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Risk factors in the work of the social worker: summary of a research on external user violence

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Abstract

In Italy, especially in recent years, the phenomena of violence against social workers by external users have assumed worrying dimensions, as in many other countries. Over time, numerous researches have shown that the phenomenon has become a real alarm in the professional community and that the wide spread reached by violence against this category of workers is connected with the levels of precariousness of social policies and the slow but constant weakening of the networks of social services supporting people in difficulty.

Starting from these premises and from the more general assumption that at the centre of the professional action of the assistant there is the relationship with the user, a new research study was conducted with the aim of monitoring the phenomena of violence against social workers residing in the Region of Sicily, their incidence and types of consequences. The research, following a memorandum of understanding between the University of Enna 'Kore' and Croas (Regional Council of the Order of Social Workers of Sicily), was conducted by means of an anonymous information questionnaire submitted online to a population of 4736 social workers registered with the Order of Social Workers of Sicily. The data were collected in February and March 2023 and processed in the following month of April. 32.4%, that is, 1542 operators, of whom 941 registered in the A register section (61%) and 601 registered in the B register section (39%) participated by answering the questionnaire in full. Closed-ended questions were used, which are known to fairly facilitate the interpretation of participants' answers, on the basis of which a comparative analysis can be carried out and, where this was not the case, the data was modified and converted to the form and context necessary to allow for correct interpretation (number, scale, graph). The results showed that approximately 50 per cent of the respondents had experienced at least one incident of physical/verbal violence in the course of their work.

Keywords: *violence; social service; work; society; victimisation.*

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1. Introduction

For several years now, also at an international level, numerous organisations, bodies and institutions have promoted research on the problem of violent conduct, episodes of aggression, and processes of victimisation by users towards social service workers (Antonilli and Di Muzio 2021). In the United States, for example, the worrying statistics on the victimisation processes of these workers led the NASW (National Association of Social Workers) to set up a specific office within it to constantly and effectively monitor the incidents of violence and aggression, and their trend, with the ultimate aim of designing, identifying and systematising effective preventive procedures (Strom-Gottfried 2000: pp 241-252). Also in Italy, the phenomenon is under close observation, considering that violence against social workers is a fact, almost never foreseen by these figures who work in the social field and who, too often, do not report, despite the right to inform the Judicial Authority (Agliata 2021: p.5). Under the name of 'external violence' in the work environment, the scientific literature in the sociological field of deviance, criminology and criminal law, includes phenomena of criminal acting-out by subjects substantially external to the work organisation, whose actions significantly raise the potential level of risk: hence the obligation on the part of the person in charge of the work organisation to protect the physical and psychological integrity of employees, through the adoption of measures (inspired by common safety techniques) aimed at preserving workers from external victimisation, by adequately assessing the level of risk and dangerousness. As is well known, the social service is placed at the centre of the relationship between the person or social group and the territory (Lorenz 2015), dealing with all those situations in which there are obstacles in the relationship between the person or social group and the respective environment. The need, whether or not expressed by the person bringing the demand to the professional, represents the situation of disequilibrium with the respective living context (Fazi et. al. 2021). It is unthinkable to have a social service intervention focused solely on the mobilisation of personal capacities regardless of the actual availability of sufficient resources on the territory, nor an action to promote environmental resources regardless of an active, subjective commitment on the part of the people who belong to it (Calcaterra 2021). The social worker works both with the person to help him or her self-determine in releasing the resources needed to overcome the difficult situation, and with the environment in modifying it and rebuilding the ties of the social network, so that it can itself be a resource for those who live in them. It can therefore be said that the objectives of the social service are known to the professionals who perform social work on a daily basis. Professionals recognise themselves in them and attribute to them an orientation value in their professional action. They, in fact, "occupy a crucial position in the sense that they constitute the link between the profession's 'ought to be' and its concrete realisation" (Ziliani and Rovai 2023).

The work of the Social Worker can thus be understood as a profession that prefers human relations as a peculiar space of action, as indicated in Arts. 6 and 7 of the Code of Ethics: "the profession is at the service of individuals, families, groups, communities and the various social aggregations in order to contribute to their development; it enhances their autonomy, subjectivity, and capacity for assuming responsibility; it supports them in the process of change, in the use of their own and society's resources in preventing and dealing with situations of need or discomfort and in promoting every initiative aimed at reducing the risks of marginalization" (Filippini 2020). The social worker recognises the centrality of the person in every intervention. He/she considers and welcomes each person who has a demand, a need, a problem as unique and distinct from others in similar situations. Social workers, in fact, find themselves trying to give answers to citizens' demands, but they can only do so

when the need is includable among those for which there are still resources available to be used to design change with the person (Campanini 2020).

In this way, however, the responsibilities transferred to the social service can be very onerous. The professional takes it upon himself to 'deny' rights, without the citizen being able to fully understand the real and serious contraction of resources made available by the State. Services and professions are affected by the risks of an even more general loss of meaning, due on the one hand to the occurrence of social phenomena and problems, to the meeting/clash between different cultures and ethnic groups, to the increasingly dramatic gap between variety, dynamism of needs and limitedness, difficulty of responses; on the other hand to the rise of myths, such as the race for ever more driven technologies and economic competition, which seem to create new and deeper problems (Sanfelici 2017).

It is often in services that social micro-conflicts, the incompatibilities of different interests and needs, the rights of individuals to protect and the defence needs of society pose dilemmas, the meaning and solution of which go far beyond the technical or organisational level. It seems that the professional, if left alone, cannot bear the weight and responsibility of difficult, delicate, risky choices. In the face of such social changes, the professional often finds himself the single, sometimes sole, interlocutor for the citizen in communicating to him the scarcity of available resources, exposed to continuous uncertainty and alone to the increasingly widespread social inequalities (Cortigiani and Marchetti 2020). At the centre of professional action is the relationship with the user, which, at times, can be charged with aggression. Pittaluga (2003) defines the professional social worker as a "trusted stranger"; the latter, in fact, is identified by the user as an external reference point to whom, for various reasons, the user comes to bring a need to which the stranger must respond. The basis of the help is in the relationship of trust that the professional will try to initiate. Trust between citizen and social worker is built slowly and is a ground to work on. It is a work of reciprocal openness that encourages a process of introspection and increases awareness of the risk and limit of expert knowledge; these risks are distributed to varying degrees among people and are strongly conditioned by economic factors, meaning that the user initiates a relationship with the professional that will be developed according to the models tested in the development of relational maturity (Biffi and Pasini 2022).

The social worker as a helping professional must therefore consolidate his or her competences with regard to some distinctive and peculiar elements of his or her profession. Aware that it is on those that the credibility of a profession under attack from so many points of view can be played out, but firm on the front of certain values and inspiring principles: dignity of the person, freedom to self-determine and to exercise indispensable human rights, equality among men, solidarity. The values of social service find concreteness in professional attitudes that sometimes already constitute components of the individual's personality, and which the professional is then socialised into during training, and then become an affective and motivational component in professional action over time. Among the main ones we can identify the attitude of acceptance of the person as a whole, the attitude of listening and confidentiality regarding what is shared within the helping relationship, the attitude of tolerance and flexibility to change and to the plurality of possible interlocutors. It is thus observed that 'help is not simply giving (Raineri and Corradini 2022). It is an exchange, a negotiation of views, goals, tasks. Greater possibilities for self-determination will be the outcome of a process done together. Social workers continue, therefore, to invest in empowerment, in the potential of individuals to activate their individual and network resources to get out of the state of need in which they may sometimes find themselves at

some point in their existence (Balducci and Tre Re 2016). The social worker, therefore, adapts his or her actions to external goals, goals that are not his or her own, goals given by the very fact of exercising his or her professional activity. Neve (2008) argues that the work activity of the social worker is "something more and different from a simple job or employment". Dominelli (2015) understands power as a negotiated force of interaction, i.e. he recognises that in the relationship both parties in play have the potential to act a role of power and that no one can be without it. He attributes to the social worker the duty to consider himself in a position of dialectical parity and at the same time attributes to him the role of empowering the user to exercise his own capacity to act, despite his condition of discomfort, giving him greater potential for change.

2. The violent and aggressive component in human interaction: theoretical contributions

Simmel (2018) highlights the 'normality' character of conflictual relationships: the author defines these as forms of human association that 'are indistinguishable from other relationships'. Hostility and conflict, even to the extreme of violence, are to be considered as real social ties and forms of relationship, the more intense the greater the equality and intimacy between the parties. Elias (1988), in his work 'The Civilisation Process', analyses the instruments that lead to the control of violence in the modern age. Parallel to the political transformations that give rise to the establishment of the modern state, multiple changes take place from a psychological and social point of view, functional to the development of the control and emotional repression of human beings. According to Elias, with modernity, western nations begin a process of pacification, made possible by the 'civilisation of drives' into standardised and predictable, universally accepted behaviour. Violence is thus relegated to precise spatial and temporal enclaves, considered legitimate only if exercised by specific figures expressly authorised by state power - as in the case of the police - or if framed as a manifestation of the masses, in times of crisis or upheaval. (Farmer 2004: pp. 305-325), recalls the concept of 'structural violence' coined by the Norwegian sociologist Johan Galtung in the late 1960s, according to which there are three types of violence: a) direct or physical violence; b) cultural or symbolic violence; c) structural violence, the latter determined by social structures and the action of political and economic institutions that act on the lives of individuals. The concept was first taken up by Gilligan (1997), who described structural violence as 'the high rates of death and disability suffered by those who occupy the lowest strata of society, in contrast to the relatively lower rates of those above'. In turn, (Farmer 2004: pp. 305-325) reworks (Galtung's 1969: pp. 167-191) concepts through a new definition, according to which: structural violence indicates violence exercised systematically - that is, indirectly - by anyone belonging to a certain social order. In short, the concept of structural violence aims to inform the study of the social mechanisms of oppression. The latter, which appears to be 'a given', 'nobody's fault', acts on individuals in different ways, depending on their place in the social order. Farmer (2004) invites ethnographers to focus their attention on the mechanisms of structural violence and its material manifestations, i.e. on everything that is 'ethnographically visible'. This approach makes it possible to grasp how inequalities are structured or historically legitimised by social and cultural processes, and how they are an expression of a particular political and economic order - as in the case of racism, poverty, the gender gap, sexism. Despite the criticism, the concept of structural violence reworked by Farmer has been widely appreciated, as it places the question of power and social inequalities at the centre of ethnographic research, with particular emphasis on the social inscription [of violence] in bodies. Scheper-Hughes and

Bourgois (1992) propose to 'conceive of violence as operating along a continuum, from physical aggression to symbolic violence, to rutinary forms of everyday violence, including chronic, historically integrated structural violence whose visibility is obscured by cultural hegemonies'. According to American anthropologists, the interest in violence lies not only in its 'physicality', i.e. its material manifestations, but more properly in the social and cultural dimensions that give it power and meaning. The concept of the violence continuum aims to break down traditional distinctions between public and private, visible and invisible, legitimate and illegitimate forms of violence. Bourdieu et al. (1999) use the term 'symbolic violence' to define 'gentle and often invisible' violence, which is not recognised as such, but rather confused with something else. Understanding this peculiar form of domination requires overcoming the sharp distinction between compulsion and consent, between external imposition and internal impulse. Bourdieu et al. (1999) invite us to recognise the ways in which 'the dominated' often fully adhere to forms of domination, producing and reproducing them.

The topic of aggression implies a broad concept, developed under the lens of different disciplines. The literature on the subject of aggression offers numerous contributions from as many disciplines intent on studying the phenomenon of human violence. Gallino (2004) defines the term 'violence' as an 'extreme form of material aggression', intending to emphasise the extreme and concrete act of an individual to the detriment of others. It is, however, considered appropriate to start from the author's definition of 'aggression': "act, behaviour or action of an individual or collectivity consciously directed at harming, subduing, belittling, physically or psychically injuring another individual or collectivity in an arbitrary or illegitimate manner from the point of view of the victim and of the social system of which he or she is part". The term opens up to broad meanings in which the most varied acts of abuse by individuals or groups of individuals to the detriment of others or the contexts to which they belong can be included. It is therefore problematic to provide an unambiguous definition of aggression. Sanza (1999) defines aggression as a very complex phenomenon, in which biological, mental and, last but not least, environmental aspects intervene. It is even more difficult to attempt to draw a line between aggression and violence.

One could say that aggressive behaviour is acts intended to cause physical or moral harm to other subjects, while violent behaviour is acts deliberately intended to harm, physically or morally, other subjects. It is therefore possible to identify a differentiation between aggression and violence in the will of the perpetrator. Adhering to this view and wanting to refer to it to explain the aggression against operators working in the social services system, these facts could, therefore, be understood as the wide variety of acts carried out for the purpose of harm by those who interact with the same operators. There are various reasons that can lead individuals to the development of aggressive actions. According to Nardi and Recupero (1999), the theories that explain why certain people act or why violent acts are more likely to occur in certain circumstances than in others are of various matrixes and natures and concern: organicist theories, ethological theories, frustration/aggressiveness theories, social learning theories, sociological-environmental theories, psychoanalytically oriented theories, and finally the theories specifically concerned with people with 'borderline states. Organicist theories, thanks to neuroscience studies, have been able to locate aggression in the brain area of the limbic system, the fundamental seat of all emotions. Today, it is known that motor action and reactivity to the aggressive stimulus are controlled by neuromediators and hormones. Alcohol and psychotropic substances (psychiatric drugs

and narcotics) interfere with the action of neurotransmitters, influencing, either by enhancing or depressing, the control over the aggressive stimulus. Lorenz (2015) distinguished between aggression directed at members of different species and intraspecific aggression, towards individuals of one's own species, with the animal fighting to hunt or to define its territory, respectively. He identified aggression expressly in the second of the two instincts as a tool for the preservation and organisation of the species in that it allows confrontation between members of the same species for the purpose of improving one's condition in the group to which one belongs.

Aggression is, therefore, considered by ethologists, for animal species and in the human species, an adaptive response and an ineradicable instinct that can be less harmful if redirected into ritual type behaviour that mitigates its destructive potential. The situations that can favour aggression have been identified by ethologists in the condition in which the subject experiences physical, psychic or social suffering. The individual in such a case will attempt to take immediate action to put an end to it, through defensive mechanisms, and will manifest needs including that of having containment, of being near loved ones and of being respected in their physical and psychic dignity. The frustration/aggressiveness theory (Dollard 2011), elaborated at Yale University since 1939, considers aggression a response that always develops in the face of the frustration of needs, expectations and expectations.

