nomes das entidades anatómicas poderão ser pronunciados segundo as ortoépias: nacional, eclesiástica e internacional ou restaurada, que *de facto et de iure* é de longe a mais seguida. Todos os nomes deverão ser pronunciados numa única ortoépia, não se devendo, assim, saltar de ortoépia em ortoépia, senão teremos erros de pronúncia latina.

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## Legal uncertainties for navigation through the Turkish Straits

### Summary

The legal regime of the Turkish Straits is considered in the article. The Montreux Convention Regarding the Regime of the Straits signed in 1936 established the sovereignty of the Republic of Turkey over the Straits and a set of rules for navigation through them. This notwithstanding, there is a number of legal uncertainties left unsettled. The uncertainties could hinder free access to the Black and Azov Sea while a lot of frozen armed conflicts and disputed territories gather round the Seas. The Straits are of great importance for the Caspian Sea countries and regions since they have access to them through the Volga, Don and Volga-Don Canal.

For the last two decades Turkey has introduced many new rules for navigation there because of the abovementioned uncertainties that has essentially modified the legal regime of the Straits. The Turkish interpretations of and additions to the Montreux Convention in the form of new legal acts, regulations and instructions are evidently aimed at the accretion of Turkish national power over the Straits. This trend could raise problems for freedom of navigation as a key principle for international law of the sea. In addition, the Turkish authorities promote the project of 'Canal Istanbul' as a sea route alternative to the Bosphorus. Obviously, the restrictions of the Montreux Convention would not be applicable for a new canal. The second canal alternative to the Dardanelles could completely ruin the conventional legal regime. The rules of U.N. Convention on the Law of the Sea would not be also applicable since Turkey is not a member of the Convention. If the new canals are built, the strictest common law of the sea must be applied for navigation through them. The Montreux Convention has to be modified, taking into account the interests of all regional and extra-regional stakeholders.

**Key words:** Canal Istanbul, international law, law of the sea, legal regime, the Montreux Convention, the Turkish Straits.

## INTRODUCTION

The Turkish Straits of the Dardanelles and the Bosphorus are essential for the security and economic development not only for the Black Sea countries, but also for extra-regional states<sup>1</sup>. The crucial economic interests of the European Union, China, Russian Federation, Turkey, Eastern European countries, the South Caucasus, Central Asia include the free use of sea communications passing through the Straits<sup>2</sup>.

Nevertheless, the Black Sea is surrounded by the regions involved in armed conflicts or having significant conflict potential, such as the Balkan Peninsula, Caucasus, Middle East, Northern Black Sea region with Transnistria, Crimea and Donbass. The armed confrontations between Russia and Ukraine and between Russia and Georgia took place immediately in the water areas of the Black and Azov Seas<sup>3</sup>. All post-Soviet territories with an uncertain or disputable legal status are located in this region – Transnistria, Crimea, Donbass, Abkhazia, South Ossetia, Nagorno-Karabakh<sup>4</sup>.

This tense situation with a multitude of unresolved conflicts does not contribute to the economic development of the region and deters powerful economic actors from using sea communications<sup>5</sup>. For example, some routes of the Eurasian Land Bridge or New Silk Road could pass through the Turkish Straits, which would bring tangible benefits to the countries of the region, considering the huge commodity turnover between the European and East Asian markets, particularly between the European Union and China. However, China prefers other routes, partly because of instability in the region.

Therefore, an in-depth analysis of legal regimes and the settlement of controversial issues in the Turkish Straits based on the international law is a prerequisite for ensuring peace and prosperity of nations in the region.

### 1. DISPUTED AREAS IN THE BLACK SEA.

The controversial issues of the legal regime for navigation through the Straits are inseparably linked with the legal status of the Black Sea and Sea of Azov with various maritime zones in these seas. Due to their small size, the Seas are completely divided into the zones of sovereignty (internal waters, territorial sea) and zones of jurisdiction (contiguous zone, exclusive economic zone) of six coastal states (Bulgaria, Georgia, Turkey, Romania, Russian Federation and Ukraine). The unrecognized Republic of Abkhazia claims its maritime zones, but in terms of international law these zones belong to Georgia, although they are practically under the control of by the Russian Black Sea fleet.

1 A. Gerolymatos, *The Turkish Straits: History, Politics and Strategic Dilemmas*, Ocean Yearbook, 2014, nr 28, pp. 58–79.

2 Y.V. Tavrovskiy, *Novyi Shelkovyi put'*, Eskmo, Moscow 2017, p.38.

3 J. Bugajski, P.B. Doran, *Black Sea Rising: Russia's Strategy in Southeast Europe*, Black Sea Strategic Report no. 1, Center for European Policy Analysis, Washington, DC 2017.

4 For details see: *Współpraca i konflikty we współczesnej Europie*, red. E. Stadtmüller, Wrocław 2000.

5 A. Moshes, *The war and reforms in Ukraine: can it cope with both?*, Finnish Institute of International Affairs, Briefing Paper no. 173, 2015.

There was plainly no room left for an international water zone beyond national jurisdiction. This means that under the 1982 United Nations Convention on the Law of the Sea (UNCLOS)<sup>6</sup> the Black Sea and Sea of Azov fall under the definition of “enclosed” or “semi-enclosed” sea which is “a sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial and exclusive economic zones of two or more coastal States”<sup>7</sup>.

Ukraine has repeatedly expressed its interest in recognizing some areas of the Black Sea and Sea of Azov as international waters long before the annexation of Crimea<sup>8</sup>. This issue has become acute because of the Russian-Ukrainian conflict regarding the legal regime of the Kerch Strait<sup>9</sup> and the waters of the Sea of Azov<sup>10</sup>. Having the capacity to establish control over the entire Sea of Azov by its Black Sea Fleet, Russia insists that the Black Sea and Sea of Azov are “enclosed”, referring to the decision of the U.N. International Court of Justice in the case on the delimitation of maritime borders between Romania and Ukraine (February 3rd, 2009)<sup>11</sup>. This decision confirms the status of the Black Sea as “enclosed”<sup>12</sup>.

In fact, Russia does not categorically want to see the warships of third countries in the Sea of Azov<sup>13</sup>, and therefore makes every effort to prevent any freedom of navigation in it and turn it into its inland sea *de facto* in the future. The free navigation of merchant ships also does not correspond to the economic interests of Russia, since through the Volga and Don rivers, connected by the Volga-Don Canal, ships from the Caspian Sea have access to the Sea of Azov and, through the Turkish Straits, to the Mediterranean Sea and all oceans. This water route is of great importance for the countries of Central Asia abundant in natural resources, especially in natural gas and crude oil. Russia has even developed projects to build the Eurasia Canal for a straighter and shorter route from the Caspian Sea to the Black Sea (see Picture 1).

It is quite evident that Russia is striving to establish control over this entire route, especially considering the prospect of laying trade routes from China to Europe through Central Asian states. At the same time, Russia interprets the status of a “enclosed sea” rather broadly and arbitrarily. Most Russian legal experts suggest that the maritime regions of great strategic and economic importance for regional countries cannot be used for transit passage of foreign ships from one sea to another.

6 *United Nations Convention on the Law of the Sea*, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf), accessed 09.10.2021.

7 *Ibid.*, Article 122, p.67.

8 S.V. Jurchenko, *Kontseptualnoe obespechenie politiki Ukraini v Chernomorskom regione*, [w:] *Religiya i grazhdanskoe obshchestva: geopoliticheskoe izmerenie globalizatsii kulturnogo prostranstva*, Veber, Sevastopol 2011.

9 O. Górzyński, *Kryzys w Cieśninie Kerczeńskiej. O co chodzi?*, *Wiadomości*, 26-11-2018, <https://wiadomosci.wp.pl/kryzys-w-ciesninie-kerczenskiej-o-co-chodzi-6321041249875585a>, accessed 09.10.2021.

10 D.R. Bugajski, *Kształtowanie statusu Morza Azowskiego*, [w:] *Mare Nostrum*, red. M. Szuniewicz, Gdańsk 2015.

11 P. Gudev, *Azovo-Chernomorskiy region: novye politiko-pravovye realii*, *Mirovaya ekonomika i mezhdunarodnye otnosheniya*, 2018, vol. 62, No. 11, p. 87–98.

12 *Maritime delimitation in the Black Sea (Romania v. Ukraine)*. *International Court of Justice*, <http://www.icj-cij.org/en/case/132>, accessed 09.10.2021.

13 V.Y. Vasiliev, *K voprosu pravovogo statusa Azovo-Kerchenskoj akvatorii*, *Morskije vesti Rossii*, 2016, nr 8.



**Pic. 1.** Eurasia canal project and traditional waterway from the Caspian to the Black Sea

**Source:** *The Attempts to Make the Caspian a “Sea” and the Reality*, 06.08.2020, <https://blog.interlegal.com.ua/the-attempts-to-make-the-caspian-a-sea-and-the-reality>, accessed 09.10.2021.

Taking into account the fact that entry into such seas generally is carried out through narrow straits connecting them with other waters of the World Ocean, there could be only the right of free entry into the sea ports of regional countries. However, this right should apply only to foreign civilian merchant ships, while the freedom of navigation for warships, in their opinion, must be limited or prohibited<sup>14</sup>.

In fact, Russia does not recognize the innocent passage guaranteed by UNCLOS<sup>15</sup>, or arbitrarily introduces reservations and restrictions into this right. This position of Russia leads to conflicts and incidents in the Black Sea, such as in June 2021 with the British destroyer HMS *Defender*<sup>16</sup>. The *Defender* proceeded from Odessa towards Georgia through the territorial sea, which Russia claims after the annexation of Crimea, although formally this sea zone, like the entire Crimean Peninsula, is under the sovereignty of Ukraine.

It is appropriate to compare this incident with a case occurred at the end of the Cold War in the Black Sea on February 12, 1988. The American missile cruiser

<sup>14</sup> A.S. Skaridov, *Pravovoy rezhim Azovo-Chernomorskogo basseyna i regionalnaya bezopasnost'*, *Evraziyskiy juridicheskiy zhurnal*, 2016, nr 11, s.260–271.

<sup>15</sup> Article 19, *United Nations Convention on the Law of the Sea*, p.31, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf), accessed 09.10.2021.

<sup>16</sup> D. Gorenburg, *The HMS Defender Incident: What happened and What Are the Political Ramifications?*, *Russia Matters*, Harvard Kennedy School, Belfer Center for Science and International Affairs, July 01, 2021, <https://www.russiamatters.org/analysis/hms-defender-incident-what-happened-and-what-are-political-ramifications>, accessed 09.10.2021.

USS *Yorktown* CG-48 and the destroyer USS *Caron* DD-970 entered the Black Sea. At the Bosphorus Strait, they were met by the patrol ship *Bezzavetnyi* (according to NATO classification *Burevestnik class frigate*) and the patrol boat SKR-6. They began to accompany American ships across the Black Sea, jokingly referring to “Russian hospitality” in radio communications with the Americans and calling the Sea “ours”, thereby emphasizing the dominance of the Soviet Navy there.

American ships passed through the territorial sea zones of Bulgaria and Romania and entered the Soviet territorial waters, despite warnings from the Soviet patrol ships. From the American point of view, this trip was an “innocent passage” through foreign territorial waters, permitted by international law of the sea<sup>17</sup>. On the southern coast of Crimea, the Soviet sea borders wedge out to the south, and the Americans did not want to bypass this ledge in a long way.

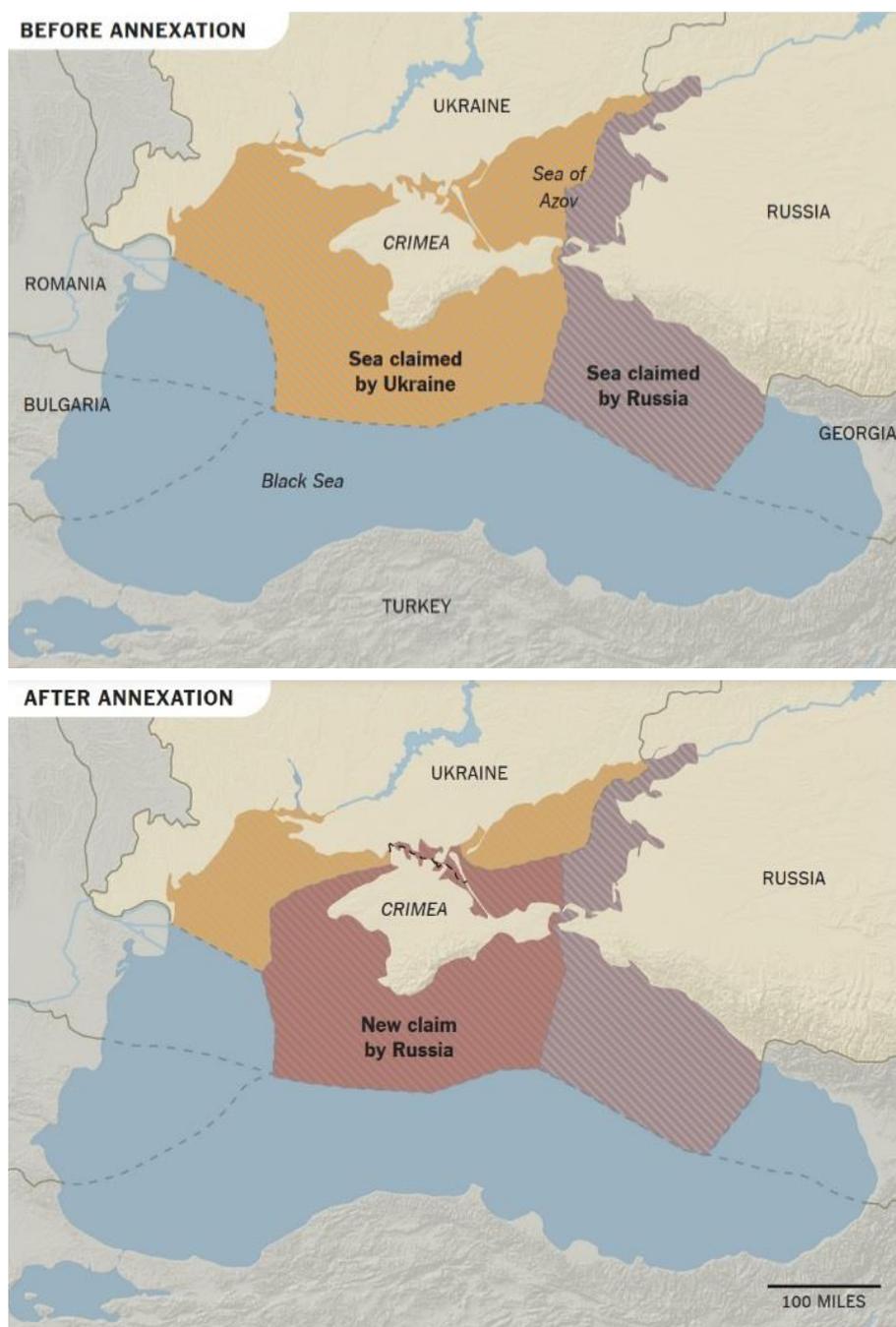
According to a previously developed plan, the Soviet ships made a ram attack on the American visitors. The ships collided side by side at a course converging at an acute angle. In Russian naval terminology, it is called ‘*naval*’ (literally ‘falling on’). The *Bezzavetnyi* collided with the *Yorktown*, and SKR-6—with the *Caron*. As a result of the ram attack, the *Yorktown* suffered significant damage to the deck, superstructure and launchers of the anti-ship missiles *Harpoon*. There was a small fire on board the cruiser, which was quickly extinguished. The Americans began to prepare for the takeoff of the helicopters, but received an additional warning, supported by the fact that Soviet helicopters Mi-26 with full combat weapons and landing forces appeared above the deck of the cruiser. An incident in the air could have become a violation of international law, and therefore the Americans brought helicopters into hangars and left Soviet territorial waters. The Chief Commander of the Soviet Navy, fleet admiral Vladimir Chernavin, personally developed this operation and gave the order to carry it out, despite Gorbachev’s peaceful foreign policy. After the operation, Chernavin awarded the commanders and officers of the *Bezzavetnyi* and SKR-6.

Against the background of the collapse of the USSR, such an aggressive reaction to the appearance of the American warships in the Black Sea is explained by the painful reaction of the Soviet military leadership to the weakening of Soviet military power and the actual loss of the international status of a superpower by the Soviet empire. The American and Soviet political leaders left this incident without consequences that could affect Soviet-American relations and Gorbachev’s policy of detente<sup>18</sup>.

In fact, Russia has reverted to Soviet Cold War practices. The matter is that after the annexation of Crimea in 2014, Russia seized significant areas of the Black Sea and Sea of Azov and established borders there, unrecognized by the global community (see Picture 2).

17 J.W. Rolph, *Freedom of Navigation and the Black Sea Bumping Incident: How “Innocent” Must Innocent Passage Be?*, *Military Law Review*, vol. 135, Winter 1992, p. 139.

18 D. Clarke, *The saga of Black Sea Fleet*, RFE/RL Research Report, 1:4, 1992.



**Pic. 2.** Exclusive Economic Zones in the Black Sea before and after the Annexation of Crimea in 2014

**Source:** *Building an Asymmetric Ukrainian Naval Force to Defend the Sea of Azov. Pt. 1*, Center for International Maritime Security (CIMSEC), <https://cimsec.org/building-asymmetric-ukrainian-naval-force-defend-sea-azov-pt-1/>, accessed 09.10.2021.

It is important to emphasize that some Asian and African countries, prior to signing and ratifying UNCLOS, put forward their reservations and conditions that affected the right of innocent passage. Russian Federation, which ratified UNCLOS on March 12, 1997<sup>19</sup>, did not try to secure any special conditions. New Russian lateral interpretations of the right of innocent passage appeared much later, after 2008.

Any lateral interpretations of the ‘enclosed sea’ legal status and the ensuing attempts to restrict navigation in the Black Sea come into conflict not only with UNCLOS, but also with the 1936 Montreux Convention Regarding the Regime of the Straits (MCRS)<sup>20</sup>, which restored the sovereignty of the Republic of Turkey over the Bosphorus and the Dardanelles and determined the regime of navigation through the Straits, including non-Black Sea region countries<sup>21</sup>. This article uses the unusual abbreviation MCRS to avoid any confusion with the Montreux Convention Regarding the Abolition of the Capitulations in Egypt, adopted in 1937, although numerous publications refer to the MCRS simply as “the Montreux Convention”.

UNCLOS has a special Part III that regulates passage through straits used for international navigation. However, it does not affect “the legal regime in straits in which passage is regulated in whole or in part by long-standing international conventions in force specifically relating to such straits”<sup>22</sup>. So if any previous conventions or other international legal acts had come into force before UNCLOS was signed, the straits may preserve their previous legal regime.

Due to the fact that Turkey has not signed and ratified UNCLOS, and its provisions regarding the right of transit passage (applicable to international straits) cannot be considered yet as norms of common international law, that is, be mandatory for all countries, MCRS is the only one treaty determining the legal regime of the both Turkish Straits. Obviously, the motivation for Turkey not to accept UNCLOS was its aspiration for preserving the legal regime of the Straits that provides the Turkish authorities with ampler powers than a new international conventional regime. Turkey has also retained broad discretionary powers over the Straits, which would not be valid if Ankara signed UNCLOS.

## 2. LEGAL REGIME OF THE TURKISH STRAITS ACCORDING TO MCRS.

The essence of the MCRS legal regime is a combination of two basic principles: on the one hand, complete freedom of merchant navigation and entry of civilian vessels, on the other, a notification procedure for the navigation of warships in order to

19 *Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements*, Oceans and Law of the Sea, United Nations, [https://www.un.org/Depts/los/reference\\_files/chronological\\_lists\\_of\\_ratifications.htm#The%20United%20Nations%20Convention%20on%20the%20Law%20of%20the%20Sea](https://www.un.org/Depts/los/reference_files/chronological_lists_of_ratifications.htm#The%20United%20Nations%20Convention%20on%20the%20Law%20of%20the%20Sea), accessed 09.10.2021.

20 *Convention Regarding the Regime of the Straits. Signed at Montreux*, July 20th, 1936, No. 4015, p.213–241, <https://treaties.un.org/doc/Publication/UNTS/LON/Volume%20173/v173.pdf>, accessed 10.10.2021.

21 N. Ünlü, *The Legal Regime of the Turkish Straits*, MartinusNijhoff Publishers, The Hague; New York 2002.

22 Article 35c, *United Nations Convention on the Law of the Sea*, p.36, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf), accessed 10.10.2021.

ensure the prior security of the Black Sea region countries, which implies a number of restrictions on qualitative, quantitative and temporal characteristics for warships of non-riparian states. Thus, in peacetime, all merchant ships have the right of complete freedom for passage through the Straits without any restrictions, with the exception of the obligatory payment for a sanitary inspection and duty for the maintenance of the technical equipment of the fairway and the rescue service. They are also obliged to inform the Turkish authorities of their name, flag, tonnage, place of departure and destination. The use of pilotage and tugs is optional.

The passage of warships through the Straits is restricted by a number of requirements. MCRS entitles any country, whether belonging to Black Sea or non-Black Sea states, and whatever their flag, to the passage of three classes of ships:

1. light surface vessels (with displacement of up to 10 000 tons);
2. minor war vessels (with displacement of up to 2000 tons);
3. auxiliary vessels, which are used for the needs of the fleet or for the transfer of troops and are not specially built to be combat ships (art.10)<sup>23</sup>.

Only the Black Sea countries are endowed with additional authority to conduct capital ships (with displacement of over 10 thousand tons, singly, escorted by not more than two destroyers<sup>24</sup>) and submarines through the Straits.

At the same time, any passage of submarines is possible in two cases:

- 1) If they are constructed or purchased outside the Black Sea and are sent there to the base, and Turkey has been provided with adequate notice of the laying down or purchase of such submarines;
- 2) If they are sent to be repaired in dockyards outside the Black Sea on condition that detailed information on the matter is given to Turkey.

In either case, the said submarines must travel by day and on the surface, and must pass through the Straits singly<sup>25</sup>.

Formally, the passage of aircraft carriers is prohibited. For the non-Black Sea region countries this results from the provisions of Article 10, and for the Black Sea region countries – Articles 11–12, where all classes of ships that are permitted for them are defined. However, in the 1970s, the Straits were passed by the helicopter-carrier guided missile cruisers *Moskva* and *Leningrad*. On July 18, 1976 the heavy guided missile aircraft cruiser *Kiev* passed the Straits with a displacement of 41.4 thousand tons<sup>26</sup>. On December 2, 1991, the heavy guided missile aircraft cruiser '*Admiral FlotaSovetskogoSoyuza Kuznetsov*'(short name – the *Admiral Kuznetsov*) entered the Aegean Sea.

23 *Convention Regarding the Regime of the Straits. Signed at Montreux, July 20th, 1936, No. 4015, p.213–241, <https://treaties.un.org/doc/Publication/UNTS/LON/Volume%20173/v173.pdf>, accessed 10.10.2021.*

24 *Ibid.*, Article 11, p.221.

25 *Ibid.*, Article 12, p.221.

26 N.Friedman, *The Fifty-Year War: Conflict and Strategy in the Cold War*, Naval Institute Press, Annapolis 1999.

The maximum displacement of the *Admiral Kuznetsov* is 61.4 thousand tons, which is entirely comparable to the British Queen Elizabeth class carriers. The *Admiral Kuznetsov*, blandly called by Russian sailors as ‘*Kuzya*’, passed the Straits on the second day after the referendum on Ukrainian independence, which took place on December 1, 1991. More than 90% of Ukrainian citizens voted for independence, with a turnout of more than 84%. The pro-Russian command of the Soviet Navy, anticipating the results of the referendum, deliberately transferred the aircraft carrier from the Black Sea to the Barents Sea so that it would not go to independent Ukraine in case of the division of the Soviet Black Sea Fleet.

Apparently, the leaders of Turkey understood why the disintegrating Soviet Union needed to transfer the largest ship of the Soviet Navy to the Northern Fleet, but nevertheless, they let it pass through the Straits. Ankara previously also let *the Kiev* pass despite objections from its US NATO allies.<sup>27</sup> The Americans believed that aircraft cruisers should not be equated with battleships<sup>28</sup>.

Turkey agreed to let the powerful Soviet ships of capital classes pass through the Straits, realizing that the Convention itself does not contain a clear answer to these questions. Moreover, Ankara actually recognized that the passive attitude towards Soviet actions, as well as of other parties to the Convention, set a precedent for future modifications of and amendments to the Convention<sup>29</sup>.

It should be emphasized that the Soviet admirals carefully avoided the name “aircraft carrier” when applied to the *Admiral Kuznetsov* and Kiev-class cruisers. All of them were built at the shipyards in Nikolayev, Ukraine. If they had been recognized as aircraft carriers, they could not have left the Black Sea at all, although these ‘aircraft-carrying cruisers’ are designed for operating in the blue waters. Moreover, due to MCRS restrictions, Soviet naval experts began to distinguish between the concepts of ‘*avianosnyi*’ (intended to operate as an aircraft carrier and secure air supremacy over the maritime theaters of operations) and ‘*avianesushchiy*’ (capable to carry some combat aircrafts as an additional option to the primary functions of a warship)<sup>30</sup>, although the difference in the meaning of these words cannot be seen even by the native speakers of Russian.

According to the Convention, the Black Sea countries are obliged to provide Turkey with information about the passage, indicating the point of destination, type and number of ships, as well as the date of passage in the original direction and upon return – eight days in advance, and non-Black Sea countries - 15 days in advance. When entering the Straits, the data on the composition of the detachment, the names of the ships and their number must be duplicated by the signal station. Only auxiliary ships intended for the transportation of fuel, if they are armed with no more than two guns of a maximum caliber of 105 mm against floating targets and two devices

27 G.H. Knight, *The Kiev and the Turkish Straits*, The American Journal of the International Law, 1977, vol. 71, no. 1, pp.125–129

28 B. Buzan, *The Status and Future of the Montreux Convention*, Survival, 1976, vol. 18, no. 6, pp.242–247.

29 L.N. Nezhinskii, A.V. Ignatyev (eds.), *Rossiia i Chernomorskie prolivy (XVIII-XX stoletiya)*, Mezhdunarodnye otnosheniya, Moscow 1999, p.492–493.

30 J.A. Barry, Jr., *Soviet Naval Policy: The Institutional Settings*, [w:] *Soviet Naval Influence: Domestic and Foreign Dimensions*, ed. by M. McCWire & J. McDonnel, Praeger Publishers, New York 1977.

of a maximum caliber of 75 mm against air targets and follow alone, pass the Straits without any anticipatory notice<sup>31</sup>.

In addition, non-Black Sea region countries cannot carry ships with a displacement of more than 10 thousand tons through the Straits<sup>32</sup>; their total tonnage when passing through the Straits cannot exceed 15 thousand tons, and the maximum number is 9 units<sup>33</sup>. The total tonnage of ships of the non-Black Sea region countries located in the Black Sea cannot be more than the tonnage of the strongest fleet of one of the Black Sea region countries, and in any case should not exceed 45 thousand tons. It is necessary to note that some Black Sea countries have naval forces with the tonnage of less than 45 thousand tons<sup>34</sup>. Moreover, none of the non-Black Sea region countries can keep warships in the Black Sea with a total displacement of more than 2/3 of 45 thousand tons, that is, 30 thousand tons. Their stay is limited to 21 days, regardless of the purpose<sup>35</sup>.

It is worth noting that the decision to revise the provisions of Articles 14 and 18, limiting the total tonnage and the number of warships simultaneously located in the Straits, as well as the total tonnage and duration of the stay of warships of non-Black Sea region countries in the Black Sea, can be taken at the new conference of MCERS participants by a majority in 3/4 of the votes, which should include 3/4 of its Black Sea members, including Turkey. Other articles of the Convention can only be revised unanimously, which is stated in article 29<sup>36</sup>.

Some provisions of the Convention leave Turkey with a discretion without the consent of other Black Sea region countries. The decisions made by Turkey cannot be regulated by the common international law<sup>37</sup>. In particular, non-Black Sea region countries can send naval detachments of warships through the Straits for humanitarian purposes. If the total displacement of such a detachment does not exceed eight thousand tons, then it can be admitted to the passage without any prior notice, but with the permission of the Turkish government. If, however, it exceeds eight thousand tons or the maximum tonnage of the fleet of this state in the Black Sea has already been used, then Ankara is obliged to request permission from the rest of the Black Sea countries.

MCERS does not exclude the opportunity for any countries to make courtesy visits, "Nothing in the provisions of the preceding Articles shall prevent a naval force of any tonnage or composition from paying a courtesy visit of limited duration to a port in the Straits, at the invitation of the Turkish Government"<sup>38</sup>. This provision

31 Article 9, *Convention Regarding the Regime of the Straits. Signed at Montreux, July 20th, 1936, No. 4015, p.221*, <https://treaties.un.org/doc/Publication/UNTS/LON/Volume%20173/v173.pdf>, accessed 11.10.2021.

32 *Ibid.*, Annex II, Article B, p.235.

33 *Ibid.*, Article 14, p.223.

34 A. Polyakova, *Black Sea Security: Reviving US Policy Toward the Region*, CEPA, October 27, 2021, <https://cepa.org/black-sea-security-reviving-us-policy-toward-the-region/>, accessed 30.10.2021.

35 Article 18, *Convention Regarding the Regime of the Straits. Signed at Montreux, July 20th, 1936, No. 4015, p.223-224*, <https://treaties.un.org/doc/Publication/UNTS/LON/Volume%20173/v173.pdf>, accessed 11.10.2021.

36 *Ibid.*, Article 29, p.231.

37 M.A.G. Lopez, *International Straits. Concept, Classification and Rules of Passage*, Springer, Berlin, Heidelberg 2010.

38 Article 17, *Convention Regarding the Regime of the Straits. Signed at Montreux, July 20th, 1936, No. 4015, p.222*, <https://treaties.un.org/doc/Publication/UNTS/LON/Volume%20>

was vigorously used by American and NATO member warships, including heavy aircraft carriers, which visited Istanbul during the Cold War, which caused a rather nervous reaction from the Soviet leadership and was accompanied by diplomatic demarches.

The right of a belligerent power's warships passage through the Straits is limited for the period of the war, unless the Republic of Turkey participates in this war and is not bound by this power by treaty obligations. In the case of Turkey's participation in the war, the passage is carried out exclusively at its discretion<sup>39</sup>. Ankara acquires the same right if, not being a belligerent, "considers herself to be threatened with imminent danger of war"<sup>40</sup>.

However, in order to facilitate the realization of this right, the Turkish government is obliged to notify all parties to the Convention about it, and its decision can be refuted at the international level. So the abovementioned threat cannot be defined by Turkey arbitrarily and unilaterally. This reservation is the reason why Ankara has never used this right, even during the Second World War, despite its friendly relations with the countries of the fascist bloc and hostile relations with the belligerent Soviet Union. At the same time, Soviet submarines deliberately attacked and sank the ships of Turkish smugglers with chromium ore. Chromium was one of the most significant strategic raw materials for Nazi Germany, but under pressure from the side of Great Britain, which bought all Turkish chrome, Turkey officially refused to supply chrome ore to Germany, Italy and their satellites<sup>41</sup>. It is unclear to what extent the Turkish authorities were involved in the smuggling of chromium, but official Ankara has shown patience and awareness in dealing with such operations of the Red Navy.

### 3. CURRENT TRENDS AND FUTURE DEVELOPMENT

For the last three decades, Turkey has gradually toughened the regulations for the passage through the Straits for both the Black Sea region and non-regional countries. A lot of restrictions were justified by the necessity to provide maritime environment protection, since sometimes there were wrecks of merchant ships and oil tankers in the Straits. The problem with these restrictions is that Ankara accepted them unilaterally without agreement with the parties to the Convention and other Black Sea region countries. These restrictions include:

- application of Istanbul Port Regulation to the Bosphorus Strait in 1982<sup>42</sup>;
- insisting on compulsory pilotage and towage for the safety of navigation in the straits contrary to MCRS requirements;
- adoption of national Maritime Traffic Regulations for the Turkish Straits in 1994<sup>43</sup>;

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[173/v173.pdf](#), accessed 11.10.2021.

39 Ibid., Article 19-20, p.225.

40 Ibid., Article 21, p.227.

41 N.G. Kuznetsov, *Krutye povoroty: iz zapisok admirala*, Molodaya Gvardiya, Moscow 1995.

42 *Istanbul Port Regulations*, [http://www.solna.com.tr/Istanbul\\_Port\\_Regulations.pdf](http://www.solna.com.tr/Istanbul_Port_Regulations.pdf), accessed 12.10.2021.

43 *Maritime Traffic Regulations for the Turkish Straits*, <http://www.vda.org.tr/upload/duyuru/T%C3%9CRK%20BO%C4%9EAZLARI%20DEN%C4%B0Z%20TRAF%C4%B0K%20>

enactment of an updated version of the Maritime Traffic Regulations in 1998 and instructions for the application of the 2002 Regulations.

The enactment of the Maritime Traffic Regulations was caused by the disaster on March 13, 1994 in the Bosphorus. The Cypriot tanker *Nassia* collided with the dry cargo vessel *Shipbroker*, which was also sailing through the straits under the Cypriot flag. More than 40 thousand tons of oil spilled into the sea, and the fire lasted more than four days, which completely paralyzed traffic through the straits<sup>44</sup>.

However, many of the measures introduced by the Regulations have raised objections from the MCRS member states. In particular, Turkey unilaterally tried to secure the right to prohibit the passage of large-capacity tankers through the straits at its own discretion, to suspend navigation along the straits in connection with various public events, and to restrict the passage of ships with a nuclear power plant. The Regulations also tried to introduce compulsory pilotage and towing of ships and vessels. Violations of the Regulations provided for the responsibility in accordance with Turkish national law, although the legal regime of the Turkish Straits was governed by the international law<sup>45</sup>.

In general, any strengthening of measures against violators of environmental standards and sources of threat to the maritime environment is appreciated in the modern world. For example, it is increasingly allowed to stop and search foreign ships in zones with different legal regimes on environmental grounds, although the principle of the flag State's exclusive jurisdiction remains formally unshakable. Neither UNCLOS nor customary maritime law provide clear grounds for disregarding this principle on the basis of suspected environmental violations. In case of ship searches, the trends in international maritime law due to increased awareness of environmental thunderstorms are most evident. Obviously, Turkey has tried to be in tune with these trends. However, the problem of the Maritime Traffic Regulations was not the severity of the restrictions, but the unilateral actions of Ankara, while any strengthening of the regulations requires a broader international consensus.

Members of the MCRS at the level of the International Maritime Organization (IMO) have ensured that Turkey's novelties were found to be in violation of the Convention. In response, the Turkish government adopted an updated Regulations in 1998. Provisions that clearly contradicted the Convention were fully removed from the updated version, although many of the restrictions and additional requirements were retained in it. In particular, the Regulations enshrined the right of the Turkish authorities to block navigation in the straits for 'public safety requirements', as well as 'in order to improve the welfare of society'. In fact, the Turkish government can close the straits at its own discretion.

In 1999, compulsory pilotage was introduced in the Turkish Straits, as well as in the Sea of Marmara. In 2002, Ankara strengthened the regulations for the passage of tankers

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44 B. Yegen, B. Önoz, *Management of Water Supply Systems of Metropolis: Istanbul Example*, [w:] H.G. Coskun, H.K. Cigizoglu, D. Maktav (eds.), *Integration of Information for Environmental Security*, Springer, Istanbul 2006, p.476.

45 G. Plant, *Navigation regime in the Turkish Straits for Merchant Ships in Peacetime*, Marine Policy, 1996, vol. 20, no. 1, pp.15–27.

and other large-tonnage vessels with a length of 250-300 m and a displacement of 50 thousand tons and more through the straits, including the prohibition of oncoming traffic in the straits during their passage<sup>46</sup>. In 2005, Turkey, contrary to UNCLOS provisions, restricted entry into its internal waters and the territorial sea, while the water area of the straits was attributed to the Turkish territorial sea.

The restrictions provide for a notification and permissive procedure for the innocent passage of foreign ships through the territorial sea, which includes a mandatory notification 48 hours before the passage of the straits and a ban on the passage of ships without financial guarantees<sup>47</sup>. Turkey has not joined UNCLOS and therefore cannot be accused of violating this fundamental Convention, but these restrictions are highly questionable from the point of view of customary maritime law, which Ankara refers to.

The United States has also not signed UNCLOS and prefers to base on customary maritime law. But the Americans consistently insist on the compliance of the principle of freedom of navigation and the principle of the “high seas”, founded in the 17th century by the Dutch jurist Hugo Grotius<sup>48</sup> and enshrined as a customary rule of international law long before the adoption of international conventions on the law of the sea. According to Washington, UNCLOS restricts these principles.

Turkey proceeds from directly opposite positions. In her opinion, the bordering state has full sovereignty over the straits and is obliged to introduce measures to tighten navigation in order to ensure safety, including environmental safety. However, the MCRS has certain obligations on it with respect to merchant and military navigation in the straits, and this is a fact that testifies to Turkey’s limited sovereignty over the straits.

Moreover, it is not empowered to introduce any regulatory measures without the consultation and consent of other participants. The Conventional regime of navigation in the Turkish Straits per se indicates that the subject of legal regulation is in the sphere of international, not national law. It should also be emphasized that before the adoption of the Convention in 1936, the Republic of Turkey, as a result of the First World War, did not possess any significant sovereign rights over the Turkish Straits at all. For that reason, the Convention is considered to be a partial restoration of Turkish sovereignty over the Straits, although other post-war treaties were not a subject for revision.

Any attempts undertaken by Ankara to replace the MCRS regime with its domestic national legislation in order to bring the regime of international maritime navigation through the Black Sea straits closer to the regime of inland waters are illegal. No Turkish regulations can be considered as amendments to the MCRS and cannot take precedence over this Convention.

46 Ch. Joyner, J. Mitchell, *Regulating Navigation through the Turkish Straits: a Challenge for Modern International Environmental Law*, *The International Journal of Marine and Coastal Law*, 2002, vol. 17, no. 4, pp. 521–559.

47 M. Fornari, *Conflicting interests in the Turkish Straits: is the Free Passage of Merchant Ships still Applicable?*, *The International Journal of Marine and Coastal Law*, 2005, vol. 20, no. 2, pp. 225–247.