Thinking back to this eventuality in the social services, the condition of frustration of one's expectations is an eventuality that has many opportunities to occur if operators and those who work with them are not careful to avoid its occurrence. The Social Services act within social policies and local political dynamics that can often see them, not surprisingly, overloaded with potential and/or competences in the eyes of the citizens, without this being followed by the congruous and indispensable effective allocation of economic and personnel resources. The factors of anger and aggression from further frustration that falls back on previous conditions of serious suffering or lack must in no way be underestimated when in the encounter with the services people see their expectations first solicited and then disappointed. It is therefore very important to set up, from the very beginning of the relationship with the user, a clear and as transparent as possible communication on the actual opportunities that the service itself may or may not offer the user. The social learning theory (Bandura 1977) traces aggressive behaviour back to the implementation of models learnt through observation and imitation by others, which are considered all the more appreciable the more they allow advantages to be gained.

The sources that provide the behavioural models in the complex modern society can be the family, the social reference group and so on. Bandura (1977) emphasises the responsibilities of society in modifying people's living conditions, e.g. bureaucratisation, urbanisation, mechanisation, which, if taken to extremes, can lead the individual to internalise aggressive behaviour. Psychoanalytic theories are numerous and articulate and refer to the theoretical assumptions of numerous authors. They all start from the assumption that drive energy, the death instinct, if not adequately integrated with the vital energies of Eros, the forces of love, can generate destructive or self-destructive behaviour. There are also specific theoretical insights that deal with investigating 'borderline states' to understand what happens in the face of fragile individual personalities, in which there is a fragmentation of the inner personality structure and difficulties in maintaining the delicate balance of mental functioning. In particular, in the face of borderline personalities, social services should, first of all, work in an integrated and interdisciplinary manner, rather than arguing about mutual competences. Bronfenbrenner (1979) in particular studies the individual in interaction with his environment from which he receives important and continuous

influences. He conceives the social context as a complex of four structures embedded in each other: the microsystem, the mesosystem, the exosystem and the macrosystem. The first level is that of the individual with his personal characteristics and relationships. The second is composed of several interacting microsystems. The area of the exosystem relates to the relationships between different organisational contexts in which individuals do not participate directly, but are affected. Finally, the macrosystem is understood as the superstructural context with influence on all the preceding ones, an example of which could be the complex of social policies.

Fenoglio et. al. (2012) conduct an interesting reflection that should always guide the actions of those who work in social services: "knowing that one is in a network in an operational context capable of respecting and enhancing, centrality and importance of each one's function and role, being able to count on an organisation that is well anchored in the social context to which it belongs, which in turn is a network point aware of the strengths and weaknesses present in the territory and of the many important synergies that can be activated, is a further guarantee of the capacity to welcome and manage in a correct and respectful manner those situations of aggressiveness and high problematic nature that can sometimes be associated with conditions of lack and deep psycho-social distress". They emphasise the positivity of the helping relationship and valorise the strength of the social network as a possible protective context in which to distribute the inevitable contradictions and social conflicts that contemporary life contexts bring into people's lives, especially in the lives of fragile people.

A further theoretical contribution can be found in Sicora (2013), according to whom social workers do not have sufficient skills in their theoretical-practical background to be prepared to deal with the possible aggression of users. It also hypothesises that the practitioner seeks protection in the accumulated professional experience, in the organisation to which he belongs or in the professional community of reference, thus contributing to aggravate the ambivalence embodied in the institutional mandate that requires the practitioner to simultaneously perform functions of help and control. In such ambivalence, the helping relationship will easily be polluted by misunderstandings and prejudices, and the more general possibility of helping the person to find an answer to the need that led him or her to interact with the Service (at his or her own request or at the request of the Institution) may easily be compromised. The institution can be experienced by the user as the "monster", deaf and blind to people's needs, which has, among its various cogs, the operator, who participates in spreading similar coldness and indifference. The user who develops such a conviction should have the opportunity to establish a helping relationship in which the professional can clarify his or her professional mandate.

If such a clarification does not take place, the person may manifest his or her powerlessness to communicate his or her demands in the position of inferiority that they hold through aggressive behaviour. According to Kolnic-Acker (2008), it is therefore necessary for the practitioner to be aware of the inherent contradiction connected to his/her professional mandate and to act in unison with his/her organisation in order to be able to recognise ambiguous situations and to do everything possible to resolve them and prevent them from arising again. Studies, research and victim testimonies have shown that various violence and assaults against social workers tend to take place within one of two possible contexts: the home visit and the institutional setting. The home visit constitutes a context of greater exposure to the risk of aggression. The home context represents a particular setting for conducting a professional interview, even if the practitioner does not go there to carry

out control functions, but as in this case pursues social development aims. He/she may find hostility and distrust, in this case even expulsion on the part of the user who, unaware of his/her discomfort, intends to hide it and deny him/herself (Bini and Peruzzi 2016). In spite of the competence in putting in place behaviours to prevent the risk of aggression, there are still unforeseen events that could not be foreseen or controlled, such as, for example, the entry of other people that the social worker was certain were not present. Perhaps it is precisely because of this unpredictability that this context remains an indispensable place for the professional social worker, because it is often only in this context that it is possible to grasp fundamental elements for evaluation and for reading aspects of family dynamics that the user does not reveal elsewhere. Quite different, on the other hand, are the aggressive and violent acts in the institutional offices of the social services: the violent and aggressive type is directed both at the operator and at the structure itself, through the destruction of office furniture, computer equipment, and so on (Giribaldi 2011).

3. Legal Profiles of Countering Violence in the Workplace

In order to effectively combat violent and aggressive actions in the helping professions, Italy has enacted Law no. 113 of 14 August 2020 (Provisions on safety for health and social-health professions in the exercise of their functions), which provides for administrative and criminal sanctions. The repressive intent of the Italian legislator is expressed in particular in Articles 4, 5, 6 and 9. Article 4 of the law intervenes on Article 583quater of the Italian Criminal Code, which is extended and supplemented by including personnel exercising a health or social-health profession (including auxiliary activities) on a par with a public official; serious personal injuries are punished with a penalty ranging from 4 to 10 years in prison. Very serious injuries are punished with 8 to 16 years' imprisonment.

The repressive instrument is strengthened by Article 5: among the aggravating circumstances of the offence is the new paragraph 11-octies of Article 61 of the criminal code (having acted with violence or threat). Article 6 provides for ex officio prosecution (without a complaint by the offended person) or the obligation to prosecute acts of physical violence against health and social care personnel. In the event that the act committed does not fall under the offence of injury, threat, harassment or similar, Article 9 provides for an administrative sanction of between EUR 500 and EUR 5,000 for violent, insulting, offensive or harassing conduct acted against healthcare or social-healthcare professional staff, as well as anyone who performs auxiliary care, healthcare assistance or rescue activities (Official Gazette of the Italian Republic No. 224 of 2020). In Italy, given the increase in cases of violence or attempted violence, as well as assaults, against social workers, the National Order of Social Workers has drawn up a Vademecum to prevent and address the risk of violence against aid professionals. Convention No. 190 on the Elimination of Violence and Harassment in the World of Work was ratified by Italy with Law No. 4 of 15 January 2021 (Official Gazette of the Italian Republic No. 271 of 2022). The Convention and the related Recommendation of 21/06/2019 No. 206 enrich the International Labour Code and promote the strengthening of national legislation, policies and institutions in order to make effective the right to a world of work free from violence and harassment.

It is recognised that violence and harassment in the world of work are unacceptable and incompatible with decent work. The main new features of the Convention include the definition of violence and harassment in the world of work, the identification of protected persons, the specification of work areas of application and the identification of preventive and countermeasures to be taken, as well as the persons responsible for their implementation. The Convention requires States to take an inclusive, integrated and gender-sensitive

approach to the prevention and elimination of violence and harassment in the world of work, according to the different roles and functions played by governments, employers, workers and their organisations, taking into account the diversity of the nature and scope of their respective responsibilities. The Convention and Recommendation have three main pillars: 1. protection and prevention; 2. enforcement and redress mechanisms; 3. guidance, training and awareness-raising.

4. Methodology

The statistical survey was conducted by means of an anonymous questionnaire submitted in February and March 2023 in online mode through the official website of the CROAS (Regional Council of the Order of Social Workers of Sicily) to a population of 4736 social workers; of these, 1542 (32.4%) individuals participated by answering the questionnaire. Questionnaires, as is well known, can be used to collect routine or infrequent data and for specialised studies.

The response rate (i.e. the percentage of selected individuals completing the survey) is a key parameter and helps to understand the validity of the survey and the sources of 'non-response' error; to maximise response rates, questionnaires are designed to be as simple and clear as possible (Edwards and Cantor, 1991; Sudman et al., 2000: pp. 211-236) with targeted sections and questions. The statistical analysis was therefore based on a sample of 1542 social workers, of whom 941 were registered in Register A (61%) and 601 in Register B (39%).

Closed-ended questions were used in the questionnaire, which give the respondents' answers a fair interpretation, on the basis of which a comparative analysis can be carried out and, where this was not the case, the data was modified and converted to the form and context necessary to allow for correct interpretation (number, scale, graph). The focus of the statistical analysis in this research was to observe the phenomenon of violence against social workers in the course of their work. In the first stage of descriptive analysis also called 'pre-processing' the raw data was cleaned and organised for the next stage of the processing.

During preparation, the raw data was rigorously checked for errors. The purpose of this phase was in fact to eliminate bad data (redundant, incomplete or incorrect) and to start selecting quality data, also eliminating questionnaire variables/information not of interest for the research under investigation. In the second phase, the data were translated into the language comprehensible to the systems that were used for the purposes of statistical analysis (R-Excel), creating a database with common values and information for the individual variables and calculating some position indices (mean and median, extreme sup. and inf.) and decoding useful for the synthesis of some information concerning the statistical distribution of the original data. In the third phase, the data were actually processed for interpretation, providing results that were then transformed into user-usable information through the use of graphical representations (pie, histogram, funnel) and tables. In the last phase of the analysis, the correlation between some main variables and the frequency distribution of the phenomenon under investigation was studied. Correlation is a statistical index, i.e. a number, which varies between - 1 and +1.

The closer its value is to its extremes, the stronger the correlation between two variables will be, and if the values of one variable are directly associated with the values of the other variable, there is a positive correlation; if the x and y values of two variables are in inverse relationship then the correlation is negative; when there is no relationship between

the values of the two variables, the correlation is zero. Once the main variables with a significant correlation between them had been identified, a regression between them was carried out to further the research at an inferential level because, while correlation is a useful tool for understanding the relationship between two quantities, regression also helps to understand how one quantity is affected by another. In correlation analysis, the two quantities are considered symmetrically, whereas in regression analysis, one is assumed to depend on the other, non-symmetrically (New Palgrave: A Dictionary of Economics "Regression and correlation analysis", Lindley 1987: pp. 120-123).

In particular, the generalised linear regression model (GLM) used for the case study at hand is the Logit model; this is a logistic/statistical model that configures the probability of an event occurring by making the log-odds for the event a linear combination of one or more independent variables. In regression analysis, logistic regression consists of estimating the parameters of a logistic model (the coefficients of the linear combination). Formally, in binary logistic regression there is a single binary dependent variable, coded by an indicator variable, in which the two values are labelled '0' and '1', while the independent variables can each be a binary variable (two classes, coded by an indicator variable) or a continuous variable (any real value). The corresponding probability of the value labelled '1' can vary between 0 and 1; the function that converts log-odds into probabilities is precisely the logistic function, hence the name (Generalized Linear Models; McCullagh and Nelder 1989). As far as the frequency distribution is concerned, this indicates the way in which the different modes of a character are distributed in the statistical units that make up the collective under study, and the analysis, also inferential here, involved the comparison of a distribution adapted using Kernel Density Estimation (Annals of Statistics "Kernel density estimation via diffusion"; Botev, Grotowski and Kroese 2010: pp. 2916 - 2957) and a lognormal distribution with mean and variance parameters extrapolated from the data sampled in the questionnaire.

5. Results

In order to analyse the phenomenon of violence against social workers, it was appropriate to start by processing a series of significant data from the questionnaire under review and appropriate statistical indices. The data processing was carried out in April 2023. The age range of the sample surveyed is between 21 and 70 years; the average age of the respondents calculated as the weighted average with coefficient (weight) of each age group is 46.5 years; the median is 48.5 years. The sample analysed is fairly gender unequal: only 5.7% of the respondents are male.

The steps followed for the purpose of the analysis are listed below in bullet points:

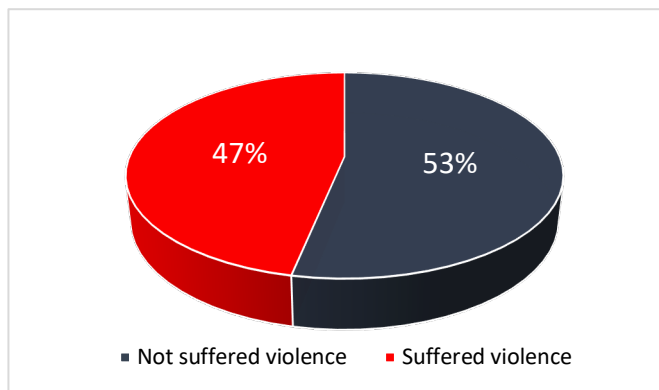
- respondents who have experienced physical/verbal violence themselves in the course of their work;
- respondents divided by age group who have experienced physical/verbal violence in the workplace;
- respondents broken down by experience in the field who have reported experiencing violence;
- respondents who are aware of the legal information and safety provisions for health professionals;
- respondents who are victims of violence who are aware of law no. 113 but have not reported the phenomenon;
- frequency of psychological problems and frequency of the phenomenon 'violence' related to the interpretation of aggressive behaviour;

- correlation analysis, regression and study of the distribution of the phenomenon 'number of violence suffered'.

As a first step, the sample was divided among the interviewed staff who had experienced physical/verbal violence themselves in the course of their work independently of working hours.

As depicted in Figure 1, 47% of the interviewed staff had experienced violence. Thus, 721 social workers out of the total sample analysed (1542) were victims of violence, almost one in every two respondents.

Figure no 1. Respondents victims of violence



In the second step, the sample was divided by age group, as shown in Table no. 1.

The sample presents: about 80 respondents who are aged 21-27 (5.1%); 225 who are aged 28-33 (14.6%); 194 who are aged 34-39 (12.6%); 162 who are aged 40-45 (10.5%); 240 who are aged 46-51 years (15.5%); 317 who are aged 52-57 years (20.5%); 266 who are aged 58-63 years (17.2%); 56 who are aged 64-69 years (3.6%) and 2 social workers over 70 years (0.13%).

When the sample is standardised by age, it is found that there are:

no.23 respondents with an average age of 24 who have experienced violence (28.75%);

no.83 respondents with an average age of 30.5 who have experienced violence (36.8%);

no.66 respondents with an average age of 36.5 who have experienced violence (34%);

no.71 respondents with an average age of 42. 5 who had experienced violence (43.8%);

no.122 respondents with an average age of 48.5 who had experienced violence (50.8%);

no.173 respondents with an average age of 54.5 who had experienced violence (54.5%);

no.154 respondents with an average age of 60.5 who had experienced violence (57.9%);

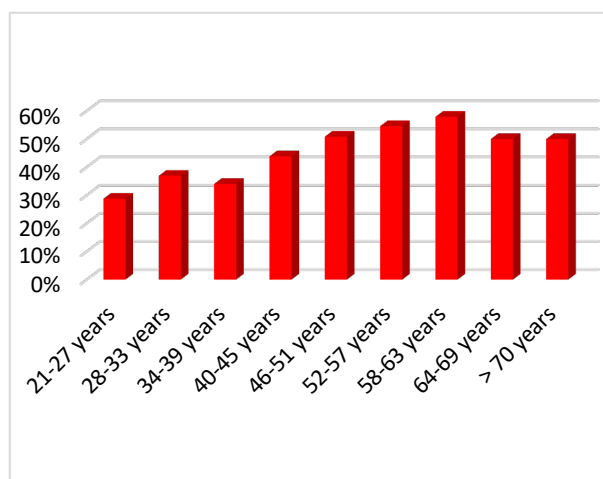
no.28 respondents with an average age of 66.5 who had experienced violence (50%);

no. 2 respondents with an average age of 70 years who have experienced violence (50%).

Table no 1. Statistical sample age groups

Age Range	INF	SUP	Tot individuals	N_Violence
21-27 years	21	27	80	23
28-33 years	28	33	225	83
34-39 years	34	39	194	66
40-45 years	40	45	162	71
46-51 years	46	51	240	122
52-57 years	52	57	317	173
58-63 years	58	63	266	154
64-69 years	64	69	56	28
> 70 years			2	1

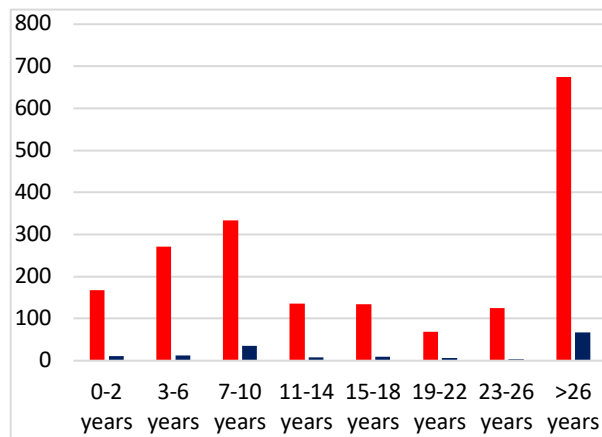
Figure 2 shows the frequency in percentage order of the phenomenon of violence suffered in the course of work against the interviewed staff, broken down by age group. The age group most affected is the 53-63 age group, in fact, 57.9 per cent of respondents in this age group confirmed having experienced at least one episode of physical/verbal violence in the course of their work.

Figure 2. Frequency of violence suffered in the sector by age group

The phenomenon of violence occurs several times during the work experience, the same respondent, in fact, confirms having experienced physical/verbal violence several times during work. Therefore, in the third step the number of violent incidents in the course of work experience and the reporting of this phenomenon to the judicial authorities was investigated. The results, which can be seen in Figure 3, show how, in the face of a substantial number of violent incidents, the propensity of the respondents is not to report the phenomenon. The sample shows: approximately 168 violent incidents suffered by respondents with experience in the sector between 0-2 years and only 33 reports of the phenomenon; 271 violent incidents suffered by those with experience in the sector between 3-6 years and only 12 reports of the latter; 333 violent incidents suffered by those with experience in the sector between 7-10 years and 35 reports of the latter; 136 violent incidents suffered by those with experience in the sector between 11-14 years and only 8 reports of

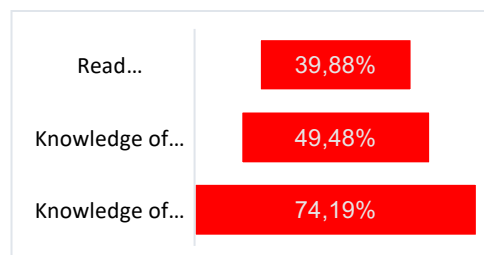
the latter; 134 violence suffered by those with experience in the field between 15-18 years and 10 complaints; 69 violence suffered by those with experience in the field between 19-22 years and 7 complaints; 125 violence suffered by those with experience in the field between 23-26 years and 4 complaints; and 674 violence suffered by staff with experience in the field for more than 26 years.

**Figure no. 3. Interviewees's years of work experience reporting violence
 (Number of victims)**



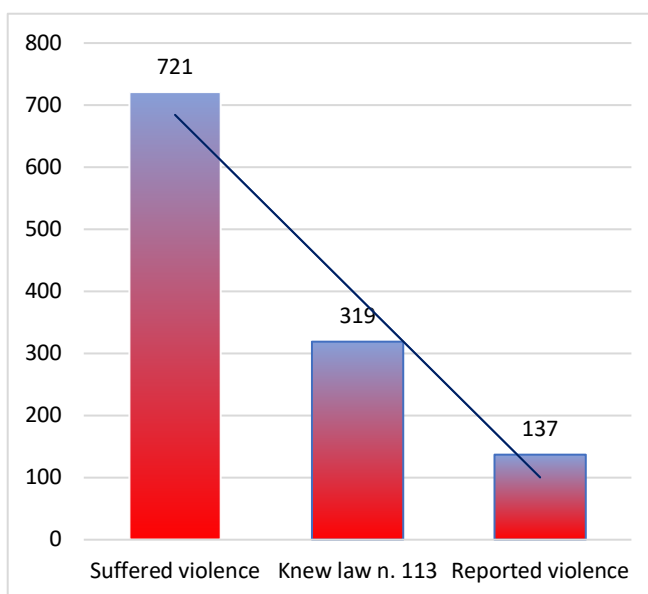
The 'low' number of complaints could be due to the unfamiliarity of the legal information that guarantees protection for the interviewed staff in the exercise of their profession, therefore, as a fourth step, the interviewed sample was analysed on the basis of 2 main parameters (Figure 4): a) knowledge and reading of the legal information Vademecum and therefore the form to report violence and assaults suffered and/or assisted; b) knowledge of law no. 113 of 14 August 2020 entitled 'Provisions on safety for health and social health professions in the exercise of their functions'. From this analysis it emerges that, while 75% of respondents are aware of the existence of the Legal Information Vademecum, less than 40% of staff have actually read it and are aware of the laws that protect them. Moreover, less than 50% of the sample interviewed are informed about Law No. 113, which provides the provisions for the protection and prevention of the phenomenon; therefore, they have no knowledge of how to safeguard their person in their work.

Figure no. 4. Respondents who are familiar regarding legal information to protect their profession



As a fifth step, the interviewees who were victims of violence and who were aware of law no. 113 for the protection of the profession decided to report the phenomenon were analysed. The results, as visible in Figure 5, show that of 721 respondents, who experienced physical/verbal violence themselves, only 319 respondents were aware of the law to protect their interests and of these almost half (137) chose to report the phenomenon to the judicial authorities.

Figure no 5. Respondents who were victims of violence familiar with the law and reported it



The reason why, despite having experienced physical violence and being aware of law no. 113, the interviewed staff still chose not to report the phenomenon, should be sought in the interviewees' individual interpretation of the concept of violence. As a sixth step the sample was analysed according to the interpretation of the phenomenon 'violence', and from this analysis, carried out on the whole sample, the following emerges (Figure 6).

- 58%, of the respondents, while not justifying the phenomenon, would not take legal action;
- 24% of respondents would inform their employer, reserving the right to take legal action;
- 16% of the respondents would justify the perpetrator as being in a state of need/disorder;
- 3% of the respondents, on the other hand, would do nothing, because they find no protection from the employer/regulation.

Figure no. 6. Interviewees's interpretation of violence

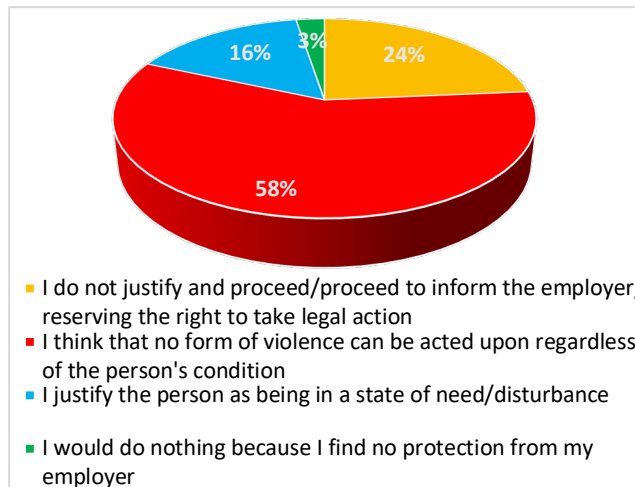
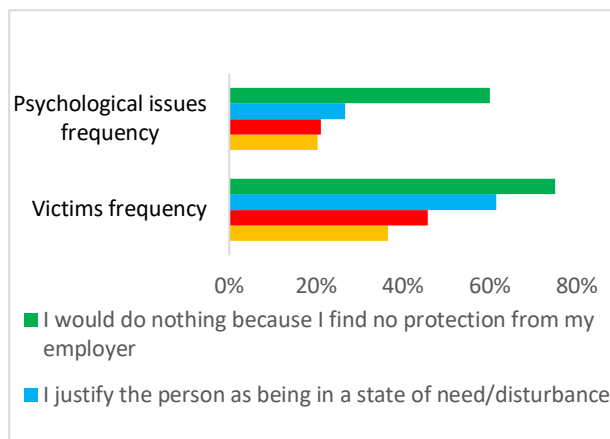


Figure no. 7. Frequency of psychological issues and violence depending on the interpretation



As can be seen from Figure no. 7:

- 75% of those who state that they do not feel sufficient protection from their employer turn out to be later victims of violence and, at the same time, they are also those who present more psychological problems following the event;
- following this, the cluster most affected by both violence (61%) and psychological repercussions is that of those who have a general tendency to justify the aggression, as they state that the perpetrator is in a disturbed condition;
- the 45% of the cluster most present in the sample surveyed, i.e. the cluster of respondents who, while not justifying the phenomenon, would not take legal action, are victims of aggression and, in 21% of cases, undergo psychological treatment following the event;

- the cluster least affected by both violence (37%) and psychological consequences (21%) is that of those who would proceed to inform their employer, reserving the right to take legal action. The last step of the analysis concerns the study of the correlation between the main quantitative variables acquired from the questionnaire that explain the phenomenon of violence and its consequences. In statistics, correlation is a relationship between two variables such that each value of the former corresponds to a value of the latter, following a certain regularity. Correlation does not depend on a cause-effect relationship, but on the tendency of one variable to change as a function of another and is calculated as the ratio of the covariance of the two variables to the product of the two individual variances. In formulae:

$$\rho = \frac{\sigma_{XY}}{\sigma_X \sigma_Y}$$

The variance of a variable “X” is defined as:

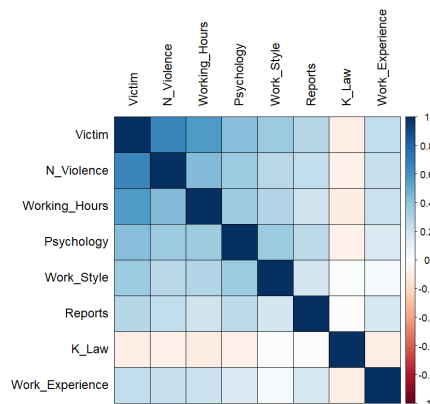
$$\sigma_X = \sqrt{\frac{1}{N} \sum_{i=1}^N (x_i - \mu)^2}$$

“N” being the sample number and μ the arithmetic mean. The covariance between two variables X and Y is instead calculated as:

$$\sigma_{Xy} = \frac{1}{N} \sum_{i=1}^N (x_i - \mu_X)(y_i - \mu_Y)$$

The results of the analysis (Figure no. 8) show the correlations between the following variables: violence suffered (Victim), number of violence suffered (N_Violence); event occurred during working hours (Working Hours); psychological repercussions due to the phenomenon (Psychology); change of working style due to the phenomenon (Change_Style); reported event (Complaint); knowledge of law no. 113 which provides the provisions for the protection and prevention of the phenomenon (Law) and years of experience in the field (Experience).

Figure no. 8. Correlation of main variables



The main results obtained show that:

- (a) there is a high positive correlation between psychological problems and the number of violent incidents ($\rho = 0.4$) and therefore, as one would expect, the greater the number of violent incidents the more likely one is to experience psychological repercussions;
- b) there is a high positive correlation both between change in work style and being or not being a victim, and between change in work style and psychological problems ($\rho = 0.4$), and thus the more violence or psychological repercussions an individual experiences the more he or she changes his or her work style for subsequent patients;
- (c) there is a moderate positive correlation between reporting and psychological problems ($\rho = 0.3$), and thus if individuals experience repercussions as a result of the act they have suffered, the more often they report. In addition to measuring the intensity of the link between the aforementioned variables, we are also interested in ascertaining how one of them (dependent variable) varies with the other (independent variable(s)), by finding an appropriate analytical function that summarises this relationship (GLM). This inferential analysis takes the name of generalised linear regression, as the object of study will be a dependent variable (Change in work style) and two explanatory variables (Victim and Psychology) in binary format (0;1). The GLM used for our analysis is presented as an expansion of the linear equation, in formulae:

$$y = \beta_0 + \beta_1 x_1 + \beta_2 x_2 + \varepsilon$$

where:

y: log (odds) of the dependent variable (Style Change);

β_0 : intercept of y, i.e. the value of y when x_1 , x_2 are 0.

β_1 , β_2 : regression coefficients representing the change of y with respect to the change of one unit of x_1 , x_2 ;

x_1 , x_2 : predictor variables (Victim and Psychology);

ε : outlier component

Table no. 2 shows the significant values of the GLM model studied on the binary variables Style Change (dependent variable) Victim and Psychology (explanatory variables).