48 H. Grotius, *Wolność mórz czyli dysertacja o prawie jakie przysługuje Holendrom do handlu z Indiami z dodatkiem, który zawiera wyjątki z dzieła Grotiusa „O prawie wojny i pokoju” oraz z rozprawy Jana Seldena „O morzu zamkniętym”, tłum. R. Bierzanek, Państwowe Wydawnictwo Naukowe, Warszawa 1955.*

In general, Turkey is not interested in the complete elimination of the conventional regime. It should be borne in mind that the UNCLOS regime provides for much greater freedom of navigation through international straits. Freedom of navigation in these areas is enshrined in Part III 'Straits Used for International Navigation' of this Convention<sup>49</sup>.

The Turkish authorities rarely put into practice restrictive measures against merchant ships and warships passing through the straits. Rather, Turkey's ambitious foreign policy led by Recep Tayyip Erdoğan and its ambition to become the dominant regional power involves securing freedom of action in the straits. There is no doubt that the ideology and policy of neo-Ottomanism presumes the gradual abolition of conventional restrictions and the restoration of absolute domination over the straits. For this reason, paradoxical as it may seem, Turkey is not interested in the permanent presence of NATO navies in the Black Sea, although it is itself a member of the Alliance.

For example, during the Russian-Georgian war of 2008, the United States tried to send the hospital ships *Mercy* and *Comfort* to the Black Sea to provide humanitarian aid to Georgia, but Turkey prohibited their passage despite its close alliance with the United States. Ankara often delayed the issuance of permits for the passage of NATO ships through the straits into the Black Sea under various excuses. Such a delay in 2014 had some essential political consequences, since the timely appearance of NATO warships in the Black Sea could be a deterrent factor for the Russian operations to annex Crimea and to support Donbass separatists. It is clear that such a policy of Turkey is beneficial to Russia.

Ankara's plans to build a new navigation canal to the west of the Bosphorus, called the 'Canal Istanbul', are of serious concern in the world. In fact, this canal will make the largest city of the Turkish Republic an island (see Picture 3).

The Turkish media are promoting the construction of the canal in every possible way<sup>50</sup> and describing the benefits of this new waterway for Turkey and the whole world with enthusiastic tones<sup>51</sup>. However, many experts see the construction of the canal as an attempt by Ankara and Erdoğan personally to finally get rid of MCRS restrictions and to establish a new legal regime for new canal or canals, which can be considerably more beneficial for Turkey and inconvenient for other countries. In April 2021, an open letter was published in defense of the Convention and against the construction of canal, which was signed by 104 retired Turkish admirals. Frightened by the threat of a military coup, the Turkish authorities detained 14 admirals, but later placed them under home confinement<sup>52</sup>.

49 Article 34-45, *United Nations Convention on the Law of the Sea*, p.36–39, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf), accessed 11.10.2021.

50 T. Gumrukcu, A. Kucukgocmen, *Erdogan says Istanbul canal project to go ahead despite mayor's opposition*, Reuters, December 12, 2019, <https://www.reuters.com/article/us-turkey-canal/erdogan-says-istanbul-canal-project-to-go-ahead-despite-mayors-opposition-idUSKBN1YG1QT>, accessed 12.10.2021.

51 A. Dada-Ami, *How Turkey's New Canal Istanbul Will Benefit The Economy & Bring Value*, Turkey Property Beys, <https://turkeypropertybeys.com/how-turkeys-new-canal-istanbul-will-benefit-the-economy-bring-value/>, accessed 12.10.2021.

52 *Turkey detains retired admirals for open letter criticizing canal project*, <https://www.politico.eu/article/turkey-detains-retired-admirals-for-open-letter-criticizing-canal-project/>, accessed 12.10.2021.



**Pic. 3.** Scheme of Canal Istanbul

**Source:** A. Dada-Ami, *How Turkey's New Canal Istanbul Will Benefit The Economy & Bring Value*, Turkey Property Beys, <https://turkeypropertybeys.com/how-turkeys-new-canal-istanbul-will-benefit-the-economy-bring-value/>, accessed 12.10.2021.

Russia also strongly opposes the construction of ‘Istanbul Canal’<sup>53</sup>. Russia is closely watching how Turkey complies with MCRS and is trying to influence Turkish policy. For instance, Russia put pressure upon Turkey when the frigate *USS Taylor* damaged its propeller screw in law water near the port of Samsun on February 12, 2014, and had to stay in the Black Sea during 33 days to have its screw repaired instead of 21 days permitted by MCRS. The Minister of Foreign Affairs of Russian Federation Sergey Lavrov publicly claimed that Turkey had violated MCRS. His colleague, the Turkish Minister of Foreign Affairs Ahmet Davutoğlu immediately replied that Turkey always undeviatingly observes the norms of MCRS. It seems Moscow fears that the legal regime of the new canal will be much freer, which will hinder its plans to establish its dominance in the Black and Azov Seas.

It should be borne in mind that the construction of the ‘Istanbul Canal’ does not yet pose an immediate threat to the abolition of the conventional legal regime for the Turkish Straits. The MCRS applies to both the Bosphorus, which connects the Black and Marmara Seas, and the Dardanelles Strait between the Aegean and Marmara Seas. Thus, the path to the new canal from the Aegean Sea in any case passes through the Dardanelles, which means that all conventional restrictions on the passage – primarily of warships from non-Black Sea countries – must remain in force.

However, in the distant future, Turkey can build a navigable canal from the Marmara to the Aegean Sea bypassing the Dardanelles. And only in this case, Ankara can formally establish its own legal regime in the new canals, independent of the MCRS. Moreover, new canals may fall under a legal regime similar to UNCLOS, regardless of its adoption or non-adoption by Turkey. If Ankara refers to its non-participation in

53 P. Gudev, *Azovo-Chernomorskiy region: novye politiko-pravovye realii*, *Mirovaya ekonomika i mezhdunarodnye otnosheniya*, 2018, vol. 62, No. 11, p. 87–98.

UNCLOS, the United States and other Western countries can point to common law of the sea, which implies a much freer regime of navigation and freedom of passage for any ships through international straits. The United States has refused to be a member of UNCLOS because it does not follow the rules of free navigation as the basic principle of common maritime law, according to the viewpoint of American experts<sup>54</sup>. At the same time, any conventions concluded later than UNCLOS must follow it, in contrast to the MCRS. Thus, the policy of Turkey, which actually impedes free navigation, in any scenario, is going to be useless.

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## Do Desvalido no Caminho (Lc 10, 25–37): uma metáfora viva entre a norma e a virtude

### Summary

#### According the Helpless on the Road: between the law and the virtue.

The parable of the Good Samaritan has at its center a virtue: mercy. His “ethos” is found in “compassion”, as an arethological experience, induced by the Desvalido (semi-living).

The moral demands of daily practice seem to be best expressed in the language of “virtue”, it will be necessary to recognize that the rapid development of biomedical progress produces an ever-increasing problem, driven by the solution of which moral and sensitivity is not sufficient. the willingness to operate for the good of the patient. On the other hand, the reference to “virtue” is a constitutive element of moral experience, in such a way that the principlist approach cannot be taken for granted, but the effectiveness and performance of the principles themselves depend on the disposition of the character of those who act.

**Keywords:** Samaritan Parable, metaphoric living; law and virtue.

### INTRODUÇÃO

A parábola do “comportamento exemplar” coloca várias questões éticas, que trataremos ao longo deste capítulo, porque nem a “obrigação moral” é toda a ética, nem a ética se reduz a um catálogo de virtudes.

Valoração e obrigatoriedade são os dois elementos essenciais, sem cuja combinação não será possível construir uma ética aceitável.

Daqui surge uma outra questão, ligada à anterior, que é uma “ética de máximos” e uma “ética de mínimos”, com a preocupação de reflectir sobre o sentido ético da parábola entre a beneficência obrigada e o comportamento exemplar ideal, apresentado pelo Bom Samaritano, com o objectivo de chegarmos a uma *ética aretológica*, dada na misericórdia, abrindo caminho a uma ética Cristã, segundo W. Pannenberg.

## A BENEFICÊNCIA E A CONDUTA EXEMPLAR

Segundo T. L. Beauchamp e J. F. Childress, o exemplo mais famoso, de beneficência encontra-se narrado na parábola do Bom Samaritano, do Novo Testamento, que ilustra vários aspectos para interpretar a beneficência. Segundo esta parábola, “certo homem” que viajava de Jerusalém para Jericó é assaltado por ladrões que o deixaram meio-morto. Após terem passado junto do ferido outros dois viajantes, sem lhe prestarem ajuda, um samaritano que o viu, teve compaixão e aproximou-se dele e curou-lhe as feridas. Levou-o a uma poisada e tratou d’Ele.<sup>1</sup>

Segundo os principialistas, ao ter compaixão e misericórdia, o Bom Samaritano mostrou uma atitude caritativa e solícita, perante o homem ferido e, também, se encarregou de cuidar d’Ele.

Tanto os seus motivos, quanto as suas acções foram beneficente.

Mas, a parábola sugere que a beneficência positiva é mais um “ideal” do que uma obrigação, porque o acto do samaritano parece exceder a moral corrente.<sup>2</sup>

Todavia, segundo estes bioeticistas, imaginemos que o homem ferido, quando o samaritano o encontrou, se tivesse antecipado à sua acção altruísta, manifestando que queria morrer, se o encontrava ferido no perigoso caminho de Jerusalém para Jericó. Então, o samaritano estaria perante um dilema: respeitar os desejos do homem ferido ou ter cuidado d’Ele contra os seus desejos. Então, a nossa beneficência é, às vezes, um ideal admirável para a acção que excede as obrigações e, noutras vezes, é adequadamente limitada por outras obrigações morais.<sup>3</sup>

Criticamente, poderemos dizer que a valoração dos actos não significa, torná-los obrigatórios, nem tão pouco “morais”. Distingui-los será valorizá-los, mas sem implicar relação com a obrigatoriedade, não se poderão considerar como “morais”.

Entre a beneficência obrigatória e a ideal, um acto não se dirá “bom”, por ser obrigatório, dado que pode ser o primeiro sem o segundo. Segundo nos revela, uma leitura ética da parábola, tão pouco se pode afirmar que tal acto seja obrigatório por ser bom, dado que se é “obrigado” a realizar o mais excelente. Tal como fez o Bom Samaritano que, pela “remoção das vísceras” (misericórdia) optou pelo comportamento exemplar/excelente.

Bem e obrigação são noções morais, que estão presentes, na parábola do Bom Samaritano, nitidamente distintas, que se relacionam sem nunca se identificarem, porque a obrigação versa sobre “actos bons”.

1 Cf. T. L. Beauchamp; J. F. Childress – *Principles of Biomedical Ethics*, fourth edition, Oxford: Oxford University Press, 1994, 261.

2 Cf. *Idem, Ibidem*, 261.

3 Cf. *Idem, Ibidem*, 261.

Por isso, será diverso dizer-se Bom Samaritano, porque este significa a beneficência ideal/exemplar ou um Samaritano bom, que revela a beneficência obrigatória tal como se refere nas posições atributiva e a predicativa da gramática grega.

Tão incompleta se manifesta a moral do bom por ausência da obrigação, como a moral do dever, por incomparência do bem. Como ambos os elementos são necessários, nada permite considerar a obrigação como aspecto subordinado e secundário da moral.

T. L. Beauchamp e J. F. Childress formalizam a seguinte pergunta: – Estamos sempre obrigados a actuar beneficentemente?

Os actos de beneficência desempenham um papel vital na vida moral, independentemente de um princípio de beneficência obrigatória. Não se pode negar que muitos actos beneficentes (doação de um rim a um estranho) sejam moralmente louváveis e não obrigatórios.

Todo o mundo está de acordo em que a moral comum não inclui um princípio de beneficência que exija um grande sacrifício ou um altruísmo extremo (cedência de rins para transplante). Somente os ideais de beneficência incorporam tal generosidade extrema.<sup>4</sup>

Esta generosidade extrema aparece no comportamento exemplar do Bom Samaritano, no momento em que “se lhe removeram as vísceras”.

Mas, os principialistas referem tão pouco estarmos moralmente “obrigados” a ajudar as pessoas, em todos os casos, ainda que nos encontremos numa posição que o permita.

Assim, não estamos obrigados moralmente a realizar todos os possíveis actos de generosidade ou de caridade, que poderão beneficiar outros.

Poderemos conceder facilmente que o comportamento beneficente tem muito mais de “ideal” do que obrigatório, e que a linha entre obrigação e o ideal moral é difícil de estabelecer no caso da beneficência.<sup>5</sup>

Logo, o princípio da beneficência que está, moralmente espelhado na parábola do Bom Samaritano refere-se à obrigação moral de actuar em benefício de outros.

Na verdade, muitos actos de beneficência não são obrigatórios, mas um princípio de beneficência, tal como o entendemos, impõe uma obrigação de ajudar os outros, e a promover os seus importantes e legítimos interesses.

Há os critérios para saber como formular o juízo, qual seja o comportamento moralmente recto ou qual seja, num caso concreto, o nosso *bene-facere*, que o princípio da beneficência não o dá, tal como é enunciado por S. Tomás: *Bonum est faciendum*. Isto evidencia somente a perspectiva do dever moral de agir de modo moralmente reto ou de fazer o bem (beneficência) distinguindo-a da relativa ao querer serem bons ou a querer o bem (benevolência).<sup>6</sup> Relativamente, a este princípio, uma questão que

4 Cf. *Idem, Ibidem*, 261–262.

5 Cf. *Idem, Ibidem*, 262.

6 Cf. S. Privitera – *Il voto morale dell'uomo*, Avio allo studio dell'etica filosofica e teologica, Armando Editore, Palermo, 1991, 5–10.

se levanta será saber se estamos perante uma verdadeira obrigação moral ou louvável filantropia, ou ainda a caridade, tal como vem formulado na pergunta e resposta no apelo à Torah, onde, antes, de Jesus Cristo, narrar a parábola surge o ἀγαπή.

Segundo as relações éticas, o comportamento do Bom Samaritano insere-se na “benevolência”, porque este esteve na capacidade virtuosa de estar disponível para actuar em benefício do Outro, dando-lhe prioridade ao prestar cuidados ao “semi-vivo”. Esta realidade que revela um “ethós” virtuoso ultrapassa o princípio da beneficência, o qual revela as obrigações especiais, morais de actuar em benefício de outros quando muito, olhando para a narrativa do “semi-vivo” não está em causa uma beneficência obrigatória, mas antes uma beneficência ideal, que irá corresponder à “benevolência”.

Segundo a parábola do Bom Samaritano está presente o princípio de não maleficência ao abster-se intencionalmente de realizar acções que possam causar dano. Não parece distinto por muitos autores do princípio da beneficência, contudo, a diferença não está na vinculação, mas na verificação das exigências concretas de cada um dos princípios. Mas, apresenta questões difíceis como o “voluntário directo” e o “voluntário indirecto” e o princípio de duplo efeito, bem como o chamado – “slipery slope” – (proibição de certos actos pela simples razão do notável risco, que a sua admissão acarretaria. Alguns pensadores chegam a dizer que este princípio determinará a “regra de fidelidade”, isto é, saber manter as promessas.<sup>7</sup>

Segundo a parábola, a referência ética deste princípio será indirecta e implícita no princípio da beneficência e, por isso, poderemos sintetiza-lo na formulação de S. Tomás de Aquino, que deu luz como primeiro princípio moral escolástico: *bonum est faciendum malumque vitandum*.

Mas, segundo o relato da parábola, segundo S. Lucas, segundo a vivência ética do Samaritano, o que estaria em causa seria, segundo os principialistas não a beneficência geral, mas de preferência a beneficência específica, como obrigação ética de socorrer o desvalido no caminho de Jericó para Jerusalém.

Os limites de uma beneficência específica, obrigatória, podem desmoronar-se, quando a ética da obrigação individual se enfrenta com problemas sociais, desde o voluntariado hospitalar até à ajuda aos desvalidos no caminho da vida pela doença ou pela marginalidade.<sup>8</sup>

Na ordem prática, tal como se vê pelo comportamento exemplar do Samaritano, quão difícil resulta precisar e cumprir as obrigações de beneficência. Parece que nos movemos de um lado para o outro considerando as acções como caritativas e como obrigatórias, tal como sucedeu com o Sacerdote e o Levita, que se ficaram por “obrigações gerais”, devido às exigências de pureza da Torah, no tratamento com estrangeiros (samaritano).

O Samaritano ultrapassou esta realidade e não duvidou, porque recebeu a vida do dom (semi-vivo), levando-o ao contra-dom: misericórdia, que implica um novo “ethós” perante a obrigação específica e de acordo com a “beneficência ideal”.

7 Cf. AA. VV. – *Comissões de Ética: das bases teóricas à actividade quotidiana*, Ponta Delgada: Publicações do Centro de Estudos de Bioética, 1996, 29.

8 Cf. *Idem* – *Principles of Biomedical Ethics*, 262–263.

Segundo os principialistas, os actos de beneficência desempenham um papel vital na vida moral independentemente do princípio de “beneficência obrigatório”.

Todavia, temos um dos textos que melhor ilustram dois dos elementos que configuram uma fundamentação bioética da saúde: o princípio da beneficência e do cuidar.

Ante o homem-ferido da parábola passam ao largo um Sacerdote e um levita. Vêm-no e passam para o outro lado do caminho e prosseguem na sua viagem. Não quiseram encontrar-se pessoalmente com aquele homem, que estava maltratado sobre o solo. Segundo P. Laín Entralgo, a negativa do Sacerdote e do levita terão tido como origem a religião, a moral ou o puro egoísmo. O nosso juízo ético, acerca da conduta de um e de outro, deverá considerar estas três possibilidades.<sup>9</sup>

O Samaritano não só vê o “semi-vivo”, mas adquire consciência e convicção, de que se trata de um “homem desvalido”.

Além disto, aproxima-se deste homem, deseja encontrar-se efectiva e pessoalmente com o “semi-vivo”. Perante o Sacerdote e o levita, que declinaram o “encontro” com o ferido, o Samaritano aceita-o e busca-o. Este acto humano – o encontro – é o suposto da relação de proximidade, tal como se verifica em Lévinas.<sup>10</sup>

Assim, *prima facie*, para o Samaritano não existe obrigação de fazer o bem, como tão pouco existe de cuidar do ser maltratado. Com efeito, a beneficência como princípio bioético, não é uma obrigação perfeita, ainda que certas e determinadas obrigações elementares de beneficência sejam comuns a todos os seres humanos, porque delas derivem males, colidindo com a obrigação perfeita de não maleficência, como seria a omissão de auxílio, como se expressa nas atitudes do Sacerdote e do levita.

Voltando à parábola, no Samaritano não existe obrigação sem necessidade de atender ao outro, quando padece de uma doença ou de outro mal. Esta beneficência, entendida como necessidade pessoal, que nas do interior – *ratio visita in corde hominis* – manifesta-se como ponto de partida da fundamentação bioética da humanização em saúde.

Tal como pelas atitudes éticas do Samaritano, a humanização em saúde tem a sua origem nesta necessidade humana de fazer o bem – *bonum est faciendum* – sustentando a partir das convicções ou das crenças, que surgem, segundo M.T. Cícero da – *ratio insita in humana natura* –.

Somente pelos princípios da bioética, desenvolvidos no “Relatório de Belmont” torna-se difícil fundamentar a humanização, embora saliente, como ineditável componente, o “cuidar”, inerente à estrutura ética, que não está incluído, de forma explícita, nos frios princípios.<sup>11</sup>

A tetralogia básica da ética biomédica é necessária, mas não suficiente, porque a “práxis” clínica, que é nem sempre, nem nunca, implica uma disposição, uma atitude e um impulso anímico, que deve perdurar na temporalidade e ser, como dizia S. Agostinho – *distensio animae* – (tempo psicológico).

9 Cf. P. L. Entralgo – *Teoría y realidad del otro*, Madrid: Alianza, 1983, 365–366.

10 Cf. C. Chalier – *Lévinas, l'utopie de l'humain*, Paris: Albin Michel, 1993, 100–102.

11 Cf. F. J. Alarcos – *Bioética y pastoral de la salud*, Madrid: San Pablo, 2002, 206.

A ética do cuidar, segundo esta orientação aretológica, não se poderá circunscrever à imagem e semelhança da bioética anglo-saxónica, de perfil principialista, mas deverá partir de uma “ethós” virtuoso, personificado no agir misericordioso do Bom Samaritano.<sup>12</sup>

O principialismo moral, na “práxis” do cuidar, resulta estéril e insuficiente. Muito embora, a ética do cuidar requer uma mínima infra-estrutura racional, referências universais, necessárias e transcendentes. Contudo, estas não podem ser princípios estáticos, mas modos de acção, formas de interrelação, hábitos electivos ou virtudes. Requer-se um “ethós” segundo o espírito do Bom Samaritano, que vem da “remoção das vísceras”.<sup>13</sup>

Ao exigir-se um “ethós” profissional, não será suficiente o cumprimento de determinados princípios mínimos para cuidar adequadamente do desvalido no caminho (doente, marginal, etc), mas requer-se a vivência de hábitos, ou de uma forma de vida continuada no tempo. Por isso, segundo o paradigma do Bom Samaritano, na ética do cuidar, o ponto de partida não poderá ser os princípios, mas as virtudes, recolhendo a boa tradição aristotélica, que dizia que adquirimos as virtudes como resultado das actividades anteriores.<sup>14</sup>

## ENTRE A NORMA E A VIRTUDE : UMA METÁFORA VIVA

São os próprios T. L. Beauchamp e J. F. Childress a reconhecer que nas análises sobre o que é justo, seus deveres e sobre as obrigações, bem como sobre os ideais morais, colocamos o acento sobre os actos, mais do que sobre os agentes morais, dado que surge uma certa marginalização, segundo o principialismo, do sujeito moral, os motivos parecem ser fundados sobre a função que se atribui à ética, por um lado, e, por outro, devido ao sujeito moral, que está implícito em tal modelo. Mas tal facto infere-se de que a experiência moral não é feita só de situações limites; mas, no seu agir concreto, será elaborada de situações em que se é chamado, em primeiro lugar, não tanto para “resolver” dilemas e conflitos teóricos, quanto a “informar” a práxis quotidiana com uma típica sensibilidade, que será um bom operador sanitário da experiência adquirida.<sup>15</sup>

A aproximação principialista rege-se por uma concepção “atomística” da vida moral, uma vez que a simples concentração sobre os actos singulares, faria perder de vista a estrutura motivacional do sujeito na sua globalidade. Como se poderá reflectir pelo modelo aretológico, descrito pela parábola do Bom Samaritano, a estrutura da narrativa é holística, porque centrado na descrição do “semi-vivo”, que se apresenta como motivação da “esplanofania” do Samaritano.

Assim, a denúncia dos limites do modelo principialista reforça as características de um paradigma novo e antigo, que no domínio da ética médica, como na generalidade da tradição da ética ocidental, o que se baseia na “virtude”.

12 Cf. E. Torralba – “Lo ineludiblemente humano. Hacia una fundamentación de la ética del cuidar”, in: *Labor Hospitalaria*, 253 (1999) 142.

13 Cf. *Idem, Ibidem*, 142–143.

14 Cf. Aristote – *Éthique a Nicomaque*, nouvelle traduction avec introduction, notes et index par J. Tricot, Paris: Librairie Philosophique J. Vrin, 1959, 1103a–1103b.

15 Cf. C. Viafora – “I principi della bioetica”, in: *Bioetica e Cultura*, 2 (1993) 22.

Para hoeticistas como E. Pellegrino e D. Thomasma, os representantes mais destacados da “ética de virtude”, é necessário recuperar uma concepção de “*bonum*” própria desta tradição aristotélico-tomista.

Com efeito, a *virtus in genere* é um rasgo de carácter que dispõe habitualmente a pessoa que possui e pratica a excelência, tanto na intenção quanto na execução, em relação com um – telós – próprio de uma actividade humana. E esse “telós” ou fim é a aspiração ao bem.

Aristóteles é o sistematizador da “virtude”, na *Ética a Nicómaco*, onde trata não apenas das virtudes éticas, mas também, das dianoéticas e define virtude (*areté*) moral como um hábito procedente da livre eleição, consistindo num meio termo com relação a nós, determinado pela razão e tal como o determinaria o homem prudente.<sup>16</sup> Segundo o filósofo, a virtude (*Ética a Nicomaco*, - 1106<sup>a</sup>) é assinalada não como uma paixão, nem faculdade, surgindo como “modos de ser”, que se referem aos sentimentos dos homens e sua sensibilidade (1106b e 1107a). Assim, surge como “modo de ser selectivo” – *héxis proairetiké* – ou hábito escolhido de forma preferencial.

Mas, o neoaristotelismo de Max Intyre refere a vida boa para o homem será a vida boa dedicada à busca da vida boa para o homem e as virtudes necessárias para a busca são aquelas que a vida boa é para o homem. Assim, segundo este pensador, não é nem uma paixão, nem uma faculdade da alma, mas um modo de ser, uma maneira de estar no mundo e de se relacionar com os homens e com a natureza.<sup>17</sup>

Logo, será neste modelo aretológico que se fornece a categoria para interpretar adequadamente a passagem da ética que coloca o acento sobre o acto *per se*, para uma ética, que coloca o acento sobre o sujeito que age, sobre a sua estrutura motivacional, sobre o seu modo de ser, sobre o seu carácter, que se manifesta nos actos e aí se potencia, sobre as imagens que inornam os comportamentos. Assim, se uma ética de normas, configurando-se substantivamente como aplicação de princípios gerais a situações particulares, tende a desenvolver uma preocupação passiva. Todavia, uma ética centrada nas características dos sujeitos (aretológica) adequar-se-á às preocupações da responsabilidade, do empenho e da criatividade motivacional.<sup>18</sup>

Não se deve esconder a dificuldade em encontrar uma tentativa para superar a “ética da norma” por oposição à “ética da virtude”.

Apesar da parábola do Bom Samaritano ser uma “narrativa” aretológica sobre o “azar do amor ao próximo”, ela começou por uma pergunta, cuja resposta radica na Torah, quando o legista enunciou diante de Jesus Cristo o “mandamento do amor” na sua expressão veterotestamentária. Então, começou pela ética da “norma” ou dos princípios.

16 Cf. Aristote – *L'Éthique a Nicomaque*, introduction, traduction et commentaire par R. A. Gauthier et J. Y. Jolief, tome I, Louvain: Publications Universitaires, 1970, 4, 6, 1106 a 36. Os estoicos, para os quais a virtude é o único bem (M. T. Cícero – *De Finibus*, V, 14), acentuaram o aspecto da liberdade e o da semelhança com a divindade, que a virtude assegura, sendo um tema retomado e desenvolvido pelos pensadores cristãos e, antes deles, por Ploteno.

17 Cf. A. Max Intyre – *Tras la virtud*, traducción del ingles, Barcelona: Critica, 1984, 237.

18 Cf. C. Viafora – “I principi della bioetica”, in: *Bioetica e Cultura*, 2 (1993) 23.

Assim, parece que entre um modelo ético baseado em princípios e o fundamentado na virtude, não se “deverá” ver uma alternativa, mas antes numa relação de “complementaridade”. Os dois modelos são como duas faces de uma mesma moeda: a “vida moral”, que tanto poderá ir da “norma” para a “virtude” (epistemologia ética), como seguir da “virtude” para a “norma”, dialeticamente por motivação ontológica.<sup>19</sup>

Segundo E. Pellegrino, o principialismo, como forma de ética normativa, terá problemas de sobrevivência epistemológica. Com efeito, apesar das limitações, não acredito que desapareçam os princípios, pelas seguintes razões:

- em qualquer sistema ético, estão implícitos princípios, isto é, fontes fundamentais das quais derivamos e a partir deles justificamos as pautas de comportamento intrínsecas e/ou extrínsecas para o agir responsabilmente em direitos e deveres.

O deontologismo hipocrático estava baseado na aretologia, mas o *Iusiurandum* providenciava pautas que consistiam em regras e princípios específicos:

- qualquer teoria ética, que se apresente como alternativa ao principialismo terá grandes limitações epistemológicas, desde a sistemática até à casuística;
- a necessidade e utilidade dos princípios clarificam-se cada vez mais na medida em que se trate de passar de éticas gerais às aplicadas, para evitar descer ao “inferno da casuística” na expressão de R. R. Aramairo;<sup>20</sup>
- os princípios não intrinsecamente incompatíveis com outras e noutras teorias.

Mas, o problema de fundo, tão velho como a própria filosofia e teologia morais, será como ir dos princípios universais para as decisões morais singulares e vice-versa, como se faz eco, nos dias de hoje, com as éticas discursivas ou narrativas, formalizadas pela Escola de Frankfurt (Adorno e Habermas).

Muito embora, os mesmos bioeticistas defensores de um paradigma aretológico admitem que as - *virtudes* – *per se ae per accidens* – não bastam para a elaboração de uma teoria ética suficientemente universal e necessária. Uma teoria ética completa “deverá” incluir os conceitos de princípio, dever e virtude, bem como fundamentar as relações entre estas categorias morais.<sup>21</sup>

Uma ética aretológica não provê, por si só, um fundamento suficiente para a ética médica, dada a complexidade e extensão desta matéria nos dias de hoje perante os dilemas impostos pela biotecnologia e pela biomedicina.

Tão pouco se pode prescindir delas, já que o carácter do médico e do doente está no coração – *ratio insita in corde* – das ações e das escolhas morais.<sup>22</sup>

19 Cf. G. Abba – “L’Apporto dell’etica tomista all’odierno dibattito sulle virtu”, in: *Salesianum*, 52 (1990) 800–805.

20 J. Henrique Silveira de Brito – “Das éticas gerais às éticas aplicadas”, in: *Arquipélago*, 7 (2000), 160–162.

21 Cf. E. Pellegrino; D. C. Thomasma – *The Virtues in Medical Practice*, Oxford: Oxford University Press, 1993, 10–15.

22 Cf. E. Pellegrino – “Towards a Virtue – Based Normative Ethics for the Health Professions”, in: *Kennedy Institute of Ethics Journal*, 5 (1995) 253–237.

É o sujeito moral que interpreta os princípios e se expressa em vivências aretológicas, escolhendo os que irá aplicar ou ignorar, ordena-os e dá-lhes conteúdo a partir da sua história e situações actuais da vida. Será necessário fazer um balanço entre a ética da norma e a ética da virtude.

Se o “dever” aparece indirectamente, segundo uma ética normativa, simbolizado pela “conduta cultural” do Sacerdote do Levita, ao serviço do Templo de Jerusalém,<sup>23</sup> já a ética da virtude se expressa pelo comportamento exemplar, do Samaritano. Assim, na parábola, embora não sendo explícito o – der Pflicht –, aparece claramente o princípio (função reguladora do agir humano) e a virtude, dada na “misericórdia” do Samaritano pelo desvalido no caminho. Aqui reluz a vida moral do Samaritano pela aretologia, como refere P.L. Entralgo, vindo de perto o “semi-vivo”, talvez o primeiro movimento da sua alma fosse a mera “curiosidade”. O Samaritano sente misericórdia pelo desvalido. Experimenta uma vivência, no seu corpo e na sua alma, um sentimento de solidariedade amoroso e comovido, isto é, de “compaixão”. É uma atitude virtuosa, por escolhida livremente.

Segundo Entralgo, trata-se de um afecto que põe em jogo toda uma pessoa, onde “se removem as entranhas”. Não parece um azar que o texto grego empregue o vigoroso verbo – splazchnizô –, sentindo que se removem as próprias entranhas. A relação de proximidade tem o seu motivo próximo neste profundo sentimento de convivência.

Movido por este sentimento de misericórdia, o Samaritano age de acordo com o seu sentir e ajuda, pessoal e efectivamente, o “semi-vivo”. Tal acção é livre e como tal criadora. O Samaritano da parábola sentiu misericórdia e logo prossegue no seu agir, praticando ou realizando obras (poiésas). A compaixão exprime-se num fazer “poético” ou criador.<sup>24</sup>

A parábola do Bom Samaritano tem como centro uma virtude: a misericórdia. O seu “ethós” encontra-se na “compaixão”, como experiência aretológica, induzida pelo Desvalido (semi-vivo).

As exigências morais da prática quotidiana parecem exprimir-se melhor pela linguagem da “virtude”, será, com efeito, necessário reconhecer que o rápido desenvolvimento do progresso biomédico produz na sempre crescente problemática, movida pela solução das quais não é suficiente a sensibilidade moral e a disposição para operar para o bem do doente. Por outra parte, a referência à “virtude” é um elemento constitutivo da experiência moral, de tal forma que a aproximação principialista não se poderá fazer por menos, mas a eficácia e a actuação dos próprios princípios dependem da disposição do carácter daqueles que agem.

Mas, a fenomenologia do acto voluntário referenciou a decisão é um acto do auto compromisso, orientado para um projecto de acção (na parábola representado pelos cuidados do Samaritano ao semi-vivo) e apoiado sobre uma função motivadora – a Virtude –, que aparece na narrativa segundo S. Lucas pelo – Splanchizo –.<sup>25</sup>

23 Cf. F. Hahn – *Theologie des Neuen Testaments*, Band I, Die Vielfalt des Neuen Testaments, Tübingen : J. C. B. Mohr, 2002, 234.

24 C. F. Entralgo – *Sobre la Amistad*, Madrid: Espasa-Calpe, 1985, 58–59.

25 Cf. J. de Finance – *Éthique générale*, P. U. G., Rome, 1967, 15–35.

A “virtude”, como função motivante, é uma *dignitas* segundo a parábola do Bom Samaritano, próxima do sentido Aristotélico, dado que sendo a – areté – uma qualidade que torna o homem bom e orienta-o para o bem agir. Cada actividade virtuosa implica fundamentalmente uma orientação para o serviço dos outros.<sup>26</sup>

Na experiência moral, o sentimento de “obrigação” parece o primeiro a emergir e a desempenhar um significado central. Contudo, a palavra obrigação poderá despertar implicações penosas pelo carácter imperativo, confinado a renúncias ou proibições. Mas, a obrigação apenas traduz uma dimensão da ética, que está ausente *de facto* da parábola do Bom Samaritano, mas que se não pode dissociar da ideia de Bem, que é o seu fundamento e num objecto, como o próprio “valor moral” (J. de Finance, Valori, etc).

Como muito bem refere R. de Serne, o “dever” é a expressão ideal do valor e este será o conteúdo do dever. A força principal da obrigação reside na atracção do “valor moral”, que, por isso mesmo, é visto como obrigatório, quer dizer como necessário moralmente.<sup>27</sup>

No aspecto ético, o “valor”, segundo a nossa dialéctica, refere-se como síntese, e exprime a função interpretativa do “Bem”. Jesus Cristo ao enunciar a parábola deu uma função “interpretativa” à Torah, antes enunciada pelo Doutor da Lei (Luc. 10, 27), que se refere como norma suprema de Israel, na Aliança do Sinai (função operativa). O apelo da parábola é “axiológico”, porque termina num mandamento: Vai e faz de modo semelhante. Será o se “interpretar” (valere) a misericórdia, porque então viverás (Luc. 10: 27).

Dialecticamente, como síntese, o valor moral mostra-se irreduzível e incomensurável. Como o valor próprio da pessoa, o “valor moral” (axiologia) apresenta-se como universal e transcendental: aquilo que é moralmente bom para mim, sê-lo-á, também, para todos os que encontrarem nas mesmas condições. Aqui temos a função reguladora, que nos dá um princípio – *bonum est faciendum* – surgindo como regulação da humanização em saúde, quanto ao fundamento axiológico.<sup>28</sup>

O bem moral situa-se num nível superior aos bens sensíveis e intelectuais, muito acima dos interesses materiais. Vale pela sua dignidade própria. Possui um título de nobreza que o impõe à nossa consideração, uma autoridade a respeitar, uma preponderância a reconhecer. Proporciona grande satisfação à razão teórica e prática, que faz de cada eu um homem, dá sentido à vida, desenvolve a personalidade e tudo dirige para seu destino. Encarnar o valor moral nas nossas atitudes e comportamentos é para nós uma promoção, traí-lo é um atentado à vossa dignidade de seres racionais, uma abdicação. Mas, não é o aperfeiçoamento que nos faz morais, é a moralidade que nos torna perfeitos.

A mesma doutrina ética vamos encontrar em M. Scheler, quando diz que não é o homem perfeito que cria a hierarquia dos valores. Pelo contrário, é a observância dos valores, a justa ordem de preferência, que torna o homem perfeito.<sup>29</sup>

26 Cf. M. Vidal – *Moral de Atitudes*, tomo II, 1ª parte, Madrid: P. S. Editorial, 1991, 15–19.

27 Cf. M. da Costa Freitas – “Para uma fundamentação ontológica da Ética”, em: *Arquipélago*, série filosófica, 7 (2000) 19.

28 *Idem, Ibidem*, 20.

29 Cf. M. Scheler – *Ética*, traducción del tedesco, tomo II, Madrid: Revista de Occidente, 1942, 349–358.

Com efeito, a experiência do remorso e do arrependimento sublinha a eminente dignidade do valor moral. O seu cumprimento ou incumprimento despertam sentimentos de satisfação (alegria) ou de desgosto (tristeza), que constituem o que habitualmente designamos por boa consciência (Bom Samaritano) e má consciência (Sacerdote e Levita).<sup>30</sup>

Se há complementaridade, e não uma alternativa, entre uma ética deontológica (Kant) e uma ética aretológica (Aristóteles) então deve-se ao sentido hermenêutico da ética axiológica como síntese dialéctica das anteriores.

A atracção exercida pelo valor moral manifesta a sua força, o seu poder, a sua valência, que o enaltece aos nossos olhos como digno de ser reconhecido e querido. A obrigação é o sentimento do estar ligado pelo bem que vejo.<sup>31</sup>

Deste modo, se esclarece, *secundum quid*, o acordo paradoxal que existe entre a “heteronomia” e a “autonomia” do homem, entre a obrigação que impõe (ética da norma) e a liberdade que escolhe e decide (ética da virtude) segundo um hábito operativo, do bem. Aqui está a dialéctica do agir (responsável) que tem o seu epílogo no bem (axiologia) pelo sentido ético do “valor”.<sup>32</sup>

Quando o legista pergunta a Jesus: quem é o meu próximo? Talvez pensasse numa resposta teórica. Mas, Jesus deu uma resposta como “piedade do agir”, concreto que não está sujeito à razão, (que nos ordena muito mais do que um Senhor), mas a uma ética da misericórdia (moral de virtudes), que necessária se impõe como expressão do - αγαπή -.

Toda a narrativa do Bom Samaritano é um discurso que tem tanto de aretológico, quanto de axiológico. Mas, começou pela pergunta moral sobre o próximo e seu fundamento normativo, como a “piedade do pensamento”. Este é a grandeza do homem. Trabalhem, pois, por “pensar o bem”, porque este é o princípio (função reguladora) essencial da moral. Finalmente, o princípio existencial está na “norma” (função operativa), como Jesus perguntou: que está escrito na lei? Como ler? (Luc. 10, 26).

Aqui, na parábola, quando Jesus diz, ao fim: *Vade et factu similiter* (Luc. 10, 37) a narrativa de Lucas usa ποιέω (fazer), indicando o essencial de “caridade” dos discípulos. Aqui temos uma “norma” (operatio), que tem antes um princípio (forma reguladora): “Amaras ao Senhor teu Deus e ao teu próximo como a ti mesmo.” (Luc. 10, 27).

Em particular o valor moral é específico da actividade humana e da experiência moral, denotando a qualidade ou perfeição de uma acção ou de uma conduta, sempre conforme ao “*bonum*” e à dignidade da pessoa humana (αξιός, -ά, -όν).

30 J. Lacroix referiu que só há “moralidade” para um ser que se sabe duplo e dividido, que aspira a unir-se, a ser *um*... Se o eu tende a reunificar-se pelo arrependimento, começa a obrigar-se no dever e a condenar-se no remorso (Cf. J. Lacroix – *Les Sens de l’Athéisme Modern*, 95–96)

31 Cf. J. Maritain – *Deux Leçon sur les motifs Premières de la Philosophie Morale*, Paris: Editions du Cerf, 1951, 154.

32 Cf. J. Vanier – *Le Bonheur, principe et fin de la morale aristotélicienne*, Paris: Desclée de Bouvver, 1965, 102–105.

O amor ao próximo, respeito pelo “semi-vivo”, a generosidade e o espírito de sacrifício são “valores” presentes e “descritos” (manifestação) pelo comportamento exemplar (não ideal) do Samaritano da parábola. Esta, em todo o seu elenco é uma “paranése axiológica”.

Segundo este perfil filosófico, será tudo o que suscita estima, admiração, e sentido de perfeição, tal como dirá P. Ricoeur. O valor aparece como incremento do nosso desejo infinito de existir com a condição finita da sua realização.<sup>33</sup>

À luz da filosofia contemporânea o “valor” é um elemento personalístico. Assim, os “valores” possuem um sentido para o homem e não existem sem o homem, implicando uma “sabedoria prática”, bem traduzida, segundo P. Ricoeur pelo paradigma da Antigma de Sófocles, dada num verdadeiro e trágico conflito de valores.<sup>34</sup>

Em definitivo, os “valores” supõem um fundamento objectivo. Assim, os valores serão tanto mais eminentes quanto maior for a riqueza e a perfeição ontológica da realidade à qual se referem. Com efeito, estes possuem uma ressonância no sujeito. Este vê reconhecido uma Bondade, um bem e um sentir para imprimir à vida.<sup>35</sup>

A parábola do Bom Samaritano revela um conflito de valores na relação do Sacerdote e Levita perante o “semi-vivo”, relativamente à “sabedoria prática” de Torah.

Jesus Cristo, também, tendo antes solicitado a que o Legista formalizasse o enunciado da Torah – a norma de Israel – faz apelo à prática das “virtudes” quando termina dizendo imperativamente: *Vado et fac tu similiter*.

As éticas, tal como refere H. Kúng, “devem” acentuar mais aquilo que as une do que aquilo que as separa. As duas “tradições morais” (dialéctica da norma e da virtude) não só não prejudicam um consenso mínimo, como ainda podem estimular um máximo consenso e aperfeiçoamento das tradições, mediante mutua complementaridade. O diálogo entre as tradições morais afigura-se mais fácil do que entre as religiões, em razão deste fundo de verdades comuns, que a aproxima e orienta. O que importa é a síntese, que se busca no sentido axiológico que será a persecussão do verdadeiro “bem humano” o bem do homem todo e de todos os homens, cuja realização é precisamente o objectivo desenvolvimento humano integrado e integral.<sup>36</sup>

33 Cf. P. Ricoeur – *Le conflicte des interprétations*, Paris: Du Cerf, 1969, 1416–1427.

34 Cf. – “... ainsi en est-il d'Antigone, pour qui le devoir religieux de donner la sépulture à un frère l'emporte sur la classification du frère comme ennemi par la raison d'Etat, de même Créon, pour qui le service de la cité implique la subordination du rapport familial à la distinction entre amis et ennemis. Je ne tranche pas ici la question de savoir si ce sont les nomes elles-mêmes qui s'affrontent dans le ciel des idées ou si le conflit ne résulte pas simplement de l'étroitesse de notre compréhension, liée à l'attitude morale détachée de sa motivation éthique profonde. Guerre des valeurs ou guerre des engagements fanatiques, le résultat est le même, à savoir la naissance d'un tragique de l'action sur le fond d'un conflit de devoir. C'est pour faire face à cette situation qu'une « sagesse pratique » est requise, sagesse liée au jugement moral en situation, et pour laquelle la conviction est plus décisive que la règle elle-même. Cette conviction n'est toute fois pas arbitraire, dans la mesure ou elle fait recours à des ressources du sens étique le plus originaire qui ne sont pas passés dans la “norme”. (P. Ricoeur – “Ethique et Morale”, in: *Revista Portuguesa de Filosofia*, 46 (1990) 14).

35 Cf. *Idem* – *Manuale di Bioetica*, I, Milano: Vita e Pensiero, 1988, 167.

36 Cf. H. Kúng – *Projecto de ética mundial*, tradução do alemão, São Paulo: Paulinas, 1992, 15–26.

Isto é factível, mas só pela cooperação solidária de todos os homens de boa vontade (como o foi o Bom Samaritano). E o que devem buscar as éticas, quer acentuem as “virtudes”, quer assistam nas “normas”.

## PARA UMA ÉTICA DE MÁXIMOS: A VIVÊNCIA DA MISERICÓRDIA

Tal como Thompson afirmou, existe um mínimo samaritano (revelado na tolerância) e um máximo samaritano cuja actuação ética se revelou pela ética da virtude e da misericórdia.

A parábola do Bom Samaritano poderá chamar-nos à síntese moral e reflexão sobre uma ética de máximos e de mínimos.

Mas, o discurso sobre a ética civil ou pública introduziu na ética o problema da relação entre uma “*morale minimum*” e uma “*morale maximum*”, ou como referencia Walzer, a distinção entre uma “thin morality” e uma “thick morality”.<sup>37</sup>

O mínimo moral comum aos aspectos do pluralismo de projectos morais na sociedade é constituído, na bioética, pelos princípios da não-maleficência e pelo da justiça. Para além desta ética de mínimos, surge uma ética de máximos, que é composta pelo binómio autonomia-beneficência.

Enquanto que uma ética mínima é uma ética do dever e se assume como absoluta, a ética, de máximos, na verdade, centra-se na procura da felicidade e tem consciência da sua relatividade, no sentido de que o ideal de felicidade (eudaimonia) é muito mais condicionado cultural e psicologicamente pelo binómio não-maleficência-justiça.<sup>38</sup>

A parábola do Samaritano apresenta as duas facetas. Por um lado o “máximo samaritano” (bom samaritano) que se vivencia pela solidariedade e pela misericórdia, por outro, o “mínimo samaritano” (mau samaritano), expresso na tolerância e no altruísmo de hoje.

As bioéticas de mínimos sustentar-se-iam como vinculantes, enquanto que as bioéticas de máximos fariam uma fundamentação religante. A bioética, como delineante complementar, necessita das vertentes religante e vinculante.

Uma bioética mínima coincidiria com os pressupostos da ética civil, a qual descansa na convicção de que é verdade que os homens são seres autolegisladores, e que é verdade que tem “dignidade” e não preço, e, ainda, que é verdade que a fonte das normas morais só poderão ter um consenso naquilo que os homens reconhecem reciprocamente os seus direitos. Também, é verdade que o mecanismo consensual não é o único importante na vida moral, uma vez que as “normas” são um marco indispensável da ética, mas não dão a felicidade.<sup>39</sup>

M. Vidal entende por “ética civil” o mínimo moral comum de uma sociedade laica e pluralista. Assim, a ética civil será a convergência moral de diversas opções morais

37 Cf. F. Bellino – *I Fondamenti della bioetica, aspetti antropologici, ontologici e morali*, Roma: Città Nuova Editrice, 1993, 147.

38 Cf. *Idem, Ibidem*, 147.

39 A. Cortina – *Ética Mínima*, Madrid: Tecnos, 1994<sup>6</sup>, 143–159.

da sociedade. Neste sentido, poderá falar-se num – mínimo moral –, enquanto assinala o nível de aceitação moral da sociedade para além da qual não pode colocar-se qualquer projecto social válido.<sup>40</sup>

Mas, para verificar tal noção de ética civil, será necessário fundamenta-la sobre a racionalidade humana. Todavia, é necessário que a racionalidade ética seja património comum da colectividade. Somente quando a racionalidade ética vem condensa da condição social e faz parte do património histórico-social da colectividade, então poder-se-á caracterizar a ética civil. A racionalidade ética constituirá uma instância moral de apelo histórico e transforma-se na própria ética civil.<sup>41</sup>

Assim, a ética civil funda-se na consciência de unidade e de uma versalidade do género humano. A consciência da humanidade pertence em primeiro lugar e anteriormente a qualquer outra identificação. A ética civil, enquanto mínimo ético comum, não se fundamenta sobre cosmovisões totalitárias, nem sobre opções parciais.

A ética civil não se opõe a nenhum tipo de ética, sendo, porém, a convergência de diversos projectos morais.<sup>42</sup>

As “bioéticas de máximos” provêm da forma como cada um entende o – *bonum* –. Assim, a – *felicitas* – é um “convite”, conselho ou seguimento livre, dado que se não poderá impor a qualquer ser humano, segue sendo uma opção subjectiva. Uma “bioética de máximos” procura oferecer ideais de “vida boa”, onde surgem um conjunto de bens de que o homem usufrui, tal como pensava Boécio – *congregatio omnium bonorum ad finem felicitas* – em – *De Philosophiae Consolatione*.

Assim, a oferta cristã, pela leitura do Bom Samaritano, referencia-se como uma ética de máximos, somente exigível para aqueles que a recebem e praticam, dada nas Bem-aventuranças. O que não quer dizer que se não compartilhe uma ética de mínimos pela justiça com os restantes seres humanos.

Com efeito, os “máximos”, próprios das éticas religiosas, entram também dentro da mesma estrutura constitucional do ser humano, desde a autonomia e liberdade até ao bem, para escolher aquilo que os religa, o que é igualmente incondicionado. Surge como nível-1 e denomina-se “obrigação perfeita”, tal foi “ethós” do Bom Samaritano.<sup>43</sup>

Não obstante, por estes máximos situamo-nos no nível dois, que é adequado às obrigações imperfeitas, dado que se não podem impor aos humanos. Só se poderão oferecer e aceitar a partir da liberdade.

Para as éticas modernas será necessário ter em boa conta que o nível fundamental é de “obrigação perfeita” para todos e cada um dos seres humanos.

Para articular os mínimos e os máximos éticos, numa relação justa, com a natureza das coisas e encaminhada a potenciar o tom moral das sociedades, A. Cortina propõe vários elementos fundamentais:

40 Cf. M. Vidal – *Moral de actitudes*, tomo segundo – primeira parte, Madrid: P. S. Editorial, 1991, 160–161.

41 Cf. P. Stemmer – *Handeln zugunsten anderer: eine morale philosophische Untersuchung*, Berlin: Walter de Gruyter, 2000, 311–312.

42 Cf. *Idem* – *I Fundamenti della bioetica*, Roma: Città Nuova Editrice, 1993, 147–148.

43 Cf. F. J. Alarcos – *Bioética y pastoral de la salud*, Madrid: San Pablo, 2002, 124–125.

Num mundo plural, as éticas de máximos apresentam as suas ofertas de vida feliz e cidadãos aceitam o seu convite. Esta situação de liberdade é óptima para operar convites à felicidade.<sup>44</sup>

Mas, precisamente, porque a ética civil apresenta as suas exigências de justiça e as éticas de máximos terão de ser respeitadas, isto porque nenhuma ética de máximos deve intentar expressa ou veladamente absorver a ética civil, anulando-a, porque instaura um “monismo moral intolerante”.

Por consequência, nem a ética civil está legitimada para procurar anular algumas das éticas de máximos que respeitam os mínimos de justiça, nem as éticas de máximos estão autorizadas para anular a ética civil. Os monismos intolerantes – sejam laicistas ou religiosos – são sempre “imorais”. Assim, eram as relações entre samaritanos e as instituições religiosas ao tempo de Cristo;

Poderá suceder que se atentem contra as exigências de justiça por causas presumivelmente de elevado nível (solidariedade grupal, amor, etc) tal como vêem fazendo crentes e não crentes na vida quotidiana;

Uma ética de mínimos quando muito deverá indiciar uma ética de máximos e *vice-versa* determinando mais uma vez a sua “complementaridade”. Uma ética de máximos autosuficiente, alheia à ética civil, acaba por se identificar com um qualquer ídolo, seja o seu egoísmo seja, ainda, a preservação dos seus privilégios. Por seu lado uma ética civil autosuficiente, alheia as éticas de máximos, acaba convertendo-se numa ética estatal. Uma ética cívica vai-se formando a partir de propostas de felicidade, que convivem e por isso poderá exigir-se, a partir de dentro, que a aceitem e potenciem.

Hoje-em-dia, cada vez mais, no aspecto epistemológico, a bioética é uma nova ética civil, que se define por ser a dos “mínimos” que será compartilhada pela sociedade. Segundo Lydea Feito, considera-se que a bioética se está a converter numa ética civil das sociedades ocidentais no início deste milénio, uma vez que a ética civil se está baseando nos ideais de uma ética plural, autónoma e com pretensões de universalidade.<sup>45</sup>

De um lado afirma-se pela autonomia e beneficência, por outro pelos caminhos da justiça através do seu princípio.

Não existe, pois, competência alguma entre cristianismo e a ética civil, como se empenham em manter laicistas e fideistas, conduzidas pelo afã de entender as relações humanas como “jogos”, nos quais aquele que ganha algo, o perderá outro.

44 Contudo, o desejo humano de verdadeira felicidade (beatitude) como desejo de infinito. Nenhum dos nossos fins particulares realiza plenamente aquilo que no fundo queríamos e buscávamos. A felicidade verdadeira (beatitude) surge como “dever” de actuar segundo o princípio personalista.

Também se concebe a felicidade verdadeira (beatitude) pela ascese. A felicidade de uma pessoa depende essencialmente das suas relações com Deus, que se revela pelas suas convicções sobre o “mais além da morte” e dos vínculos de respeito e o amor que procura estabelecer com seus semelhante. Estes elementos encontram-se no início da narrativa do desvalido e no fim da mesma. O apelo da parábola é escatológico. (Cf. G. Ch. Olaso – *Ética especial, el orden ideal de la vida buena*, Pamplona, Eunsa, 1996, 22–24).

45 L. Feito – “Porque Bioética?”, in: *Estudios de Bioética*, Madrid: Dykinson, 1997, 16–17.

Aqui estamos perante um “jogo” (ludos) em que todos podem cooperar (processo social conjuntivo), potenciando os “mínimos”, já comparados para que ganhemos todos e cada um os “máximos”, que aspiramos.

Isto não significa que quem tenha propostas de máximos as silencie, precisamente ao contrário. Deveremos seguir o “caminho” do Samaritano pelo desvalido no caminho – *homo viator* –, no lugar apropriado que o “amor” traduzido num diálogos e vivência pessoal, frente à imposição, dado que a universalidade dos mínimos de justiça é uma universalidade exigível, e a dos máximos de felicidade é uma universalidade de ofertável.<sup>46</sup>

Os princípios fundamentais da bioética não são princípios distintos dos da ética, sem mais. Assim, a vontade fazer o bem e de não causar dano – *primum non nocere* – hapocrático (como princípio inspirador da ética médica, desde o *Hippocraticum Jesiurandum* é sempre a base de qualquer “ética aplicada”. O princípio da autonomia (Kant) não será mais do que o reconhecimento da liberdade individual, como atributo de qualquer sujeito (doente ou são). Entretanto, a justiça é o princípio pelo qual se deve reger qualquer sociedade, num estado social de direito, e que pretende ser respeitadora dos direitos fundamentais. Os quatro princípios, a que se poderá juntar o da responsabilidade (re-spondere) da ética constituem a “ética mínima”, que uma sociedade deve aceitar.

As éticas de “máximos”, como são as religiosas, costumam ser mais casuísticas e mais explícitas, dado que resolvem alguns casos concretos com mais clareza, como também com mais rigidez, do que a moral liberal. Aqui está, poderíamos dizer, o paradoxo de uma ética liberal, laica e universal: não repostas concretas à pergunta que devo fazer? O legista perguntou a Jesus Cristo: o que devo fazer para alcançar a vida eterna?

Jesus em vez de responder abstractamente, formula uma narrativa concreta e “casuística”: é a narrativa da casuística do comportamento exemplar, vivenciado pela compaixão/misericórdia, na pessoa figurada do Bom Samaritano. Uma ética de mínimos deixa a resposta ao que devo fazer? indeterminada e será cada qual quem deve “decidir” e correr o dilema de equivocar-se. Será um preço a pagar pela universalidade dos princípios éticos (só os princípios muito gerais e abstractos podem ser universais), em detrimento da singularidade da “virtude” expressa na caustica da parábola do Bom Samaritano, como narrativa paradigmática da humanização ética da saúde. A ética de máximos professada pela narrativa do comportamento exemplar é paradigma de uma ética aplicada em casuística. Mas, um modelo sempre atractivo de Ética aplicada é designado por “casuística-I”, na qual domina o método dedutivo.

46 Segundo o pensamento grego, a felicidade (eudaimonia) é considerada o fim último e “supremo bem”, que o homem procura alcançar, sendo o sentido verdadeiro da vida.

Em Platão, a “eudaimonia” celebra-se como sinónimo de “eunomia”, como sendo o “bom governo”. Platão acredita que uma cidade bem governada é próspera e feliz (Leis XI, 927b). A resposta ao esforço feito pelo ser humano para alcançar a – eudaimonia – pode-se confirmar pela concepção platónica de “Eros” (*Dialogos*, 180b; *República*, VII, 526a). Aristóteles, na *Ética a Nicomaco* (I, 13, 1102b), refere a felicidade como o “sumo bem”. É o maior de todos os bens e um Bem aspirado por todos os homens. A felicidade inclui a satisfação das necessidades e das aspirações humanas. Ser feliz será atingir a máxima realização. Assim, a felicidade deve ser entendida como uma prática que resulta de uma vida virtuosa e como função de certos bens (...) que atingem aqueles que agem rectamente (Aristóteles – *Éthique a Nicomaque*, Paris, 1959, 1098b).

Aqui pretende-se aplicar o *more deductivo* dos princípios da Ética Geral aos casos concretos, aos contextos concretos em que decorre a acção. Este modelo resulta da importação para a Ética do modo de raciocinar próprio das ciências empírico-formais, usando uma terminologia de Jean Ladriere.<sup>47</sup>

Assim, bem sintetiza A. Cortina: “a sua figura é a própria do silogismo prático, que conta com dois níveis: um momento universal constituído por princípios universais e axiomáticos, e um momento particular no qual entram em jogo as razões concretas, e em que se torna indispensável a – phronésis – como *recta ratio agibilium* –”<sup>48</sup>

Este modelo não corresponde ao que hoje se pratica em Ética aplicada, a qual a maior parte das vezes os princípios normativos na ética geral, mas, antes, no campo a que é aplicada. Assim, foi nos princípios típicos da actividade médica que se encontraram os princípios da ética biomédica, por exemplo.

Este modelo, designado por “casuística-II” é uma proposta indutiva, sendo defendida por aqueles que consideram impossível encontrar princípios aceites universalmente, permitindo chegar a acordo, em relação a certos procedimentos justificados a partir de diferentes tradições de filosofia moral, quando ao modo de actuar em determinada realidade.

Para a “casuística-II” deveremos encontrar “máximos” que são critérios sábios e prudentes de actuação prática, nos quais coincidam a maioria.<sup>49</sup>

Assim, procedeu Jesus Cristo que converteu o – *modus faciendi* – do legista, como a sua pergunta, um máximo do agir, ao terminar a parábola: *Vade et fac similiter*.

Jesus Cristo, nesta forma de casuística prática (II), propugna o “máximo samaritano” pela vivência da misericórdia (removeram-se-lhe as vísceras), em detrimento do “mínimo samaritano”, dado pela tolerância.<sup>50</sup>

Jesus Cristo (semi-vivo) o centro da parábola do homo viator/comportamento exemplar faz com que o Samaritano participe no “cuidado” ao “semi-vivo” e esta não pode por em causa a sua humanidade, a sua “moralidade” (agir responsabilmente). Um modelo de ética aplicada (casuística II) de K. O. Apel da Escola de Frankfurt seriam dois níveis de ética aplicada:

- fundamentação da dimensão normativa;
- aplicação desta fundamentação aos diversos âmbitos da vida concreta.<sup>51</sup>

O esquema ético de construção da parábola, pela narrativa de Lucas, está elaborada segundo o “esquema retórico” na linha filosófica de K. O. Apel.

47 Cf. J. Henrique Silveira de Brito – “Das Éticas Gerais às Éticas Aplicadas”, in: *Arquipélago*, série filosofia, 7 (2000) 152–153.

48 Cf. A. Cortina – “El estatuto de la ética aplicada”, in: *Isagoria Revista de Filosofía Moral y Política*, 13 (1996) 122.

49 Cf. J. Henrique Silveira de Brito – “Das Éticas Gerais às Éticas Aplicadas”, in: *Arquipélago*, série filosofia, 7 (2000) 154.

50 Cf. N. Monzel – “Das problem der Toleranz”, in: *Münchener Theologische Zeitschrift*, 7 (1956) 81–91.

51 Cf. K. O. Apel – *La transformación de la filosofía*, traducción del tudesco, II, Madrid: Taurus Ediciones, 1983, 380.

Assim, aparece constitutiva desta formulação a prática democrática adequada das sociedades, em que se procuram consensos mínimos, quanto aos grandes princípios, isto é, em que se exige uma “ética de mínimos”, partilhada pela sociedade, a partir da qual cada um constrói a sua “ética de máximos”.<sup>52</sup> O grande aviso da narrativa de Lucas (Luc 10, 25-35), no aspecto moral, situa-nos como um “discurso paranético de máximos”, como expressão discursiva real e concreta do comportamento exemplar e não do comportamento ideal de Beauchamp e Childress, da principiologia ética.

## CONCLUSÃO

Toda a narrativa do Bom Samaritano, após a “remoção das vísceras” é a descrição de “solidariedade” deste para com o desvalido (semi-vivo). A via do Bom Samaritano é uma “ajuda”, desde o caminho até à estalagem, de todos os cuidados primários, para a época, exercidos des-interessadamente e com um sentido “solidário”.

Tal como na narrativa do Bom Samaritano, a solidariedade tem um sentido teologal e surge como vivência e valor moral, representado no auxílio pela “diaconia” do semi-vivo, da mesma forma W. Osswald resume o mesmo sentido da parábola ao referir que a Boa Nova (evangélico) anuncia-o há dois milénios “as obras de misericórdia” recapitulam-no minuciosamente, o empenhamento concreto das estruturas eclesiais, do povo de Deus, em geral, dá disso testemunho convincente e universal: para o cristão, a solidariedade é uma exigência da radical fraternidade dos filhos de Deus.

No campo da saúde, a expressão dessa solidariedade é simultaneamente antiga e de enorme dimensão: nasceram e floresceram às sombras das igrejas os hospitais.<sup>53</sup>

A solidariedade é um elemento fundamental, como co-factor da humanização em saúde. A “solidariedade”, também, faz lembrar que a “ética” não pode dispensar a “moral”, nem esta prescinde daquela uma vez que a ética aparece como a teoria que percorre o itinerário desde a interioridade do agir para a sua fundamentação, ao passo que a moral analisa o percurso que vai da autonomia do agir e da sua institucionalização para a compreensão da sua normatividade ou legalidade. A ética vocaciona-se, sobretudo, para o lugar interior de onde provêm os princípios que orientam as condutas humanas, enquanto que a moral analisa e emite opinião sobre estas últimas.<sup>54</sup>

A solidariedade implanta-se num meio em que a sensibilização ao “outro” é crescente, em especial no campo da saúde. Deste elemento é apanágio de narrativa do Bom Samaritano. A solidariedade é uma forma de expressar a alteridade do “outro” como referencial, do outro como definidor do Eu, que não sou afinal senão o “outro do outro”, na linha do pensamento de E. Lévinas.

Assim a solidariedade não é um aspecto secundário da convivência, mas é uma exigência fundamental da pessoa, enquanto esta é um “ser consistente”, que se encontra na proximidade e em comunhão com os próprios semelhantes. A solidariedade não

52 *Idem* - “Das Éticas Gerais às Éticas Aplicadas”, in: *Arquipélago*, 7 (2000) 155.

53 Cf. W. Osswald - “Humanização, ética, solidariedade”, in: *Cadernos de Bioética*, 29 (2002) 18.

54 Cf. *Idem, Ibidem*, 17.

é um sentimento de vaga compaixão ou de superficial intertenimento, mas é uma virtude moral, que procura as raízes na estrutura da coexistência e da proximidade.<sup>55</sup>

A parábola do Bom Samaritano, encerra-se com um mandamento de solidariedade, tal como Jesus Cristo (semi-vivo) o enunciou: “Vai e faz de modo semelhante”. É o “fazer de modo semelhante” ao do comportamento exemplar (solidário) do Samaritano, que Cristo o constitui como princípio de solidariedade.<sup>56</sup>

Segundo J. Sobrino, a solidariedade não se oferece num estado quimicamente puro, mas como adverte a parábola do Bom Samaritano e outras parábolas, pela mistura do “des-interesse” pelos pobres, marginalizados e doentes e, ultimamente, perante um crescente individualismo motivado pela forte competitividade económica. Assim, a atenção para a nova solidariedade pode ser um ponto de partida realista e plausível para toda a ética. A solidariedade “vívida” mostra uma realidade antropológica, que posteriormente terá de elevar-se à categoria teológica, para potenciar uma humanidade, desde os seus fundamentos mais genuínos.<sup>57</sup>

O pensamento de E. Lévinas pôs a claro a dimensão ontológica da observação do outro e prolonga a intuição, projectando-a no pobre e no desvalido do caminho (narrativa do Samaritano misericordioso), num mundo de relações assimétricas, dado que é uma solidariedade entre desiguais.<sup>58</sup>

A solidariedade tem como fundamento antropológico a constituição unitária das relações sociais como “corpo”, que indica a sua intrínseca dinamicidade. Este implica-se na sua identidade e na interrelacionalidade. Segundo X. Zubiri, surge na solidariedade a articulação da “nostridade”, como tendência metafísica do ser humano na constituição do “nós”, como fundamento de uma “ética dialógica libertadora”.<sup>59</sup> A humanização em saúde participa desta “nostridade” tanto pessoal, como colectiva, num processo que está o “nós”, numa relação Dialógica Simétrica.

55 Cf. B. Mondin – “Fundamenti Antropologici della Solidarietà”, in: *Per la Filosofia*, VII, 20 (1990) 12.

56 Cf. T. Federici – “Aspetti biblici della Solidarietà”, in: *Per la Filosofia*, VII, 20 (1990) 24.

57 Cf. H. M. Yáñez – “Jalones para fundamentar una ética de la solidaridad esperante”, in: *Stromata*, 56 (2000) 11.

58 Cf. E. Dussel – “Ética de la liberación”. Hipotesis fundamentalis, in: *Concilium*, 192 (1984) 255–256.

59 Cf. M. Manzanera – “Metafísica de la Nostridad: hacia una filosofía de la liberación como nostrificación”, in: *Yachay*, 17 (1993) 17–25.





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# The fuel cell-electric drive system is an economical and attractive technology for mobility

## **Summary**

The Fuel cell electric drive framework is a conservative and appealing innovation for portability with zero nearby emanations. A power device electric vehicle is an electrically determined vehicle created by a Fuel cell utilizing hydrogen as a fuel source. The electric drive changes over the Fuel into movement. On the other hand, this Fuel can be briefly put away by the footing battery. This sort of drive framework isn't just utilized for downtown driving; indeed, it is most excellent when concealing longer distances to a scope of a few hundred kilometers. Power device electric vehicles likewise gain favor with their short topping off occasions of only a couple of minutes. Power device electric drives contain different segments that prepare creation through fitting innovative work.

**Keywords:** Electric vehicles, hydrogen, technology, engine, mobility.

## **BACKGROUND**

**A** fuel cell vehicle (FCV) or fuel cell electric vehicle (FCEV) is an electric vehicle that utilizes a Fuel cell, once in a mix with a bit of battery or supercapacitor, to control its locally available electric engine. Power devices in vehicles create power by and ample utilizing oxygen from the air and packed hydrogen. Most Fuel cell vehicles are delegated zero-emanations vehicles that produce just water and warmth. As contrasted and inner ignition vehicles, hydrogen vehicles unify poisons at the site of the hydrogen creation, where hydrogen is commonly

gotten from improved petroleum gas. Shipping and putting away hydrogen may likewise make pollutants.<sup>1</sup>

Power modules have been utilized in different sorts of vehicles, including forklifts, particularly in indoor applications where their perfect outflows are critical to air quality and space applications. The primary industrially delivered hydrogen power module auto, the Hyundai Tucson FCEV, was presented in 2013, Toyota Mirai continued in 2015, and afterward, Honda entered the market.<sup>2</sup>Fuel cells are being created and tried in trucks, transports, boats, cruisers, and bikes, among different vehicles.

Starting in 2020, there was a restricted hydrogen framework, with less than fifty hydrogen powering stations for cars freely accessible in the U.S. However, more hydrogen stations are arranged, especially in California, where, starting in 2019, as indicated by Hydrogen View, more than 7,500 FCEVs are sold or leased.<sup>3</sup> Critics question whether hydrogen will be productive or financially savvy for autos, as contrasted with other zero-discharge innovations. In 2019, USA Today expressed, “what is difficult to debate is that the hydrogen Fuel cell dream is everything except dead for the traveler vehicle market.”<sup>4</sup>

## HYDROGEN DEVELOPMENT OVERVIEW BY GERMANY

Germany is one of the critical pioneers in hydrogen and power device advancement in Europe. To advance the power module and hydrogen Fuel procedure, the German government set up the National Organization for Hydrogen and Fuel Cell Technology (“NOW”), liable for the coordination and the board of the National Innovation Program for Hydrogen and Fuel Cell Technology (NIP) and the Electromobility Model Regions program of the Federal Ministry of Transport and Digital Infrastructure (BMVI).<sup>5</sup>In 2006, the Federal Government started the National Innovation Program for Hydrogen and Fuel Cell Technology (“NIP”) and delegates from research associations just as from different industry areas, to propel the part of hydrogen and power device innovation in Germany’s Fuel framework.<sup>6</sup> The 2006-2016 period of NIP financed ~EUR 1.4 bn in examination, improvement, and exhibit projects.<sup>7</sup> In 2009, Germany also settled the H2 Mobility activity with Air Liquide Group, Linde Group, Shell, TOTAL, and different organizations, wanting to put 350 million euros in developing the world’s first cross country organization of hydrogen filling stations in German.<sup>8</sup>39 By the finish of 2018, Europe has 152 hydrogen refueling stations, 41% of which are in Germany.<sup>9</sup> As the country where hydrogen was first found, and the power device was created, U.K. government’ support for the hydrogen and Fuel unit market was less reliable and composed contrasted with other European nations

1 SOLTANI, B., & BENCHOUIA, N. E. (2019). Pp: 70.

2 Robledo, C. B., Oldenbroek, V., Abbruzzese, F., & van Wijk, A. J. (2018).Pp: 615–629.

3 Center, A. F. D. (2015).

4 Sifrig, B., Le, R. T., Chesire, D., Hernandez, M., Kee-Sampson, J., & Meyer, T. E. (2021).

5 NOW website, About NOW. Available from: <https://www.now-gmbh.de/en/>

6 Ehret, O., & Bonhoff, K. (2015). Pp: 5526–5533.

7 Walker, L. (2008).

8 Alazemi, J., & Andrews, J. (2015). Pp: 483–499.

9 Maruta, A. (2016). Pp: 37–51

like Germany, and had no available system for the hydrogen area until 2016.<sup>10</sup> In 2016, E4tech and Element Fuel distributed an incorporated Hydrogen and Fuel Cells guide with 11 sectoral 'smaller than normal guides,' including store network guides (for example, H<sub>2</sub> creation and conveyance) and end-use guides (for example, street/non-street transportation), intending to build up the hydrogen and power module market as a piece of the zero discharges technique. In January 2017, the JIVE<sup>11</sup> project subsidized by European Union sent 139 FCEBs<sup>12</sup> to 5 European nations, of which are in the U.K.

## FUEL CELL AND ELECTRIC VEHICLES

Extensively talking, a power module is an electrochemical reactor that changes over the compound Fuel of a fuel and an oxidant straightforwardly to power. All the more, as of late, the word power device has been utilized solely to depict such a reactor using hydrogen as the essential wellspring of Fuel. Hydrogen has a long history of being used as Fuel for portability. Over 200 years prior, hydrogen was utilized in the absolute first interior ignition motors by consuming the actual hydrogen, like consuming gas. Nonetheless, this didn't end up being very fruitful because of security worries, just as low Fuel thickness. Maybe, in an advanced power device, hydrogen is a transporter of Fuel by responding with oxygen to shape power.<sup>13</sup>

The response among hydrogen and oxygen is astoundingly straightforward and can be addressed by the simultaneous equation:  $2H_2 + O_2 = 2H_2O$ .<sup>5</sup> In a power device, hydrogen and oxygen are acquainted independently with hydrogen provided with one terminal of the Fuel cell and oxygen to the next (Figure 1). The two anodes are isolated by a material called the electrolyte, which goes about as a channel to stop the phone reactants blending straightforwardly and control how the charged particles made during the fractional cell responses are permitted to arrive at one another.

## ESSENTIAL CELLS OF FUEL CELL VEHICLES

As demonstrated in Figure 1, like most cutting-edge vehicles, power device vehicles are included in four fundamental part classes: impetus framework, skeleton, car gadgets, and body. The drive framework gives the power to control the car through a fuel framework and electric engine. This force is gotten from hydrogen, which is put away in compressed tanks in the vehicle.<sup>14</sup>

## OPERATING PRINCIPLE

Hydrogen particles first enter the hydrogen terminal (called the anode) of the power device (stage 1). The hydrogen particles at that point respond with the impetus covering the anode, delivering electrons to shape a decidedly charged hydrogen

10 Staffell, I., Scamman, D., Abad, A. V., Balcombe, P., Dodds, P. E., Ekins, P.,... & Ward, K. R. (2019). Pp: 463–491.

11 \*JIVE: Joint Initiative for hydrogen Vehicles across Europe

12 NFCBP: National Fuel Cell Bus Program;

13 Jing, X., Wu, P., Liu, X., Yang, L., He, C., & Duan, C. (2015). Pp: 1051–1059.

14 Coe, N. M., Hess, M., Yeung, H. W. C., Dicken, P., & Henderson, J. (2004). 'Pp:468–484.

particle (stage 2). These particles cross the electrolyte and arrive at the oxygen at the subsequent anode (called the cathode) (stage 3). The electrons, notwithstanding, can't pass the electrolyte. All things being equal, they stream into an electrical circuit, producing the force of the power module framework (stage 4). At the cathode, the impetus causes the hydrogen particles and electrons to bond with oxygen from the air to shape water fume, which is the solitary side-effect of the cycle (stage 5).<sup>15</sup>

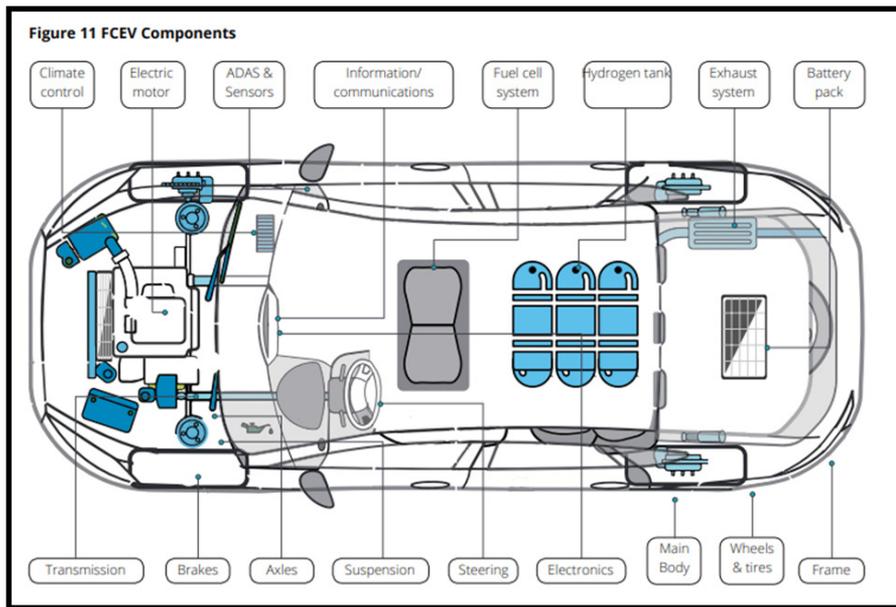


Fig. 1. FCEV Components<sup>14</sup>

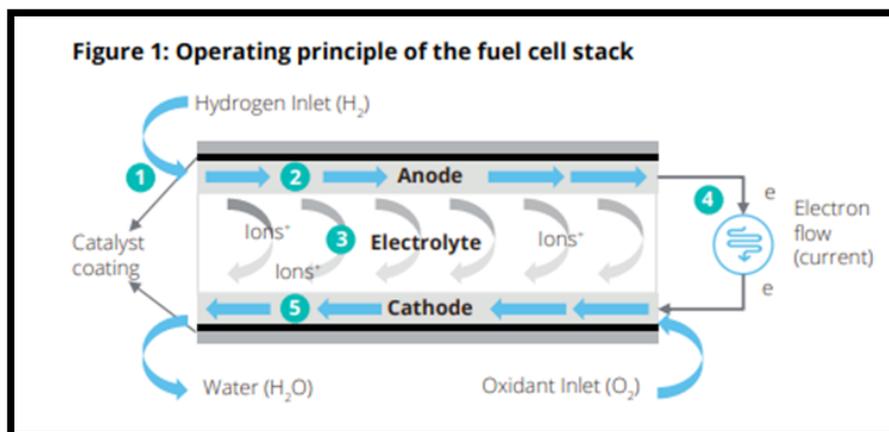


Fig. 2. Operating principle of the fuel cell stack<sup>15</sup>

15 Madonna, V., Giangrande, P., & Galea, M. (2018). Pp: 646–659.

## APPLICATIONS

To most customers, Fuel cell vehicles sound unfathomably mind-boggling and complex. Nonetheless, when stalled into pieces, Fuel cell vehicles are fundamental. Halfway because of this effortlessness, power module innovation is utilized in a wide assortment of vehicle types.