Table no. 2. GLM parameters

Beta	Estimate	p-value	Significance
β_0	-2,8411	<2e-16	***
β_1	1,6743	<2e-16	***
β_2	1,2532	<2e-16	***

The significance level α selected is 0.05. Therefore, the correlation coefficient is considered statistically significant when p-value < 0.05 and the linear regression produced has p-values of less than this threshold so that all parameters are statistically significant, in formulae the equation:

$$y = -2,8411 + 1,6743x_1 + 1,2532x_2$$

The results of the equation show that:

- (a) if $\beta_1 = 0$ (the social worker has never been a victim of violence) and $\beta_2 = 0$ (the social worker has never experienced psychological repercussions in the course of work

performance), then: $y = -2.8411$; this value shows that the probability of such an individual to change work style is 5%.

b) if $\beta_1 = 1$ and if $\beta_2 = 1$ the social worker experienced both violence in the course of work and psychological repercussions, then: $y = 0.08636$; this value shows that the probability of such an individual to change work style is 52%.

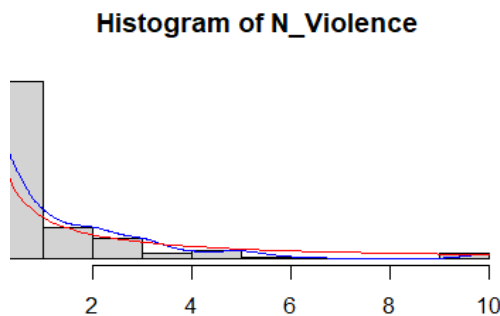
Table 3 shows the results of the GLM model in the 4 different case studies.

Table no. 3. GLM model estimated probabilities

β_2	β_1	
	0	1
0	5%	24%
1	19%	52%

Finally, an analysis of the distribution of the number of violent incidents was carried out, depicting in the same graph (Figure 9): the histogram obtained from the sample data; a continuous probability distribution fictitious (blue line); a log-normal distribution with mean (μ) and standard deviation (σ) equal to the sample data (red line).

Figure no. 9 Number of Violences: Fit Histogram vs Log-Normal



As can be seen from the graph, the Log-Normal distribution fits the sample probability distribution of the number of violent incidents experienced by a social worker in the course of employment fairly well.

6. Conclusions

The phenomenon of violence against social workers seems to be very frequent and of particular concern. The aim of this research work was to show that in the course of their work about 50% of the respondents have experienced at least one episode of physical/verbal violence. Consistent with the expectations, the results show that as the years of experience in the sector increase, this phenomenon increases and the episodes of violence are not single

but add up to dozens of incidents for a single person, just think of the total number of episodes of violence reported by those with more than 26 years of experience in the sector (674). The phenomenon of violence causes various psychological repercussions for those practising the profession and, as seen in the regression study, about one in two respondents would change their working style (52%) and thus change the way they practise their profession towards their next patients. Respondents do not always confirm that they are aware of the legal provisions protecting their profession (less than 50% of the social workers interviewed are aware of them) and in this respect they do not feel sufficiently protected in their profession; more often than not, the latter are the ones who suffer the greatest psychological repercussions by not externalising the incident. The overall number of reports of the incident seems to be ephemeral over the total number of incidents reported by the interviewees, in fact, out of a total sum of 1775 incidents reported by the interviewed staff only 135 times the incident was reported, therefore the judicial authorities are only aware of about 7.5% of the incidents that actually occurred.

The results suggest that it might be useful to pay more attention to this phenomenon, which is so widespread in this sector, and to try to limit it with more information from a legal point of view in order to be able to protect the staff concerned. This study could be a starting point to make staff aware of the incident and try to limit its occurrence. Future research should monitor, also on a national scale and with more significant samples, the trend of violence against social workers in the context of their work.

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From “subject” to “project”. Subjectivity’s transformations in workspaces

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Abstract

This paper aims to investigate, through a theoretical analysis, the transformative processes that invest subjectivity in its relationship with the working dimension, starting from the consideration of the centrality of capitalism for contemporary society and of the performative role it plays with respect to human and social experience. The subject has often been analyzed from an “object” perspective, in that the analyses mainly focused on how much capitalism makes the subject an object. Currently capitalism is not limited to this type of exploitation but affirms even more its performative dimension by shifting the perspective from the subject as an “object” to the subject as a “project”. What is the social actor’s role in this way? The impression is that some resources, such as trust, creativity and sociability are used, but not respected in their constitutive logic, nor reproduced.

The point is that the question is not on the analysis of the processes that involve exclusively the economic sphere, but in the examination of the processes that risk producing important effects on the social life, as demonstrated by the colonization of every vital area by the economic logic, which advocates efficiency, incentives and speed as the criteria to be used no longer and not only in the economic sphere, but even in the most private areas of the personal dimension.

Keywords: *subject; project; subjectivity; capitalism; workspaces; personality.*

1. Introduction

This paper aims to investigate, through a theoretical analysis, the transformative processes that invest subjectivity in its relationship with the working dimension, starting from the consideration of the centrality of capitalism for contemporary society and of the performative role it plays with respect to human and social experience.

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Compared to the literature that has long investigated the relationship between subjectivity and the world of work, these reflections intend to dwell on those specific transformative dynamics that are generated when the subject is considered as a “project”. Rather than addressing the topic in an exhaustive way, the paper elaborates some suggestions and intends to share some possible theoretical paths.

With respect to the relationship with capitalism, the subject has often been analyzed in an “object” perspective (that is to say, how much capitalism makes the subject an object). The Marxian thesis is perhaps the best known compared to the processes that derive from this objectification in terms, for example, of alienation. As known, currently capitalism is not limited to this type of exploitation, but affirms even more its performative dimension by shifting the perspective from the subject as an “object” to the subject as a “project”. In this sense, we are in the presence of a “project subjectivity”: capitalism weaves a relationship with the subject in terms of a real “project”. A project of self-realization and self-affirmation of the subject which, must pass through the capitalist dimension to be fulfilled.

This subjectivity’s idea as “project” seems to be based on:

1. the importance of the theme of happiness;
2. the existence of a capitalized personality – or of a personality’s capitalization.

2. The main project: happiness

In the age of the subject understood as a “project”, it is on the shoulders of the subject that weighs every area of his life. How does this process take place? It is only through a certain kind of self-realization, which rests on the cornerstones of capitalism and depends on capitalism itself, that happiness can be achieved. This represents the most contemporary promise that capitalism makes to the subject and that makes capitalism similar to a religion.

The happiness guaranteed by capitalism also passes through living certain experiences, in some cases particularly adrenaline. Experiences that seem unique to us and that make us unique. In our uniqueness lies the achievement of happiness. We can mention, for example, the emphasis on “We are responsible for and creators of our own happiness”. Hence the real obsession with well-being, the thriving self-care industry, motivational coaching courses that aim to make the subject “entrepreneur of himself” (Han 2016). Or, again, all those products that, through their consumption, guarantee happiness, or rather, provide us with the illusion of having conquered it, albeit briefly, for example in the period of time necessary to consume a tea (a well-known brand of tea has on its filters the words “Instant happiness. Just add water”).

“The self as a project, which believes that it has freed itself from external obligations and constraints imposed by others, now submits to inner obligations and self-imposed constraints, forcing itself to performance and optimization”, says Byung-Chul Han (2016): here is one of the greatest performative capacities of capitalism and this aspect reverberates in particular within the working dimension, especially in all those hybrid work contexts.

The capitalist promises connected to “happiness for all” replace the promises once offered by the religious world, also in the guarantee of an answer to “anxieties, sufferings, apprehensions” (Benjamin 2011: p. 84) of the subject. Faced with the observation that this promise cannot effectively satisfy the totality of the subject’s desires – since the social cannot be subsumed in the economic without this causing a distortion of the sense of the

social dimension itself (Iannone 2020) – he lives a peculiar ambivalence: on the one hand, his identity is reduced from subject to “entitled” (Mongardini 1997: p. 77) and this reduction puts him in front of the evidence that many of his expectations remain unfulfilled; on the other hand, all those non-economic and non-rational components of the personality, forcibly reduced to a capitalist logic, tend to try to escape the economic order and the process of rationalization instituted, reaffirming, to the detriment of homo œconomicus, the centrality of “homo complexus” (Giacobello 2016: p. 50).

From the process by which calculating reason, in the era of late modernity, has progressively placed the accent on some aspects of the life of the subject, marginalizing others, changing “the meaning of individuality and building on this transformation a different world” (Mongardini 1997: p. 193), there also derives the exasperated opposition between the sphere of feelings, emotions and instincts, proper to each subject, and the sphere of objectified social relations and forms of organization. An opposition that makes any attempt at mediation and synthesis between the two extremely complex. It seems to re-emerge, albeit under different guises, the eternal struggle, of Simmelian memory, between life and forms, between the “non-economic sources of social life” (Mongardini 1997: p. 193) and the capitalist forms that force these elements into a logic distorting their original and constitutive meaning (Iannone 2020).

3. Subjectivity and personality in (or, better, at) work

How does current capitalism operate with respect to such mechanisms? It would no longer be limited to the exclusion of the personal qualities of the worker from the workplace – left outside the factory gates, according to Marx, or in the cloakroom, according to early Sombart (1916) – but would increasingly require the contribution of the personal qualities of the subject in the workplace. This is what has been highlighted through the conceptual category of biocapitalism (Codeluppi 2008; Fumagalli 2009; Moulrier Boutang 2002) – for example in the reference to how and to what extent capitalism engulfs the bodily and intellectual resources of the worker – but which in the transition to the idea of the project takes a further leap.

It is on the idea of the subject as a project that many of the currently existing corporate ideologies seem to be implanted. The personality of the worker, an essential tool through which to pass the affirmation of a project, is not placed in a corner, as happened in early capitalism, but is shaped based on the needs of the system. It is put at the service of capital.

In 1934 the German sociologist Werner Sombart stated: “All employees” within the company, “from the General Manager to the last packer” (Sombart 1941: p. 33) carry out their daily work not according to their own perception of how best to act, but according to “a system of norms and prescriptions” (Sombart 1941: p. 33). Once the doors of the “office or factory” – it is indifferent, since it is a transversal process – are closed, the subject is nothing more than “a number in a mechanism that cannot be determined by him either in detail or in complex”. It is the company that ‘walks’ and the subject “with it” (Sombart 1941: p. 33).

The rationalization of work required the rationalization and standardization of machines, from which derived the standardization of products and, from the latter, the standardization of workers. The rationality of work thus had to rely on an autonomous organizational basis and no longer depend on the subjective dispositions of the workforce.

The workshop had to function all the better because its operation no longer needed the spirit of cooperation of the workers (Gorz 1992: p. 71).

Today we see that in all forms of “hybrid” work the boundary between the private personality of the subject and the organizational personality – in other words the working personality – becomes increasingly blurred. The organization no longer stops at the threshold of the private personality of its members but intends to shape it to generate discipline and self-control internalized by the worker.

As is known, it is essential to distinguish between the aims of the organization and the personal motives of those who belong to it. The personality of the subject is not reducible for the purposes proper to the organization (Barnard 1970). Each member of an organization has a double personality: his own (individual) and the organizational one. The first concerns the personal motives of the subject; the second concerns the way in which he performs the services required of him (Bonazzi 2002). The relationship between the two personalities can take different forms. There are, in fact, cases in which the individual personality tends to identify with the organizational one and others in which the individual reveals itself intensely different, if not even opposed, to the organizational personality.

It is from this distinction that Chester Barnard – a well-known American business manager and public administrator, author of an innovative study on management theory and organizational studies – reminds us how it is possible to identify two different dimensions of organizational action: effectiveness and efficiency. Effectiveness measures “the degree to which the organization achieves its goals,” while efficiency concerns “the degree to which the personal motives of being part of an organization are satisfied” (Bonazzi 2002: p. 62). The intersection of effectiveness and efficiency can give rise to four different possibilities. An organization, in fact, can be: effective and efficient (this is the optimal situation); effective but not efficient: when it achieves its goals, but fails to satisfy its members; not effective, but efficient: when it does not achieve its goals, but manages to satisfy its members; not effective or efficient (this condition is the worst situation).

The organization can act on these two dimensions through what Barnard defines as the “model of the incentive and persuasion economy”. When the individual believes that the benefits he receives are greater than the costs he incurs he continues to participate and contribute to the organization. If, on the other hand, the costs are deemed greater than the benefits, then he will decide to leave the organization. The latter, therefore, has two tools at its disposal to ensure that effectiveness and efficiency are met: relying on the system of incentives and that of persuasion. In the first case, the incentives are not only material, but also moral. In the second case, persuasion acts at a deeper level, since it intends to modify existing expectations, replacing them with new motives. The purpose of persuasion is to “change the desires of a sufficient number of people so that the incentives it can offer become adequate” (Barnard 1970).

Starting from these considerations, the sociologist Gideon Kunda recalls how we can speak of “multiple self-personalities” (Kunda 1992). That is, “however demanding” (Bonazzi 2002), an organization cannot go so far as to request the annulment of the personality of its members. The private personality can never be fully identified with the organizational personality.

Today it is possible to see how organizations are increasingly based on what is defined as “internalization in the consciousness of employees of values, codes of conduct and corporate objectives”. What was once identified, on the one hand, as “coercive

control” – or first-level – and on the other as “hierarchical-bureaucratic control” – or second-level control – is now increasingly replaced by “cultural control” (or third level). Through it, the members of the organization become “the most diligent controllers of themselves and their work colleagues” (Bonazzi 2002).

The most important novelty consists, therefore, in the observation that, through cultural control, the organization no longer intends to stop at the threshold of the private personality of its members – as Barnard affirmed – but aims to completely shape this personality, “in the conviction that only the total and passionate identification with the values and desires of the company itself can lead to internalizing discipline and self-control” (Bonazzi 2002; Iannone 2019).

In the organizational culture are contained, therefore, a series of elements that can have a significant impact on the motivation of the members.

Cooperation of workers is demanded more than ever before. They are asked to contribute more and more with their personal qualities, even when the type of work to be performed does not require such a contribution in itself or requires it only to a limited extent. This is the idea of the workplace as “a big family” (Bonazzi 2002: p. 170), as the place where the worker is required to be creative, to identify himself completely with the values of the company for which he works, letting his private self be colonized more and more by the organizational self.

By exploiting the idea for which working is not only equivalent to “producing economic wealth”, but also represents “a way of producing oneself” (Gorz 1992: p. 93) – and, therefore, realizing oneself as a project – a real “ideology of human resources” seems to be generated, as Gorz defined it (1992: p. 78) of which a typical expression can be found in the idea of the organization of work considered as “human” and “conceived as a place of realization and individual and collective initiatives and therefore as the engine of economic and social progress” (Gorz 1992: p. 78).

This is a culture that shows to be “pathological” and that produces malaise (Bruni 2018: p. 9). The current business organizations appear, therefore, more hierarchical than the traditional ones, while presenting themselves to external eyes with a “participatory look” (Bruni 2018: p. 12) and, going beyond the rhetoric of the team, it is possible to find an increasing loneliness, both at the management level and at the lower work levels.