## AUTOMOBILES [edit]

To most buyers, fuelThe Honda FCX Clarity idea vehicle was presented in 2008 for renting by clients in Japan and Southern California and ceased by 2015. From 2008 to 2014, Honda rented an aggregate of 45 FCX units in the U.S. Over 20 other FCEVs models and show vehicles were delivered in that period, including the GM HydroGen4 and Mercedes-Benz F-Cell.<sup>16</sup>

The Hyundai ix35 FCEV Fuel Cell vehicle has been accessible for rent since 2014 when 54 units were leased.<sup>17</sup>

Deals of the Toyota Mirai to government and corporate clients started in Japan in December 2014. Pricing began at ¥6,700,000 (~US\$57,400) before charges and an administration impetus of ¥2,000,000 (~US\$19,600).<sup>18</sup> Former European Parliament President Pat Cox assessed that Toyota at first would lose about \$100,000 on each Mirai sold. As of December 2017, worldwide deals added up to 5,300 Mirais. The top-selling markets were the U.S. with 2,900 units, Japan with 2,100, and Europe with 200. Retail conveyances of the 2017 Honda Clarity Fuel Cell started in California in December 2016.<sup>19</sup> The 2017 Clarity has the most elevated joined and city mileage evaluations among all hydrogen Fuel cell vehicles appraised by the EPA, with a consolidated city/interstate rating of 67 miles for each gallon gas same (MPGe) and 68 MPGe in city driving. In 2019, Katsushi Inoue, the leader of Honda Europe, expressed, “Our attention is on crossover and electric vehicles now. Possibly hydrogen Fuel unit vehicles will come. However, that is an innovation for the next era.”<sup>20</sup>

By 2017, Daimler eliminated its FCEV improvement, referring to declining battery costs and expanding the scope of E.V.s. The majority of the car organizations creating hydrogen vehicles had changed their concentration to battery electric vehicles.<sup>21</sup>

Cell vehicles sound staggeringly unpredictable and complex. Notwithstanding, when stalled into pieces, power device vehicles are very straightforward. Incompletely, as a result of this effortlessness, Fuel unit innovation is utilized in a wide assortment of vehicle types.

16 Chang, W. R., Hwang, J. J., & Wu, W. (2017). 277–288.

17 Alerasooldehkordi, S. (2014).

18 Moritsugu, K. (2014).

19 Greene, D. L., & Duleep, G. (2013).

20 Landy, M. K., Roberts, M. J., & Thomas, S. R. (1990).

21 Cashman, S. A., Meyer, D. E., Edelen, A. N., Ingwersen, W. W., Abraham, J. P., Barrett, W. M.,... & Smith, R. L. (2016). Pp: 9013–9025.

## FUEL ECONOMY

The following table compares EPA's fuel economy expressed in miles per gallon gasoline-equivalent (MPGe) for the hydrogen fuel cell vehicles rated by the EPA as of December 2016 and available only in California.<sup>22</sup>

| Comparison of fuel economy expressed in MPGe for hydrogen fuel cell vehicles available for leasing in California and rated by the U.S. Environmental Protection Agency as of October 2016 |            |                       |                   |                      |                 |                  |
|---|------------|-----------------------|-------------------|----------------------|-----------------|------------------|
| Vehicle   | Model year | Combined fuel economy | City fuel economy | Highway fuel economy | Range           | Annual fuel cost |
| Hyundai Tucson Fuel Cell  | 2017       | 49 mpg-e              | 48 mpg-e          | 50 mpg-e             | 265 mi (426 km) | US\$1,700        |
| Toyota Mirai  | 2016       | 66 mpg-e              | 66 mpg-e          | 66 mpg-e             | 312 mi (502 km) | US\$1,250        |
| Honda Clarity Fuel Cell   | 2017       | 67 mpg-e              | 68 mpg-e          | 66 mpg-e             | 366 mi (589 km) | -                |

Notes: One kg of hydrogen has roughly the same energy content as one U.S. gallon of gasoline.

Fig. 3. Comparison of fuel economy<sup>22</sup>

## ENVIRONMENTAL IMPACT

The ecological effect of power module vehicles relies upon the essential Fuel with which the hydrogen was created. Power device vehicles are naturally kind when hydrogen was made with inexhaustible Fuel. If this is the case, power device vehicles are cleaner and more productive than petroleum derivative vehicles. In any case, they are not as effective as battery electric vehicles, which devour considerably less Fuel. Usually, a power device vehicle burns through 2.4 occasions more Fuel than a battery-electric vehicle since electrolysis and hydrogen capacity are significantly less proficient than utilizing power to stack a battery straightforwardly.<sup>23</sup>

## CONCLUSION

Hydrogen isn't just the most plentiful cell known to man, and it is the contribution of an atomic combination that controls our sun and supports all life on this planet. It is also a vital cell in the petroleum derivatives that have held business, industry, and ways of life since the principal modern transformation. What's more, hydrogen as a Fuel transporter has two significant benefits over petroleum derivatives for versatility applications. Its Fuel discharge through oxidation delivers just water as a yield, and it is limitlessly inexhaustible, as long as the sun sparkles. This exploration work aims to recognize the ideal instruments to remove the most extreme Fuel to control applications in portability and past incl—creation, and use of hydrogen. Over the long run, hydrogen utilizes have and will incorporate fundamental transformation through consuming, interior ignition frameworks, direct power creation through Fuel cells, and at last controlled combination.

All in all, power devices and hydrogen can drive the Future of Mobility. Districts, including the U.S., Germany, and others, are perceiving this pattern and zeroing in arrangement endeavors to create Fuel unit innovation, store network, and foundation

<sup>22</sup> Chan, C. C., & Wong, Y. S. (2004). Pp: 24–33.

<sup>23</sup> Brey, J. J., Carazo, A. F., & Brey, R. (2018). Pp: 2893–2899.

on various fronts. FCEVs are a very appealing answer for uncompromising and business vehicles because of qualities like quick re-filling (like ICEVs), high Fuel thickness (for example, lower weight than BEVs). Ultimately, FCEVs exhibit the most minimal lifecycle nursery emanations contrasted and BEVs and ICEVs and grandstand the most extraordinary likely opportunity to get a better room because of expanded utilization of sustainable power sources in hydrogen creation.

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# Great Japanese Philosopher of Law-Fusaaki Uzawa

## From the viewpoint of the Philosophy of Nothingness and Love

### Summary

The Fuel cell electric drive framework is a conservative and appealing innovation for portability with zero nearby emanations. A power device electric vehicle is an electrically determined vehicle created by a Fuel cell utilizing hydrogen as a fuel source. The electric drive changes over the Fuel into movement. On the other hand, this Fuel can be briefly put away by the footing battery. This sort of drive framework isn't just utilized for downtown driving; indeed, it is most excellent when concealing longer distances to a scope of a few hundred kilometers. Power device electric vehicles likewise gain favor with their short topping off occasions of only a couple of minutes. Power device electric drives contain different segments that prepare creation through fitting innovative work. Keywords: Electric vehicles, hydrogen, technology, engine, mobility.

**Keywords:** Electric vehicles, hydrogen, technology, engine, mobility.

### 1. HIS LIFE

Fusaaki Uzawa (鵜沢 総明、1872–1955, hereinafter referred to as Uzawa)<sup>1</sup> was born in a wealthy farmer home in Mobara City, Chiba Prefecture. However, at the age of 12, his father, Minomatsu, was imprisoned for three and a half years despite his innocence, accused of damaging roads, obstructing traffic and forging documents due to a land dispute with a neighboring village. This shocking event turned his life harder, darker and made him feel nothingness. He lost the pillars of his family, he was accused of being the son of a prisoner himself and was in financial

<sup>1</sup> "Fusaaki Uzawa" Biography by Masatoshi Ishikawa, Gihōdō, Tokyo, 1956.

distress. His father also suffered from typhoid fever during imprisonment, followed by a high fever and wandering alive and dead. Uzawa was so sad that he moved from place to place for sleeping then cried at midnight. While his father was absent, his house consisted of a mother, grandmother and sister, but when he was studying at night his family told him, "Please stop studying because we don't have enough money to buy oil." After graduating from school at the age of 13, the principal of the school, who saw his financial difficulties, took care of him with the work of an assistant teacher at the age of 14 after graduation. However, his academic ability did not improve enough. His worried teacher introduced Wasai Ōta, a master of Chinese classics. With that guidance, he gained a solid culture of Chinese classics. It took 12 km one way every day for one year to the house of Wasai Ōta for the Chinese studies. At that time, the current high school was not established in the area.

This endless (infinite) passion for academic research overlaps with Confucius. Confucius was an orphan and was not blessed with the environment, so he learned from an old man in the neighborhood. Uzawa would have passed while thinking of Confucius. Teachings of Confucius have become the cornerstone of life, not just academic research. With the understanding of Confucius as a foothold, the study of Chinese classics deepened. It was not just an academic study, but a guideline for an existential way of life. A 24 km round-trip commute would be a waste of time and energy, so from the second year onward, Ōta decided to let him stay at his family's house. Uzawa became a resident student with Ōta. The story of a teacher and a student living together is the same for Kitarō Nishida<sup>2</sup>, a leading figure in Japanese philosophy. When he entered Ishikawa prefectural vocational school (now Kanazawa University), Nishida was introduced to the house of Hōjō Tokiyuki by his uncle. Although he lived in, Nishida learned his academic attitude there. It is the realization of mutual respect.

At the house of Ōta, Uzawa studied Chinese classics and English but he eventually headed to Tokyo to receive further education. The entrance examination for the First Higher School was already completed, he took the examination the following year. He attended a preparation school but found weaknesses in science and mathematics, although his liberal arts subjects were good. He overcame these difficulties in one year where it would normally take a couple of years with hard study. The following year, he passed and entered the First Higher School.

He suffered from typhus while he was delighted to enter the First Higher School. He was forced to take a year off from school. This typhus illness is similar to Kitarō Nishida, who unfortunately suffered from typhus with his sister after enrolling in his longing normal school at the age of 13. His sister died, Nishida took a leave of absence for over a year and eventually dropped out. This typhus illness is the second hardship, darkness, and nothingness for Uzawa. However, when his health recovered, Uzawa took this opportunity to do his best to learn German, French and Greek.

2 Kitarō Nishida (西田幾多郎、1870–1945). About Nishida I wrote three papers. Two of them are published in "Biocosmology-neo-Aristotelism" (the Biocosmological Association). 'Nothingness and Love of Nishida' (Vol.10, 2020), 'Nothingness and Love of the early Philosophy of Nishida' (Vol.6, 2016), 'On overcoming of Self-Identity of Absolute Contradictories' (The Philosophical Association of Japan, 2003) These papers are included in Kiyokazu Nakatomi, "Nothingness and Love of Japanese Philosophy", Lambert Academic publishing, Germany, 2020.

The following year, he became Christian then was baptized when he returned to school. He attends the Young Man's Christian Association (YMCA) and meets first-class Christians at the time. The hardships and nothingness of typhus prepared the love of Christ. In addition, he met Masahisa Uemura, who was a leader in the Christian world in Japan with Kanzō Uchimura, and was respected as a lifelong pastor and received the teaching of Masahisa Uemura as a believer in the Fujimi Church.

He graduated from the University of Tokyo in 1899, when he was 27 years old. After his father was imprisoned despite his innocence, he aspired to be a human rights lawyer. At that time, those who graduated from the University of Tokyo were often elite and found employment as national bureaucrats or in conglomerate companies. However, he aimed to be a lawyer who defended human rights and defended himself in the position of a person imprisoned for false accusations. The trials he undertook protected the human rights of many in the thousands. In particular, he was in charge of cases where no one wanted to defend (unwinnable cases). There are historic trials, but the representative ones are the High Treason Incident (大逆事件, Daigyaku jiken, 1910) and the Far East Military Tribunal (hereinafter abbreviated as the Tokyo Tribunal, 1946–1948).

The High Treason Incident is a case in which 12 people including Shūsui Kōtoku were sentenced to death for plotting to assassinate the emperor. At that time, Japan cracked down on the socialist movement and cracked down on the people involved. In that connection, Shūsui Kōtoku and his colleagues were accused. There were few defenders of the accused of the attempted assassination of the emperor, but Uzawa became one. Of course, Shūsui Kōtoku claimed to innocence against the charges, but the police made a blueprint for the assassination of the emperor. The police and the prosecution led a one-sided, forcible procedure and the accused were sentenced to death. It is said to have been acquitted now, 100 years later. The bereaved family is campaigning for rehabilitation. The Tokyo Tribunal will be described in detail later.

The politicians did not leave Uzawa, who was working actively as a lawyer. He was asked to run for a member of the House of Representatives by a local landowner in the constituency of Mobara City, Chiba Prefecture. At that time, there were no relevant speeches or detailed speeches at meetings as they are today in restricted elections. Uzawa just had to give a speech when the local landowners asked for. He was still elected, served as a member of the House of Representatives six times and subsequently as a member of the House of Lords. When Kinmochi Saionji, a diplomatic scholar, was the prime minister, and when Takashi Hara, who organized the first full-scale political party cabinet in Japan, was the prime minister, he supported both administrations as the secretary of the party of Friends of Constitutional Government (立憲政友会, Rikken Seiyūkai). However, when Takashi Hara was assassinated, he resigned from his post and chose to become a scholar.

The encounter between Meiji University and Uzawa was when Tatsuo Kishimoto, the founder of Meiji University, was deeply impressed by Uzawa's defense and repeatedly requested to teach with him. However, it was almost unpaid work and he started receiving a salary from 1935. In short, Uzawa volunteered for education. He did it by his love for young people. It was the beginning of activity as humanist Uzawa. When Uzawa became a lecturer at Meiji University, there was a controversy

over the Civil Code, and instead of the French Civil Code, the government forcibly made the German Civil Code a national law. The government had already invited Gustave Émile Boissonade as foreign legal scholar from France to plan a bill based on the French Civil Code. Yatsuka Hotuska, a professor at the University of Tokyo, warned that the French civil law was individualistic and that the Japanese family system would collapse, therefore adopted the German civil law. Meiji University was preparing for French civil law, but it was out of schedule and had to move to German civil law in a hurry. The University of Tokyo was overwhelmingly advantaged and it became the mainstream of the academia of law and Meiji University was significantly delayed, affecting management. Nevertheless, Uzawa taught his students the philosophy of law, general theory of law and comparative legal history. He also published many papers, obtained a doctorate in law and was elected president of Meiji University. At Meiji University, he invested a lot of his private money when he went from vocational school to university. He also focused on women's education. It made it easier for female students to learn academics and the very first female judge was from Meiji University. Although the fields are slightly different, this kind of human-loving activity in many fields overlaps with Inazō Nitobe (新渡戸稲造). Nitobe was a Christian and contributed to world peace as a university professor, the first president of Tokyo Woman's Christian University and the deputy secretary general of the League of Nations. Uzawa made similar contributions as a human rights advocate, an educator and a philosopher of law who spread the Eastern thought to the world.

I have just mentioned about Nitobe because it may be easier to understand the essence of the philosophy of law of Uzawa by comparing those two. Regarding Nitobe, I have published the paper "Nitobe's Bushido, Christianity, Filia"<sup>3</sup>, and I will develop this paper based on it. "Bushido (武士道)" has become the world's best-selling book written by Nitobe at that time. He wrote it while he was sick and lying on his bed, translated into English by his wife. Corresponding to this is "Philosophy of Law (法律哲学)" (Meiji University Publishing, 1954) of Fusaaki Uzawa.

## 2. THE ESSENCE OF "PHILOSOPHY OF LAW"

This book was written in 1954, the year before Uzawa died, so it is the compilation of his law and philosophy. The contents are enormous, including classical Chinese thought based on Lao-tzu and Confucius, European philosophy, law, comparative study of East-West law philosophy, Far East military trial and legal philosophy. This has not been translated, so I insert the table of contents only. This book has been honored by the French Academy as the best book of the philosophy of law in 1954 for its contribution to the improvement of cultural anthropology<sup>4</sup>. I omit the detailed consideration and give an overview.

3 'Bushido, Christianity and Philia of Nitobe', is also published in "Biocosmology-neo-Aristotelism" and included in "Nothingness and Love of Japanese Philosophy", Lambert Academic publishing, Germany, 2020.

4 "Fusaaki Uzawa" p.24.

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## 2.1. The aim of this book

How do we understand such a huge book? The key is to grasp the aim and purpose of Uzawa. The aim is an antithesis against the fact that traditional law is biased towards formal interpretation and application of text and living law are not functioning. Traditional law deals with dead fish that have been caught and dried. On the other hand, Uzawa deals with live fish. So what is a living fish and the law? It is a courtesy derived from Confucius in the East. In Confucius, rites and courtesy are a form of benevolence (Jin), or love. In Japan, we stand up and give thanks to show respect and love for one another. This benevolence proposes a courtesy based on the rites. First of all, it is necessary to understand the concepts of Chinese classical rites and Heaven.

### 2.1.1. Chinese classical rites and phenomenology

Uzawa, who learned from a master of Chinese studies during his childhood, learned deeply about Chinese classics. Lao-tzu, Confucius, Chuang-tzu, Mencius and even the Five Classics learned by these sacred sages are considerable. Kitarō Nishida, who learned Chinese classics, had similar background and learned a lot from his grandfather. Therefore, the sentences of Uzawa and Nishida have many archaic words and are of very high quality. Even educated modern philosophers would not be able to write Nishida's first original philosophical book, "An inquiry into the Good (1911)", as the way he did. The same is true of Uzawa. Even if you find it a little difficult to approach, it will be deeper when you get used to read what they wrote.

Uzawa read "The Analects" at Wasai Ōta of Chinese classics scholar, but as mentioned above, he read it with an existential sense of urgency. It reminds of Confucius, who used to be an orphan and poor, then learned the Five Classics from an old man in the village. He also would have read it devouringly. As the father of Uzawa was imprisoned, the young boy walked 12 km one way to the house of Wasai Ōta every day while in a difficult family situation. He was just a hard-working student and therefore many classical texts were imprinted in his mind. His dedication to this academic attitude may lead to Confucius. He may have had the spirit of "At the age of fifteen I greatly determined to learn" by Confucius, which moved his master Ōta's heart and allowed him to live in the house of Ōta. His student life was similar to that of Kitarō Nishida.

Lao-tzu preached that he was one with the natural way and is Wuwei nature (Actionless nature 無為自然). It was the eastern sacred sage, Lao-tzu, Confucius and Chuang-tzu who came to this selflessness, so to speak, Buddhist enlightenment (pure self). Uzawa came up with a living law that went back to the teachings of these sacred sages. As mentioned supra, the living law is swayed by the interpretation and application of the text and the conventional law loses its humanity. The law that restores the lost humanity is the living law. The method is based on the phenomenology of Husserl in European philosophy. This phenomenology is in the attitude towards the thing itself. For example, when looking at the human body, one is not looking at a medically dissected human but at a living human before being dissected. We point out the application of phenomenology to the law. In fact, a younger brother of Husserl applied phenomenology to law. From such the phenomenological standpoint, Uzawa thinks of living law. So what is that living law? It is a ritual. It is a law based on the

teachings of Confucius. Rite is generally a bow, but it is an expression of love for the other person. It is called benevolence to overcome oneself and return to rite. This is the gold coin. Although formal, he proposes a law based on the rites. According to Uzawa, the law of Western law is based on the Dutch word *Regut*. Translated by Amane Nishi, but there could be rite. However, considering the coercive force, he adopted the letters of the law<sup>5</sup>. On the contrary, Uzawa insisted on the courtesy including benevolence. He explained the rationale by taking the views of various European scholars. The differences between the Eastern, European thoughts and culture are shown there and comparative law, comparative thought and comparative philosophy are developed.

### 2.1.2. Realistic examples of courtesy law

Let me give you a realistic example that shows the essence of rites of Uzawa. There is currently a pandemic of the new coronavirus. Wearing a mask is needed. In Japan, it is customary for most people to wear it without any resistance due to consideration for the other party (benevolence) and self-defense. This is worn voluntarily and autonomously in consideration of the person who spreads the infection if coughing. It's painful and sometimes annoying, but one is spending his days killing his own desires (overcoming the self). It is exactly the practice of 'To return to the observance of the rites through overcoming the self constitutes benevolence'. This is courtesy. On the other hand, there is no custom of masks in Europe and the United States. It is a symbol of robbery in the United States and people seem to dislike it. However, it is a prejudice to think of an infection prevention mask as a robbery mask. In phenomenology, removing such prejudice and temporarily suspending judgment for that purpose are called *epoché*. From this stop, it is phenomenology of Husserl to think about correct interpretation and application. Such a procedure is called phenomenological reduction. Remove the prejudice that it is a symbol of robbery, review the significance of the mask itself, and wear it to prevent infection. In France, it is mandatory to wear a mask and people will be fined if not wearing a mask. This is an extremely Western legal practice that enacts penalties to protect public order. In Japan, there are no penalties for not wearing a mask. This is the difference between traditional Western law and courtesy law. In most of Europe and the United States, there are laws allowing governments to lock down cities, but in Japan it is not legal. It is only a request for self-restraint. At best, the school is closed. Even so, Japan was in a state similar to that of Europe and the United States under the state of emergency. Ginza and Shinjuku in Tokyo also temporarily became ghost towns. The difference is whether to enact and enforce compulsory laws or leave it to people's autonomy, but autonomy requires some morality, discipline and ethics. The foundation is the traditional Oriental ideas such as Benevolence, Rites, Way, Righteousness and Sincerity. Masks are widely used in Japan and South Korea because of the custom of courtesy based on this philosophy. Uzawa's theory of ritual law is to respect people's independence rather than solving everything by enacting a law.

Uzawa sees the national theory of Plato as the realization of this "overcoming the self and turning into benevolence" in Europe. The national theory of Plato divides people into intellectual, defensive and bourgeoisie classes, each of whom is good

<sup>5</sup> "Philosophy of Law" p.5.

at wisdom, courage and moderation. Therefore, justice is realized by each person making effective use of his or her virtues. Here, Plato also emphasizes the virtues of temperance and self-control. These virtues are also important in controlling eros. Therefore, I see the virtue of temperance in the national theory of Plato as a concrete realization of “overcoming the self and turning into benevolence” and an application of an example of courtesy to Plato. Also, regarding autonomy, the autonomous personality of the moral philosophy of Kant is dealt with. It is “Philosophy of Law” that demonstrates in this way.

### 2.1.3. World Situation and Uzawa Philosophy

Looking at the current world situation, Uzawa’s philosophy is rooted in the life and spirit of the Japanese people without being aware of it. The same is true for masks, and after all, the world spread of Jūdō is great. Uzawa meets Jigōrō Kanō who likes it<sup>6</sup>. Jūdō also begins and ends with a bow in the spirit of “overcoming the self and turning into benevolence.” It has become established in the Olympic events and is spreading all over the world. This kind of respect for the rites is the same for school education, and although one stands up and gives gratitude before class, it feels good. At the time of the rites, “Please.” In the closing greeting, “Thank you.” Japanese rites are sympathetic to the world. From the habit of cleaning, we also clean the trash at the stadium. In the past, garbage was scattered in soccer and baseball stadiums after the game, but Japanese spectators brought their own garbage home. This is thorough in high school baseball. At one point, Japanese education was criticized by the world for being administrative, but now it has been reversed. Certainly, there are problems such as bullying, memorization education, lack of creation and deviation value society, but the safety of students is guaranteed. There is no body check (gun, knife possession) when going to school like in the United States. High school students now work hard for cleaning. In a sense, it may be the practice of courtesy education of Uzawa. He also established Meiji Junior and Senior High School, so I think he practiced this kind of courtesy. After Uzawa established the High School, it is a prestigious high school because many of the students went on to Hitotsubashi University by recommendation from Meiji High School. When I was in Meiji University (1975-1979), I had a classmate from Meiji High School, he was very nice and considerate. There was pride and it was imposing.

However, when it comes to the academic roots of the ritual law, it still depends on the confrontation with European philosophy, Plato, Kant and Hegel’s philosophy. Understandings of Kant and Hegel will be on par with Japanese European philosophers at that time. Uzawa is a Chinese classical scholar, a European philosopher, a lawyer and an educator.

If Uzawa preaches the ritual law, he needs his own draft constitution. After all, the Constitution is the basis of the law, so a draft constitution of the ritual law is required. I want him to show such a basic constitution as Emori Ueki once (植木枝盛) created the "Eastern Great Constitution Draft of Japan (東洋大日本国国憲案)" in the Meiji era. After all, if this draft is not shown, the whole law will be passed and will not work. This is different from philosophers, who aim to build their own

6 “Fusaaki Uzawa” p.180.

worldview and philosophy, for the better or the worse. Uzawa, partly because he was a practitioner of law, did not go to his own draft constitution. Probably he may have thought that the philosophy of law was sufficient. Alternatively, he may have remained in the realm of legal philosophy because the Constitution of Japan had already been enforced. However, his philosophy of law is utilized in the "confessions are not evidence" and "criminal compensation law" of the Constitution of Japan. That alone is a considerable contribution.

For reference, here is a book review of "Philosophy of Law" by Ishikawa Masatoshi, the author of the biography "Fusaaki Uzawa"(Gihōdō,Tokyo,1956).

"... His book covers all the Western literature up to just before World War II and shows a complete reconciliation of Eastern and Western legal and moral ideas. It is a unique writing. There is. He explores the spirit of law on both the Eastern and Western sides, visits the eternal things in life, and touches on the essence of law and depth that philosophy of law of Hegel could not reach. He is one of the rare legal scholars who has a unique position not only in Japan but also in the world academia."<sup>7</sup>

### 3. GREAT SPEECH OF THE TOKYO TRIBUNAL

It was the general argument of this trial that showed the existence of Uzawa to the world. Uzawa, as the defense counsel for the trial, defends the whole body. There are 109 defendants, so individual defense is impossible. Even so, how do you defend the A-class war criminals, the criminals who killed 3 million people? At first glance, it is incomprehensible to an amateur. Through the defense of war criminals, Uzawa, on the contrary, accomplished a reversal drama that urged him to reflect on the victorious countries.

The point is two folds.

1. The trial itself is a one-sided trial by the winning countries and is unjustified. Crime does not apply to war. Originally, the trial is carried out by the Japanese prosecutor's office against a criminal in Japan. There is no reason to judge because of the victorious countries. The accused also acted by the order of the state and did not act on their own. Even if one fires a gun by command and hurts someone in his opponent's country, this is not a crime. In addition, the command in the war was also commanded by order, and we are not responsible for this. Judgment has neither a defeated country nor a victorious country as single defendant.

"In a judicial justice proceeding, it must be a demand for justice that both the victorious and defeated nations must be tried as defendants."<sup>8</sup>

2. Japan was cornered by a victorious country and entered war.  
From 1939 to 1945, the Cabinet resigned six times. It is a resignation almost every year, showing the instability in Japan. By the way, it is also the victorious countries that have induced such instability. They caused difficulties for Japan,

<sup>7</sup> "Fusaaki Uzawa" p. 313.

<sup>8</sup> „Philosophy of Law” pp. 514–515.

such as the ABCD siege and the ban on oil exports to Japan. Japan, the defeated country, is not entirely responsible. Japan is a peace-oriented country similar to Asia since ancient times. It is “Article 17 Constitution of Prince Shōtōku “. In addition, the old name of Japan, Yamato (大和), was originally derived from Great Peace (大平和). Japan is a country that seeks great peace, and it is unlikely that a defendant educated in such a peace-loving country will wage war even if he is acquitted. Therefore, he is not guilty.

It was a speech "On behalf of Japanese wisdom and conscience" for about an hour<sup>9</sup>, translated into multiple languages and passed on to the world. In particular, the story about the formation and history of peace thought in Japan and Asia was an expression of the essence of Japanese and Asian philosophy to the world. After the speech, Indian Judge Pearl, who was impressed, visited Uzawa in the defense counsel waiting room after the speech and seemed to touch the essence of Eastern thought, holding Uzawa's hand firmly<sup>10</sup>.

After that, it was Judge Pearl and the American defense counsel who understood Japan's position and made the world aware of the mistakes in the trial<sup>11</sup>. And it was Uzawa who created the opportunity. Awakened the world.

## 4. COMMON POINTS AND DIFFERENCES FROM THE VIEWPOINT OF THE PHILOSOPHY OF NOTHINGNESS AND LOVE

### 4.1. Interpretation and movement of Way, Energetics

The beginning of “Philosophy of Law” begins with an explanation of way of Lao-tzu. The road of Lao-tzu is said to be the fundamental reality of the universe. It is so great that it is beyond verbal expression, so it is also called nothingness. I take this position and neglect it. This is the difference from Uzawa's philosophy. Uzawa preaches the way as reality and I preach that it is nothingness as reality. What is the difference? I make a difference between kinetic theory, energetics and cosmology. The way of Uzawa is the reality of the universe but it is absolutely stationary because it seeks peace and stability. “In the study of the eastern sage, there are struggles in life, and there are other sorrows and troubles that come from life in general. However, there is great peace at the root. The depths of the great movement of the universe are the poles of silence.”<sup>12</sup>. From this sentence, Uzawa considers the poles of stillness and absolute stillness as the stability of the universe in order to seek great peace. However, despite Einstein's Theory of Relativity, Uzawa insists on the stillness of the universe. If you know Einstein, one can easily see that there is no absolute rest in the world. Here, I would like to point out the weaknesses of Uzawa in natural science. In addition, despite citing the uncertainty principle of Niels Bohr and Heisenberg to show the limits of matter and machinery civilization, there is no direct citation in the original work and many citations of the views of third parties can be seen. (It can be

9 "Fusaaki Uzawa" p. 291.

10 "Fusaaki Uzawa" p. 288.

11 "Fusaaki Uzawa" p. 290.

12 "Philosophy of Law" p. 153.

said that it is ideal for students seeking education. In fact, this book is a collection of miscellaneous articles and lecture records.)

At the starting point I called the way nothing, the flow of life, the movement of reality, the movement of energy. Lao-tzu preached the unit of life, nature and the universe. We are moving with the earth, the world, and nature even though our bodies are stationary. Nothingness is an infinite flow of life, the filling of energy that fills the natural world. Therefore, it is also called Qi or Qigong but this is the flow of fine particles in physics, and what science touched and understood these particles were atoms, electrons, quarks and neutrinos. From this standpoint, the Big Bang theory from nothingness can be explained. The fine particles aggregated, an explosion occurred, a Big Bang occurred and the expansion of the universe began. This energy is nothingness. In physics, it is also called dark energy or dark matter. It is nothingness because it can't be completely grasped and expressed by words. From here, one can say that the world and the universe are expanding movements. (See, "On the synthesis of the theory of relativity and the quantum theory")<sup>13</sup>. There is a decisive difference between my philosophy that preaches the expansion of the universe and Uzawa's philosophy that preaches the ultimate rest of the universe.

## 4.2. Law concept of Buddhism

For Uzawa, who is a wide field scholar, there are few Buddhist quotations despite Prince Shōtoku who promoted Buddhism in Japan during the Asuka period (592 to 710 Ad). In Buddhism, law has the meaning of truth and Dharma and is a broad concept that goes beyond the normative meaning. Jurisprudence has a broad meaning of studying truth. I have taken this position, but it is surprising that there is no mention of this provision or Buddhism, considering the academic field of Uzawa. The Doctrine of Prince Shōtoku is cited as one of peaceful thoughts of Uzawa in Japan. "Seriously honor the three treasures." The word of law is already used here. Uzawa derives the translation of law from Amane Nishi, thinker from the late Edo period to the Meiji period, but the law has been used long before that. The division law by the daimyo of the Warring States period is also used. In the Edo period, it seems that law such a series of Edicts on compassion for Living Things (135 edicts issued in 1687 by Tsunayoshi Tokugawa) was used. However, the word law refers to the whole truth derived from Prince Shōtoku, so it seems to be pervasive to the Japanese. In addition, Uzawa is a Christian, and there should be a comparative confrontation between Christianity and Buddhism in terms of faith. It may be published in a different book but it is surprising that Uzawa does not develop the broad view of the universe of the Lotus Sutra that is important Scripture of Mahayana Buddhism, though Prince Shōtoku is an annotator of the Lotus Sutra.

<sup>13</sup> 'On the synthesis of the theory of relativity and quantum theory' This paper has been published in international academic journals such as the Russian Academy of Sciences in English, French, Russian, Macedonian and Spanish. Recorded in „New Horizon of Sciences by the Principle of Nothingness and Love”, Lambert Academic Publishing, Germany, 2012.

### 4.3. I Ching, Chinese fortune-telling (Book of Changes of ancient Chinese divine)

Uzawa attaches great importance to I Ching as a Chinese Classic of Changes. In ancient China, rulers used I Ching, or fortune-telling, to make policy decisions. It seems that he also used various knowledge and the sacred sage who can see the world. However, I feel confused about this ease and fortune-telling in modern times. Uzawa himself is a Christian. The Bible recognizes the Old Testament prophets, but no prophecies after the New Testament was established. The Apocalypse is a prophecy as a revelation from God. Only God makes prophecies. In recent years, the famous prophecy of Nostradamus appeared. The problem in South Korea was that the pastor, who predicted the end, cheated on the property of the believers in 1992. Human prophecies and fortune-telling in the future will cause social turmoil. The consistency between fortune-telling and Christian beliefs is questioned. Some parts of the Bible mention fortune-telling, but it is negative. There seems to be a spirit of fortune-telling, and I will quote from the Bible.

It was in Philippi, Macedonia, on Paul's second missionary trip (AD49-52).

“And it came to pass, as we went to prayer, a certain damsel possessed with a spirit of divination met us, which brought her masters much gain by soothsaying:

The same followed Paul and us, and cried, saying, These men are the servants of the most high God, which shew unto us the way of salvation.

And this did she many days. But Paul, being grieved, turned and said to the spirit, I command thee in the name of Jesus Christ to come out of her. And he came out the same hour.”<sup>14</sup>

Immediately, the spirit went out. The female slave who lost her spirit could not make a profit, and the masters sued Paul to the officials. So the secretary of the land whipped Paul into prison. However, when Paul and Silas were singing hymns in the prison, a big earthquake suddenly struck and the door of the prison opened.

Is this Bible description, I Ching, and fortune-telling valid? In ancient China, I Ching was important to rulers, but what about now? There is astrology in Europe, but it is not currently accepted by science. The Nostradamus prophecy also ended in 2000, but seems to have been postponed. However, such prophecies cause confusion in society as mentioned above. What does Uzawa think? And what do we think? Fortune-telling can be beneficial to those who profess it. The Nostradamus prophecy has become a major bestseller in Japan. The church, which prophesied the end of Korea, showed zeal, but the pastor cleverly took care of the property of the believers. It also causes confusion, and the overall benefit is small. I disagree with Uzawa's idea of emphasizing fortune-telling and I Ching.

<sup>14</sup> „The Acts of the Apostles 16: 16–18” „The Bible”, Authorized King James Version with Apocrypha, Oxford World's Classics, Oxford University Press, 1997.

#### 4.4. Consistency with the emperor system

Uzawa has invited the emperor to a commemorative ceremony at Meiji University. As a Christian, it is understandable to respect the symbol of the nation. However, Uzawa takes the position of 2600 AD that it passed 2600 years since Japan was established. The fact that the imperial year of Emperor Jimmu (660 BC) is a historical fact and the establishment of Japan is different from the scientific historical fact. In addition, the source of law is the emperor, which is also questionable. It is biased toward the view of imperial history. Isn't this one of the reasons why the doctrine of Uzawa stopped spreading?

#### 4.5. About pure self

At the beginning of "Philosophy of Law" of Uzawa, there is a description of looking back on Mt. Fuji and looking back on his life. It is a place that is integrated with the scenery and nature of Mt. Fuji. Just like sitting down, it will be a state of nature. Such a pure self without confusion is defined as 'pure self', but this concept is very close to the pure experience of Kitarō Nishida's nominative case. Moreover, it is almost the same as pure persistence state of Bergson, stream of consciousness of Husserl and my "nothingness as reality"<sup>15</sup>. Uzawa is two years younger than Nishida, but it seems that the exchange has not happened. However, Japanese philosophy in the Showa period has been criticized as pulpit philosophy and academic studies within the university. Uzawa is struggling in the real world as a lawyer, so philosophers who do not work practically in the society such as his disciples Hajime Tanabe and Tetsurō Watsuji would have looked like pulpit philosophies. In fact, Uzawa describes "the bias of Japanese philosophy"<sup>16</sup>. From that critical standpoint, he considered establishing a philosophy research institute or a philosophy department at Meiji University in order to spread his own philosophy. In fact, he consulted with Yoshishige Abe, Kant philosopher and president of Gakushuin University. At that time, it did not happen, but now, in 2020, a philosophy major course is set up in the Department of Psychology and Sociology, Faculty of Letters, Meiji University. However, I have not heard that a research on Uzawa is being carried out. Some of the staff are from other universities, so they probably don't know about Uzawa. When I was enrolled in the Faculty of Political Science and Economics at Meiji University, there were some excellent professors in the Faculty of Political Science and Economics, the Faculty of Law, the Faculty of Literature, the Faculty of Commerce and the Faculty of Business Administration. It seemed to be comparable to the philosophy faculty. However, since there was no department of philosophy, each professor was disjointed and uncoordinated and they did not work together to enliven the philosophy of Meiji University. Over time, the Department of Philosophy was established at Meiji University, taking advantage of the intentions of Uzawa. Initially, it was said that there were difficulties in finding employment, but with the development of informatics, the number of hires in these areas and middle and high school teachers has increased, so these activities are expected. Most of all, the teaching profession course of the

15 "Philosophy of Nothingness and Love (無と愛の哲学)" Chapter 1 Nothingness as Reality, by Kiyokazu Nakatomi, Japanese version, Hokuju Publishing, Tokyo, 2002, pp.15–50, English version, Lambert Academic Publishing, Germany, 2016, pp 19–70.

16 "Philosophy of Law" pp.274–275.

Faculty of Letters was fulfilling, with the faculty being enthusiastic and caring for the students from the time I was in the University. This course is an open course where other undergraduate students can attend and earn credits, and many faculty members have devised it.

## CONCLUSION

Above all, we have considered the philosophy of law of Uzawa. There are three points of conclusion.

One is that we have adopted rites and phenomenology as flexible interpretations and applications that are not biased toward the interpretation of legal texts. This is masked by the voluntary judgment of the people that Japan took in the Corona era. It is symbolized by this practical example. No law can be enacted without the formation of an autonomous personality, as Kant says at this moral level.

Second, in the development of this legal philosophy, through the wide-ranging confrontation between Asian philosophy and European philosophy, the academic fields of comparative philosophy and comparative law were opened. And Uzawa tried not only the comparison but also the synthesis of Asian and European philosophies. This point can be said to be close to Kitarō Nishida and Hajime Tanabe<sup>17</sup>. The philosophies of Nishida and Tanabe are pure philosophies, so there are differences from legal philosophy, but these essays should be evaluated. Today comparative law would be studied without my knowledge. Comparative philosophy is toward its synthesis.

The third is the idea that “before eternal justice, both victorious and defeated nations are defendants.” Using this logic, Uzawa made the victorious nations keenly aware that the cause of the war was also their own. This general argument has historical significance in disseminating the ideas and culture of Japan and Asia to the world as well as reflecting on the victorious countries.

As mentioned above, the achievements of Uzawa can be summarized. His life and achievements fit into my principle of nothingness and love. The imprisonment of his father’s innocent sin causes him and his family to encounter darkness, nothingness. From this experience, he aspires to be a lawyer as a job to help innocent presumed sinners like his father. Aspiring to study in a difficult situation overlaps with Confucius. Endless (infinite) academic attitude like that of Confucius and a passion for eternal truth became the driving forces of the study. On the way, he meets and believes in Christ and enjoys the love of God. Nothingness → infinity → eternity →

17 Hajime Tanabe (田辺元、1885–1962) The successor to philosophy of Nishida. My two papers about Tanabe are published in “Biocosmology-neo-Aristotelism”.

‘The Dialectical Unification of Christianity, Marxism and Japanese Buddhism: on the Basis of Tanabe’s Philosophy of Nothingness’ (Vol.7, N.2 2017)

‘Nothingness and Love of the Philosophy of Tanabe’ (Vol. 10), These are included in “Nothingness and Love of Japanese Philosophy” Lambert Academic Publishing, Germany, 2020

Supplement: Douglas MacArthur called Uzawa a “great person” later when Uzawa requested a donation when the International Christian University was established. MacArthur found Uzawa’s name in the roster (Christian University Corporation). At that time, he called Uzawa a “great man.” (“Fusaaki Uzawa” pp.348–349)

Nakatomi K.: *Great Japanese Philosopher of Law-Fusaaki Uzawa ...*

transcendent-Being (God) → realization of the principle of love. His practice of love was demonstrated as a near-free professor at Meiji University, the president and the defense counsel for the Tokyo Tribunal. His thoughts are all about “eternal peace.” Uzawa’s existence and achievements as a humanist who suffered from the infectious typhus disease at a young age illuminates us today who suffer from Corona.

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## Trend analysis of management information systems

### Summary

Authors of the paper aim to present the trend analysis of the management information systems which is based on the secondary research consisting of the previous research conducted by domestic and foreign authors, as well as the industry reports published by the leading global market intelligence firms. As a result, it can be assumed that the market size and revenues in the industry will struggle to rise due to the fact that the most of the organizations have already implemented some management information system thanks to their important and irreplaceable role in any organization. The space for the future research was identified in conclusion.

**Key words:** management, information system.

### 1. INTRODUCTION AND THEORY

The growing importance of information in the modern world is crucial for any organisation's success regarding its type. That is why information connected with modern technologies had served as the basis for creating information technologies. When the business needs were added, the concept of management information systems arose.

In addition to working with data, the information system can evaluate and process this data according to the user's requirements. In current practice, information systems that enable user communication and support of business processes are mainly used (Huzvar & Laco, 2014).

To summarize, the information system is an organized combination of people, hardware, software, communication technologies, data, rules, procedures and standards. The information system's goal is the acquisition, storage, processing, dissemination, and use of information in the organization (O'Brien & Marakas, 2008).

Nowadays, management information systems are mainly used in the e-commerce companies, due to their focus on information technologies. "Companies do e-commerce to achieve overall organizational improvement." This improvement is expected to be the result of the three main benefits that enable it to compete better in the business world that applies computer technology, namely: "better customer service, better relations with suppliers and the financial community, returns on investment in shareholders and owners increases." (Jankalova & Vartiak, 2016; Vartiak, 2016a; Yadiati, 2019).

The original concept of management information systems was to process data from the organization and use it for presenting regular reports. The management information systems were able to gathering, evaluating and analyzing the data from a wide collection. The initial management information systems were impersonal and not comfortable to use due to "requiring each individual to pick and choose the processed data and use it for his requirements". When a distinction was made between data and information was defined, the management information systems were further modified (Sarras, ret. 2021).

The main functions of the management information system are inputs, processing, outputs and relevant feedback. When closely looking at the management information system, it is necessary to state that it includes (O'Brien & Marakas, 2008):

- raw data stored in company databases and documents,
- administrators who take care of the management information system,
- users who use the management information system,
- information technology represented by hardware, software and network equipment.

This paper aims to provide an analysis of trends in management information systems. The aim of the paper is based on existing research dealing with this issue (Mirtsch, Kinne & Blind, 2021; Yuan, Qiu, Bi, Chang & Lam, 2020; Firoiu & Bacivarov, 2019; Gejdos & Rentkova, 2019; Gorzelańczyk & Kaczmarek, 2019; Katuscakova, 2019; Pop & Titu, 2018; Vinogradova & Galimova, 2017). The aim is to be fulfilled by defining the market size of information technology and business process management and revenues from the information technology security device systems management market and identifying the most popular management information systems worldwide, information systems in use, and related difficulties.

## 2. METHODOLOGY

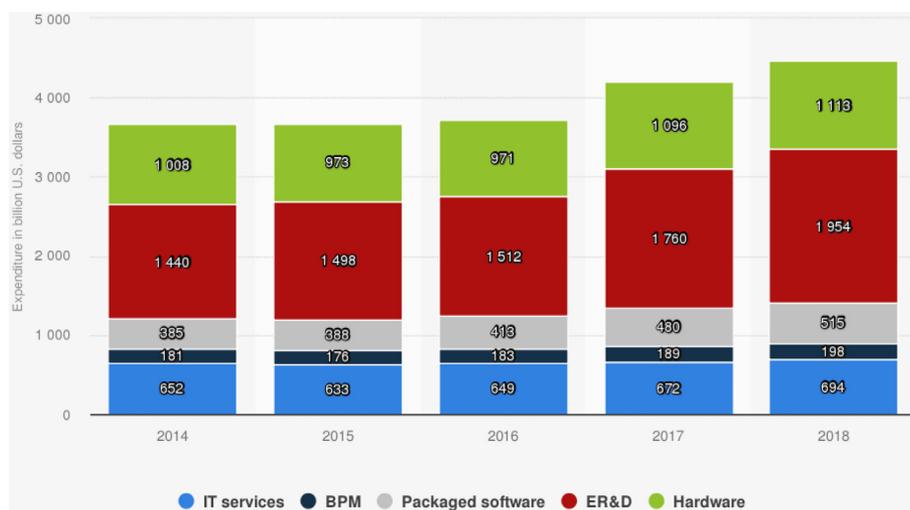
The paper is based on existing research by Mirtsch, Kinne & Blind (2021); Yuan, Qiu, Bi, Chang & Lam (2020); Firoiu & Bacivarov (2019); Gejdos & Rentkova (2019); Gorzelańczyk & Kaczmarek (2019); Katuscakova (2019); Pop & Titu (2018);

Rentkova & Vartiak (2017) and Vinogradova & Galimova (2017) dealing with the management information systems issue. The paper aims to provide an analysis of trends in management information systems. The publications by NASSCOM (2019), IDC (Kolodgy, 2015), DB-Engines (2020) and the Ponemon Institute (Encryption Consulting, 2020) were used as main sources of the trend analysis. The methods of analysis, synthesis, statistics, induction and deduction were used. To fulfil the paper's aim, it is divided into introduction and theory, methodology, results and conclusion.

### 3. RESULTS

#### 3.1. The market size of information technology and business process management

The first step of fulfilling the aim of this paper is describing the size of the information technology and business process management. The statistic published by NASSCOM (2019) shows the size of the information technology and business process management market worldwide, by segment, from 2014 to 2018 (Figure 1).

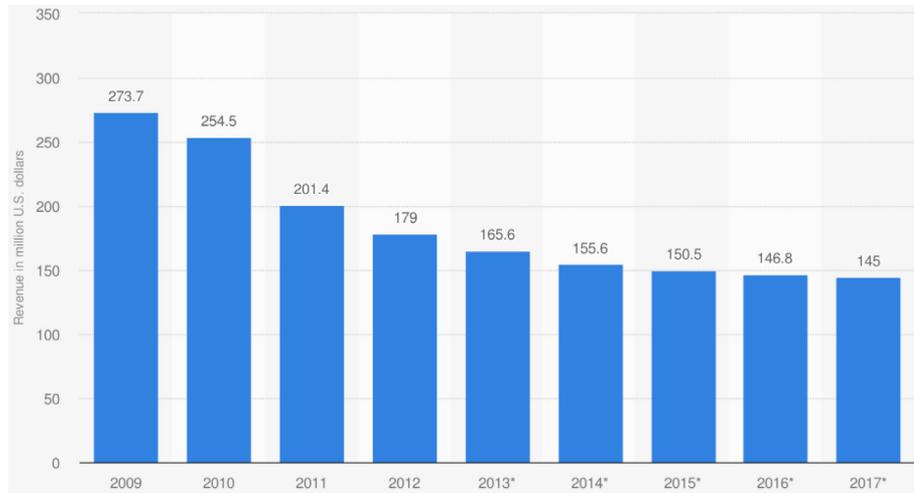


**Fig. 1.** The market size of information technology and business process management from 2014 to 2018.

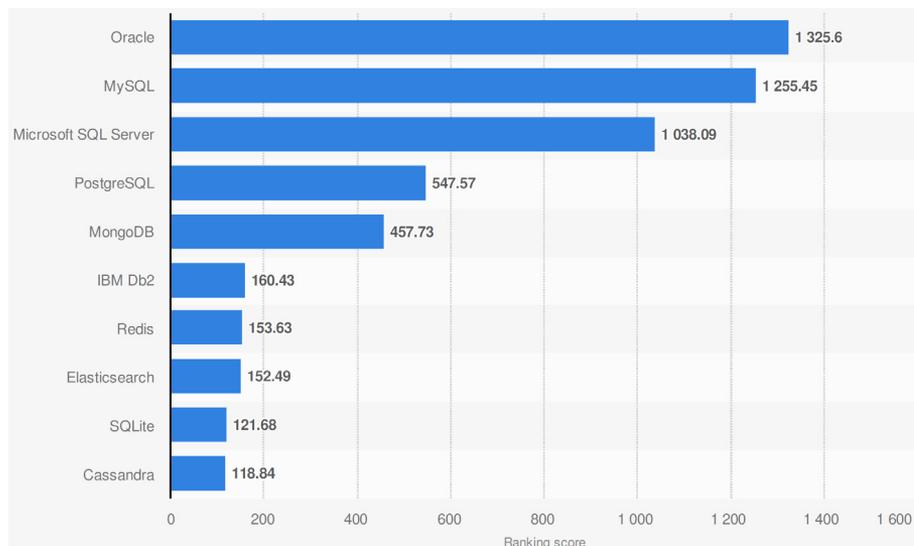
In 2018, 198 billion U.S. dollars was spent on business process management globally. It has gradually grown from 181 billion U.S. dollars in 2014, 176 billion U.S. dollars in 2015, 183 billion U.S. dollars in 2016 and 189 billion U.S. dollars in 2017. Compared with information technology services, packed software, hardware and engineering, research and development, business process management, which includes management information systems, represents the smallest market share.

### 3.2. Revenues from information technology security device systems management market

Another part of this paper, the statistic that shows the size of the information technology security device systems management market worldwide from 2009 to 2017 (Figure 2), was retrieved from the report published by IDC – the premier global market intelligence firm (Kolodgy, 2015).



**Fig. 2.** Revenues from information technology security device systems management market from 2009 to 2017.



**Fig. 3.** The most popular management information systems worldwide (December 2020).

In 2016, security device systems management generated less than 150 million U.S. dollars in revenue. The revenues development shows the declining trend from over 273 million U.S. dollars in 2009, representing a decline of more than 43%.

### 3.3. The most popular management information systems worldwide

After knowing the market size and revenues at the market where management information systems are included, it is necessary to identify the most popular management information systems worldwide. In December 2020, DB-Engines published the ranking, which is depicted in Figure 3.

As of December 2020, the most popular management information system in the world was Oracle, with a ranking score of 1325.6; MySQL and Microsoft SQL server rounded out the top three. Although the database management industry contains some of the tech industry's largest companies, such as Microsoft, Oracle and IBM, a number of free and open-source management information systems such as PostgreSQL and Apache Cassandra remain highly competitive (DB-Engines, 2020).

### 3.4. Management information systems in use

Monitoring the use of management information systems is crucial for this paper. The research published by the Ponemon Institute was used (Encryption Consulting, 2020). The results of the use of management information systems from 2016 to 2019 are depicted in Figure 4.

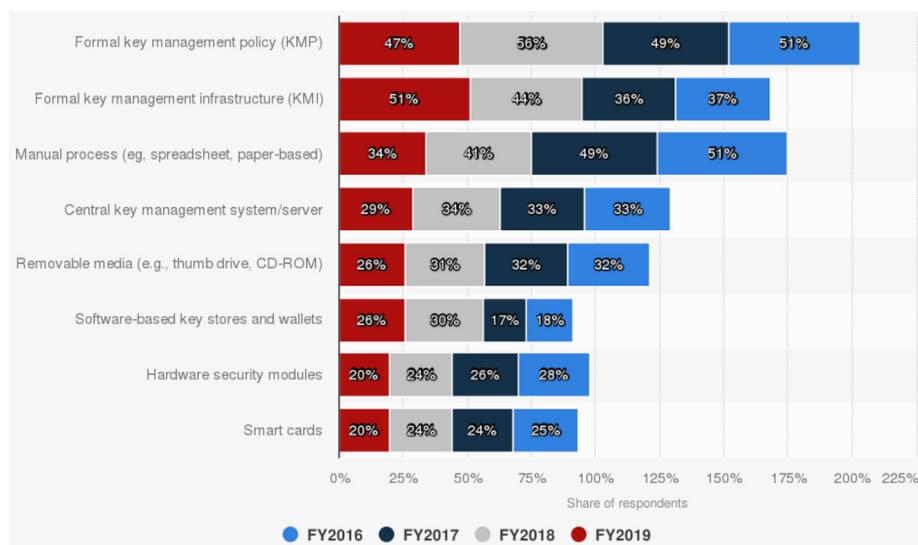
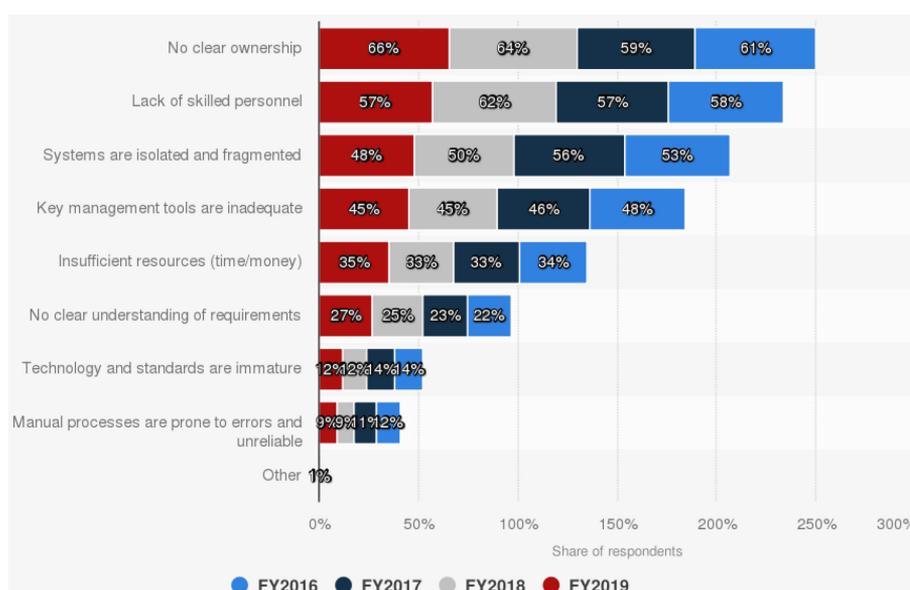


Fig. 4. Management information systems in use from 2016 to 2019.

The statistic shows the level of use of various management information systems from the fiscal year 2016 to the fiscal year 2019. As of 2019, 51% of respondents said that their organizations have a formal management infrastructure, 47% has a formal key management policy, 34% uses a manual process, 29% has a central key management system or server, 36% uses removable media and software-based key stores and wallets, and 20% uses hardware security modules and smart cards.

### 3.5. Difficulties with management information systems

In addition to the management information systems in use, the Ponemon Institute published identified difficulties with management information systems from 2016 to 2019 (Encryption Consulting, 2020) depicted in Figure 5.



**Fig. 5.** The most popular management information systems worldwide (December 2020).

The statistic shows the leading problems surrounding management information systems from the fiscal year 2016 to the fiscal year 2019. As of the fiscal year 2019, according to 66% of survey respondents, the lack of clear key ownership was a leading problem in the management information systems, 57% lacks skilled personnel, 48% states that the systems are isolated and fragmented, 45% thinks that key management tools are inadequate, 35% has insufficient resources, 27% thinks that technology and standards are immature and 9% faces errors and unreliability of manual processes.

## CONCLUSION

The paper deals with management information systems as a crucial part of every organization. Inspiration for the paper was based on the analysis of the previous research conducted by domestic and foreign authors, as well as the industry

reports published by the leading global market intelligence firms. The paper aimed to provide an analysis of trends in management information systems. As a result, the market of information technology and business process management, which is the main market for management information systems, continues to struggle in its development. This is followed by a decline in revenues by more than 43% from 2009 to 2017. On the other hand, Oracle, MySQL and Microsoft SQL Server are the most popular management information systems as of December 2020. In addition, management information systems in use from 2016 to 2019 show that they are mainly used from a formal key management policy. On the contrary, unclear ownership, lack of skilled personnel and isolated and fragmented systems were identified as the main difficulties of management information systems. To conclude, inspired by previous research (Vartiak, 2015; Vartiak, 2016b; Yadiati, 2019) and their results stating that every company strives for success, especially e-commerce companies that can survive not only on the strength of the product, but with a reliable management team, efficient information technologies and excellence in every activity, authors were able to identify the starting points of future research, such as the critical success factors of companies using management information systems.

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## Acknowledgement

The paper was undertaken as a part of a research project CIS 07711134.



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## Defining key economic competences for lifelong learning

### Summary

In this short article, the idea of key economic competences for lifelong learning is presented. European Commission recommendations on key competences for lifelong learning and related documents were used as primary sources of the theoretical analysis. The article is divided into an introduction and theoretical background, methodology, results and conclusion. Eight key economic competences defined in this article can be considered as a main contribution to the topic.

**Keywords:** economics, key competences, lifelong learning, literacy, knowledge.

### INTRODUCTION AND THEORETICAL BACKGROUND

As the market situation changes, so does the structure of jobs. It is estimated that a number of currently known jobs will gradually disappear and be replaced by new ones. This is the reason that leads, mostly adult job seekers, to change the specialisation and related key competencies. As a result of the current crisis associated with the covid-19 pandemic and the worsening economic situation in many countries, key economic competences need to be highlighted in particular.

In general, “key competences include knowledge, skills, and attitudes needed by all for personal fulfilment and development, employability, social inclusion and active citizenship.” Such definition is promoted by the European Commission (2018) and is applicable amongst all EU member states. European Quality Assurance in Vocational Education and Training (ret. 2021-02-09) states that key competences are represented by the sum of skills necessary to survive in the contemporary knowledge society, as well as social responsibilities (Jankalova & Vartiak, 2016). What is discussed more and more is excellence (Vartiak, 2016a; Rentkova & Vartiak, 2017) and environmental awareness of people (Vartiak, 2016b). According to one group

of authors, such competences should be included in key competences, due to their significant importance for the economy.

This article aims to specify key economic competences for lifelong learning, based on the European Commission recommendations on key competencies for lifelong learning and related documents.

## METHODOLOGY

To fulfil this article's aim, the main source document was subjected to a detailed theoretical analysis. This document was chosen because of its robust research background resulting from OECD PISA 2015 results, Education and Training Monitor 2016, European Commission's Digital Scoreboard 2017, Reflection Paper on Harnessing Globalisation 2007, Rethinking Education: Investing in skills for better socio-economic outcomes, Joint Report of the Council and the Commission on the implementation of the strategic framework for European cooperation in education and training 2015, and Council Resolution of 21 November 2008 on better integrating lifelong guidance into lifelong learning strategies. After earmarking key competences for lifelong learning (literacy competence; multilingual competence; mathematical competence and competence in science, technology and engineering; digital competence; personal, social and learning to learn competence; citizenship competence; entrepreneurship competence; cultural awareness and expression competence.), definitions of these competences were compared to research articles indexed in Scopus and Web of Science (Sukalova, Ceniga & Janotova, 2015; Katuscakova & Jaseckova, 2016; Strenitzerova & Garbarova, 2016; Vochozka, Kliestik, Kliestikova & Sion, 2018; Katuscakova, Capkova & Grecnar, 2019; Katuscakova & Jaseckova, 2019; Kovacova, Kliestikova, Grupac, Grecu & Grecu, 2019; Rentkova, 2019; Kicova, 2020; Stofkova & Sukalova, 2020; Sukalova & Ceniga, 2020).

## RESULTS

Literacy competence is presented as "the ability to identify, understand, express, create, and interpret concepts, feelings, facts and opinions in both oral and written forms, using visual, sound/audio and digital materials across disciplines and contexts" (European Commission, 2018). When combining literacy competence with main economic concepts, it is clear that lifelong learners have to understand such economic concepts and also economic facts they face in everyday life. The first key economic competence can be defined as microeconomic literacy.

Multilingual competence is connected to "the ability to use different languages appropriately and effectively for communication" (European Commission, 2018). This competence is essential even for understanding economics because many economic terms come from foreign languages. Thus, the second key economic competence is professional multilingualism.

When we look closer at mathematical competence and competence in science, technology, engineering, it is possible to exempt mathematics (European Commission, 2018). Lifelong learners have to be able to read and understand formulas, models,

constructs, graphs, charts correctly. By putting together mathematics and economics, we can come to a closure that finance is their common determinant. Therefore, financial literacy is the third key economic competence.

“Digital competence involves the confident, critical and responsible use of, and engagement with, digital technologies for learning, at work, and for participation in society“ (European Commission, 2018). The definition above accompanies data literacy with media literacy, problem-solving and critical thinking. All of the listed has a stable place also in economics. As a result, digital literacy can be determined as the fourth key economic competence.

A very complex definition by the European Commission (2018) which states that “personal, social and learning to learn competence is the ability to reflect upon oneself, effectively manage time and information, work with others in a constructive way, remain resilient and manage one’s own learning and career,” is an ideal starting point for lifelong learners to set their career goals and related steps to achieve them. It is evident that self-development is the fifth key economic concept.

Another competence defined by the European Commission (2018) is citizenship competence based on “knowledge of basic concepts and phenomena relating to individuals, groups, work organisations, society, economy and culture.” In general, these terms are related to macroeconomics which means that the sixth key economic concept is macroeconomic literacy.

“Entrepreneurship competence refers to the capacity to act upon opportunities and ideas and to transform them into values for others“ (European Commission, 2018). Entrepreneurship is one of the fundamental terms used in economics, thanks to which it is crucial for lifelong learners to understand business principles. The seventh key economic concept is represented by business literacy.

Cultural awareness and expression competence requires “knowledge of local, national, regional, European and global cultures and expressions, including their languages, heritage and traditions, and cultural products“ (European Commission, 2018). Not only heritage and traditions affect the demand and supply of the products at the market. To be clear, knowing the market is the key. Hence, market knowledge is the last key economic competence.

## CONCLUSION

This article aimed to specify key economic competences for lifelong learning, based on the European Commission recommendations on key competences for lifelong learning and related documents and comparison of definitions of these competences with research articles indexed in Scopus and Web of Science. As a result, eight key economic competences for lifelong learning were identified: microeconomic literacy, professional multilingualism, financial literacy, digital literacy, self-development, macroeconomic literacy, business literacy and market knowledge. The set of these competences is highly recommended for any lifelong learner to establish themselves at the ever-changing job market.

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## Civic education of women in the literary works of Klementyna Hoffman née Tańska - on the example of selected literary works

### Summary

One of the main features of 18th-century Polish literature was its didactic coverage. It was related to the great civilization, moral and cultural changes that took place in the 18th century, the contemporary situation of Polish education and – at the end of the century – the partitions of the Polish-Lithuanian Commonwealth.

A novel by Klementyna Hoffmanowa née Tańska *Listy Elżbiety Rzeczyckiej do przyjaciółki swojej Urszuli\*\**, *Dziennik Franciszki Krasińskiej w ostatnich latach panowania Augusta III pisany* and *Pamiętka po dobrej matce...*, achieve the didactic goals set by the author.

**Keywords:** Enlightenment, novel, women's education, Polish-Lithuanian Commonwealth, Commission of National Education.

One of the main features of 18th-century Polish literature was that it dealt with didactic issues. It was related to the great civilization, social and cultural changes that took place during the reign of King Stanisław Poniatowski, the contemporary situation of Polish education, and – at the end of the century – the partitions of the Polish-Lithuanian Commonwealth. At a time when the Polish-Lithuanian Commonwealth existed on the map of Europe, various journalistic journals attempted to characterize a good citizen and Christian, writers also asked a question about what it meant to be a Pole.

After the changes that took place after the liquidation of Jesuit schools (1773) and the fall of the Commonwealth (1795), many Polish social and political activists and Polish thinkers of the Enlightenment era, in order to preserve the memory of an

independent country in the nation, the right way to shape the next generation. The beginning of all reform activities was the establishment in 1773 of the Commission of National Education. This institution was the first to officially educate Polish women, publishing, among others, two very important documents: *Regulamin dla Pensjonistrów i Pensjonistrzyń* i *Regulament pensji szkół płci żeńskiej* [16, p. 55]. The recommendations concerned the education of girls from lower social strata and wealthy families. According to the Commission of National Education, parish schools were to be accessible to male and female children. In these institutions, students were to be prepared for their future roles as mothers, wives and housewives. Girls attending schools learned: „read, write, count, sew, wash, spin, cook, bake bread, prepare dairy products, make home remedies” [11, p. 218–219]. Another document issued by the Commission of National Education referred to the need to supervise female schools to which parents (those who could afford it) sent their daughters [11, p. 218–219]. The interest of the Commission of National Education in the educational situation of female children was one of the first serious tasks concerning the education and upbringing of women, and although initially this institution did not focus too much on this problem, and the female schools supervised by it institution did not follow the recommendations issued, it can be concluded that this speech was the first impulse for the first changes. The most widely read Polish educational activists at that time, Tadeusz Czacki and Hugo Kołłątaj, commented on this matter.

Members of the Commission of National Education criticized the fact that parents only rely on foreign upbringing models, i.e. employing women from other countries (often of unknown reputation) as home teachers. She categorically opposed this method of educating girls, as it was conducted only in a foreign language, and the native language and Polish history were completely neglected. In female schools, too much attention was paid to the superficiality of pupils, who were to learn to play instruments, singing, foreign languages, sewing, dancing and shaping shapely figures during their studies [5, p. 41]. There were no female schools for Polish language classes. There was also no care for the proper selection of books - students were allowed to read French romances without any restrictions. Most of the employees of such institutions rarely had the appropriate preparation to teach and educate in the national spirit<sup>[9, p. 98]</sup>. On the other hand, as regards the upbringing of girls in monasteries, the Commission of National Education strongly condemned too much of a devotional approach in religious education, negligence in introducing national content and too much emphasis on practical education, without scientific education [10, p. 98]. The education of female children actually ends when the girl was married [7, p. 274].

The term “literatura dydaktyczna” – in the context of research on Enlightenment literature – should be understood as a category relating to texts, didactic and educational problems, young people [13, p. 405]. In the 18th century, educational and upbringing magazines became more and more popular, in which, as Justyna Klink points out: „there are assumptions such as: the postulate of social utility, preparing society for practical life, women’s right to a decent education” [14, p. 37]. Literary works focusing on educational issues were primarily intended to form the moral awareness of readers (both young and adults), and the writers tried to make these works more attractive by using various linguistic means [8, p. 37].

The change in the approach to education largely influenced the shape of literary works created by Polish writers. In the literature of this era, one can observe quite strong didactic tendencies in almost all Enlightenment writers, who were more and more willing to express themselves on issues related to female education. However, despite the interest of the Commission of National Education and many thinkers of the Enlightenment era, no one managed to develop a single coherent program directed exclusively to girls [9, p. 77]. The first person to undertake a coherent concept of the curriculum and education of young Polish women was Klementyna Hoffman, née Tańska.

Her work, *Pamiętka po dobrej matce czyli ostatnie jej rady dla córki*, related to such educational problems as: morality, family, patriotism, teachings and religion [16, p. 16]. The author of the novel focused mainly on developing a sense of belonging to the Polish nation in the recipients and enriching their awareness with moral truths based on the truths of faith in God, which was approved by the Commission of National Education almost from the very beginning. Klementyna Hoffman née Tańska, as a writer and heiress of the Enlightenment, included in her work the most important thoughts related to the education and education of young generations of Polish women. She opposed the previous education of women in a foreign language and distinguishes the value of Polish culture and speech, thus considering it the most important. She encouraged readers to learn about the Polish language and the writings of native authors, pointing out to them that: „że znają dokładnie miernych nawet francuskich, niemieckich pisarzy, a są [nawet] takie, które wyboru swoich nie czytały” [18, p. 127]. In the book, she presented guidelines for educational behavior, which were to form good citizens and Christian women who know their duties and want to serve their homeland through work and exemplary performance of social roles. The key to raising the girls were three overarching concepts: soul, heart and mind [3, p. 24–28].

Klementyna Hoffman née Tańska, inspired by a similar work by the German writer Jakub Glatz *Rozaliens Vermächtnis an ihre Tochter Amanda* (1809) and French treatises (including Fénelon, de Lambert, Rousseau), she created a book that for many years was compulsory reading in female schools [15, p. 107]. Although the concept presented by the author „wychowania praktycznego” was not original, as it strongly corresponded to the postulates of Commission of National Education and Glatz, it is one of the things that w *Pamiętce po dobrej matce... it was quite innovative*. In just a few chapters of an extensive treatise, the author included in the educational guidelines the scope of knowledge that each woman should acquire during education [8, p. 38]. This program included: history, natural history, morality, religion, mythology, languages, geography and the so-called „talenty” [2, p. 176]. Klementyna Hoffman née Tańska encouraged women to expand and improve their knowledge of these areas of knowledge throughout their lives, but she clearly indicated that scientific development cannot take place with time devoted to working in the household, and girls should not boast about the acquired knowledge: „nauki nie są celem, ale ozdobą życia być powinny” [18, p. 38].

The ethical issues presented in her works were to contribute to the best possible moral development of a young woman, so that it could benefit Polish society and preserve the history of the Republic of Poland in the memory of its readers. She emphasized

the value of religion in everyone's life: „nie można być szczęśliwym bez religii i pobożności” [18, p. 38]. In her opinion, a woman, as a mother and wife, should put the good of her loved ones first above her own, be service-minded, and in faith be guided by the principle of gratitude and love towards God. Klementyna Hoffman née Tańska dealt with the issue of religious education in a very rational way, and in line with the postulates promoted by the National Education Commissions regarding moral education, she perceived religion as the basis of the morality of every human being [6, p. 37].

The writer left many historical novels in which she included many didactic plots. The most important of them is *Listy Elżbiety Rzeczyckiej do przyjaciółki swojej Urszuli\*\*\* za panowania Augusta III pisane oraz Dziennik Franciszki Krasińskiej w ostatnich latach panowania Augusta III pisany*. The books followed the postulates of the historical and man-made novel trend. The author included many descriptions of the traditions of the „Saxon Times”, which brought young readers closer to the history of the nation and the times when the Polish-Lithuanian Commonwealth existed [15, p. 107]. It was easier for the author to study these times, and also to read the newspaper, to reliably portray the bygone era „Kurier Polski” and stories of people from her closest circle who remember the past years [14, p. 19]. These novels were not only intended to show readers a picture of the past but also pursued the didactic goals set by the author. There is a clear criticism of the influence of foreign cultures in bringing up the female gender and the emphasis on interest in the Polish language and affairs (both main characters of the works show such interest), was the most important feature of the appropriate attitude of women in both novels. The description of the values that the author included in these works undoubtedly refers to the views of the Enlightenment thinkers. The author in two books *Listy Elżbiety Rzeczyckiej...* and *Dziennik Franciszki Krasińskiej...* she wanted, above all, to show the importance of the attitude expressed in fulfilling a social role, a sense of belonging to the nation and a deep conviction that, even with her modest and seemingly invisible work, every woman has an impact on the continuity of the history of the country in which she lives.

These books present two different types of parenting. The first - based on neglect of teaching a foreign language and a complete rejection of any knowledge, except for the practical one, which is to be used by the foster child in order to be able to act as a hostess, wife and mother in the future. The second - taking into account the influence of foreign languages and literature, but at the same time instilling information about the history of the homeland in the pupil, promoting love for it, and providing practical skills [12, p. 67].

*Pamiętka po dobrej matce...* Klementyna Hoffman, née Tańska, was the first coherent and practical program to educate young Polish women. The views expressed by the author are reflected in almost every work she authored. Undoubtedly, the foundations of the writer's pedagogical views were derived mainly from the recommendations presented by such thinkers as: Jan Jakub Rousseau, François Fénelon and Polish thinkers - Tadeusz Czacki and Hugo Kołłątaj, speaking on educational issues [1, p. 82]. The selective knowledge of pedagogical works most likely contributed to the fact that the Klementyna Hoffman, née Tańska did not create her own pedagogical concept. However, it is worth emphasizing the fact that she managed to write many

works that reached a wide audience. Although the concepts presented in her works did not introduce new thoughts on the upbringing of the female sex and were rather a repetition and presentation of earlier statements on this issue in a more accessible way, it is worth emphasizing the fact that these works largely contributed to the capture of and overthrowing prejudices regarding the education of young Polish women [15, p. 107]. The author's speech on the education of women refers mainly to the issue of preparing the charges to fulfill the role of a wife, hostess and mother. In the eighteenth century, the entire upbringing of women was focused on subordinating their lives to the best of their ability to play these roles, and that was an overriding issue.

Only a few chapters of her works were devoted to scientific education. It is worth noting, however, that this was not related to the reluctance of Klementyna Hoffman née Tańska to receive higher sciences by women, but was primarily due to a very sober view of the educational situation of women. With her works, she wanted to prepare young girls in the best possible way for adult life. These councils were addressed primarily to the representatives of middle-class noble families, whose education sometimes ended with mastering reading and writing skills [4, p. 49]. At a time when it was pointed out that women should not be involved in science, she made a concession on this matter and indicated areas of knowledge in which it should develop.

Moral, family, and patriotic education should be focused on the best performance of one's duties. The work of women – even the quiet and invisible one – has an impact on strengthening the Polish nation, so it is important that Klementyna Hoffman née Tańska is tried to make them aware of it in her works [16, p. 18]. In the novels presented, she emphasizes the fact that the Polish cause is common, important for the female and male sex. Every citizen of the right should be interested in the history of Poland. The only way to proper education is virtue, and a woman, through tirelessly acquiring it, is able to fulfill her roles correctly [16, p. 18].

In her works, the author, using examples known by everyone, passed on to young generations of Polish women the truths that were to be useful to them in the future. These works were created in such a way that their recipients had the impression that they were not a literary fiction – the novel took the shape of a diary, letters, introductions or endings were used in the works to make the events taking place in the novel more probable, referring to facts and introducing historical figures, the use of the first-person narrator, etc. These treatments were in opposition to the tradition of romances, where little care was taken to make the events taking place in the novels more plausible [12, p. 69–70]. The purity of the Polish language presented in the works of Klementyna née Tańska Hoffmanowa and her admonitions to the fact that readers should care for it was a sign of rejection of foreign models of upbringing and, at the same time, directing women's interests towards the history of Poland and the Polish language. In her novels, Klementyna Hoffman née Tańska used the models of classic and sentimental novels, i.e. those that were familiar to her readers [8, p. 37].

The writing activity of Klementyna Hoffman née Tańska was focused primarily on preparing women to perform their duties in the best possible way. She wanted to instill in readers a love of virtue and the homeland, and to shape them for good

citizens. Although she did not manage to create her own educational concept, her work undoubtedly spread issues related to the upbringing of women. Accessibly written works interested mothers in these issues. In plain and understandable language, often on the basis of examples relating to Hoffmanowa's everyday life, she explained and presented the theories of the upbringing of women popular during the Enlightenment and showed how they can be put into practice.