While supporting the prohibition of mixing the languages and emotions of private life with those of business life – this is a “golden law” (Bruni 2018: p. 12) of the managerial culture in question – it is possible to note how all the fundamental words typical of family, social and community relationships, not only are not kept outside the workplace, but rather they are increasingly claimed as manipulable for the purposes of business logic. In doing so, managerial culture comes to distort, to bend the meaning of these relationships.

4. Some consequences of this process

Among the main consequences, two seem to be more relevant:

1. the transformation of the class struggle into an inner struggle for the individual/worker;
2. the increase in the presence of mechanisms through which the worker constantly blames himself and no longer perceives, or perceives less, as determining the dimension of the “system” (Han 2016).

With respect to the first point, although it is clearly not possible today to speak of “class struggle” as we understand it in a classical way, all those instances expressed by the workers and attributable to the idea of the existence of opposing interests between the various parties involved seem, in fact, to weaken in favor of an inner struggle with the subject. Our adherence to the project that the company we work for has created for us clashes with those processes through which we try to detach ourselves from our role. The project it intends to advance is opposed by those interstices in which the private personality tries to take refuge, through cynicism – that is, the demystification of corporate ideology – through rejection, depersonalization and so on (Kunda 1992).

Linked to this is the second point, the weakening of the idea of “system”: “my project depends on me”, so even my successes and failures depend uniquely on my abilities or inabilities. The meritocracy typical of this vision means that there is a greater legitimization of inequality between people, since it interprets talents not as a gift, but only as an individual merit. From this it follows that those who are poor are easily considered as “guilty” (Bruni 2018: p. 9) of their situation, with serious repercussions in terms of de-responsibility for the role of institutions, for example.

The incentives, in this framework, simulate the function of the gift with the aim of generating forms of gratification of the worker by the company, but it is a reduced gift, a partial gift that has nothing to do with the logic of the real gift (Bassi 2000; Godbout 1992; Godelier 1996; Mauss 2002).

Even “sacrifice”, today, through “semantic manipulation” by current capitalism, is experienced by the subject as a form of “voluntary gift” (Bruni 2018: p. 47).

All this happens without “bloodshed” (Zuboff 2019: p. 530). In exchange for the promised happiness, the subject willingly surrenders all that is doubtful, “chaos, uncertainty, conflict, in favor of predictability, pacification and automated regularity” (Zuboff 2019: p. 530).

5. Conclusions

What are the real spaces for action for this “project subjectivity”?

The language and logic of human relationships that come to life outside of work are increasingly strongly demanded within work relationships. All this, however, does not seem to lead to a strengthening of the subject in the workplace, but, on the contrary, contributes strongly to distorting the relationships themselves. It is a “relational and emotional fragility” (Bruni 2018: p. 11). But it is also the syndrome of the so-called “burnout”, which Kunda (1992) talked about in the 90s, when he indicated that the organization would no longer stop “on the threshold of the private personality of its members” (Iannone 2019: p. 131) but would fully shape it.

And while, on the one hand, real behaviors of separation are cultivated – consider, as Bruni states, the case of those managers who do not intend to fraternize with their subordinates in canteens or in sports and recreational clubs – on the other, these new enterprises instrumentally employ words typical of the most intimate areas of the person, such as family, friendship, ideals, ethics, religion.

But what is the social actor’s role in this way? The impression is that these resources are used, but not respected in their constitutive logic, nor reproduced. “So, this logic will continue to be compromised if these resources, such as trust, creativity or sociability are treated as sacks of flour or mechanical tools” (Iannone 2019: p. 128). “The problem is not (only) ethical, but functional. Once ‘employed’, trust, creativity and sociability are not reproduced if the logic of employment is not their typical one. For

example, if you use a person's trust opportunistically, the next time that person will no longer trust you" (Iannone 2019: p. 128).

While in the typical enterprises of the first and second capitalisms workers and managers were asked considerable participation, workers and managers of today's capitalism are asked for everything, impoverishing all other areas of life other than work. There is no return, therefore, for the social actor except in terms of an instrumentalization of the deepest human dimension.

Capitalism, while feeling the need to invoke gift and gratuitousness - as factors capable of activating the most intimate component of the person - is in fact enormously afraid of the devastating effects they have on the functioning of contractual logic. "If companies were to accept and embrace the gift-gratuity register", says Bruni, "they would have to deal with workers who would follow their own intrinsic motivations, which would go beyond the limits of the contract [...]. They would be confronted with people who would go outside organization charts, outside job descriptions" (Bruni 2018: p. 99).

It is not a question – and this is a central point – of analyzing processes that involve exclusively the economic sphere, but of examining processes that risk producing important effects on the whole of social life, as demonstrated by the colonization of every vital area by the economic logic, which advocates efficiency, incentives and speed as the criteria to be used no longer and not only in the economic sphere, but even in the most private areas of the personal dimension.

It is necessary to understand how all these processes affect the subjective dimension, even by redesigning a new subject, which feeds on very precise social relations and above all on a certain representation of these relationships within a new idea of society (Iannone 2019).

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Evolution of Concepts of Privacy and Personal Data Protection under the Influence of Information Technology Development

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Abstract

The preservation of privacy is inextricably linked to technical advancement: nowadays, modern science and technology make it quite simple to invade someone's privacy. The basic right to data privacy and the growing need for personal information collide as a result. The legislation must change to reflect these advances in order to guarantee the protection of privacy under the law. However, it is crucial to identify the underlying concepts pertaining to the concept of privacy.

In order to better comprehend the notion of privacy and discover a solution for how privacy may be properly safeguarded in the information society, the study's goal is to outline the historical evolution of privacy. In addition to providing a thorough explanation of the GDPR, the study makes an analysis of literature on the evolution of data protection and the effect of technological advancements on the evolution and emergence of the personal data protection.

Keywords: *personal data protection; GDPR; privacy; data processing; data storage.*

1. Introduction

Although it has always existed, privacy has not always been a legally recognized right. What is seen as private and what is protected as private by law might differ. In the past, privacy was mostly concerned with one's physical surroundings, such as their home or possessions. With the introduction of new technology and easier access to information, privacy concerns have expanded to encompass problems with the gathering, storing, and utilization of personal data.

According to a number of privacy scholars and the European Court of Human Rights, one of the biggest issues with legal privacy protection is that it is hard to offer a complete legal

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definition of the idea of privacy protection. The significance of privacy may be explained by the fact that it is increasingly threatened in an era of quick technological advancement in the information society. Privacy also has a very tight relationship to human dignity, freedom, and independence of the person.

The concept of privacy has been changing and developing throughout history. But what is seen as private varies depending on the time period, the community, and the person. There may also be a difference between what is regarded as private and what is legally protected as private (Solove, 2011). From a legal perspective, the Code of Hammurabi featured a section prohibiting entering someone's house, and Roman law also addressed the issue (Konvitz, 1966). The dichotomy between "private" and "public," which derives from the individual's innate to draw a boundary between himself and the outside world, is where the concept of privacy usually originates from. The boundaries between private and public vary depending on the era and culture at the time, which results in ongoing changes in what individuals regard to be private throughout time (Westin, 2003).

Because the person existed as a member of a community and privacy was not valued in the same way it is now, other community members constantly "monitored" the individual's private life. The transition of these rural areas into cities is related to the appearance of "genuine" privacy (Bratman, 2002). The way people lived throughout the 19th century underwent a metamorphosis. "As a result of new economic and social developments, and these changes also had an impact on privacy as physical and mental privacy began to diverge and develop in distinct directions" (Solove, 2011). As a result of urbanization, cities' populations began to increase, forcing residents to live in more crowded conditions. However, as they were no longer subject to the continual moral supervision of their village neighbors and their constant watchful eyes, citizens were able to experience a new kind of privacy. The emergence and expansion of (tabloid) newspapers, which provided a "fertile ground for rumors and photography" (Solove, 2011), was another significant shift (Bratman, 2002).

1. The evolution of the concept of privacy

1.1 Concept of privacy in its inception

The famous paper "The Right to Privacy," written by Louis Brandeis and Samuel Warren in 1890, is credited as being the first to introduce the modern notion of privacy. This development marked a significant turning point (Konvitz, 1966). The Right to Privacy by Warren and Brandeis, which was published in the Harvard Law Review in 1890, quickly gained recognition among legal historians as one of the "undisputed classics" and "most significant law review articles of all time" (Bratman, 2002). The authors of the research concluded that in order for the law to "meet the demand of society" and provide the complete protection of the person and the property, the law must adapt as political, social, and economic developments take place in society. They saw two developments as threats to privacy: technical advancement (namely, instantaneous photos) and newspaper gossip, which turned into a business (Bratman, 2002). In light of these developments, they were the first to call for "the recognition of the right to privacy as a distinct and universal right, one that offered protection against not the infringement of property rights but rather the sheer infliction of emotional anguish" (Konvitz, 1966). The right to privacy is described by the writers of this publication as "the right to be left alone" (Konvitz, 1966). Warren and Brandeis described an already-existing common law right as a "stepping stone to the right to be left alone" because it "allows people to choose how much of their thoughts, feelings, and emotions they want to share with others" (Bratman, 2002). The "inviolable personality"

served as this right's guiding premise (Bratman, 2002). The right to privacy essentially provided protection against the illegal disclosure of personal information, including "facts, feelings, and ideas" (Konvitz, 1966).

The right to privacy is described by the writers of this publication as "the right to be left alone" (Konvitz, 1966). Since that era, "the right to privacy had achieved universal acceptance, started to take shape, and in western nations, it had established itself as a fundamental human right" (Konvitz, 1966). Despite the fact that laws ensure privacy protection, there is disagreement on what really needs to be safeguarded and what privacy is. Many famous jurists have attempted to define privacy, but most of these definitions only focus on one part of it owing to its unfathomability and the ongoing evolution of the components that make up an individual's private sphere.

It is extremely challenging to identify the philosophical and sociological arguments for the right to privacy (and data protection), because they are always evolving in line with social and legal developments. The value of privacy, according to Post, "is so complicated, so intertwined in conflicting and contradicting aspects, so engorged with diverse and unique meanings, that I often despair whether it can be successfully handled at all" (Post, 2001). These fundamentally unclear understandings and definitions have an impact on how the public is seen. They are most likely reflected in uncertainty regarding the framework's applicability and operation in general, the relationship between privacy and a rapidly changing environment, the assessment of the relationship between privacy and other rights, with individual action, and its applicability in light of other social goals (Post, 2001).

1.2 Privacy and its philosophical ontology

For several reasons, people choose to expose their personal information. We occasionally divulge information about our identities, residences, social security numbers, job histories, and net worth in order to apply for loans, mortgages, or credit cards. Other causes include the need for comfort (confessions), or while conversing with medical professionals and legal professionals. Another important factor is that individuals accept or allow monitoring in order to preserve social order (for instance, it is considered absolutely normal to have cameras in governmental buildings, airports or banks to deter criminals).

In a court case, photography - a new technology at that time - had been employed to gather data and information about a person without their consent. Warren and Brandeis were writing about this case being first lawyers to analyze the case of data processing using methods that appeared due to rapid technological advancement (Bratman, 2002). Although technology, especially information and ICT, has advanced significantly, the fundamental idea of privacy changed not in a such radical manner. With a few exceptions, ideally a person should be able to choose between being open or remaining in "solitude, intimacy, anonymity, reserve," as stated by Professor Alan Westin (Westin, 2003). Others, like Solove, have pointed out the difficulty in defining privacy, admitting that it is a "conceptual jungle," and have suggested a more nuanced definition that decouples privacy from a fundamental human rights approach based on how privacy is viewed in the context of resolving particular issues (Solove, 2011).

According to Alan Westin three levels: political, sociocultural, and personal were identified by as having an impact on privacy standards (Westin, 2003). An important part of privacy is played by the individual: it may be thought of as a kind of "aura" that surrounds the person and serves as the boundary between them and the outer world (Westin, 2003). The boundaries of this aura differ from context to context and from individual to individual, thus an average standard needs to be derived from all of this

customized and shifting context and this standard can be legally protected (Westin, 2003). In addition to this dynamic environment, there have been many attempts over the past centuries to define privacy.

All of these definitions, though, have a flaw, as Daniel Solove noted in one of his articles: either their breadth is too limited or too broad (Solove, 2011). He emphasizes that this does not imply that the concepts are flawed; rather, the issue is that these authors conceptualize privacy in a traditional way, which leads to definitions that either only highlight a few aspects of privacy or are overly general and do not provide a precise understanding of its components (Solove, 2011). According to his six categories for these definitions, privacy is the right to be left alone, to have only limited access to oneself, to secrecy, to have control over one's personal information, to be considered a person, and to intimacy (Solove, 2011).

Our interest in privacy, says Israeli law scholar Ruth Gavison, "is tied to our worry over our accessibility to others: the amount to which we are known to others, the extent to which others have physical access to us, and the extent to which we are the focus of others' attention (Gavison, 1980)." The withholding or suppression of information is one component of privacy, according to American lawyer and economist Richard Posner (Posner, Alan Westin and American professor Charles Fried must be recognized among the authors who view privacy as a control over personal information) (Posner, 1978).

While Fried said that "privacy [...] is the control we have over information about ourselves," (Fried, 1968), Westin described privacy as "the claim of a person to select whether information about himself or herself should be revealed to others (Westin, 2003)." According to American lawyer Edward Bloustein, privacy invasion is closely related to personhood, individuality, and human dignity (Bloustein, 1964). Privacy, according to American scholar Tom Gerety, is "the control over or the autonomy of the intimacies of human identification" (Gerety, 1977). The claim that "privacy is the right of the person to determine about themselves" was made by Hungarian jurist Mate Daniel Szabo (Szabo, 2005). Adding the requirement that privacy must be understood in light of contemporary society and economic institutions makes it appear difficult to develop a complete legal definition of privacy. Despite these ambiguities, the right to privacy is recognized in a number of international legal texts. However, it is "unclear how or even if effective legal protection can be provided when the target of the protection cannot be identified with certainty" (Post, 2001).

1.3 Right to Privacy and its recognition

A large number of international statutory provisions from the second half of the 20th century recognized the right to privacy as a first generation fundamental human right, and protection for this right eventually emerged in the national laws of the countries that ratified these articles. The case law of the courts protecting these rules establishes the precise nature of privacy and the facets of life that can be deemed private (De Hert, 2004). These texts do not provide more information on what privacy is. The right to privacy is covered by a number of international human rights agreements, both at the global and regional levels.

"The right to privacy is a fundamental human right, and everyone has the right to their private and family life, home, and correspondence", according to "Articles 12 of the Universal Declaration of Human Rights (United Nations, 1948), Article 17 of the International Covenant on Civil and Political Rights (United Nations, 1966), Article 8 of the European Convention of Human Rights (Council of Europe, 1950), and Article 7 of the Charter of Fundamental Rights of the European Union" (Gellert, Gutwirth ,2013)

(European Court of Human Rights, 2018). These dispositions, however, are relatively brief and “don't give detailed instructions on what privacy is or what aspects of privacy need to be protected by law” (Solove 2011). The case law and judicial decisions that govern how these rules are applied contain the answers to these questions. Due to their intricate procedures and rules, it is important to mention the influence of the Council of Europe (CoE), The European Court of Human Rights (ECtHR), and the Court of Justice of the European Union (CJEU). These institutions have created a comprehensive corpus of case law pertaining to protection of individual's private life.

The right to respect for one's private and family life is stated in Article 8 of the European Convention on Human Rights (ECHR). 1. “Everyone has a right to respect for their home, their communications, and their private and family lives” (European Court of Human Rights, 2018). 2. “Public authorities may not impede the exercise of this right unless doing so is legal, necessary for a democratic society, and serves the interests of national security, public safety, the country's economic well-being, the prevention of disorder or crime, the protection of health or morals, or the preservation of the rights and freedoms of others” (European Court of Human Rights, 2018).

Since Article 8 protects such a wide range of aspects of life, the ECtHR declared that “there is no complete definition of what constitutes private life” (Gellert, Gutwirth, 2013). Additionally, the ECtHR was prompted to build a flexible definition of private life under the contemporary conditions by the technical and scientific advancements that surfaced following the ratification of the ECHR. In its case law, the ECtHR stated that interference with the following aspects of life fell under the purview of Article 8 (and further examined whether the interference was legitimate or not as it is not an absolute right): “access to personal data, telephone tapping, choice or change of name, sexual life, profession or domicile, protection from environmental annoyances, and the right to form and maintain relationships with others” (European Court of Human Rights, 2018). Additionally, the ECHR's preamble emphasizes that these essential rights will be maintained and expanded (De Hert, 2004). It suggests that what is covered by Article 8 fluctuates along with the constantly shifting socioeconomic circumstances.

The ECtHR has a significant impact on the decision of the European Court of Justice for a number of reasons. “The language of Article 7 of the Charter of Fundamental Rights was modeled after Article 8 of the ECHR, and Article 52.3 of the Charter stipulates that for rights that also occur in the ECHR, the meaning and extent of the right also apply to them in the Charter” (Gerety, 1977). As a result, “the ECtHR's case law can be used to infer information about privacy” (Gellert, Gutwirth, 2013).

It is important to notice when we are looking at the concept of privacy throughout the history that technological advancements are inextricably linked to its evolution. It was clear that the ECHR had significant limits by the 1970s thanks to modern technology (De Hert, 2004). These drawbacks included the application's ambiguous scope (because privacy was not defined), the fact that it only protected individuals from state meddling and offered little protection for “personal data in the modern sense” (De Hert, 2004). The right to data protection, which seeks to safeguard the person in the age of the information society, emerged as a result of this.

Convention 108 or “Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data” was adopted in 1981 after addressing the issue of data protection under Article 8 of the ECHR on multiple occasions (European Court of Human Rights, 2018). Not all data processing involves an individual's private life.

However, "...its regulation does not apply to all data processing, since it does not apply to processing which does not infringe on the privacy of the individual" (Gellert, Gutwirth, 2013). Privacy is also more broad and specific, as it "may apply to the processing of non-personal data while still impacting privacy" (De Hert, 2004). Another significant distinction is that, "in contrast to the right to privacy, which is more abstract, the right to data protection is subject to a complex set of laws that include definitions, guiding principles, and other provisions" (Gellert, Gutwirth, 2013).

2. Personal data protection concept and privacy protection challenges

2.1 Challenges of privacy protection

Privacy protection remains a challenge despite present statutory constraints and the creation of a right to data protection. In his 1967 book "Privacy and Freedom", Professor Alan Westin claimed that there existed "a serious anxiety over the protection of privacy under the increasing constraints from monitoring technologies" (Reynolds, 1969). It is important to consider Internet usage, cellphones, social media, drones, biometric identification, and the Internet of Things (IoT). According to Solove, it is essentially impossible to exist today without having some sort of record made of you (Solove, 2011).

As a socially recognized phenomena that has always existed, "monitoring was evident in tiny communities when individuals constantly observed their neighbors, exerting moral pressure and upholding the values of the neighborhood" (Westin, 2003). Today's monitoring is significantly different since in addition to being seen, information about us is also captured, saved, and an increasing number of elements of our lives are being documented in this manner (e.g. security cameras, paying with credit cards, buying airplane tickets, etc.) (Solove, 2011). The advancement of computer technology also makes it feasible to store data without restrictions on quantity, volume, or duration of storage. The gathered data may be promptly transferred, sorted in a methodical fashion, and stored in large volume databases.

However, some lawyers argue that despite what individuals claim, their behavior shows that they do not truly value privacy. According to Jonathan Franzen "The fear about privacy has all the finger-pointing and hysteria of a good old American scare, but it's lacking one key ingredient: a really worried population" (Gonzalez, 2015). Americans are generally interested in privacy in the abstract. Despite surveys showing that individuals value their privacy greatly, many people habitually divulge personal information and openly share sensitive details about their life online. The claimed and actual privacy concerns of people differ. Calvin Gotlieb asserts that "the majority of individuals do not care enough about privacy to respect it when other interests are at stake" (Cohen, Gotlieb, 1989).

When weighing the significance of their personal privacy, people typically don't systematically analyze how their rights and what is acceptable should be balanced (West, 2008) (ENISA, 2016). On a practical level, people could decide to give up their personal information or be compelled to do so in order to receive benefits in return, such when making an online purchase (ENISA, 2016). "For law enforcement or national security purposes, such as during criminal investigations or intelligence operations to prevent further harm to society from public security dangers, society may also determine through particular rules that some persons within specified settings may have portions of their right to privacy annulled" (West, 2008).

Privacy and its implications especially regarding the breach of privacy depend much on context. When taken out of context, "even personal information that could be thought to be

harmless could become harmful if paired with other personal or non-personal information” (West, 2008). Consequently, managing this is not a task that a person can complete on their own; rather, they must collaborate with and rely on other third parties (such as regulators or organizations utilizing their personal data) “in order to fulfill expectations on the use of personal data and prevent its misuse, if possible” (ENISA, 2016). However, value assessment of personal data is challenging and “context-specific” (Solove, 2011).

Consumers' attitudes and behaviors are complicated when it comes to assessing risk and harm (West, 2008). According to research, people value losses twice as highly as profits, but they are also more willing to gamble when losses are possible rather than certain (West, 2008). This same reasoning would suggest that data subjects may be less likely to take safeguards while managing their own personal data if they are unsure about the likelihood of data misuse or security breaches. If these threats are truly impossible to predict in advance, it follows that an appropriate legislative strategy should not only define data subjects' rights but also provide people with practical instruments to take action when such instances occur (ENISA, 2016). If precautions are taken to mitigate dangers, people may in fact alter their behavior (West, 2008). There are several intriguing concepts in this regard from the research on behavioral economics. One is that “human decision-making demonstrates constrained rationality, meaning that individuals rely on techniques like rules of thumb and anchor points because they are unable to completely appreciate how their personal information could be utilized” (West, 2008).

The information society in which we currently live has a significant influence on our daily lives. There are numerous ways in which this issue affects privacy (Szabo, 2005). On the one hand, a “person's private sphere grows more open as new advancements intrude more and more into it” (Szabo, 2005). Increasingly, private areas of life may be accessed or influenced by technologies. On the other side, when more activities in life are done online, individuals tend to retreat, their connections become “less intimate, and the individual becomes more private in the offline world” (Szabo, 2005). It is even feasible to live a whole life online thanks to technology advancement and the many opportunities it has opened up, including the ability to work, have friends, shop, and so on (Solove, 2011). Because of this, each person in society is defined not by himself or herself but rather by the information that has been gathered on him or her. Since many of personal relations online do not allow to know the person in their true physical form, the person becomes virtual and is instead recognized by the recipient as a collection of data (Szabo, 2005). The person remains a genuine human being despite this virtualization, but is only known to the outside world as a collection of data (Solove, 2011). As a result, the outside world has a preconceived notion that the online person they are interacting with is also a real person in the offline world.

There are several in which poor privacy safeguards may cause harm. One of classification is proposed by Hoven:

1. Information inequality which refers to price discrimination without the individual's knowledge or ability to affect it, in which information about purchases and preferences is exploited for marketing purposes (Hoven, 2008). The use of behavioral monitoring and analysis tools is a case in point in this situation, where the same goods and services may be offered at various rates based on knowledge about prior purchases or habits. Additionally, this could result in discrimination, when people or particular social groups are picked out for unfavorable treatment based on false or inaccurate beliefs (Hoven, 2008).

2. “Restriction of moral autonomy which occurs when people's alternatives for self-representation are constrained or limited as a result of the ubiquitous and widespread nature of personal information” (Hoven, 2008). This might also be referred to as “a limitation on the freedoms guaranteed by the right to privacy” (Hoven, 2008). This may be seen, for instance, in behavioral profiling and advertising, where persistent profiles may exist across several distinct domains, or in the development of “numerous online personas in response to the requirement to clearly distinguish personal data settings” (for instance, profiles specifically created for different purposes: social networking, work and professional use, creativity etc.) (Hoven, 2008).

3. Information damage which includes harm to the individual, which are only conceivable after the acquisition of data or information about the person, and includes apparent examples like identity theft (Hoven, 2008). Identity theft is one of the most prominent examples in the information age.

People may be harmed directly or indirectly by each of these sorts of damage. As a result of the exposure of personal information, they may unintentionally exacerbate conflicts or ruin relationships (Hoven, 2008). People may constantly worry that someone may use their personal information against them, such as in stalking or personal surveillance situations. There could also be immediate effects, such as theft of credit cards, bodily injury, or lost property.

When privacy safeguards are withdrawn or violated, it is difficult to determine the damage or the harm that may ensue (Fogarty, 2009). Damage may come in both direct and indirect forms, and it can affect a person in a number of different ways, from financial to social, emotional, and physical. Types of injury might be hard to predict in advance. Finally, the erosion of trust and confidence in individuals exploiting personal data may have an impact on society as a whole.

Furthermore, it is important to think about how the usage of personal data may have wider effect. While it may be feasible to pinpoint specific instances of a person's physical or financial damage, there are also potential social repercussions from the ongoing, systemic drive to collect and exploit personal data (Dyson, 2008). The development of a culture of mistrust or dread, as well as a decline in confidence in the organizations collecting personal data, are examples of indirect social effects.

However, defining social damages consistently across national borders is far more difficult since what is considered acceptable in one country could not be in another (Dyson, 2008). An excellent illustration of this is how privacy is seen differently in different countries and cultures throughout the world, where physical rather than informational factors are more important (Hoven, 2008).

2.2 Evolution and emergence of personal data protection

The field of EU legislation governing data protection is relatively new. However, there was legislation in Europe governing data protection prior to the creation of the European Union. From the 1960s onward, “a number of country states started to legislate on data protection concerns, developing the fundamental ideas that later became a component of the European data protection legislation regime” (Craig, Búrca, 2021). The OECD's data protection recommendations and the Council of Europe's data protection convention, in particular, put forth significant foundational elements that affected the framework as it took shape under and as EU legislation.

As a result of advancements in computing technology, data protection law was created in the 1970s. The first data protection legislation in history was passed in 1970 in the German state of Hesse, which is typically credited for it (Schwartz, 1995). Over the course of the

1970s, some Member States, including Sweden, Germany, Austria, Denmark, France, and Luxembourg, created their own, distinctive domestic data protection rules as a result of this precedent. The US started debating the social effects of computerization as well. Fundamental guidelines for fair information practices were put forward in the important 1973 study *Records, Computers, and the Rights of Citizens*, which was anticipatory for the future development of data protection law in Europe and internationally. Since the 1974 Privacy Act only applies to data processing by federal agencies, the legislative outcome in the US, however, remained largely constrained (Schwartz, 1995) (Craig, Búrca, 2021). With the exception of a few sectoral initiatives, the private sector continued to be essentially unregulated. The consequent gap in transatlantic data protection regulation has often resulted in controversies between the EU and US legislation in the sphere of personal data protection (Craig, Búrca, 2021).

Despite repeated requests from the European Parliament, which has consistently pushed for European data protection law, the European Communities refrained from legislative attempts during this initial period of data protection regulation (Craig, Búrca, 2021). The Commission declined to propose such legislation for a number of reasons. It first asserted that it had no plans to create any data banks, which reflected an early, limited perception of data protection. The Commission overlooked the corresponding need for European data protection regulation for a very long time in favor of concentrating almost exclusively on the economic possibilities of digitization, computerization, and telecommunication (Fogarty, 2009). As a result, the EU originally failed to influence this developing area both inside and outside of Europe.

Other global institutions started to help fill the gap as the demand for global coordination increased. The OECD released recommendations “On the protection of privacy and transborder flows of personal data” in 1980, expanding on the fair information practices principles the US had established (Fogarty, 2009). These guidelines covered crucial data protection ideas such as “the limiting of data collection and use, data quality and security, and purpose definition standards” (Convention 108, 1981) (Fogarty, 2009). Convention No. 108 for the “Protection of Individuals with Regard to Automatic Processing of Personal Data”, established fundamental rights to access and correct personal data and laid forth important data protection concepts including “fairness, lawfulness, proportionality, and purpose restriction, building on precedents from domestic law” (Convention 108, 1981) (Fogarty, 2009). These principles and rights had an impact on how data protection law was later developed in Europe and beyond (Fogarty, 2009).

A European data protection regulation was ultimately presented by the European Commission in 1990. It was possible largely due to requests for action made by the Member States' commissioners for data protection. It cited the internal market competence and declared that the free flow of personal data within the internal market was threatened by the fragmented national data protection regimes. Since each Member State had enacted data protection legislation, harmonization was achieved by a directive. The lengthy legislative process made clear that Member States were more interested in preserving the data protection ideas they had developed than in coming up with new ones. The Data Protection Directive of 1995 was “the end outcome, combining elements from several national data protection laws” (Craig, Búrca, 2021).