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## Experience and statistics of lost and found department at Košice airport: from safe time to pandemics

### Summary

The main goal of this article is to present a case analysis for the selected three years for all airlines represented at Košice Airport, which focuses on the three most common cases, namely delayed bag – AHL, damaged bag – DPR and handbag – OHD. The main workplace at airports to solve these problems is the Lost and Found Department. The Baggage Claim Department or Lost and Found Department handle cases of lost, damaged, pilfered baggage or baggage sent to the wrong destination. This article discusses the statistics of the Lost and Found Department at Kosice Airport for a 3-years (2017, 2018, and 2019). The year 2020 was non-standard for passenger air transport and represented a decrease of 82% due to COVID-19, so it was not the subject of research. The Lost and Found Department at Kosice Airport uses the WorldTracer® system which is used by more than 2,800 airports and more than 500 airlines worldwide. According to the input data the system verifies other airports that created the case in the system and compares the basic factors of each case. Mandatory specifications include for example the bag tag number, passenger routing, luggage type, luggage color, and much more data the problem.

**Keywords:** pandemics, coronavirus, airport services, luggage, bag tag number.

### ÚVOD

The motive of this article is to point out the work of the department for lost and found things and the sharing of experience from the regional international airport in Košice. The second purpose is to pass the practical knowledge and to recommend how passengers can avoid possible luggage loss. It should be noted

that the passenger doesn't always know how to avoid his case in the Baggage Claim Department. The analysis of praxeological problems is valuable for the workplaces responsible for making decisions in the company, as stated in the work [1] to try to decide which route to use for particular agenda or to achieve a business plan.

The main goal of this article is to present a case analysis for the last three years for all airlines represented at Košice Airport, which focuses on the three most common cases, namely AHL (delayed bag), DPR (damaged bag) and OHD (handbag). The partial goals are displayed in graphs for the selected year and the selected complaint case which will finally link the resulting summary table of all cases of the Lost and Found department for the selected research years. In each case at the Baggage Claim Department the passenger fills basic data about himself, basic data about luggage, the routing, basic mandatory specifications such as flight numbers, flight dates, specific passenger codes called PNR, ticket number, bag tag numbers, baggage color and type and more. It's necessary to state the luggage brand is a very good identifier and it is also important to share information with Airport employees about atypical items in the luggage so that the luggage could be identified more quickly and sent to the arrival airport. After completing the protocol (Passenger Irregularity Report) the passenger will receive a cover letter with all the necessary information (Airline Cover Letters). In Kosice the employees give also to passenger the contact to the Baggage Claim Department (airport staff) where the passenger can call and find out new information about the progress of his case. The only difference is the case of damaged luggage where the passenger doesn't contact the airport but directly the airline or get a contact from the airport where to turn in case of baggage repair.

Several authors dealt with this problem in a few scientific articles. Baggage Tracing and Handling System using RFID and IoT for Airports by Singh A. et. al talk about the most common loopholes experienced in the Aviation industry for Baggage Handling are mislaid baggage, lost baggage and damage to belongings. So for providing a better and secure system to the passengers, we have proposed a design of a baggage tracing and handling system using smart RFID tags and IoT which is based on cloud server [2]. Author Anderson K. wrote an article with topic Lost Luggage and Judicial Baggage: Harb v HRH Prince Abdul Aziz [2016] EWCA Civ 556. This article analyses the Court of Appeal's decision in Harb v Aziz. It discusses the rule against apparent bias, and how the courts characterize the "fair-minded and informed" observer. It suggests that the current judicial approach risks losing sight of the policy which underpins the rule against apparent bias, viz., the maintenance of public confidence in the administration of justice [3]. Hawlena J. in Adaptation of the Servqual Method for Testing the Quality of Passenger Air Services talks about an attempt to adapt the Servqual Method to study the quality attributes of passenger air services. This market is witnessing a growing dynamic of competition intensity and a distinctive trend consisting of focusing on improving the quality of the most important determinants in basic areas of this business [4]. Payment Monitoring as a Leading Issue in the Operation of Transport Companies in Poland by Roman K. dealt with the main problems of the carriers is the difficulty in obtaining payment for the provided services. The purpose of this article is to assess the scale of the debt recovery problem in Polish transport companies. The publication characterizes the main reasons for the occurrence of delays in payments and describes the most effective methods of debt recovery [5]. Kuptcova et. al in Data Mining Workspace as

an Optimization Prediction Technique for Solving Transport Problems discusses the study related to forecasting with an actual highspeed decision making under careful modeling of time series data. The study uses data-mining modeling for algorithmic optimization of transport goals [6]. Neves, PM et. al in Travel Kit Organiser for Carry on Luggage Design: Contribution to Traveller's Comfort talks about the project which is mainly empirical (active research), supported by a literature review, and online survey. It is intended to create a travel kit that simplifies usability, organization and carry-on luggage transport [7]. International Air Transport of Passengers and Luggage from Tourist Industry Perspective and the Rights of Tourists by Dumitru I. dealt with tourism sector represents for many countries one of the engines of economic growth and the interdependence between tourism and transport branch, especially that of the transport of passengers and luggage, is more than obvious. For this reason, at the international level a greater need to develop more uniform legal regulations was felt in recent decades, along with the exponential growth of the number of tourists [8]. Wong EYC. et. al in the article The Development of Reusable Luggage Tag with the Internet of Things for Mobile Tracking and Environmental Sustainability talks about more than two billion passengers worldwide traveling by air each year, vast amounts of lost luggage and disposable paper adhesive luggage tags are pushing the aviation industry to improve luggage tracking and reduce the one-off adhesive luggage paper tags. This paper reviews the current application of Radio Frequency Identification (RFID) in the luggage handling system and proposes the Internet of Things' (IoT) development of the reusable luggage tag to facilitate aviation luggage handling, the tracking process, and environmental conservation [9]. Keselova M. et. al in Risk and opportunities in the process of flight delay dealt with flight delays as a represent problem in everyday air traffic practice. The impact of flight delay can be a risk, and this risk represents financial losses, the dissatisfaction of passengers, time losses, loss of reputation and bad business relations. If an airline doesn't deal with this problem immediately, it will cause other problems. The flight delay causes the main aim of our article, the baggage delay or any other reason belongs to our topic [10].

## ANALYSIS AND STATISTICS OF LOST AND FOUND DEPARTMENT AT KOŠICE AIRPORT

WorldTracer® provides airlines and ground handlers with a simple, global solution for reporting and tracing lost baggage. WorldTracer® can help reduce costs, simplify your systems and procedures, and improve the passenger experience [11].

- With WorldTracer® you can:
- Repatriate lost bags faster and more efficiently,
- Provide a more personalized service for your customers,
- Reduce the cost of managing multiple in-house systems,
- Meet all IATA mandated baggage tracing requirements,
- Significantly lower training costs and capital expenditure [11].

WorldTracer® offers a range of modules that delivers unparalleled tracing, management, and claims processing capabilities. The new WorldTracer® Baggage Delivery Service provides a fully-automated end-to-end solution for the speedy

delivery of delayed or mishandled bags. With sophisticated reporting tools and real-time tracking, couriers and airlines can repatriate bags to a passenger's home or hotel quickly and efficiently [11].

WorldTracer®, developed in cooperation with IATA, reduces baggage repatriation costs by matching baggage faster and at a lower usage-basis cost. That's why more than 500 airlines and ground handlers at over 2,800 airports use it [11].

## Methodology and Data Collection

Each case at Kosice Airport at Lost and Found Department is registered under a specific serial number or case number. The case number is composed of the IATA airport code, airline code, and the generated number from the World Tracer system. An example of lost luggage at Kosice Airport by Austrian Airlines under the designation KSCOS000001. The case is registered at the airport under the serial number. Based on these records data were collected for the evaluation of the article statistics for the year 2017, 2018 and 2019. Graphs for the AHL, DPR and OHD cases were prepared for each year in question and linked to the resulting summary graph. All cases belong to all airlines represented at the Kosice airport throughout the years from 2017 to 2019.

## Statistics of Lost and Found Department for the year 2017

The first discussed part will be luggage that didn't come to the KSC and becomes a case of delayed luggage at Kosice Airport. Airport staff will create a case in the system with basic information and the system starts to pair the information with other airports. If a certain acceptable percentage is found the baggage will be sent to the regular airport. The best match is the Tag Match where the AHL bag tag number matches the OHD from another airport. For 2017, Austrian Airlines (467), LOT Polish Airlines (330) and Czech Airlines/SmartWings (272) had the largest number of cases at Kosice Airport. Smaller cases were reported by Turkish Airlines (83), Wizz Air (64), and Charter flights (48). All these cases are shown in Figure 1. It should be noted that delayed baggage which arrives at Kosice Airport will be delivered to the passenger in a short time by a courier company that provides baggage transport, and is contracted with Kosice Airport.

The second common case shown in Figure 2 is damaged baggage upon arrival at the final airport under the designation DPR. Damaged luggage is subject to a damage report where it's really important to provide facts about the age of the suitcase and its price at the time of purchase. According to airline instructions passengers must go through several steps during luggage repair processes or apply for a refund if the luggage cannot be repaired. The most damaged luggage cases in the year 2017 were for Charter flights (207) from several airlines operating holiday flights from Kosice Airport. Wizz Air as a low-cost company recorded 83 cases in the selected year. Traditional airlines such as Austrian Airlines with 75 and Turkish Airlines with 62 cases followed. The last two places belong to LOT Polish Airlines with 24 and Czech Airlines/SmartWings with 23 cases.

### AHL 2017

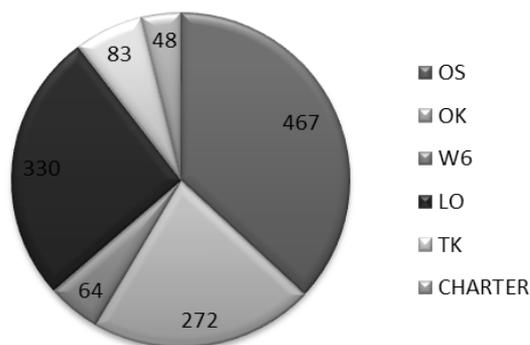


Fig. 1. AHL files for year 2017

### DPR 2017

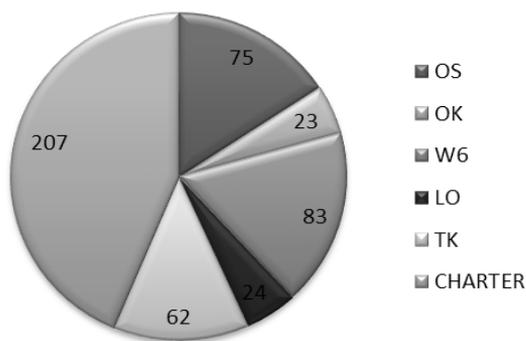
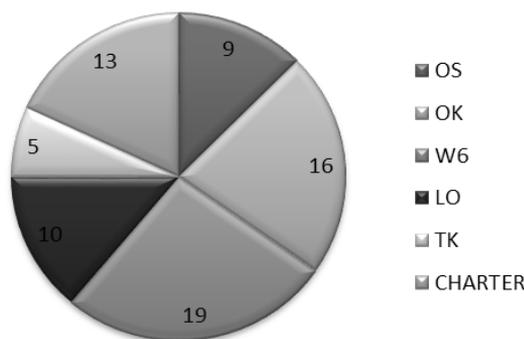


Fig. 2. DPR files for year 2017

The third case shown in Figure 3 is the baggage that was sent to the airport other than the airport of the scheduled arrival. The most common case is misrouted bags that were sent from the airport of departure or transfer to a completely different airport than the passengers. When Airport staff records baggage with a destination other than the KSC it records the case to the system and the airport looking for this case with correct input data will request the baggage from Kosice. Upon request the airport staff with the nearest departure will send it to a pre-agreed destination. The case of OHD shall also be classified as baggage that has been forgotten by passengers at the arrival terminal with the correct destination.

### OHD 2017



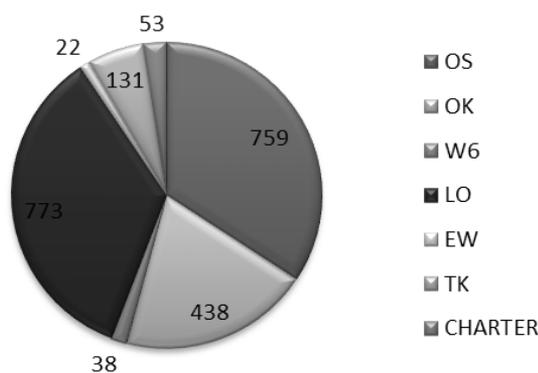
**Fig. 3.** OHD files for year 2017

Wizz Air (19), Czech Airlines/SmartWings (16), Charter flights (13), Lot Polish Airlines (10), and Austrian Airlines (9) had the largest presence of loading the wrong luggage. At least five cases were recorded by Turkish Airlines this year.

### Statistics of Lost and Found Department for the year 2018

In 2018 LOT Polish Airlines (773), Austrian Airlines (759), and Czech Airlines/SmartWings (438) have most cases of missing baggage statistics. Other companies have smaller figures in this analysis starting with Turkish Airlines (131), Charter flights (53), Wizz Air (38), and Eurowings (22). All these data are shown in Figure 4.

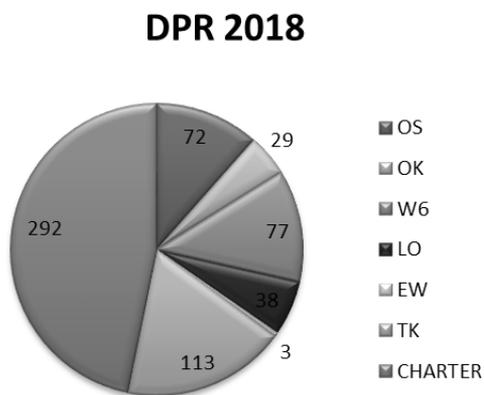
### AHL 2018



**Fig. 4.** AHL files for year 2018

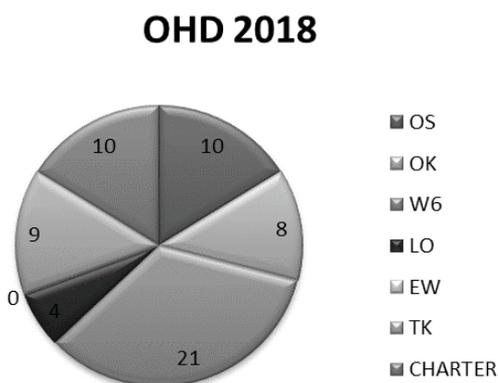
In the case of damaged luggage most cases are attributed to Charter flights valued at 292 cases for the year 2018. Of the other companies most cases are presented by Turkish Airlines (113), Wizz Air (77) and Austrian Airlines (72). LOT Polish Airlines

(38) and Czech Airlines/SmartWings (29) recorded acceptable numbers for the number of flights. Eurowings has seen the greatest success, and reliability with only three cases of damaged luggage upon delivery to the passenger. This analysis is shown in Figure 5.



**Fig. 5.** DPR files for year 2018

Figure 6 deals with OHD cases wherein 2018 the largest number was recorded by Wizz Air with 21 cases. Austrian Airlines and Charter flights had both 10 cases.

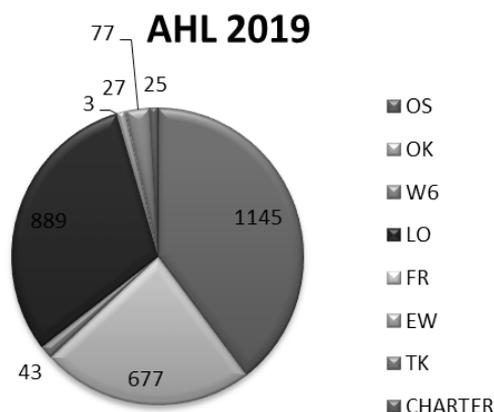


**Fig. 6.** OHD files for year 2018

Turkish Airlines (9), Czech Airlines/SmartWings (8) and LOT Polish Airlines (4) had a certain percentage represented in OHD cases. Eurowings recorded zero cases for the year 2018.

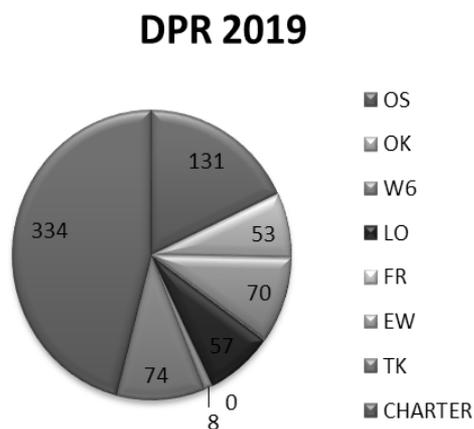
## Statistics of Lost and Found Department for the year 2019

In the year 2019 in cases of delayed baggage the analysis of which is shown in Figure 7 the largest figures were recorded by Austrian Airlines (1145), LOT Polish Airlines (889), and Czech Airlines/SmartWings (677). Smaller values include Turkish Airlines (77), Wizz Air (43), Eurowings (27), Charter flights (25), and Ryanair (3).



**Fig. 7.** AHL files for year 2019

In the case of damaged luggage as is shown in Figure 8 most cases were reported for Charter flights with 334 cases. Other cases include Austrian Airlines (131), Turkish Airlines (74), Wizz Air (70), LOT Polish Airlines (57), Czech Airlines/SmartWings (53), and Eurowings (8). No case of damaged luggage was reported for Ryanair flights.



**Fig. 8.** DPR files for year 2019

In the cases of OHD shown in Figure 9 for the year 2019 Kosice Airport recorded the highest number of cases for Austrian Airlines with 15 cases. Second company with fewer cases is Wizzair with 13 cases out of 13.

Other companies recorded single-digit numbers such as Charter flights (6), Czech Airlines/SmartWings and Turkish Airlines (5), LOT Polish Airlines (4), and one case for Ryanair. No case of OHD in the analysis belongs to Eurowings.

## OHD 2019

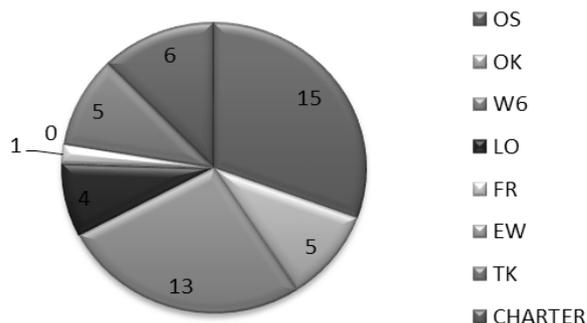


Fig. 9. OHD files for year 2019

## DISCUSSION

As can be seen from the Summary chart in Figure 10 the most common cases are cases of delayed baggage which reached 1264 in 2017, 2214 in 2018, and 2886 in 2019. The increasing number of cases of delayed baggage from year to year is also affected by the number of airlines that also increased from year to year. Another factor is the number of transported passengers which increase from year to year at Kosice Airport. The lowest values were reached in the OHD cases which were in the dozens of cases in presented years of analysis.

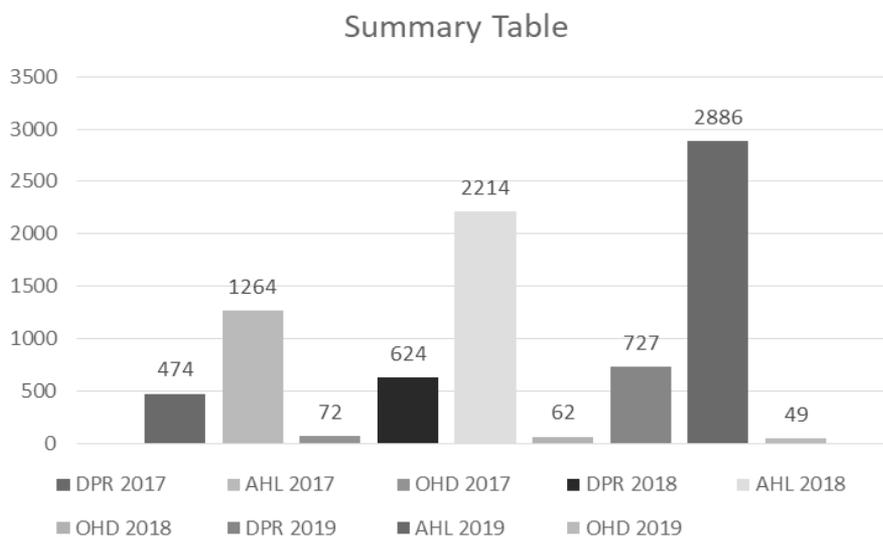


Fig. 10. Summary table for presented years

In the cases of DPR and OHD the numbers are negligible compared to the total number of passengers carried in chosen years. We presented cases of lost luggage to the total number of passengers carried. In 2017 Kosice Airport carried 496,708 passengers and 0.3% of passengers lost their luggage i.e. 1,264 cases.

In 2018 airport carried out 542,026 passengers and 0.4% of them lost 2,214 luggage. The year 2019 brought 2,886 cases of luggage loss which is 0.5% of the total number of transported passengers worth 558,064. These data show a direct proportion of the more passengers the greater the number of cases of delayed luggage. Kosice Airport is a small international airport that carries about half a million passengers and therefore the numbers don't reach the large percentage of delayed luggage.

Given the number of passengers carried in total these percentages are negligible. In 2018 IATA issued a report recalculated worldwide from 2007 to 2017. In 2007 a total of 2.48 billion passengers were carried 46.9 million pieces of luggage were lost and 18.88 pieces of luggage per 1,000 passengers. From 2007 to 2017 passengers transported growth by 64% to 4.08 billion passengers. The number of lost luggage fell to 51.5% to 22.7 million pieces of luggage lost and 5.57 lost luggage per 1,000 passengers. [12]

## CONCLUSION

The main goal of this article was to present a case analysis for the last three years for all airlines represented at Košice Airport, which focuses on the three most common cases, namely AHL (delayed bag), DPR (damaged bag) and OHD (handbag). A brief description of the world-wide web-based luggage tracing interface was briefly discussed and the cooperation between airports and airlines involved in World Tracer was addressed. The main core was the elaboration of analyzes of Kosice airport in the last three years, and overall statistics of cases of delayed baggage, damaged baggage and baggage sent to another destination or forgotten at the airport by passengers. After partial analyzes we created a summary chart which showed us the fact that most cases of Airport Kosice Lost and Found Department and most likely even larger airports are cases of delayed baggage. We can say that world hubs such as Vienna, Warsaw, Prague, Istanbul, and others are very likely to have much more of these cases. The main reason is the passenger transfers with short connection flights in the case of a small delay the aircraft will wait for passenger but they will not be able to reload the luggage for this flight. In this case the Lost and Found Department will automatically start to solve this problem. An OHD case occurs at the transfer airport and AHL case occurs at the final destination airport followed by the procedures described in this study.

It can be stated that the carriers or the airports can't always guarantee the transfer of luggage nor will the passenger influence this fact. In the case of short transfers whether it's 15, 20, or 40 minutes if the previous flight has delayed the aircraft in the transfer destination is waiting only for the passenger and thus his luggage will be left at the airport. One of the practical recommendations is to configure the passenger's flights with a minimum transfer of 40 minutes to avoid possible delays and lack of time to transfer passenger's luggage from short connection flights.

The most common cause of delayed luggage is the delay of connection flights in combination with a short transfer. In some cases there is also a case of forced unloading of luggage due to weight, and balance procedures, seized luggage during the transport of firearms, and others handling cases.

At Kosice Airport it's a rare case for airport staff to fail if a passenger starts his journey at Kosice Airport. Good coordination, responsibility and prudence of employees in combination with aimed training is a great advantage especially at small international airports. For large airports also known as airport hubs advanced technology comes first such as automatic baggage sorting by destinations, Baggage Reconciliation Systems (BRS), employee synchronization, airport department collaboration and more factors.

In the case of damaged luggage, the passenger doesn't choose an employee who handles their luggage, and must therefore accept some level of possible damage. Factors such as employee stress, lack of time, insufficient job evaluation are factors why employees handle luggage in some cases inattentively. Airlines take this fact into account and try to fully satisfy the passenger either by financial compensation in the price of his suitcase or by its subsequent repair at the expense of the airline's budget.

„This work was supported by the Slovak Research and Development Agency under the Contract no. PP-COVID-20-0002“.

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## Introduction on time flow patterns, retrocausality, and meta-reality

### Summary

This short argument paper elaborates the argument of retrocausality in human cultural-civilizational continuum based on the concept of bidirectional time flow. The aim of paper is to suggest an evolutionary possibility for humankind by introducing new perceptions of reality via reconsidering temporal flows in cultural timeline. The first chapter presents the bidirectional time flow idea and explains it. The second chapter presents and explains the theoretical scheme of retrocausality, demonstrating the total singularity – the noosphere – as the final perceived stage in cultural-civilizational human development as the super-set to current linear time-based human existence, which could transparently perceive and manipulate both directions of temporal flows of our lived continuum. The conclusion is made that retrocausality is possible due perception model allowing to grasp the past and the future as open sequences within given temporal and spatial boundaries.

**Keywords:** metaphysics, retrocausality, meta-reality, singularity.

### INTRODUCTION

The paper aims to introduce short argumentation of bidirectional time flow (two separate timelines sharing same subject, objects and entities) and possible retrocausality in realm of human cultural-civilizational continuum. The basics of our reasoning rely on myth studies that champion the possibility for human kind to achieve the realm that is meta-reality or a super-set to our lived and experienced reality (Weinreib 2015; Eliade 1963). We also regard the Paul Ricoeur (1983, 1984, 1985) and Aurelius Augustine (2004) reasoning that describes temporal structures as potent to flashes of singularity via their relation to the narratives of reality.

We reason that meta-reality does exist. By meta-reality we express a reality perceived in a metaphysical terms. Immanuel Kant (1997) in his metaphysics offered that

intellect gives a shape and structure to nature, by first (a priori) shaping its (intellect's) patterns of reasoning and making predicates for boundaries within the nature is being perceived and therefore constituted. Kant later concludes that reason is incapable to read *Dingen an sich selbst* therefore it only reads aspects of how *noumena* emanates self into variety of phenomenons. We extend this by claiming that if mind, somehow, could become perfect in the sense that it could be capable of pure reasoning of ontic shapes that are beyond the World of sensations, so then a twofold structure would have occurred and affected reality. First thing is that perfect intellect, the one that reads ontic reality without any marks of empirical World, could shape empirical World into much more, say, perfect form of ontological entities. Moreover, the ontic reality which would contain that above mentioned ontic reasoning, would act as meta-reality to our ontological reality. We are about to introduce a temporal aspect of this kind of metaphysical reality where laws of nature is being broken, or more precise, being extended by possible pure reasoning. For this to be feasible we rely on latest inquiry performed by Dmitriy Podolskiy (et al 2021) that suggested observator's impact upon the shape of physical reality is substantial not only on  $D(1+1)$  but it effects either a global scale reality at  $D(3+1)$ .

Therefore, if meta-reality (how it exist we reveal by description of shape of that meta-reality itself) exists (as one opts to observe the current reality as subset of meta-reality) we can draw more detailed and comprehensive picture of our World, if we position ourselves as observing us from that meta-reality which requires to depict 'our World' as finite subset to the meta-reality<sup>1</sup>. Thus we propose that the very global structure that we are capable to interact with in the future can be expressed as this:

$H(asc) \supset H(temp)$ , where  $H(temp)$  is finite in terms of time and space

Thus  $H(asc)$  means humanity ascended (dwelling or dwelled in meta-reality and knowing *Dingen an sich selbst*) and  $H(temp)$  stands for humanity that is superimposed by linearity of time, to be precise – us, that only reason within boundaries of ontological entities. The ascension by transcending the temporal reality is concluded as evolutionary turn of humanity as a species and, to some limitations, can be selected consciously by humanity itself (Fuller 2011; Ekstig 2016; Steward 2018).

We will depict  $H(temp)$  as spacetime tunnel that might be fully transparent to  $H(asc)$ . The tunnel is theoretically perceived as the finite set with two beginnings and two ends, where every beginning coincides with an opposite end (figure 1., figure 2). It is so due to two entropies we observe in cultural and civilizational realm of humanity.

## CONCEPT OF TWO TIMELINES IN HUMAN CULTURE AND CIVILIZATION

Assume that there are 3 interwoven variables that describe time and help place the events, that occur in cultural timeline, in space. Let first variable be  $x$  that stands for cultural charge or amount of cultural unit in every artefact, every object or event. Let  $y$  be merely utilitarian aspect of those artefacts, things, objects or events that

<sup>1</sup> We rely here on basics of set theory by Georg Cantor. Subset here is always finite to its superset and superset knows every aspect of its subset. It correlates with Kantian notion on reason limits to understand noumenal World.

happen in the cultural-civilizational historic continuum. Y's can co-exist with x entity or could also supplant x charge in every object, event or entity that occur. Finally, assume z to be spatial unit across the Globe (z it is what is filled to some ratio by xs and ys).

It needs to be noticed that all of those entities are abstract ones but have logical background and can be drawn out of reality. Assume Lucy<sup>2</sup> to be the first human person. According to myth studies and theories, what describes her to be a human person it is her ability to take the Thing out of nature and to create discrete realm of human made things.

So the first artefact she used (not as God's given and nature's provided gift) to achieve her daily goals was fully charged culturally since she was the one that actually created the thing and made it to be genotype of all things that will be occurred later in reality (y's the things that are phenotypic emanation of x, since y's are not culturally charged due they redundancy and variety in terms of quantity).

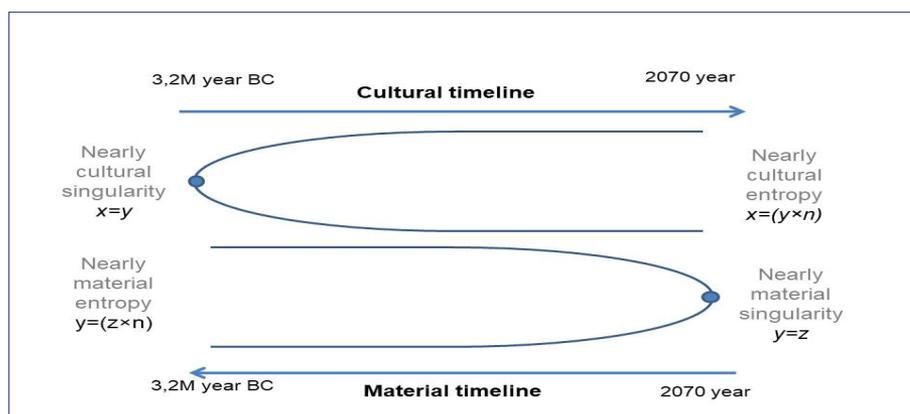
To be more precise, many theories would conclude the objects that were made by primitive people were holy and scared to them (Levi-Strauss 1966) and were not only the tools that helped to perform some utilitarian action. They rather were bridges and connections to tacit meta-realities such as gods, spirits and overall of mythic realm. To perform any task was meant first of all to mimic the activities of deities (Vyčinas 2009).

Hence we can conclude that at the beginning of culture with Lucy's intended action the stuff that was possessed by human persons was culturally charged due to the intention to sanctify the existence. This means x was equal to y, which means that every material object was cultural in the nutshell. This equation also means that the same object, entity or thing contains x and y values altogether equal in every term. This equality we can call something similar or partial to *Dinge ans sich selbst*<sup>3</sup>.

And yet prehistoric and later primitive tribes of hunters and gatherers often suffered shortages of things. So even  $x=y$ , but these were very dispersed in the field of z. But what we know is that history has proven that these things gave a boom to civilization which allow human persons currently to have abundance of things, objects and entities.

Now let us focus on the contemporary civilized Globe. We stuffed the World with things and nearly everything on Earth is affected by human made artefacts. Briefly we can conclude that we have the situation where  $y=z$ , but within every y there are just infinitesimally small amount of culture left<sup>4</sup>. It is so due the effortless availability to consumption of things. When the AI will take over many processes – the decision making in general – we will face the cultural entropy, where every unit of z will be filled with y value, but will barely possess value of x.

- 
- 2 Lucy here is an abstract inceptor of the cultural timeline (see figure 1) rather than a representative of historical truth. The date 3.2 million BC is used in the figures to depict the hypothetical inception of cultural time and yet the entropy of material timeline.
  - 3 It recalls some qualities of a quantum superposition where the most sacred realm is simultaneously the most profane realm and the same time, space and spacetime.
  - 4 It is so due the preassumption that every object is wordly and discursively grounded rather than metaphysically granted to humans by some transcendant beings.



**Fig. 1.** Bidirectional time flow. Above we observe so called 'cultural timeline' since the culture incept itself decay in favour of purely material substance to occupy the whole region of  $z$ . Below we observe 'material timeline' since it launches decay of itself and at the end of entropy is scattered and nearly extinct in favour to (nearly) singularity of cultural substance to occur.

Now look at the figure 1. Here the very basics of the thermodynamics and its implication to temporal perception are applied. By following this simple methodology we notice two bidirectional entropies. Above we see so called cultural singularity  $x=y$ , which is, to the same extent, a big bang of culture<sup>5</sup>. Along with the stuff ( $y$ ) filling in the space ( $z$ ) the cultural charge gradually decreases<sup>6</sup> and comes to nearly nonbeing (Buber 1998). Thus the so called cultural big bang dilates consuming  $x$ s in favour of quantity of  $y$ s within  $z$ .

But the most important of this inquire is the dilation of time showed below in the picture. Hence we suggest that high end human – computer interaction would be the point of consumed culture, or cultural entropy. But if to start off from the point of technological singularity ( $y=z$ , we suggest, hypothetically it will occur in 2070 AD) indeed we observe time flowing backwards if compared to the cultural timeline that we, the humanity, are able to experience. From here, perfect material substance –  $y$  which contains every graspable unit in  $z$  dilates into entropy in favour of fulfilled ration of  $x$  in every  $y$ .

Tech singularity and cultural singularity are constantly dilating opposite direction one to another, where cultural charge predeterminates the world that is redundant with stuff. Meanwhile and quality and quantity of things (spread of  $y$ 's within  $z$  and being one and same entity altogether) is a predicate to achieve cultural singularity at the other end of spacetime. Simply speaking, the nearly technological singularity causes culture as such to exist backwards if we looked at the spacetime from our perspective.

5 M. Eliade described every ritual as an attempt to consecrate the being. To consecrate means to get back to the beginning of time or moment of creation of World.

6 Here we can rely on insightful notice of M. Buber philosophy. Buber concluded that every cultural epoch starts with purity of idea but no physical expressions of it. It ends up with abundance of artificial representation of that cultural idea but idea itself has been consumed to non-being.

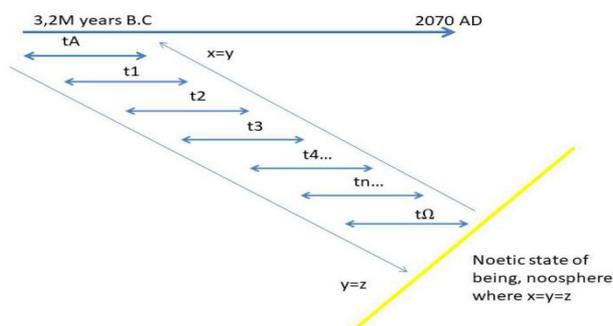
However, we do not observe time flowing backwards. Instead we observe two timelines, which are mutually opposite and share the same space. We perceive time flowing from  $x=y$  to  $y=z$  therefore we are not able to reason the laws of nature in more complete way.

## ASSUMPTION TO RETROCAUSALITY

By introducing threefold structure of time dilation and contraction we avoided problematics of free will and observer's judgement of what causes what. I. Kant summoned that cause and consequence relation was logically denied by Hume claiming that if one event happened before the other one it does not make the former to determinate the latter. The psychological background may relate the two rather than exact cause-consequence law (Kant 1997).

However, how do we know that history which is written in books or chronicles are real in our time? Indeed we are not able to answer whether our actions today are echoing in the any of past centuries of our history.

But we assume it does. Moreover, if we are not able to observe what kind of impact our actions do have for long future it still does not mean that we do not influence sequence of events at all. Georg Gadamer summoned that long past affects long future more or less directly (Rossi 2002); however, the impact maker does not know and does not observe the impact she or he did<sup>7</sup>.



**Fig. 2.** Cultural spacetime tunnel from the perspective of noosphere (meta-reality). T's within tunnel stand for discrete cultural-civilizational epochs of humanity. There are also two-sided arrows (t's that present every different cultural era of cultural temporal tunnel) and reassemble the concept of quantum foam described by J. A. Wheeler. Our hypothesis suggests that noetic presence of humanity (H(asc)) perceives historic time as tunnel and within it can freely move due its transparent vision to the tunnel. Noetic realm is orthogonal to our lived space of experience therefore it can see through it. Every t is a direct attempt to reach noetic realm however due development of thought and pure reason into artifacts it also distances self from noospace. Every t stands for discrete cultural epochs that are both – representing field of two entropies as it is claimed in Buber and are also

<sup>7</sup> Here we can remember Baruch's Spinoza reasoning of 20 men existence in nature (Nachtomy 2011).

finite structures in terms of temporal point of view<sup>8</sup>. Last but not least, this dilation from idea or initial thought ( $x=y$ ) into filling in the space with artefacts derived from that initial thought is necessary. Due the dilation, which is also a contraction from the perspective of ( $y=z$ ), we come to see the fulfilled and intuitive dimension of that initial thought.

Take a look at the figure 2. Assume that in the year 2070 the Globe will put self into technological singularity state, which means that  $y=z$ , but  $x$  is scattered among previous variables<sup>9</sup>. That is exactly the opposite what we observe at the inception of cultural singularity spun by Lucy. Thus the whole timeline in our concept of cultural-civilizational human development happens to be finite. Nevertheless it is constantly fluctuating from one end to the other. Hence the separate epochs that we see inside the tunnel ( $t$ 's as cultural epochs that scope from  $t_A$  (Lucy's epoch) until  $t_\Omega$  (technological singularity)) are also bidirectional since cultural epochs operate at the same entropic principles as the big picture.

However, both ends are only partially singular but not the fulfilled singularity<sup>10</sup>. Total singularity would be  $x=y=z$ , which would mean qualitative evolutionary turn of humanity and probably the Globe itself to the noosphere (Teilhard de Chardin 1959). It is important to emphasize that our continuum-wised and linearity based timeline now exists as a sub-set of nous-based reality.