Additionally, the Directive of 1995 developed into a concrete representation of some fundamental aspects of EU law. The EU data protection regulation's reach is constrained to EU law, according to the theory of conferral. The Member States insisted on their versions,

which resulted in wide (in any case) carve outs on matters of public and national security, defense, and criminal law. These exclusions split the internal structure of EU data protection law while illuminating the unique constitutional context of the EU. Furthermore, it was obvious that member nations couldn't constantly maintain their favored strategy. A fragile compromise produced the resulting regulations on personal data transfers from the EEA to third nations. Such transfers were frequently prohibited by existing national data protection systems, but these restrictions varied widely in terms of their underlying justifications, actual requirements, and institutional evaluation.

2.3 Privacy and societal drivers

Numerous socioeconomic forces are relevant regarding the societal demand for privacy and achievement of balance between privacy and security. The state is increasingly resorting to the use of personal data to supply societal "goods," which are regarded valuable and acceptable as a privacy invasion by either governments (unilaterally) or society at large (Lieshout et al.,2007). This is due to changing social necessities for social security, healthcare, national security, and law enforcement.

The shifting social attitudes toward privacy, including individuals' growing willingness to divulge personal information in exchange for modest benefits like joining a trusted group of people who share similar interests or sharing content more frequently on user-friendly and accessible platforms like YouTube (Lieshout et al.,2007). "A changing understanding of the integrity of the human body and what it is to be human is attested to by an increasing familiarity and comfort with technology that blurs the barrier between the human and the artificial" (Fogarty, 2009). Ideas of personal space and privacy are starting to "change as a result of trends toward cosmetic procedures and body alteration" (Fogarty, 2009). It is also important to mention development of technologies related to DNA manipulations (Fogarty, 2009).

The appropriate implementation of personal data processing can be advantageous to society as a whole. Processing of personal data is being used more and more by the public sector to enhance public services like social security and tax administration. To integrate various government services and improve the citizen's "service," managing personal data is viewed as essential. These may be made simpler by "one stop shops," which "compile personal information from several sources to make it easier for the citizen to access" (Fogarty, 2009). The growing demand and the possibility to use large volumes of data in such areas and healthcare, sociology and economics also boosts the necessity for an improved data protection landscape.

To "combat organized crime, identity fraud, illegal immigration, and terrorism" in response to recent geopolitical events, the processing of personal data has risen (Fogarty, 2009). One example of this is the Data Retention Directive (Directive 2006/24/EC, 2006). Information is frequently gathered from databases created by governments or private parties for various reasons, which has raised worries about civil rights, not least because "the borders between stewardship and accountability for personal data can become unclear when the private sector is deemed an agent of the state" (Lieshout et al.,2007). Two prominent instances of this are the conflict between Europe and the US over obtaining information on financial transfers employing the Society for Worldwide Interbank Financial Telecommunication (SWIFT) and Passenger Name Record (PNR) data collected from airlines. (Fogarty, 2009).

This might bolster the already existing mistrust towards private services and public security

This might bolster the already existing mistrust towards private services and public security. Finding the “ideal balance between security and privacy” is a topic of intense policy discussion, which frequently “downplays the importance of human rights and the fact that, in a democratic society, actions that are detrimental to an individual's privacy may only be adopted when required” (Lieshout et al., 2007). Methods to tackle such issues differ throughout Europe, with some nations emphasizing data exchange between administrations to reduce duplication and the chance of discrepancies while others adopting a sector-specific strategy to minimize privacy issues. In that regard, the Directive's harmonizing impact is similarly constrained in scope due to its restricted applicability to first pillar Internal Market concerns (Fogarty, 2009). The establishment of large databases of fingerprints planned for the near future, despite privacy concerns voiced by civil society organizations, data protection commissioners, and regulatory agencies is another discussion revolving around the debate between privacy and security (Lieshout et al., 2007). Data sharing and biometrics, which are more and more recognized as effective weapons for combatting severe crime and international terrorism are used increasingly to identify threats and combat crime.

When evaluating the social value of personal data and personal data protection, it is important to keep in mind that “protecting personal data has inherent value to society on its own” (Fogarty, 2009). To effectively enjoy such freedoms as the freedom of expression, the freedom of association, and the right to practice religion, a person must have a “suitable personal environment in which to develop his or her views and choose how to express them” (Fogarty, 2009). Thus, the exercise of privacy rights can be a means of achieving other rights. Therefore, privacy protection is crucial not just as a guarantee for individual well-being but also to allow the necessary freedom and creativity that can be advantageous to society as a whole. Therefore, the discussion cannot be only framed in terms of “sacrificing personal freedom for societal gain in order to define more or less strict data protection standards” (Lieshout et al., 2007). It's important to remember that data protection and privacy are not a zero-sum game where one person's gain is another's loss, or the other way around. (Solove, 2011).

2.4. European data protection directive

The European Data Protection Directive (officially Directive 95/46/EC) is a directive adopted by the European Union in 1995 which “regulates the processing of personal data within the EU” (Directive 95/46/EC). By regulating the “collection, use, and sharing of individuals' personal data”, it seeks to safeguard their privacy and basic rights. The regulation, known as Directive 95/46/EC, is applicable to “all EU member states and specifies obligations for data controllers, who are in charge of ensuring that personal data is handled in compliance with the directive's rules” (Directive 95/46/EC). In 2018, the EU replaced the directive with the General Data Protection Regulation (GDPR) which has more strict rules and also applies to non-EU companies that target or collect data from EU citizens.

The Directive consists of 34 articles, and its requirements include topics including data quality, specific categories of processing, data subject rights, confidentiality, security, responsibility, and sanctions, as well as codes of behavior and supervisory agencies. It shares several fundamental ideas with other legal documents, including the Asia Pacific Economic Forum (APEC) Privacy Framework and the 1980 OECD Privacy Guidelines.

Despite the Directive's focus on regulation, it indirectly supports the protection of privacy through technology, most notably in Article 17. "Data controllers must use the required technological and organizational measures to secure personal data" in accordance with Article 17 of the Directive. The addition of Recital 46 to Article 17 emphasizes the need for these safeguards to be part of both the processing system's and the processing itself. As a result, security cannot simply be added to data systems; it must be built in; this concept is now known as "privacy-by-design."

Following the introduction and widespread use of ICT in the 1970s, the private sector started using personal data extensively. This increased the risk of "improper use of personal information and highlighted questions about the need for laws to maintain the degree of security for individuals" (Bennett, Raab, 2006) (Directive 95/46/EC). These regulations at the EU level were not very uniform at the time. While some Member States had very tight guidelines and processes, others had none at all. The Directive was developed as "an internal market tool to facilitate cross-border commerce by harmonizing data protection laws since this variability posed a barrier to the growth of the internal market" (Bennett, Raab, 2006).

The Directive's reference to the concept of personal data, rather than the idea of privacy, is one of its key features. Indeed, data processing activities that are not seen as being particularly sensitive to personal privacy in and of themselves may be subject to the Directive's restrictions. As a result, the Directive has several uses, privacy protection being only one of them. In actuality, its regulations serve a variety of purposes, such as promoting freedom of expression, combating discrimination, and enhancing effectiveness (Bennett, Raab, 2006).

The Directive has unquestionably had an impact on data processing techniques; its principles have become the benchmark "for the legal definition of personal data, governmental reactions to its usage, and other advancements in data protection legislation" (Bennett, Raab, 2006). Clear definitions of data subjects' rights, requirements for the handling of sensitive personal data, and the establishment of national and international oversight mechanisms are all necessary.

It's also necessary to keep in mind that the Directive was created at a period when computer systems and file systems were used for data processing. By outlining the responsibilities and processes associated with each function, it would be simple to control the risks associated with such a model (Bennett, Raab, 2006). Its primary goal was not to establish a legal framework that could handle upcoming challenges in data processing and privacy, but rather to "harmonize existing regulations to protect the right to informational privacy of the data subject and to establish a common European market for the free movement of personal data" (Bennett, Raab, 2006).

2.4 Individual perception of data protection under the data protection directive 95/46/EC

In light of the Directive's comprehensive approach to data protection, it would be valuable to gauge how both data subjects and data controllers see the Directive. The Eurobarometer results from February 2008 that looked at both views offer some intriguing insights in this regard.

As demonstrated on the figure 1, when compared to the younger Member States, the older Member States' degree of concern seems to be higher (Eurobarometer, 2008). With Austria and Germany topping the hierarchy with 86% and the Netherlands and Finland coming in last at 32% and 36% respectively (Eurobarometer, 2008). 65% of customers in the older Member States are thus extremely or somewhat worried about how the organizations manage their personal data (see figure 1) (Eurobarometer, 2008).

The findings show that there are regional differences. These variations might most certainly be explained, at least in part, by the general state of the economies and markets as well as by the particular state of the direct marketing sector, the primary user of consumer data (Călin et al, 2009). However, other findings, such as the ranking of Malta and Lithuania at the top of the list of countries with the most concerns about how their people's personal data is handled or the disparity between the Czech Republic and Slovakia, may support the idea that there may be some cultural elements at play in this regard (Călin et al, 2009).

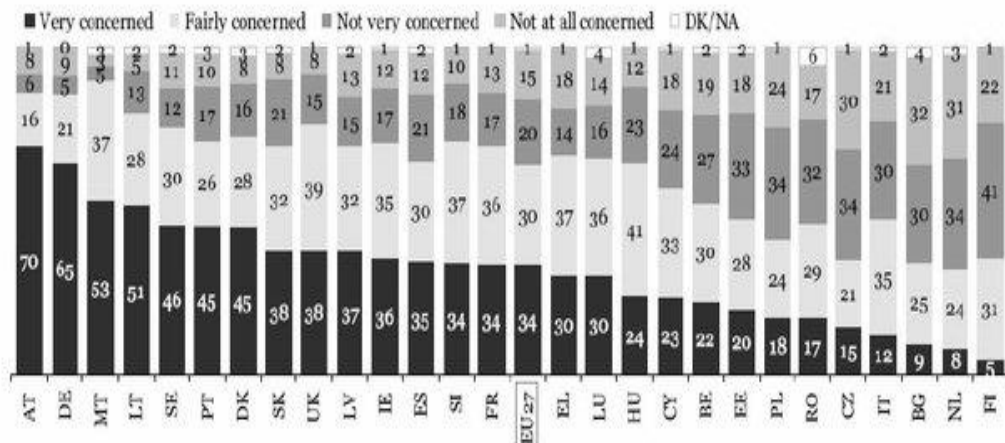


Figure 1. Concerns about personal data held by the organizations. (Source: Data Protection in the European Union. Citizens' Perceptions, Flash Eurobarometer No. 225)

As figure 2 demonstrates, it appears that consumers across all of the member states of the European Union are unaware of the tools and techniques available to them for protecting their personal data: All of the respondents who were questioned stated that people in their country are not very aware of how their personal information is used (See figure 2) (Călin et al, 2009). While consumers from Luxemburg and Denmark tend to have greater awareness – 56 and 59 respectively, consumers from Greece, Cyprus and Hungary seem to be the least knowledgeable with 93%, 90% and 90% respectively (see figure 2) (Eurobarometer, 2008).

In contrast to the older Member States, the New Member States tend to have a higher level of awareness, however the difference does not appear to be very substantial. The most significant finding in this regard is that consumers in the European Union need to get a better understanding of the nature of their personal data, the laws and regulations in place to safeguard it, and the rights they have and should exercise to preserve their privacy (Călin et al, 2009). The lack of knowledge regarding the organizations, methods, and tools for protecting personal data is evident. The majority of respondents in all 27 Member States indicate that they are essentially equally exposed to the risks associated with the “misuse of personal data and, as a result, with abuses against their privacy, regardless of the general state of their home economies and markets or the growth of the direct marketing sector” (Eurobarometer, 2008) (Călin et al, 2009).

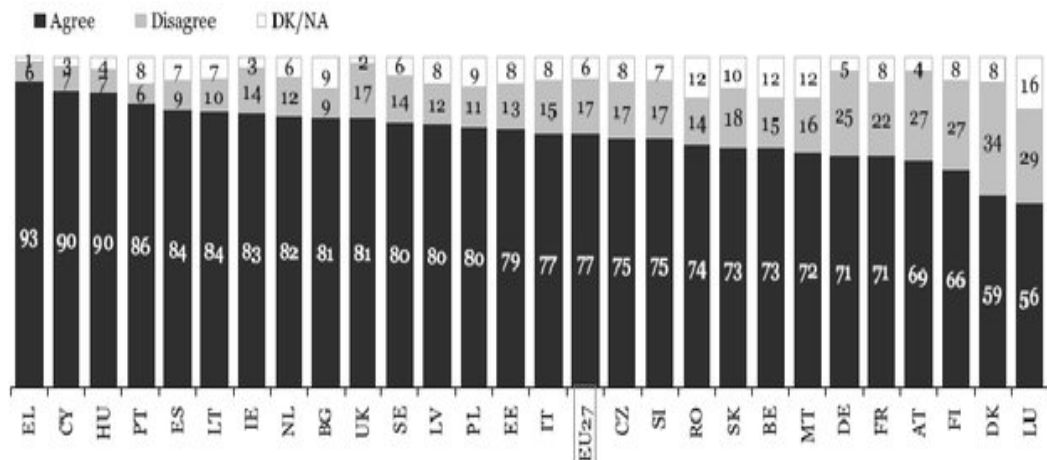


Figure 2. Awareness about the protection of the personal data is low. (Source: Data Protection in the European Union. Citizens' Perceptions, Flash Eurobarometer No. 225)

According to the figure 3, personal data are appropriately safeguarded at the level of the European Union, according to the majority of the respondents to the survey (48%) (Eurobarometer, 2008). However, the relatively large proportion of respondents (45%) who disagreed with this statement and rated the degree of protection as inadequate suggests that there were unsatisfactory results and that generally, data protection regime should be improved to guarantee an appropriate and effective level of protection (Călin et al, 2009).

The discrepancy between the percentages of 85% of Danish respondents in Denmark and that of just 26% of Greek respondents demonstrates the vast differences across all Member States in this regard considering the protection of personal data as sufficiently ensured. (Eurobarometer, 2008).

At the level of the newer member states, the differences across the countries are intriguing, especially in light of the general finding that even while personal data protection is typically well-ensured, additional improvements should be anticipated (Călin et al, 2009). People from Slovenia and Romania appear to be satisfied with the way their personal data is secured as a result. However, there might be a variety of factors supporting this amount of content, from useful information on laws and their application to a possible lack of awareness or interest in privacy and the protection of personal data (Călin et al, 2009).