Here is the room for retrocausality to arise. Indeed if there are two entropic lines and even if they are mutually opposite to each one it does not make them capable to be retrocausal. Actually, what has happened in one time arrow – it happened. However the tunnel enables the imagined noospheric entity to perceive time (or to be precise – times) as more complex space in which events gradually occur. For us,  $H$  (temp), the tunnel is finite in terms of what has happened and only the future is open<sup>11</sup>. Therefore the complete tunnel and its both timelines are finite in terms of what has actually happened. Hence, the tunnel, as sub-set, is not only perceived as content of what has actually occurred in particular point of time and space of that tunnel. It is capable to reach permeability that allows to noosphere to observe the tunnel as variety of events that not only have happened but it regards those events what could have logically happened. Simply saying if pure reason would think of any event that is being occurred within the tunnel in given point time and space and by reasoning it would change it,

8 The latter issue might deserve individual scientific approach. Off course every cultural epoch is not exactly finite since it has its roots usually somewhere deep in the past (or future?). However every  $t$  (epoch) still has its boundaries in terms of general idea (say  $x=y$  in the microlevel) and artefacts based fulfilment in space ( $y=z$ ). Here the matter consumes idea to develop artefacts of that epoch. And then we start new epoch with new idea to begin with. However, when epoch reaches its peak in terms of its generated artefacts in quantity/quality it immedately gives more clear understand of idea itself, thus to say – we have same kind of entropy that flow opposite way as we observe in the big picture.

9 The date has been selected conceptually regarding to an increasing computational capacities. To point the exact spot of end of future time helps to better imagine the beginning of material big bang that initiates time to go backwards to what we are used to now.

10 We stated that equation where  $x=y$  is a partly *Dinge an sich selbst*. Here we can say, relying on Heidegger, that this aspect of partly being *Dinge an sich selbst* is always *noch nicht jetzt* until subset is not being perceived from the perspective of its superset.

11 Future is open, but partially. Even the deep past also affects the far future even though cause and consequence do not connect ingenuously. Therefore, for the very instant moment of the present we may seem to act totally freely; however, we still are depended on the forces of determinism we cannot reject

it probably would change overall network of the whole tunnel. Simply saying if every action in our lived continuum a result of choice of 0's or 1's (Wheeler 1990) and once we have selected 1, we cannot go backwards and reselect 0 instead. But for super-set of our reality it is possible since subset is totally transparent to its superset.

To that extent we widen the boundaries of reality to those limits that reality, when observed in the extentionalist manner, is the cause of self-evolutional turn<sup>12</sup>. Thus by knowing the tunnel totally transparent the noosphere can constantly check on every possible scenario within it. Thus retrocausality is persuadable.

The figure 2 basically shows that the super-set to what we are now exists and exists in that manner that it can transparently perceive and manipulate both directions of temporal flows of our lived continuum.

## FINAL THOUGHTS

We excogitated that the year 2070 that would conclude the Omega temporal epoch. It is off course a conceptual boundary as it is Lucy's age and age of conscious cultural actions. The shown concept is purely theoretic. However most likely the cultural spacetime of humanity both as a species is finite in terms of time and it will either end up with extinction or evolution/change/ascend.

We suggested that our lived history is subset to what is the human evolution (that yet is beyond event horizon) and we had expressed the equation as  $H(\text{asc}) \supset H(\text{temp})$ . But after we cross the event horizon and will connect between x, y and z we are going to have:

*$H(\text{asc}) \supseteq H[tA \leftarrow \infty \rightarrow t\Omega]$ , where there are infinity (from our perspective) variations between  $tA$  and  $t\Omega$ .*

$H(\text{asc})$  here is singular and  $H[tA \leftarrow \infty \rightarrow t\Omega]$  is continuous and depends upon temporality but it and every part of it are able to perceive self as an entity that does not depend upon one and objective version of time and sequence to events.

Mark Currie (2007) concluded that temporality is essential to being. By introducing the novel named Time's Arrow by Martin Amis, where events are being told backwards, Currie suggests that reverse time and positive time must share the same signifiers (objects, events those that we made an abstract entities). Regarding that situation he concludes that backwards time contradicts with overall narrative structure and, therefore, it could not be grasped clearly.

We extend this issue by suggesting that time is not based on narrative that is expressed by language. We suggest that time in cultural-civilizational spacetime is directive of abstract entities, whose alteration patterns make different flows of time possible. Thus we do not imply that there is backwards time or negative entropy. Instead we claim that there exist different temporal arrows flowing in opposite ways through the

<sup>12</sup> We could also argue that in the very near future history will become a kind of data science that will be used as a tool for forecasting of various urban, economic or social futures. And the manipulation of choices and causes of past will make an important part in the forecasting of future

cultural-civilizational spacetime. And instead of language we only use letters or at least *the text without vowels* (The Torrah) which are more flexible to tell the story and contain as much as possible outcomes of the same initial events.

Finally the epoch starts with nearly singular state of concept as it 'begins'. However that other 'beginning' starts with fullness of artefacts that fill-in the space they are able to fill. If  $x=y$  dilates and gives birth to  $y$  to fill all the space –  $z$ , then also the  $z=y$  also gives clear understanding of what really  $x=y$  has meant to be. One could thing challenge my theory by striking on the premise that metaphysicall argument has ben drawn here from physical reality and therefore it can't be perceived as metaphysics. This might be partially true. However, I suggest that we are able to pure reasoning of ontic definitions and drag them out of reality simply because that the quintessence of reality is always a shadow of meta-reality.

Hence, for the cultural-civilizational spacetime that possesses two interdependent temporal arrows let us have meta-spacetime. However, meta-spacetime only exists within the reality of H(asc). And H(asc) exists, therefore, the H(temp) can think it out and most probably to ascend to it.<sup>13</sup> H(asc) is singularity to both H(temp) and  $H[tA \leftarrow \infty \rightarrow t\Omega]$ . For that being retrocausality is possible just as for H(temp) moving in space nowadays is effortless.

Anyway, the open question remains: how free and arbitrary does every  $t$ , that makes sidelong boundaries of tunnel, remain when H (asc) starts to use its capacities to bend the tunnel? Would the person be superimposed to always select between 1 and 0 to his favour or to the favour of community if those contradict to each other? Short answer to that would suggest that noetic meta-reality would probably create another level of self awareness even within the tunnel or to say subset that every  $t$  would still remain authentic yet the fulfilment would be always the best possible version. But this is for other paper to answer.

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<sup>13</sup> Here we rely on Ratio Anselmi structure of reasoning.

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## Social media and their risks in relation to adolescents

### Summary

Thanks to unprecedented technologies and applications, the media space is constantly expanding, social media is gaining ground in the lives of children and adolescents, and the discussion about the positives and potential risks associated with it is intensifying. Based on theoretical and research findings, the paper maps the use of social media in relation to adolescents and their mental health. At the same time, emphasis is placed on the justification of adequate orientation, critical approach, and critical appreciation of the offered media contents, with attention focused on the family and its potential in the given context.

**Key words:** social media, internet, mental health, growing up, family.

Health is undoubtedly a part of human self-actualization. It is also one of the key components of human potential of the society and the all-round development of personality. Health is the potential of an organism's ability to adapt, cope with and balance changing environmental demands. The potential of an organism is changing not only spontaneously, but it can be also deliberately increased through education, nutrition, training, which creates so-called positive health (Social Deviation, Sociology of Disease and Medicine, 1997, p. 29–30).

Health is usually ranked at the top of personal core values list. However, irresponsible attitudes, recklessness and inconsideration can lead to the health loss. Building and strengthening health is a lifelong process that has to be accompanied by discipline, patience, and effort. It is necessary to step out of the uniformity of life which is offering various neutralization techniques and excuses to justify why something cannot be done. Mental health is an integral part of health, defined by the World Health Organization (WHO) as a state of well-being in which an individual realizes his or

her own abilities, can cope with the normal stresses of life, can work productively and is able to contribute to his or her community.

The ability to think, feel, work, communicate effectively and build relationships with other people is significantly linked to mental health and well-being. On the one hand, the hyper-consumer society celebrates the ideal of abundance, harmony and inner balance and at the same time it is uncontrollable, it creates extremes, chaos and antithesis. Changes of values and approaches are taking their course and quality of life, spirituality and self-reflection get preference over maintenance and supply, writes Jakubovská-Waldnerová (2020, p. 39). In order to maintain mental health, the League for Mental Health recommends the following: building self-esteem, learning new things all the time, living in the present moment, carrying out creative activities, being able to ask for help and helping as much as possible where necessary. Mental health professionals are focusing on the topic of mental discomfort especially during a pandemic. Based on statistical data, 2/3 of people experienced mental health deterioration during the pandemic period, but only 1/3 of those who need the help actually look for it. The survey of the Slovak League for Mental Health shows that every 4th/5th Slovak and approximately ¼ inhabitants of Slovakia suffer from anxiety. Depressive disorders can occur in every period of human development, including childhood and adolescence.

As various studies have shown, we are witnessing an unprecedented increase in adolescent depression and the presence of depressive symptoms, not rarely resulting in suicidal behavior. Very often, these symptoms are attributed to the use of social media. This belief appears in the general public as well as in professional circles. This is justified by the fact that adolescents are more and more isolated from personal interaction, often face cyberbullying or various challenges associated with loss of self-esteem, humiliation, threats, etc. However, it cannot be unequivocally said that social media and the media in general have only a negative impact on mental health. It turns out that social networking sites can be a source of self-affirmation and can provide space for content that is positive, encouraging, and particularly beneficial for adolescents with depression. Many young people seek advice and support through social media. The definition of social media most often refers to platforms for building and maintaining social networks, and as Petrjánošová et al. (2020, p. 10–11) state, in Slovakia, when talking about social media, people refer mainly to Facebook and Instagram, while in the USA and many other countries Twitter plays a prominent role. Findings of the research reported by Orben and Przybylski (2019), reflecting the relationship between social media and depression, point out to fact, that the specification of variables capturing the use of digital technologies, adolescent well-being and confusion could potentially pose a risk for depression, however, this risk is immeasurable. Adolescence is a period of changes in social relationships and these changes can significantly affect the mental health and behavior of an individual in connection with the manifestations of depression. Depression, anxiety, and panic attacks are unfortunately becoming a common part of adolescence.

Mental problems and clinical depression are indeed a serious state. However, according to Kubíková (2019, p. 158–159), the answer to the question of how media and digital technologies are related to this, is not straightforward. We share her view that internet and computers are not the primary cause of depression, but they can

significantly contribute to its development. All relationships of an adolescent have some expression in the social media. Social media offer attitudes that adolescents adopt in relation to peers, parents, teachers, etc. However, the impact of social media use on adolescent's mental health cannot be underestimated. Equally important is the time spent on social media, as well as the content they receive through social media. In addition to the undeniable positives of the social media phenomenon, Máhrik (2011, p. 215) also draws attention to their dark side in connection with the emergence of addictions, when "a person loses freedom in decision-making, begins to behave irrationally, his proportionality of a healthy lifestyle is endangered."

The way we perceive the world around us is the result of receiving information from various sources. It is not only the information itself, as Máhrik (2018, p. 12) points out, but also the ability to critically reflect and interpret this information and include it in a valid system of acceptable "data" or reject it, because "man as a moral being has a responsibility that transcends his own existence." Much of our view of the world is based on media messages that have been conveyed to us. It is important to be aware of this perspective, as well as to understand that media influence our views, attitudes, assessment of reality and ideas about the world, writes Nutil (2018, p. 89). The media has become the dominant subject of our time and its effective spending. The media world symbolizes speed, dynamism, demandingness and literally information overload, which exposes a person's mental health and integrity to various media pressures and challenges. Every technology and every human creation are value neutral. Their value depends on how a person can use them. The same applies also to digital technologies and social media. As we have already mentioned, social media can have a negative impact on adolescents, but this is not always the case, in all circumstances. According to the National Institute of Mental Health, individuals who are internally unstable, already suffer from or are prone to some mental disorders are particularly vulnerable to potential negative impact of social media. Thus, a healthy, normally developed, and socialized individual should not be harmed under normal circumstances by the use of social media. Within the research of the mentioned institute, a significant percentage of mental disorders is related to the period of adolescence.

The period of adolescence is really a critical moment in the development of an individual and significantly affects his lifelong mindset. Actually, up to 25% of adolescents report some form of mental illness (Mir, Novas, Seymour, 2019). Considering the situation in our country, low care and low interest in mental health seem to be a problem, which we perceive as a problem of the whole population, not just a problem of adolescents. The interest in mental health usually begins when it is already too late, when a disorder appears, and a problem arises. Therefore, we can state that social media pose a very significant risk to the adolescent, but this risk is not automatic. The degree of risk depends on the way social media is used. Obviously, it is important, as we mentioned above, how much time an individual spends on social media, what his content focus is, what information he sends and receives, how he processes and uses the received information.

The Global Web Index conducted a study in 2018, which measured the time people, within the age range of 16 to 24, spend on social media. Research indicates that this is about 3 hours a day spent on social media. The results of the research presented in JAMA Psychiatry journal reveals that adolescents using social media for more

than 3 hours a day may be at higher risk of mental health problems. It is clear that adolescents are on the verge of endurance in terms of their mental health. Persistent and long-term overuse of social media can have a very serious impact on an entire generation (Global Web Index, 2018). The Royal Society for Public Health, together with the Young Health Movement, published a report in 2017 which looks at the positive and negative effects of social media on young people's health and well-being. In terms of their impact on the mental health of young people, YouTube topped the list as the most positive with Instagram and Snapchat at the bottom as the most harmful to the mental health and well-being of young people. The authors of the study declare that the rate of anxiety and depression in young people has increased by 70% in the last 25 years. The use of social media is directly linked to the increased incidence of depression, anxiety, and poor sleep. An interesting finding is reported by Petrjánošová et al. (2020, p. 21) that social networking platforms are used at least once a week by 51% of children aged 9-12 years old, although the age category of Facebook and Instagram users is 13 years old. In this context, concerns about the safety of children and young people on the Internet are automatically raised, while a clear trend of many online environments is indicated, in which rules do exist but are often not followed. Of course, the importance of media literacy, systematic education and building the media competencies of young internet users cannot be overlooked.

As we have already outlined, the positive effects of social media in relation to adolescents cannot be overlooked. We do not doubt the development of social skills, strengthening social relationships and communication, entertainment minimizing depression, etc. Social online networks satisfy the basic need for contact with our close contacts. We spend a lot of time talking and telling stories about anything and about people we know mostly through the media. In addition to this new possibility of contact representing a positive effect, Spitzer (2021, p. 117) also recalls the other side of the coin. According to him, the anonymity on the Internet causes less controlled reactions and, accordingly, we strive less for appropriate social behavior. Those who have already acquired their social competencies in common ways (face to face, offline) can hardly be harmed by social networks, because they use them similarly to telephone or e-mail, only a little easier and more superficially. However, those who have had few opportunities to develop social behavior and have made a large part of their contacts on the Internet in childhood or adolescence are likely to lag behind the desired state. As the cited author notes, the Internet is full of negative social contacts, including pretending to be someone else, fraud, lies, bullying, etc., so the loneliness and depression in young people caused by social networks is not surprising at all. This view can be certainly argued. In any case, we can influence the use of social media so that they do not represent a threat to the child, but a benefit, by focusing on education. Children and parents need to understand the overall impact of using social media. Especially when it comes to adolescents, they need to understand, above all, the risks that social media pose to their mental health. We must stress that the negligence of important educational elements in adolescence can have a negative effect on the rest of a person's life. Králik - Máhrik (2019, p. 8901) draw attention to the importance of educating adolescents in the field of critical thinking, which the authors present as a superstructure on the foundations of an organized and functional family. It is critical thinking that can be considered a factor that contributes to minimizing the negative impacts of broad-spectrum social media content on the inner world of a developing child and adolescent.

We need to realize that young people's activities on social networks largely reflect their lives in the physical world. Children move between different streams of social networks, build new relationships, strengthen existing ones, but also minimize existing relationships on social networks or end them completely. Whether it is online world or the real one, young people in both worlds encounter negative behaviors, regardless of whether this behavior is directed towards them or someone else. In this context, it can be stated that the social network represents a place where a child can get right responses to confrontation with negative behavior, violence, etc. However, it is also true that if the child is left to himself, if he is exposed to violence in the media, which is not regulated and no one protects the child, then he is still in serious danger. Media and social networks content can support the development of a young person's personality and identity, but can also lead to social deviance or mental disorders.

According to the study conducted by PEW Research in 2018, it turns out that every 6th adolescent has experienced at least one form of online abuse. Whether it's misuse of the name, spreading fake messages, receiving unsolicited and inappropriate images, tracking activities and whereabouts by someone other than the parent, confronting someone who poses a physical threat, sharing their images and photos without consent. According to Máhrík (2018b, p. 42–43), social media also raises the question of truth in connection with the formation of human personality – it is a question of whether we perceive truth as a commodity generated by different entities according to their partial interests or as existential truth in terms of cognitive path leading to knowledge and embracing objective reality. The urgency of critical thinking in terms of differentiating subjective and objective knowledge is indisputable here. As many as 90% of teenagers think that harassment through social networks is a problem for their generation, and 63% think that it is a serious problem. This research, which monitored the use of social media and other technologies by teenagers, offers other inspiring findings. E.g. only 24% of adolescents believe that social media has a generally negative impact, while 31% of respondents say that the effect of social media is positive and 45% of respondents cannot express whether the impact of social media is positive or negative, they agree that it all depends on how the media is used. Not surprisingly, only a small percentage of adolescents believe that the use of social media can lead to serious psychological problems that can affect a young person's life. This attitude can be attributed to the fact that there is little interest in mental health in general. Mental disorders and problems are often underestimated and downplayed, they are considered unimportant and are perceived as a temporary mental instability of a person, which passes over time or disappears in adulthood.

The risks associated with the use of social media and social networks are considerable. Praxis shows that the number of mental disorders directly caused by the use of social networks is growing within the current generation of adolescents. As far as the solution to this problem is concerned, the elimination of social media and networks is certainly not relevant. In their study, Tvrdoň - Králik - Máhrík (2021, p. 6619) justify the correlation between the helplessness of people against the pitfalls of social media and the philosophical problem of self-reference, which seems to be the dominant attribute of thinking of the current generation of active people who have 'an opinion' and 'can defend it' because they have 'their arguments' – "The problem of self-reference thus poses a serious challenge to contemporary epistemology, metaphysics and metaethics." The problem is that adolescents are able to believe in anything and

then defend anything against anyone. This creates an atmosphere of mistrust that paralyzes the formative dimension of the social entities of which adolescents are a part. Distrust, which paralyzes the ability of interpersonal cooperation must be treated and resolved only in the context of relationships again. A healthy family that creates a safe environment of unconditional love and relevant formative stimuli is therefore the community where we need to start working together for the mental health of the current generation of adolescents. The implementation of subjects such as philosophy, epistemology, logic, metaethics and metaphysics into the formal education curriculum in a relevant way must be seen as part of this societal effort for a positive face and shape of the value world of the current young generation.

Media and social networks become an irreplaceable part of our lives not only as a source of entertainment, but their use is evident, for example, also at work. As a relatively proven way of protection, we should focus on the upbringing of a child / young person and his purposeful preparation for entering the world of media and social networks. An important part of the child's upbringing takes place in the family, where the child's personality, his basic habits and value attitudes are formed. In this context, we consider family education and its potential with regard to media coverage to be key.

### Acknowledgement

This article was published with the support of the Slovak Research and Development Agency under the contract No. KEGA 032UKF-4/2021 Youth in Media Saturated Society.

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# Impact of the Covid-19 pandemic on major indices of the world's largest stock exchanges

## Summary

This text was written in May and June 2021. It contains an analysis of the impact of the Covid-19 pandemic on the main indices of the largest (capitalization) stock markets in the world, which is an introduction to more detailed research on the impact of the pandemic crisis on the economic situation of the world's largest corporations (listed on the largest stock exchanges) and their socio-political position. The conducted study, which covered a period of almost 3 years (32 months), shows that the Covid-19 pandemic did not harm the main indices of the largest stock markets, on the contrary, during the pandemic, the indices grew more than in the pre-pandemic period.

**Key words:** Covid-19 pandemic, stock exchange, largest stock markets, main indices, largest corporations.

## INTRODUCTION

The aim of this article is to partially confirm the thesis that events such as wars, pandemics or great natural disasters, commonly perceived as catastrophes, do not have to be unfavorable to large enterprises, on the contrary, may be an excellent opportunity for them to improve their financial results and to strengthen its dominant position. This text should also be treated as an introduction to more in-depth research on this interesting phenomenon, apparently simply economic, but also having a huge impact on the socio-political sphere. There is no doubt that the Covid-19 pandemic opens up wide research opportunities in this area.

Undoubtedly, this pandemic caused quite a stir in the global economy. For several months, we were flooded with information about multiple closings of economies of

individual countries, about huge financial losses of individual companies and entire industries, about financial aid for entrepreneurs from governments (read: taxpayers) or about large government and international programs to rebuild economies after the “destructive” pandemic. If one were to only watch the television news and believe it uncritically, he would have to conclude that one virus has caused an economic hecatomb in the world. But is it really so? Yes, many companies have suffered heavy losses as a result of government decisions to restrict various activities during the pandemic, but not all have suffered those losses. There were also companies that made a good profit on the pandemic, and it is not just about companies related to the medical industry, which would probably not surprise anyone during the pandemic. It is about very different sectors, which, thanks to the pandemic restrictions, have developed significantly, and therefore one could slightly maliciously ask whether they should financially support those industries that have lost because of the pandemic, or at least relieve the countries in this regard, that is, taxpayers around the world. We should remember that this state “aid” is associated with a gigantic overprint of money, the effects of which are not difficult to predict.

The division into industries that have lost and benefited from pandemic restrictions is one thing, but I am more interested in the division that is much more important from the point of view of the development of the economies of individual countries, as well as from the point of view of the democratic system and civil liberties. This is a division into large and small enterprises, i.e. large corporations on the one hand, and small and medium-sized companies on the other. These small and medium-sized enterprises are the engine of a healthy economy, the guarantor of real competition, which is the foundation of capitalism. Contrary to large corporations, which naturally seek oligopolization, and then monopolization, which of course kills competition and is very unfavorable to customers. It is also quite obvious that corporations have a huge advantage of capital over small and medium-sized companies, which results in other types of an economic (economies of scale), legal (the possibility of employing a multitude of lawyers and lobbyists) and political (greater influence on the decisions of politicians) advantages, sometimes obtained in an unethical and illegal manner. It also brings about serious social consequences, because great structures have this characteristic that they make their participants very dependent on each other. The state does the same through its institutions. The world today is heading in the direction of a situation in which the main employers will be large corporations and states, and this is a simple way to create societies composed of a narrowly quantified elite of power (state and corporate) and people dependent on this power, i.e. slightly veiled slaves. Of course, the striving of the ruling elite to dominate the rest of the people is nothing new in the history of mankind. Nevertheless, it must be remembered that the foundation of democracy is the middle class, that is people who are financially and institutionally independent, who are able to make free political choices. Moreover, the foundation of the middle class are small and medium-sized entrepreneurs.

The long-term impact of the Covid-19 pandemic on the global economy, including large corporations and global stock markets, has obviously not been thoroughly investigated so far. We can even speak of an almost virgin research area, although, of course, some attempts at short-term assessments have already taken place, both by Polish authors (e.g. WEI 2021, Buszko, Orzeszko, Stawarz 2021) and foreign (e.g. Bahrini, Filfilan 2020, Khatatbeh, Bani Hani, Abu-Alfoul 2020, Kusumahadi,

Permana 2021, Singh, Shaik 2021). However, there is still a long way to go to fully investigate the impact of the Covid-19 pandemic on the global economy, including large corporations. Nevertheless, it is worth taking this journey.

### Methods

There is no need to convince anyone that small and medium-sized entrepreneurs, especially those from industries most affected by pandemic restrictions, have suffered serious losses. This is the way it is, that the biggest economic crises affect the smallest the most, which is obvious, because the smaller ones have fewer instruments to effectively defend themselves against the crisis. However, I am more interested in the larger ones, i.e. large corporations, some of which are state-owned companies. So let's see how the pandemic has "hit" these large companies. And where to look for them? Of course, on the world's largest stock exchanges, where their shares are listed. The problem that I outlined above requires a multidimensional, interdisciplinary analysis, but its starting point may be the examination of the impact of the Covid-19 pandemic on the main indices of the largest stock exchanges in the world. The picture that will emerge from this research will be general in nature, but it will still allow quite important conclusions to be drawn. Of course, the level of stock indices is influenced by many macroeconomic factors, such as interest rates, money supply, inflation and inflation expectations, industrial production, exchange rates, etc. (e.g. Wiśniewski 2014), but it is also influenced by unexpected events, the so-called black swans, which include the Covid-19 pandemic. These kinds of events have a big impact on the economy, but not necessarily what you might think.

I examined the main indices of the world's largest stock exchanges during the Covid-19 pandemic (16 months) and comparatively in the same period before the pandemic, which in total gives a research perspective of almost 3 years (32 months), which can be considered a long-term one. I assumed February 2020 as the beginning of the pandemic, when the virus spread throughout China and has already begun to reach other countries, quickly spreading to almost the entire world. In February and March, there were also crashes on the world stock exchanges just right in connection with the information about the Covid-19 pandemic. In March, far-reaching restrictions on running a business were already in force in many countries. Thus, I assumed January 2020 as the last month without a pandemic. Alternatively, one could consider November or December 2019 (when the Covid-19 epidemic began in the city of Wuhan in China), but it does not matter much for the results of the analysis. I assumed May 2021 as the last pandemic month, because in June of that year most developed countries significantly loosened economic restrictions, moods improved, and a large-scale vaccination program started. At the same time, European Union is starting to prepare the great aid package for the member states, which should bring about economic revival. Similar stimulus activities are also taking place in other parts of the globe, including the USA. Therefore, it seems that in economic terms, from June 2021, we can carefully speak of a post-pandemic period, although, of course, in virological terms, we still have to wait for the end of the pandemic. In addition, this text was written in May and June 2021, so the last available data for a full month was for the May.

For the study, I chose the three largest American stock exchanges in terms of capitalization, i.e. New York Stock Exchange (NYSE) and the National Association of Securities Dealers Automated Quotations (NASDAQ) in the USA and the Toronto Stock Exchange in Canada, the three largest Asian stock exchanges (Hong Kong Stock Exchange, Shanghai Stock Exchange, Tokyo Stock Exchange), as well as the three largest European stock exchanges (Euronext, London Stock Exchange, Frankfurt Börse), with the first two stock markets (NYSE, NASDAQ) being world leaders in terms of capitalization, several times larger than other players (Statista 2021). I supplemented the Asian line-up with the larger Indian stock exchange (Bombay Stock Exchange) and the South Korean stock exchange (Korea Exchange), i.e. also relatively large players. I skipped the large Chinese stock exchange in Shenzhen, considering the larger Shanghai stock exchange to represent mainland China, especially since I already have the Hong Kong Stock Exchange in the pool. In addition, I supplemented the pool with smaller stock markets, which in terms of capitalization are much smaller than the world tycoons, but are nevertheless regional leaders. I mean the stock exchanges in São Paulo (B3), Warsaw and Moscow. As I wrote above, the main indices of the mentioned exchanges were tested, namely DJI (NYSE), NASDAQ COMPOSITE (NASDAQ), S&P 500 (NYSE and NASDAQ), S & P / TSX COMPOSITE (Toronto Stock Exchange), BOVESPA (B3), NIKKEI 225 (Tokyo Stock Exchange), SSE COMPOSITE (Shanghai Stock Exchange), HANG SENG (Hong Kong Stock Exchange), KOSPI (Korea Exchange), SENSEX (Bombay Stock Exchange), FTSE 250 (London Stock Exchange), CAC 40 (Euronext), DAX (Frankfurt Börse), WIG (Warsaw Stock Exchange) and RTS (Московская биржа). In all cases, I studied session closing rates. When on the analyzed day there was no session on one of the stock exchanges, then I took into account the closing rate of the last session before the analyzed day.

## RESULTS

There is no doubt that very interesting conclusions can be drawn from the data contained in the tables below. At first glance, you can see that during the 16 months of the Covid-19 pandemic, the main indices of the two largest stock exchange giants in terms of capitalization, on which shares of the world's largest corporations are listed, benefited the most. Of course, it is about the US stock exchanges NYSE and NASDAQ. The NYSE main index (DJI) increased by 22% in the analyzed period, while in the period of 16 months before the pandemic, it "only" increased by 7%. The record holder, however, is the NASDAQ main index (NASDAQ COMPOSITE), which increased by 50% during the pandemic. For comparison, in the same time before the pandemic, this index increased by "only" 14%. The S&P 500 index, which includes the largest companies from the NYSE and NASDAQ, also performed very well during the pandemic, growing by 30% (in the period before the pandemic, an increase of 11%). So you can see that the Covid-19 pandemic did not hurt the largest stock markets at all, on the contrary, during the pandemic period they gained a lot.

**Table 1.** Rates of selected stock indices during the 16-month period of the Covid-19 pandemic

| index          | stock exchange           | 1/31/2020 rate | 5/31/2021 rate | change |
|----------------|--------------------------|----------------|----------------|--------|
| <b>AMERICA</b> |                          |                |                |        |
| DJI            | NYSE                     | 28256.03       | 34529.45       | +22%   |
| NASDAQ COMP    | NASDAQ                   | 9150.94        | 13748.74       | +50%   |
| S&P 500        | NYSE, NASDAQ             | 3225.52        | 4204.11        | +30%   |
| S&P/TSX COMP   | Toronto Stock Exchange   | 17318.49       | 19730.99       | +14%   |
| BOVESPA        | B3                       | 113760.60      | 126215.70      | +11%   |
| <b>ASIA</b>    |                          |                |                |        |
| NIKKEI 225     | Tokyo Stock Exchange     | 23205.18       | 28860.08       | +24%   |
| SSE COMP       | Shanghai Stock Exchange  | 2976.528       | 3615.477       | +21%   |
| HANG SENG      | Hong Kong Stock Exchange | 26312.63       | 29151.80       | +11%   |
| KOSPI          | Korea Exchange           | 2119.01        | 3203.92        | +51%   |
| SENSEX         | Bombay Stock Exchange    | 40723.49       | 51937.44       | +28%   |
| <b>EUROPE</b>  |                          |                |                |        |
| FTSE 250       | London Stock Exchange    | 21143.49       | 22683.95       | +7%    |
| CAC 40         | Euronext                 | 5806.34        | 6447.17        | +11%   |
| DAX            | Frankfurt Börse          | 12981.97       | 15421.13       | +19%   |
| WIG            | GPW w Warszawie          | 56681.27       | 66284.71       | +17%   |
| RTS            | Московская биржа         | 1517.07        | 1597.54        | +5%    |

Source: own study based on stooq.pl, access: 6/11/2021.

**Table 2.** Rates of selected stock indices in the period of 16 months before the Covid-19 pandemic

| index          | stock exchange           | 9/30/2018 rate | 1/31/2020 rate | change |
|----------------|--------------------------|----------------|----------------|--------|
| <b>AMERICA</b> |                          |                |                |        |
| DJI            | NYSE                     | 26458.31       | 28256.03       | +7%    |
| NASDAQ COMP    | NASDAQ                   | 8046.35        | 9150.94        | +14%   |
| S&P 500        | NYSE, NASDAQ             | 2913.98        | 3225.52        | +11%   |
| S&P/TSX COMP   | Toronto Stock Exchange   | 16073.14       | 17318.49       | +8%    |
| BOVESPA        | B3                       | 79342.42       | 113760.60      | +43%   |
| <b>ASIA</b>    |                          |                |                |        |
| NIKKEI 225     | Tokyo Stock Exchange     | 24120.04       | 23205.18       | -4%    |
| SSE COMP       | Shanghai Stock Exchange  | 2821.350       | 2976.528       | +6%    |
| HANG SENG      | Hong Kong Stock Exchange | 27788.52       | 26312.63       | -5%    |
| KOSPI          | Korea Exchange           | 2343.07        | 2119.01        | -10%   |
| SENSEX         | Bombay Stock Exchange    | 36227.14       | 40723.49       | +12%   |

| index         | stock exchange        | 9/30/2018 rate | 1/31/2020 rate | change |
|---------------|-----------------------|----------------|----------------|--------|
| <b>EUROPE</b> |                       |                |                |        |
| FTSE 250      | London Stock Exchange | 20307.04       | 21143.49       | +4%    |
| CAC 40        | Euronext              | 5493.49        | 5806.34        | +6%    |
| DAX           | Frankfurt Börse       | 12246.73       | 12981.97       | +6%    |
| WIG           | GPW w Warszawie       | 58974.76       | 56681.27       | -4%    |
| RTS           | Московская биржа      | 1192.04        | 1517.07        | +27%   |

**Source:** own study based on stooq.pl, access: 6/13/2021.

Major indices of other big stock exchanges also appreciated during the pandemic. The main index of the third largest American stock exchange (Toronto Stock Exchange) increased by 14% in the analyzed period (in the corresponding period before the pandemic the increase by 8%). The main indices of the largest Asian stock exchanges also improved their results. And so, the Tokyo Stock Exchange index (NIKKEI 225) increased by 24% in the pandemic period (in the preceding period the decrease by 4%), the Shanghai Stock Exchange index (SSE COMPOSITE) increased by 21% (in the preceding period the increase by 6%), the Hong Kong Stock Exchange index (HANG SENG) increased by 11% (in the preceding period the decrease by 5%), the Korea Exchange index (KOSPI) increased by 51% (in the preceding period the decrease by 10%), and the Bombay Stock Exchange index (SENSEX) increased by 28% (in the preceding period the increase by 12%). The main indices of the largest European stock exchanges (Euronext, London Stock Exchange, Frankfurt Börse) also coped well with the Covid-19 pandemic. The CAC 40 index increased in the analyzed period by 11% (in the preceding period the increase by 6%), the FTSE 250 index increased by 7% (in the preceding period the increase by 4%), while the DAX index increased by 19% (in the preceding period the increase by 6%). It is worth noting that the Warsaw Stock Exchange index (WIG) also did very well in the pandemic period, and increased by 17%, while in the period leading up to the pandemic it fell by 4%. On the other hand, the only indices that performed worse during the pandemic than in the preceding period were the main indices of the Moscow stock market (RTS) and the São Paulo stock market (BOVESPA), which increased by 5% (the increase by 27% in the preceding period) and 11 % (the increase in the previous period by 43%).

It is clearly visible that during the Covid-19 pandemic, the indices of the largest stock exchange giants in terms of capitalization (NYSE and NASDAQ), and the indices of two large Asian stock exchanges (Tokyo Stock Exchange, Korea Exchange), gained the most. This undoubtedly proves that investors' trust in the Japanese and South Korean markets is very much justified. Moreover, in the pandemic period, the indices of the Toronto, Shanghai, Hong Kong, Mumbai, London, Frankfurt and Warsaw stock exchanges as well as the main index of the Euronext also gained in comparison to the pre-pandemic period. Only the Russian and Brazilian indices performed worse than in the pre-pandemic period, but even they recorded increases during the pandemic. This means that all of the analyzed indices increased in the period of 16 months from the beginning of the pandemic to the end of May 2021. Of course, the deterioration of the results of the Russian and Brazilian stock indices is not surprising, given the fact that we are dealing here with emerging, peripheral

markets, which grew very dynamically in the period before the pandemic, which was unsustainable in the situation of the pandemic crisis (capital outflow from such markets in crisis situations).

It is obvious that the picture resulting from the data contained in the above tables is simplified, to some extent dependent on the adopted quite rigid starting and ending dates of the analyzed periods. Nevertheless, it is a credible picture, allowing for drawing conclusions, because postponing these dates by a few days one way or the other does not change the results significantly. The only significant change occurs at the end of February and the beginning of March 2020, when there were drastic drops on the global stock markets, as mentioned above. However, it was a somewhat hysterical reaction resulting from the fear of the unknown (the short-term effect of the black swan). For investors who were able to keep a cool head, it was undoubtedly a great opportunity to increase their portfolios. After these big slumps, the stock exchanges started to rebound quickly, in a very dynamic way. Along the way, there were, of course, smaller declines related to subsequent waves of the pandemic (in December 2020 for instance), but in the long term, as my analysis shows, they did not matter much, being only convenient investment opportunities. All of the above can be seen very well in the charts below, which present the rates of the analyzed indices in a 3-year perspective (weekly interval). You can easily notice the great slump from the turn of February and March 2020, and then a dynamic growth cut by short-term corrections. Moreover, in many cases (DJI, NASDAQ COMPOSITE, S&P 500, S & P / TSX COMPOSITE, NIKKEI 225, SSE COMPOSITE, KOSPI, SENSEX, DAX, WIG) the indices, after returning to pre-pandemic levels, maintained the growth dynamics higher than the pre-pandemic one, which is also clearly visible in the charts.

**Chart 1.** 3-year DJI index.



**Source:** stooq.pl, access: 5/31/2021.

**Chart 2.** 3-year NASDAQ COMP index.



Source: stooq.pl, access: 5/31/2021.

**Chart 3.** 3-year S&P 500 index.



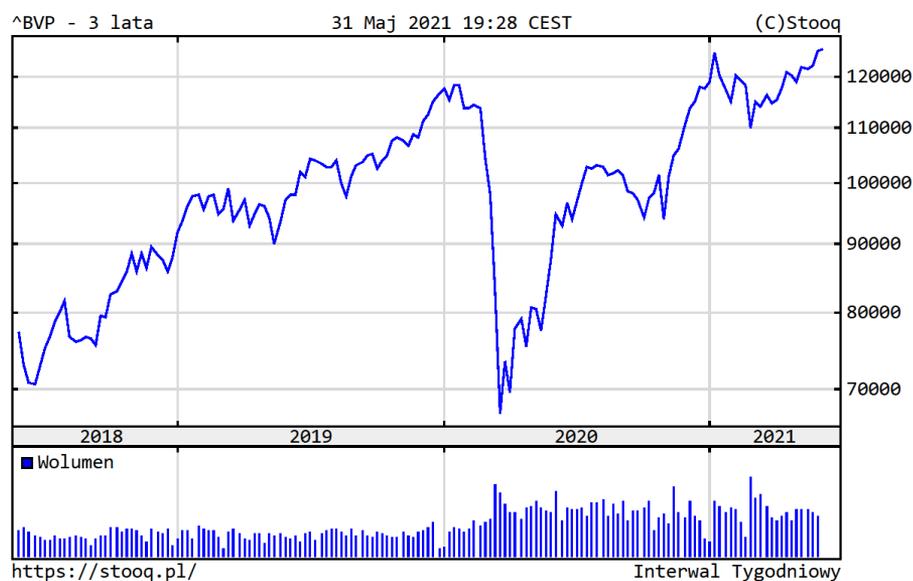
Source: stooq.pl, access: 5/31/2021.

**Chart 4.** 3-year S&P/TSX COMP index.



Source: stooq.pl, access: 5/31/2021.

**Chart 5.** 3-year BOVESPA index.



Source: stooq.pl, access: 5/31/2021.

**Chart 6.** 3-year NIKKEI 225 index



Source: stooq.pl, access: 5/31/2021.

**Chart 7.** 3-year SSE COMP index



Source: stooq.pl, access: 5/31/2021.

**Chart 8.** 3-year HANG SENG index



**Source:** stooq.pl, access: 5/31/2021.

**Chart 9.** 3-year KOSPI index



**Source:** stooq.pl, access: 5/31/2021.

**Chart 10.** 3-year SENSEX index



Source: stooq.pl, access: 5/31/2021.

**Chart 11.** 3-year FTSE 250 index



Source: stooq.pl, access: 5/31/2021.

**Chart 12.** 3-year CAC 40 index



**Source:** stooq.pl, access: 5/31/2021.

**Chart 13.** 3-year DAX index



**Source:** stooq.pl, access: 5/31/2021.

**Chart 14.** 3-year WIG index



**Source:** stooq.pl, access: 5/31/2021.

**Chart 15.** 3-year RTS index



**Source:** stooq.pl, access: 5/31/2021.

## SUMMARY

This analysis is of a general nature and, as indicated above, should be treated as an introduction to more detailed studies related to the long-term impact of the Covid-19 pandemic on the largest economic entities in the context of their impact on the economic and socio-political reality. We are dealing here with an almost completely virgin research area, and therefore the field for scientific research is very large, the more so as the issue itself is complex, giving a wide range of multidimensional, interdisciplinary analyzes. Undoubtedly, in the future, it would be worth extending the end date of the study, which could be considered as the moment of lifting all economic restrictions related to the Covid-19 pandemic, thus extending the research perspective. Comparatively, it will be possible to supplement the study with a third research period, the post-pandemic one, in which the economic effects of the operation of large state aid programs related to large printing of money should be shown. It is also worth examining the indices of smaller stock exchanges and seeing how they behaved in the pre-pandemic period, during and after the pandemic, of course in an economic, not virological sense. The next step may be to examine the financial performance of the largest corporations listed on the largest stock exchanges, again in the pre-pandemic period, during and after the pandemic. An industry analysis in a pandemic context could also be interesting. Finally, the long-term change in the economic and socio-political position of large corporations as a result of the Covid-19 pandemic and the economic constraints imposed by individual governments should also be explored. All of the above should be treated as research postulates for the future, the list of which may be much longer.

Nevertheless, already at this preliminary, general stage of research, a significant conclusion can be drawn that the largest world stock exchanges and large corporations whose shares are listed on them during the pandemic did not lose, on the contrary, they significantly gained from it, which should be confirmed by subsequent research conducted in accordance with the deductive principle “from general to particular” (Anzenbacher 1992 p. 221 et seq, Such, Szcześniak 2000, p. 10 et seq).

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## Warum (Agile) Führung immer wieder scheitert

### Summary

#### Why (Agile) Leadership keeps failing

Agile leadership requires self-reflection. The human image of the supervisors responsible in the company is characterised by appreciation, openness and respect. Leaders create framework conditions and take care of the individual development of individual employees. Their know-how and mindset should be aligned with the agile leadership style. Dealing with the essential principles (change, trust, decisions, iterations, feedback, failure culture, communication) in everyday life does not happen as a matter of course. Agile leadership often fails because of its own self-efficacy and self-functionality. The belief in one's own influence to make a difference in difficult situations (self-efficacy) strengthens self-confidence. In complementary self-functionality, each team member works towards a higher goal. Team success is the focus. It requires a high level of self-leadership. Employees with this competence act independently and as part of the team towards the visions and goals of the organisation. Only when self-efficacy and self-leadership are successfully developed among managers and employees can agile leadership be successfully implemented in the company.

**Key words:** Agile Leadership, self-functionality, self-efficacy, future leadership, leadership skills.

### EINLEITUNG

Um den beschleunigten Veränderungen der Globalisierung und Digitalisierung zu begegnen, setzen zukunftsorientierte Unternehmen auf Agile Leadership. Agilität bedeutet auf unvorhersehbare Veränderungen schnell zu reagieren und sich anzupassen. Agilität bezieht sie sich nicht nur auf die Organisationsstruktur, sondern auch auf den Mindset der Mitarbeiter. Marktdruck und Kundenanforderungen führen zu einem starken Anstieg disruptiver Innovationen und erhöhen die Entwicklungsgeschwindigkeit. Experten sprechen von einer Verzehnfachung bei

Produkten und Dienstleistungen. Unternehmen sollten darauf vorbereitet sein<sup>1</sup>. Globalisierung forciert den Wettbewerb. Kunden beobachten den Markt sehr genau. Die Loyalität zu Lieferanten nimmt ab. Es werden Produkte auf neuestem Technologiestand und Kundenservice mit kürzesten Reaktionszeiten werden erwartet. Unternehmen, die das nicht leisten, verlieren ihre Kunden. Agilität und damit ein individueller Zuschnitt von Produkten und Dienstleistungen auf die Bedürfnisse der Kunden, ist eine mögliche Antwort. Agile aufgestellte Organisationen reagieren flexibel durch flache Hierarchien auf Trends. Veränderte Entscheidungskompetenzen erlauben schnellere Reaktion<sup>2</sup>. Beispiele hierfür sind einerseits das Aufkommen des Smartphones, die in ihrer Wirkung auf den Markt unterschätzt wurden. Andererseits ist die Entwicklung der Mobilität zu nennen. Der sich abzeichnende Trend geht weg von klassischen Nutzungsmodellen der Automobilbranche (eigenes Auto) und hin zu Lösungen, bei denen Nutzer unterschiedliche Fortbewegungsmittel kombinieren. Agile Unternehmen sind innovativer und finden zügig eine Antwort auf solche Trends. Auch stellt der sich vollziehende demographische Wandel Unternehmen vor besondere Herausforderungen. Die Rekrutierung von gut ausgebildeten Mitarbeitern wird immer schwieriger. In einem zukünftigen Arbeitnehmermarkt suchen sich Fachkräfte ihren Arbeitgeber sorgfältig aus. Im Vordergrund stehen der tiefere Sinn der beruflichen Tätigkeit, ein menschenorientiertes Führungsverständnis und nicht mehr die Karrierechance oder das Gehalt. Agile Unternehmen bieten u.a. flache Hierarchien, Aufgaben mit Eigenverantwortung und sind damit bei Mitarbeitern deutlich beliebter als klassisch geführte Unternehmen. Das zieht vor allem jüngere Generationen, insbesondere die Generation Z an. Diese Bevölkerungsgruppe, der zwischen 1995 und 2009 geborenen, steigen sukzessive in den Arbeitsmarkt ein. Ihr Anteil an der Gesamtbevölkerung ist nur halb so groß wie die der geburtenstarken Jahrgänge der Boomer (Geboren zwischen 1946 und 1964), die sich zunehmend in den Ruhestand verabschiedet. Einer der Hauptursachen für den Fachkräftemangel.<sup>3</sup>

## AGILE FÜHRUNG

Der agile Leader ist Vorbild. Er kennt seine eigene Landkarte: Stärken, Schwächen, Motive, Bedürfnisse und Werte. Es ist das Ergebnis seiner Selbstreflexion. Damit ist er in der Lage, anderen mit Wertschätzung, Offenheit und Respekt zu begegnen. Flexibel und situativ reagiert er auf Veränderungen und passt sich mit seiner Lösungskompetenz an. Die Hierarchien sind möglichst flach. Seine Aufgabe ist es, das "Big Picture" zu vermitteln. Es schafft die notwendigen Rahmenbedingungen, Infrastruktur und kümmert sich um die individuelle Entwicklung der einzelnen Mitarbeiter.<sup>4</sup> Er verfügt über interkulturelle Kompetenz und führt nicht selten internationale Teams, die nicht selten global verteilt agieren. Mit Mitarbeitern kommuniziert er auf Augenhöhe und unterstützt diese bei der Realisation von Lösungen im Sinne aller Stakeholder. Er verfügt über das Knowhow und den passenden

1 <https://www.manager-magazin.de/harvard/innovation/disruptive-innovation-was-die-theorie-von-clayton-christensen-erklaert-a-00000000-0002-0001-0000-000171978386> [Zugriff: 26.08.2021]

2 <https://www.berlinerteam.de/magazin/agile-fuehrung-wie-funktioniert-agile-leadership-die-10-prinzipien/> [Zugriff: 20.08.2021]

3 <https://www.pewresearch.org/fact-tank/2019/01/17/where-millennials-end-and-generation-z-begins/> [Zugriff: 28.08.2021]

4 <https://teamworks-gmbh.de/agile-fuehrung-definition/> [Zugriff: 15.08.2021]

Mindset eines agilen Führungsstils. Er besitzt Einfühlungsvermögen und Empathie und eine hohe Kommunikationsfähigkeit.<sup>5</sup> Neben den Führungsfähigkeiten sollte Agile Führung im Alltag von wesentlichen Prinzipien geleitet sein. Hierzu gehört die Bereitschaft zur Veränderung, Vertrauen, Entscheidungen, Iterationen, eine offene Feedback- und Fehlerkultur und Kommunikation.

#### Welche agilen Führungsfähigkeiten sind erforderlich?

- Change Management Kompetenz
- Hohe Kommunikationsfähigkeit
- Virtuelle Führungskompetenz
- Absolute Kundenorientierung
- Wissen über agiles Arbeiten
- Unternehmerisches Denken
- Interkulturelle Kompetenz
- Management Methoden
- Mitarbeiterorientierung
- Ambiguitätstoleranz
- Lösungskompetenz
- Selbstmanagement
- Selbstreflektion
- Flexibilität
- Teamgeist



**Abb. 1.** Agile Führungsfähigkeiten<sup>6</sup>

## VERÄNDERUNGEN

Leader bleiben flexibel und offen für neue Impulse. Sie kleben nicht an eigenen Vorstellungen lassen sich genauso wenig von festen Strukturen und Systematiken einengen. Sie gehen nicht mehr voraus, sondern sind Teil des Kompetenzteams. Während klassische Führungskräfte ein Ziel definieren, einen Plan und die Richtung vorgeben, reicht dies im agilen Leadership nicht aus, um erfolgreich zu sein. Mitarbeiter wollen vom Ziel überzeugt und auf dem Weg aktiv mitgenommen werden. Wenn bisherige Pläne nicht mehr funktionieren, sollte sie flexibel angepasst werden. Bei dieser Überarbeitung spielt die aktive Beteiligung der Mitarbeiter eine wesentliche Rolle. Die meisten Menschen haben ein hohes Sicherheitsbedürfnis. Sie mögen feste Strukturen und Abläufe. Neues ist außerhalb ihrer Komfortzone und mit einem erhöhten Risiko verbunden, was ihnen Angst bereitet. Der agile Leader bringt Neugierde mit, kann sich auf Risiken und ergebnisoffene Situationen einlassen. Er stellt etablierte Strukturen immer wieder in Frage und bewegt sich häufig außerhalb seiner Komfortzone. Sein Gehirn ist geschult darin, immer wieder neue Wege zu gehen und findet darin Sicherheit und Selbstvertrauen mit unvorhergesehenen Dingen umzugehen.

5 <https://www.berlinerteam.de/magazin/agile-fuehrung-wie-funktioniert-agile-leadership-die-10-prinzipien/> [Zugriff: 20.08.2021]

6 [https://www.haufe.de/personal/hr-management/fuehrungsmodelle-agil-fuehren-lernen\\_80\\_212704.html](https://www.haufe.de/personal/hr-management/fuehrungsmodelle-agil-fuehren-lernen_80_212704.html) [Zugriff: 10.08.2021]

## VERTRAUEN

Collective Ownership bedeutet das Team eigenverantwortlich handeln zu lassen und darauf zu vertrauen, dass die Mitarbeiter im Sinne des Unternehmens schwarmintelligent handeln. Sie agieren in Cross-funktionalen Teams. Durch deren direkten Kontakt zu Kunden bekommen sie Änderungen am schnellsten mit. Dafür haben sie meistens die besten Lösungen.<sup>7</sup> Diese dann auch eigenverantwortlich umsetzen zu können, steigert die Motivation. In regelmäßigen Abständen werden Entscheidungen und Handlungen reflektiert und mit der vom Unternehmen angestrebten Richtung abgeglichen. Nicht tragbare werden vom Leader mit dem Mitarbeiter besprochen. Er gibt im Sinne einer Lernschleife Impulse für künftige Entscheidungen.<sup>8</sup>

## ENTSCHEIDUNGEN

Sind Entscheidungen nicht grundsätzlicher Art (wie z.B. Strategie, Ausrichtung, Richtlinien) und bewegen sie sich innerhalb der gesetzten Leitplanken, sind werden sie vom Team getroffen. Das erhöht die Aktionsgeschwindigkeit. Greifen Führungskräfte in einen solchen Prozess ein (Mikro-Management), laufen sie Gefahr, ihr Mitarbeiter zu entmündigen.

## ITERATIONEN

Agiles Arbeiten bedeutet in kleinen Schritten voranzugehen und diese nach Abschluss zu überprüfen, ob er in die gewünschte Richtung geht. Ist das der Fall, wird der Schritt so lange wiederholt, bis das gewünschte Ergebnis (auch Ziel, Lösung) erreicht ist. Dann folgt der nächste Schritt. Entspricht der Fall nicht der gewünschten Richtung, wird dieser fallengelassen.<sup>9</sup>

## FEEDBACKKULTUR

Neue Ideen auszuprobieren und diese zu bewerten ist Kern des agilen Arbeitens. Manche Ideen werden verworfen, andere weiterentwickelt. Entscheidend hierfür ist konstruktives Feedback, das fest im Prozess integriert und Grundlage für weitere Entscheidungen ist.<sup>10</sup> Agile Leader stellen sicher, dass sie und alle Teammitglieder im Stande sind, dieses Feedback offen zu geben und anzunehmen. Kunden und Mitarbeiter sind die besten Informationsquellen, wenn es um Produkte und Dienstleistungen geht. Ohne Feedback ist Agilität nicht möglich.<sup>11</sup>

7 M. Hübler, Das Mindset einer Führung in agilen Zeiten. In: Die Führungskraft als Mediator, Wiesbaden, 2020, S. 37–75

8 <https://wpgs.de/fachtexte/fuehrung-von-mitarbeitern/vertrauen-aufbauen-misstrauen-ueberwinden-tipps-und-psychologie/> [Zugriff: 20.08.2021]

9 <https://www.berlinerteam.de/magazin/agile-fuehrung-wie-funktioniert-agile-leadership-die-10-prinzipien/> [Zugriff: 20.08.2021]

10 M. Hübler, Das Mindset einer Führung in agilen Zeiten. In: Die Führungskraft als Mediator, Wiesbaden, 2020, S. 37–75

11 <https://www.berlinerteam.de/magazin/agile-fuehrung-wie-funktioniert-agile-leadership-die-10-prinzipien/> [Zugriff: 20.08.2021]

## FEHLERKULTUR

Im Sinne einer Fehlerkultur sollte folgende Grundhaltung vorherrschen: Nicht alle Neuerungen werden gleich funktionieren. Auftretende Fehler und Rückschläge sind Teil des Einführungsprozesses. Dies zu akzeptieren ist wichtig für alle Teammitglieder. Mögliche Lösungsansätze müssen ausprobieren und ausgewertet werden, sonst ist Weiterentwicklung nicht möglich. Sicher gibt es dabei auch kritische Meilensteine, an denen keine Fehler mehr passieren dürfen (bspw. bei der Entwicklung von Bremsen eines Fahrzeuges), aber auf dem Weg dorthin (Entwicklung), dürfen und sollten in Testszenarien Fehler passieren dürfen. Nur so werden Schwachstellen aufgedeckt und Lösungen gefunden. Fehler sind die Basis eines kreativen, innovativen Prozesses. Das ist eine wichtige Grundhaltung. In bestimmten anderen Bereichen (IT-Software) setzen Entwickler Prototypen bewusst beim Kunden ein. Dessen Feedback ist die Grundlage für die Weiterentwicklung. Bei der Fehlerkultur geht es darum, den Mut zu haben auszuprobieren und zu akzeptieren, dass optimale Ergebnisse nicht gleich vorliegen. In „Fuck-Up-Sessions“ berichten Mitarbeiter regelmäßig darüber, welche Fehler ihnen unterlaufen sind und wie sie diese genutzt haben, um besser zu werden. Die Kultur, Fehler offen und ehrlich auszusprechen führt dazu, dass Mitarbeiter lernen mit Misserfolgen umzugehen und dass es nicht darum geht, dafür bestraft zu werden.<sup>12</sup> Insbesondere in Deutschland hat sich in vielen betrieblichen und gesellschaftlichen Bereichen eine „Blaming-for-Failure-Kultur“ etabliert. Sie steht innovativen Entwicklung des Landes diametral entgegen und bremst Fortschritt aus. Der Umgang mit Gründern wie Elon Musk, Jeff Bezos oder Branson sind gute Beispiele dafür.

## KOMMUNIKATION

Komplexe Herausforderungen lassen sich nur im Team lösen. Je heterogener das Team, desto vielfältiger sind Lösungsansätze aber auch die Haltung der verschiedenen Mitarbeiter. Agile Leader sorgen für einen konstruktiven Austausch im Team und fördert eine gute Atmosphäre in der Kommunikation.<sup>13</sup>

## FÜHRUNG DER ZUKUNFT

Was sollten Leader mitbringen um in der zukünftigen, komplexen Welt erfolgreich zu sein? Der US-amerikanische Managementexperte Jim Collins stellte dazu eine zentrale Frage: Warum will ich führen? Herauszufinden, warum und was etwas getan werden muss. Die Klarheit darüber ist der Ausgangspunkt und die Basis für eine erfolgreiche Umsetzung. Führung bedeutet, Menschen dazu zu bringen, Dinge tun zu wollen. Es geht nicht darum, Menschen dazu zu bringen es zu tun. Nach Dwight D. Eisenhower ist Führung die Kunst, Menschen dazu zu bringen, das zu tun, was getan werden muss.<sup>14</sup> Wer auf Anreize, wie Geld, Status, Position, Macht oder Titel setzt, um Menschen dazu zu bringen, etwas zu tun, hat als Führungskraft versagt.

12 M. Hübler, Das Mindset einer Führung in agilen Zeiten. In: Die Führungskraft als Mediator, Wiesbaden, 2020, S. 37–75

13 [https://wpgs.de/fachtexte/fuehrung-von-mitarbeitern/agile-fuehrung-definition-und-prinzipien/#Agile\\_Fuehrung\\_Literatur](https://wpgs.de/fachtexte/fuehrung-von-mitarbeitern/agile-fuehrung-definition-und-prinzipien/#Agile_Fuehrung_Literatur) [Zugriff: 20.08.2021]

14 <https://www.forbes.com/sites/enriquedans/2017/03/03/data-the-next-element/#28dbdcc74aa7> [Zugriff: 28.08.2021]

## Agile Führung steigert die Effektivität, wenn ...



- ... die Kundenzufriedenheit niedrig ist.
- ... Entscheidungsprozesse zu langsam/ komplex sind.
- ... Verfahrensweisen erst im Verlauf eines Projekts entstehen
- ... die Mitarbeiterzufriedenheit sinkt und die Fluktuation steigt
- ... Inhalte am Ende einer Planungsphase nicht mehr aktuell sind
- ... die Kommunikation zwischen Abteilungen nicht funktionieren
- ... die Attraktivität des Arbeitgebers und die Bewerberzahlen sinken.
- ... Reaktionen auf Ereignisse länger dauern, als die des Wettbewerbs.
- ... Mitarbeiter mehr Kunden/Marktkennnisse haben als die Manager.
- ... die Branche immer schnelleren Marktveränderungen unterworfen ist.
- ... Zielvereinbarungen nicht mehr aktuellen Unternehmenszielen entsprechen

Abb. 2. Effektivität agiler Führung<sup>15</sup>

Führung gibt es nur dann, wenn die Menschen folgen, obwohl sie die Freiheit hätten, es nicht zu tun.<sup>16</sup> In Organisationen gibt es ein grundlegendes Missverständnis: Das Verwechseln von Führung und Macht. Wird Macht ausgeübt, kann es so erscheinen, als würde geführt. Nimmt man allerdings die Macht weg, stellt sich die Frage, ob Menschen Führungskräften immer noch folgen. Große Leader führen ihr Thema ohne Macht. Führung ist eine Kunst. Jeder Leader entwickelt seinen eigenen Stil. Er lernt von anderen Leadern, kopiert sie aber nicht. Er bringt die richtigen Menschen zusammen, die sich gegenseitig bereichern, um ein übergeordnetes Thema voranzubringen, zu einem höheren Nutzen als nur der eigene Erfolg. Provokant formuliert ist ideale Führung der Versuch, dem Unternehmen (und Mitarbeitern) zu beweisen, dass es den Leader nicht braucht. Wenn der Verantwortungsbereich eines Leaders ohne ihn nicht großartig sein kann, ist er nicht großartig. Ein nachhaltiger Aufbau einer Organisation und deren Kultur ist nicht auf eine einzelne Führungspersönlichkeiten angewiesen.<sup>17</sup>

Zukunftsfähigkeit beginnt bei der Art und Weise wie Unternehmen mit ihren Mitarbeitern umgehen. Wie sie diese einbinden und ihre Motivation, ihr Wissen und ihre Ideen nutzen. Für eine Nation, deren größte Ressource nicht auf Bodenschätzen, sondern auf Knowhow beruht, ist es entscheidend dieses auch zu nutzen. Das beginnt bei einem modernen Führungsstil. Entscheidend für die Stärke eines Unternehmens. Denn die Summe der Leistungsfähigkeit einzelner Mitarbeiter ist die Leistungsfähigkeit eines Unternehmens. In der Praxis funktioniert Agil Leadership selten reibungslos. Daher lohnt es sich einen kritischen Blick auf die Herausforderungen für Führungskräfte bei der Umsetzung zu werfen. Zeichnen sich bei Managementthemen neue Themen, bzw. Trends ab, neigen Organisationen dazu diese, wenn auch manchmal verspätet, aufzugreifen. Die Einführung eines solchen

<sup>15</sup> <https://wpgs.de/fachtexte/fuehrung-von-mitarbeitern/vertrauen-aufbauen-misstrauen-ueberwinden-tipps-und-psychologie/> [Zugriff: 20.08.2021]

<sup>16</sup> J.M. Burns, Leadership, New York, 2012, 257 ff.

<sup>17</sup> <https://chiefexecutive.net/jim-collins-on-leadership-in-america/> [Zugriff: 28.08.2021]

Themas wird dann meist verordnet! Gleichzeitig hinken dieselben Organisationen mit dem, was sie wirklich in der Lage sind umzusetzen, sehr weit hinterher. Solche elementaren Themen lassen sich nicht verordnen. Weder die Einführung von Agilität noch andere Themen, wie bspw. die Festlegung von Unternehmenswerten. Sie müssen im Konsens von Führungskräften und Mitarbeitern gemeinsam entwickelt und anschließend auch gelebt werden. Der Vorgang ist ein Prozess.<sup>18</sup> Ergo sollte zur Erreichung einer hohen Führungsqualität der Blick auf die Persönlichkeit der einzelnen Mitarbeiter und ihre Zusammenarbeit in Gruppen gerichtet sein. Wo liegen ihre Stärken und wie „ticken“ sie? Zwei wesentliche Einflussfaktoren haben dabei Relevanz. Die Selbstwirksamkeit und die Selbstfunktionalität.

## SELBSTWIRKSAMKEIT

Der vom Psychologen Albert Bandura entwickelte Begriff beschreibt die Erwartung eines Menschen eine gewünschte Handlung erfolgreich ausführen und selbst in schwierigen Situationen etwas bewirken zu können. Basis dafür ist seine Kompetenz. Selbstwirksame Menschen glauben an ihren Einfluss und weniger an die Ursache äußerer Umstände (andere Personen, Glück, Zufall).<sup>19</sup> Somit ist die Selbstwirksamkeit eng mit dem eigenen Selbstbewusstsein eines Menschen verknüpft.<sup>20</sup> Was sollten Leader tun, um die Zusammenarbeit, gerade in modernen, agilen Umfeldern zu verbessern?

Eigene Erfolgserlebnisse: Schwierige Situationen erfolgreich gemeistert zu haben stärkt das Vertrauen dies auch in Zukunft zu können. Misserfolge können zum Zweifel an der eigenen Kompetenz führen. Menschen mit hoher Selbstwirksamkeit entwickeln eine hohe Frustrationstoleranz. Führungskräfte nutzen die individuelle Stärken ihrer Mitarbeiter durch herausfordernde Aufgaben in diesen Bereichen und steigern damit deren Leistungsfähigkeit. Das stärkt das eigene Vertrauen.

Stellvertretende Erfahrung: Menschen trauen sich selbst schwierige Aufgaben eher zu, wenn andere Menschen (Vorbilder) dies auch meistern. Misserfolg könnte das Gegenteil bewirken. Der Einfluss der Vorbilder hängt von der Größe der Ähnlichkeit ab. Leader agieren als Vorbilder oder generieren diese.

Verbale Ermutigung: Motivierender Zuspruch führt zu mehr Motivation, Glaube an die eigenen Fähigkeiten. Zielsetzung und Herausforderung müssen dabei realistisch sein. Vorgesetzte geben regelmäßig konstruktives Feedback.

Emotionale Erregung: Die eigene körperliche Reaktion auf schwierige Situationen führt zur Bewertung der eigenen Selbstwirksamkeit (Zittern, Schweißausbruch, Herzklopfen, etc.). Menschen bewerten dies als eigene Schwäche und hegen Selbstzweifel.<sup>21</sup> Der Abbau von Stressreaktionen führt zu mehr Leistungsfähigkeit und erhält die eigene Handlungsfähigkeit.<sup>22</sup>

18 <https://www.youtube.com/watch?v=vUabxq-Zrpl> [Zugriff: 18.07.2021]

19 C. Fuchs, *Selbstwirksam Lernen im schulischen Kontext: Kennzeichen – Bedingungen – Umsetzungsbeispiele*, Bad Heilbrunn, 2005, S. 20

20 <https://karrierebibel.de/selbstwirksamkeit/> [Zugriff: 25.08.2021]

21 <https://karrierebibel.de/selbstwirksamkeit/> [Zugriff: 25.08.2021]

22 A. Bandura, *Self-Efficacy: Toward a Unifying Theory of Behavioral Change*, *Psychological Review*, New York, 1977, S. 191–215

High Performance Cycle etablieren: Erfolge steigern die Selbstwirksamkeit, höhere Selbstwirksamkeit führt dazu sich Ziele eher zuzutrauen, Zielerreichung steigert die Selbstwirksamkeit. Führungskräfte steigern die Aufgabenschwierigkeit zur Kompetenzentwicklung.<sup>23</sup>

Grundbedürfnis Autonomie befriedigen: Die Übertragung von Aufgabenbereichen und Zuständigkeiten führt zur Stärkung der Eigenverantwortung. Leader ermöglichen mehr Autonomie.<sup>24</sup>

Kohärenz: Die an Mitarbeiter herangetragene Herausforderung muss stimmig sein (Salutogenese: verstehbar, handhabbar, sinnhaft), sonst ist eine Erfüllung schwer zu umsetzbar. Vorgesetzte und Mitarbeiter sollten (Miss-)Erfolge reflektieren. und damit Lernerfahrungen ermöglichen.<sup>25</sup>

Annäherungsziele wählen: Selbstwirksamkeit bedarf der Erfüllung von Grundbedürfnissen. Nach dem Psychologen Klaus Grawe haben Menschen unter anderem nachfolgende Grundbedürfnisse: Orientierung, Kontrolle, Bindung und Lustgewinn/ Unlustvermeidung.<sup>26</sup> Um diese zu sichern, handeln Menschen nach einem motivationalen Schema. Wählen sie Vermeidungsziele (weg von), versuchen sie die Verletzungen der Grundbedürfnisse zu vermeiden. Der Rückzug vermeidet Stressoren. Wählen sie Annäherungsziele (hin zu), führt dies zu Erfolgs-, Glücks- oder Flow-Erlebnissen (Dopaminausschüttung). Diese Bewältigungsstrategie entwickelt neue Fähigkeiten und Wissen. Ziele sollten SMART formuliert werden.<sup>27</sup>

## SELBSTFUNKTIONALITÄT

Voraussetzung für ein erfolgreiches Agiles Leadership ist die Selbstfunktionalität eines jeden einzelnen Teammitglieds. Jeder bringt seine Stärken ein und kompensiert dadurch die Schwächen anderer Kollegen. Das Team in Summe arbeitet auf ein gemeinsames, übergeordnetes Ziel hin. Selbstfunktionalität bedeutet, dass jedes Teammitglied über sich selbst hinausdenkt, auf ein höheres, übergeordnetes Ziel in einem größeren Kontext hinarbeitet und sich nicht selbst profiliert. Der Teamerfolg steht im Mittelpunkt. Wer keine oder nur seine eigenen Ziele im Blick hat, ist in sich selbst gefangen und schafft es nicht, über sich selbst hinaus zu denken. Selbstfunktionalität bedeutet weiterhin ein hohes Niveau an Selbstführung zu haben und mit anderen, ebenfalls selbstfunktionalen Menschen „Hand in Hand“ zu arbeiten. Werden Rahmenbedingungen auf Ebene der Unternehmensleitung vorgegeben (Vision, Ziele, Leitplanken), wissen selbstfunktionale Mitarbeiter, was für ihren Aufgabenbereich zu tun ist. Sie agieren selbstständig als Teil des Teams. Nicht-Selbstfunktionale Menschen zeichnen sich dadurch aus, dass sie nicht Entscheidungsfähig sind, oder oft die falschen Prioritäten setzen. Obwohl auch

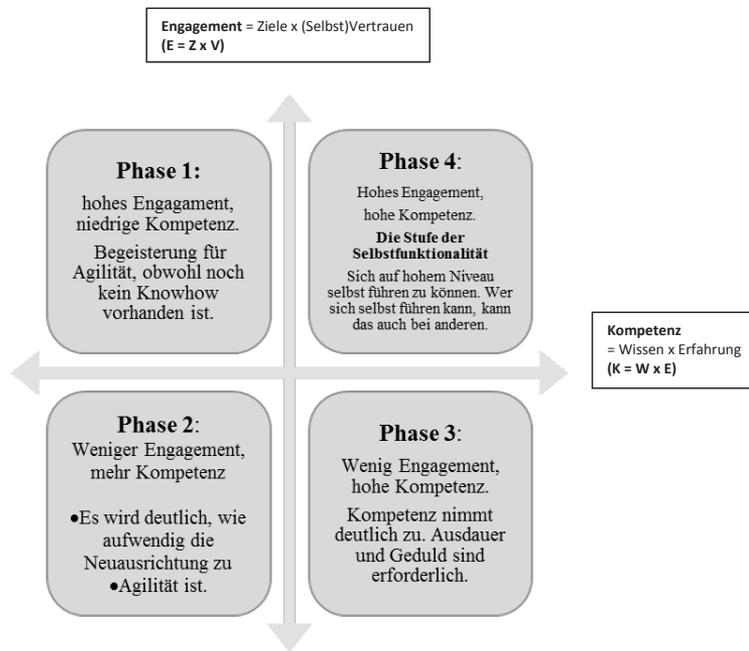
23 E. A. Locke, G. P. Latham, A theory of goal setting & task performance, 04/1991, Band 2/ Ausgabe 16, DOI 10.2307/258875

24 C. Sander, Change! Bewegung im Kopf - Ihr Gehirn wird so, wie Sie es benutzen, Göttingen, 2010, S.87 ff.

25 <https://juttaheller.de/resilienz/resilienz-abc/kohaerenzgefuehl/> [Zugriff: 24.08.2021]

26 C. Sander, Change! Bewegung im Kopf - Ihr Gehirn wird so, wie Sie es benutzen, Göttingen, 2010, S. 87 ff.

27 V. Brandstätter, Annäherungs- und Vermeidungsmotivation. In: Motivation und Emotion, Berlin/ Heidelberg, 2013, S. 87–90



**Abb. 3.** Entwicklungsphasen der Selbstfunktionalität<sup>28</sup>

ihnen die Zielrichtung klar sein sollte, können sie dies nicht umsetzen. Dafür, dass sie darin nicht weiterkommen, machen sie dann nicht selten andere Teammitglieder (Selbstfunktionale) verantwortlich. Sie beschäftigen sich damit, sich selbst bestätigen, recht zu haben und andere ins Unrecht zu setzen. So stellen sie ihre Daseinsberechtigung heraus. Häufig besteht ein Team aus Selbstfunktionalen und Nicht-Selbstfunktionalen Mitarbeitern. Und so wird die Leistungsfähigkeit eines agilen Teams ausgebremst. Agiles Leadership droht dann zu scheitern. Um Agilität im Unternehmen erfolgreich zu etablieren, ist bei Mitarbeitern ein hohes Maß an Selbstfunktionalität notwendig. Um dies zu erreichen, bedarf es einem Prozess, den jeder Angestellte durchlaufen sollte. Grundl schlägt dazu einen Vier-Phasen-Plan vor. Die Fähigkeit sich selbst auf hohem Niveau zu führen, wird einerseits beeinflusst durch das eigene Engagement (Energie) und der Kompetenz eines Menschen. Das Engagement ist das Produkt aus den Zielen (eigene und Unternehmensziele) und dem (Selbst-)Vertrauen (diese auch zu erreichen). Hier spielt auch die bereits erläuterte Selbstwirksamkeit mit hinein. Andererseits beeinflusst die Kompetenz die Selbstfunktionalität. Diese ergibt sich aus dem Produkt von (individuellem) Wissen und (gemachten) Erfahrungen. Werden Menschen in Organisationen auf ihrem Weg zur Selbstfunktionalität begleitet und bspw. durch Coaching in den Aspekten Zielorientierung, Selbstvertrauen, Wissensaufbau und Reflektion gemachter Erfahrung unterstützt, so erreichen sie mit Phase 4 einen hohen Grad an Selbstfunktionalität. Sie sind dann in der Lage sich auch hohem Niveau selbst zu führen und damit einen wichtigen Beitrag zur produktiven Entwicklung des Unternehmens zu leisten. Erreicht die überwiegende Mehrheit der Mitarbeiter eines

<sup>28</sup> <https://www.youtube.com/watch?v=vUabxq-Zrpl> [Zugriff: 18.07.2021]

Unternehmens Phase 4, so kann Agile Leadership erfolgreich umgesetzt werden. Mitarbeiter mit hoher Selbstfunktionalität können andere, die noch in früheren Entwicklungsphasen stecken auf dem Weg zur Selbstführung coachen. Eine Lösung könnte sein, nur selbstfunktionale Menschen in agilen Teams unterzubringen. Nur sind in der Praxis Mitarbeiter mit unterschiedlichem Selbstfunktionalitätsniveau in Unternehmen tätig. Darauf gilt es aufzubauen. Daher ist der Ansatz, Menschen in ihrer Selbstfunktionalität zu entwickeln am nachhaltigsten. Damit Selbstfunktionalität entsteht, müssen Menschen durch diese 4 Stufen hindurch.

Agilität ist nur erfolgreich, wenn Menschen die höchste Form der Selbstfunktionalität erreicht haben und damit agieren können. Agile Leadership lässt sich nicht verordnen, es ist ein Prozess. Genauso verhält es sich auch mit anderen Themen in Unternehmen, bspw. mit der Entwicklung von gemeinsamen Werten.<sup>29</sup>

## ZUSAMMENFASSUNG

Agile Leadership bedingt Selbstreflektion. Das Menschenbild der im Unternehmen verantwortlichen Vorgesetzten ist geprägt von Wertschätzung, Offenheit und Respekt. Leader schaffen Rahmenbedingungen und kümmern sich um die individuelle Entwicklung einzelner Mitarbeiter. Ihr Knowhow und Mindset sollten auf den agilen Führungsstil ausgerichtet sein. Der Umgang im Alltag mit den wesentlichen Prinzipien (Veränderung, Vertrauen, Entscheidungen, Iterationen, Feedback-, Fehlerkultur, Kommunikation) findet nicht selbstverständlich statt. Agile Führung scheitert nicht selten an der eigenen Selbstwirksamkeit und Selbstfunktionalität. Der Glaube an den eigenen Einfluss in schwierigen Situationen etwas bewirken zu können (Selbstwirksamkeit) stärkt das Selbstbewusstsein. Bei der ergänzenden Selbstfunktionalität arbeitet jedes Teammitglied auf ein übergeordnetes Ziel hin. Der Teamerfolg steht im Mittelpunkt. Sie bedingt ein hohes Niveau an Selbstführung. Mitarbeiter mit dieser Kompetenz agieren selbständig und als Teil des Teams an den Visionen und Zielen des Unternehmens. Nur wenn Selbstwirksamkeit und Selbstführung bei Führungskräften und Mitarbeitern erfolgreich entwickelt sind, lässt sich agiles Leadership erfolgreich im Unternehmen umsetzen.

## SUMMARY

Agile leadership requires self-reflection. The human image of the supervisors responsible in the company is characterised by appreciation, openness and respect. Leaders create framework conditions and take care of the individual development of individual employees. Their know-how and mindset should be aligned with the agile leadership style. Dealing with the essential principles (change, trust, decisions, iterations, feedback, failure culture, communication) in everyday life does not happen as a matter of course. Agile leadership often fails because of its own self-efficacy and self-functionality. The belief in one's own influence to make a difference in difficult situations (self-efficacy) strengthens self-confidence. In complementary self-functionality, each team member works towards a higher goal. Team success is the focus. It requires a high level of self-leadership. Employees with this competence

<sup>29</sup> <https://www.youtube.com/watch?v=vUabxq-Zrpl> [Zugriff: 18.07.2021]

act independently and as part of the team towards the visions and goals of the organisation. Only when self-efficacy and self-leadership are successfully developed among managers and employees can agile leadership be successfully implemented in the company.

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