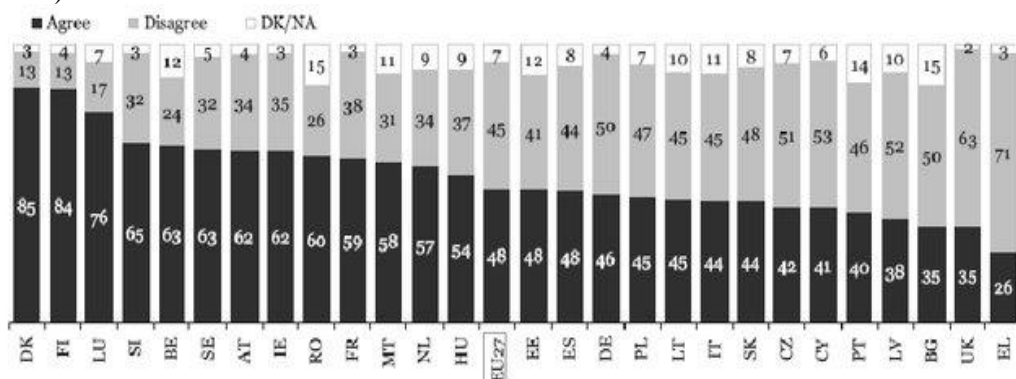


Figure 3. Personal data is protected properly. (Source: Data Protection in the European Union. Citizens' Perceptions, Flash Eurobarometer No. 225)

In general, “European residents were aware of the privacy dangers associated with the processing of their personal data, but they felt that even with the Data Protection Directive, the degree of protection in their own nations may not be sufficient” (Călin et al, 2009). However, methods to raise these degrees of security, such the involvement of data protection authorities, were “either not generally understood or not frequently used” (Călin et al, 2009)

2.5 Evaluating strengths and drawbacks of the Data Protection Directive

Strength	Evidence
Serves as reference model for good practice	Legislation that permits practical exercise of fundamental rights derived from ECHR, and considered a leading international model. Other privacy legislations adopt elements from the Directive e.g. Hong Kong, Canada, parts of Latin America
Harmonises data protection principles and to a certain extent enables an internal market for personal data	Implementation of legal rules across Europe for personal data processing that have greater compatibility than prior to the Directive's introduction
Flexible due to a principles-based framework	The Directive defines principles, without going into details for specific sectors/contexts. The exception to this rule is direct marketing
Technology neutral	No reference to specific technologies Security measures not specified Concept of personal data broad enough to be technologically neutral
Improves general awareness of privacy issues	Establishment and increasing numbers of privacy policies, privacy officers, etc. Consumer awareness regarding privacy

Table 1. Evaluation of strengths of the Directive 95/46/EC. Source: Rand Research Europe

According to the RAND research and several other researchers the influence the Directive had on framing and organizing the discourse surrounding data privacy was one of the most commonly mentioned distinct advantages of the Directive (Robinson et al, 2009) (see table 1). Despite the fact that the OECD Guidelines had a significant impact on this discussion, it is the Directive that is to be “credited with creating the legally binding guidelines that have been adopted as national laws in all of the Member States, building on the Council of Europe Convention 108” (OECD, 2007) (Korff, 2002).

The objectives and guiding principles set forth in the Directive have become “central to the discussion on privacy in Europe, following prior precedents set by the OECD Guidelines

and the Council of Europe Convention No. 108” (OECD, 2007). The Directive's guiding principles were frequently invoked whenever privacy concerns are raised in connection with data processing in any industry. This is evident, for instance, in discussions about how long telecom firms should save data under the Data Retention Directive (Directive, 2006).

The European Convention for the Protection of Human Rights and Fundamental Freedoms stipulates that “any derogation from the right to privacy may only be made under certain circumstances, including when it is necessary in a democratic society” (Article 8 of the Convention) (Korff, 2002). The Data Retention Directive must thus “operate in conformity with this principle as it is incorporated into the proportionality requirements of the Directive” (OECD, 2007). “To secure the right to privacy with regard to the processing of personal data and to enable the free movement of personal data between Member States, one of the Directive's primary objectives was to further harmonize data protection laws between Member States” (Article 1 of the Directive). A sufficiently unified European legal framework was intended to enable data controllers to manage personal data “in line with the same principles across all Member States and to ensure that data subjects are informed of their rights regardless of where they or the data controller are located” (Korff, 2002).

The Directive has attempted that “important areas of the processing of personal data are governed by generally equivalent legal standards across the EU. These include the idea of personal data, the prerequisites for validity, the quality and security of the data, the rights of the data subjects, and the potential for implementing these regulations”, according to Korff (Korff, 2002).

The Directive promoted data protection mechanisms such as: “notice, model contracts, standard contractual terms, privacy policies, and the appointment of Data Protection Officers” (Călin et al, 2009). It also stated high level goals and the means by which these goals should be fulfilled (Lieshout et al., 2007). By forcing Data Controllers to provide information about the data processing techniques they plan to employ and to ensure their data protection measures are compliant with the Directive, notification, for example, advances the transparency aim.

People have also become more aware of privacy problems because to the transparency laws, particularly those involving notice, permission, and choice (Korff, 2002). Customers' reactions to information on privacy practices changes and direct communications about how their personal data is used show interest and knowledge.

However, the Directive 95/46/EC is often criticized for its drawbacks. Issues with national implementations may be a sign that the Directive's requirements have not been sufficiently harmonised. One sign that the Directive provides too much room for interpretation is, for instance, if implementation works effectively in certain countries but not in others (see table 2)

Weakness	Evidence
The link between the concept of personal data and real risks is unclear	The application scope of the Directive depends too strongly on whether or not the data processed can be defined as "personal" data. It is all or nothing: there is no room for "more or less personal" data (and accordingly "more or less protection"). Special categories of personal data processing are explicitly defined; but financial information and location data are not classified as sensitive. Strict application of the Directive's concepts sometimes leads to unpredictable or counterintuitive results.
Measures aimed at providing transparency of data processing through better information and notification are inconsistent and ineffective	Privacy policies not read in practice, as they are aimed at consumers yet written by/for lawyers Privacy policies do not play a role as a market differentiator Unclear purpose of notification Variety of 20 different notification processes, variety of exemption rules Uneven implementation of the process of registration
The rules on data export and transfer to third countries are outmoded	Definition of 'third countries' is perceived as outmoded in the light of globalisation Adequacy of countries is not relevant to business realities or to data protection Regulation in some other countries is stronger than the EU, but still not recognised as adequate
The tools providing for transfer of data to third countries are cumbersome	Length of time and effort required to get Standard Contractual Clauses, model contracts or Binding Corporate Rules approved is excessive Uneven practices of approval and authorisation; too little coordination between the Member States
The role of DPAs in accountability and enforcement is inconsistent	Unclear rationale for enforcement Uneven implementation of enforcement across Member States either for punishment or to affect behaviours Differing criteria for imposing sanctions
The definition of entities involved in processing and managing personal data is simplistic and static	Globalisation and increased re-use of personal data has outpaced the static definitions of controller and processor.

Table 2. Evaluation of drawbacks of the Directive 95/46/EC. Source: Rand Research Europe

The link between privacy protection and data protection has been criticized as being ambiguous, which has led some to question if the Directive's emphasis is "weak because not all actions of processing personal data covered by the Directive have a clear or discernible impact on privacy" (Lieshout et al., 2007) (see table 2).

The effects of the Directive are described in terms of the processing of personal data rather than potential privacy-related incidents. The strategy of the Directive is mainly based on a "fundamental rights interpretation of data protection, where personal data is believed to be inherently deserving of protection" (Korff, 2002).

Personal data, however, was a very wide concept that generated a lot of discussion. According to some researchers, all information that may be used to identify a specific person should be regarded as personal information (Lieshout et al., 2007). For instance, as

stated by this strict interpretation, internet protocol (IP) addresses constitute personal data regardless of whether the organization processing them has a reasonable chance of connecting them to a specific person. Geographical information and arbitrarily selected user names, even when they have no meaningful connection to a particular person, are likewise troublesome (Lieshout et al., 2007). If the data contains photos of people, it could be subject to the Directive, much as the Google Streetview data.

Another challenging subject was anonymity especially in huge datasets. For “statistical analysis, data mining, etc., vast volumes of anonymized clinical data are used in the field of healthcare research” (Lieshout et al., 2007). However, “regardless of how thoroughly the data is depersonalized”, it is still considered personal data legally under this interpretation if there is a chance of connecting the data to a specific person, no matter how unlikely, challenging, or impossible that may be (Korff, 2002).

Mobile location-based services are already anticipated to expand in popularity. In this case, the protection of special categories of data processing, the Directive appears to have favored a “process-oriented approach that focuses on tying particular requirements to formal criteria rather than an outcomes-based approach that would take into account the impact and the necessity of such obligations” (Solove, 2011).

It is important to mention that one of the most well-known aspects of the Directive is the transfer of data to foreign (non-European) countries. The provision's stated goal of protecting European individuals' privacy was compromised by the vast volume of personal data transferred internationally (Craig, Burca, 2009). The Directive's basic rule, known as the adequacy rule, specifies that such transfers are only permitted if the recipient nation provides a sufficient degree of protection. If this is not the case, there are other options, such as obtaining the subject's consent or adopting a set of standard terms.

The adequacy criteria was also thought to be too narrowly focused. It is crucial to be aware of the following when assessing whether a specific subject's personal data is adequately secured in a foreign country: (a) the data controller has taken the necessary steps to accomplish this goal; and (b) the data controller is liable for any occurrences. Nevertheless, the fact that the third nation appears to have an adequate legislative framework that complies with the Directive's requirements does not entirely address this issue (Fogarty, 2009). Some individuals who took part in the interview thought that harmonization with third countries (those outside the EU) would invariably lead to a lesser level of protection.

2.6. Personal data protection under the Regulation (EU) 2016/679

The EU General Data Protection Regulation (GDPR) was agreed upon and finalized on April 27, 2016, following “four years of drafting, lobbying, and negotiations among the EU Member States and many affected organizations” (Fogarty, 2009). On May 4, 2016, its final text was published in the Official Journal of the European Union. The GDPR, which was “created to safeguard personal data pertaining to individuals”, went into effect in May 2018 (Regulation (EU) 2016/679, 2016). As stated in the preamble of the GDPR, it superseded the 1995 Data Protection Directive with the intention of addressing “new difficulties for the protection of personal data” brought about by “accelerating technical advancements and globalization” (Regulation (EU) 2016/679, 2016) (Craig, Búrca, 2021). The GDPR was created to replace the Data Protection Directive 95/46/EC, which was introduced in 1995 and, as a directive, provided considerable opportunity for interpretation during its implementation into different national legislation. A new update to the legal environment inside the EU was also required due to the quick shift in the data landscape brought on by the emergence of ubiquitous and mobile computing and the big data age

(Craig, Búrca, 2021). However, the drastic changes brought forth by the GDPR were projected to have a strong effect on both domestic and international companies. Most importantly, because it is a regulation rather than a directive, therefore it instantly became a legally binding regulation in every Member State. As a result, it helps harmonizing the EU's current data protection laws, enhancing both data protection rights and commercial opportunities in the digital single market (Watchter, Mittelstadt, 2018).

WP29 Position Paper (2009)	Regulation (EU) 2016/679 (GDPR)
Introduce a new “Privacy by Design” principle (pp. 12-15)	Introduces a new ‘Privacy by Default and by Design’ principle (GDPR Art. 25)
Introduce a new ‘accountability’ principle (p. 20)	Introduces a new ‘accountability’ principle (Art. 5§2)
Increase data controllers’ responsibilities; introduce data protection impact assessments; reinforce the role of data protection officers (p. 20)	Increases data controllers’ responsibilities; data protection impact assessments are introduced; reinforces the role of data protection officers (GDPR Art. 35-39)
Improve redress mechanisms and introduce class action lawsuits (p. 16)	Improves redress mechanisms and strengthens the role of public interest groups for the enforcement of rights (GDPR Chapter VIII, particularly Art. 80)
Improve transparency; introduce data breach notifications (for high risk breaches) (p. 16, 21)	Improves transparency; data breach notifications become obligatory (for high risk breaches) (GDPR Section 1 and Art. 34)
Strengthen consent requirements (p. 17)	Strengthens consent requirements (GDPR Art. 7)
Give clear institutional, functional and material independence to the DPAs, as the 1995 directive’s Art. 28 was unclear (pp. 21-22)	Strengthens functional (Art. 52§1), institutional (Art. 52§2,5) and material (Art. 52§3,4,6) independence of DPAs
Clarify DPA’s enforcement powers, as the 1995 directive’s Art. 28 only contain 3 subparagraphs on enforcement (p. 22)	Contains 16 subparagraphs on investigative and corrective powers (Art. 58§1,2)
Extend legislative advisory powers. WP29 opinions should be addressable more actors (e.g. national parliaments) and treat more issues than ‘administrative measures and regulations’ (p.22)	Extends the scope of the DPA’s opinions to more actors (e.g. national parliaments) and to ‘any issue related to the protection of personal data’ (Art. 58§3b)
Strengthen the WP29	Renames WP29 to ‘European Data Protection Board’ with broadened task description (Art. 68 & 70)
Ensure more harmonization in an “unambiguous and unequivocal legal framework” (p. 9)	Directive becomes a regulation

Table 3. Comparison between the WP29 2009 position paper and the final text of the GDPR

The regulation achieves its goals in two ways: “first, by enhancing the well-known data protection principles previously outlined in the data protection directive, such as consent and purpose limitation, and second, by including new concepts like the right to be forgotten, the right to data portability, the requirement for data protection impact assessments, and privacy by design, among others” (Watchter, Mittelstadt, 2018). There has been a considerable amount of debate among academics and legal professionals concerning the fundamental changes that it introduces ever since its initial draft in 2012 (Craig, Búrca, 2021). However two specific GDPR concepts, namely the newly established right to be forgotten and the idea of consent with its revocation, shocked the legal, academic, and corporate worlds. Due to their significant influence on how personal data must be treated under the new legal regulations and the severe repercussions of executing these new standards in the era of big data and the Internet of Things, they both generated protracted discussion. The goal of this work is twofold in this regard: first, to review all debates surrounding the implementation impact of the new, more stringent definitions of “consent revocation” and the “right to be forgotten” on personal data protection; and second, to assess the effectiveness of current approaches, architectures, and cutting-edge technologies in terms of “meeting the technical requirements for the implementation and effective integration of the new requirements” (Watchter, Mittelstadt, 2018).

Data about an individual is generally referred to as personal data. While many Data Protection Acts describe personal data in language that are somewhat similar, the GDPR provides such definition of personal data (Article 4): “«Personal data» means any information relating to an identified or identifiable natural person (“data subject”)”; an “identifiable natural person” is one who can be “identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person” (Regulation (EU) 2016/679, 2016). According to this definition, personal data are all pieces of information that may be used alone or in conjunction with other pieces of information to identify, make a contact with, or locate a person.

The term “information” should be used liberally and encompass both factual information (such as a person's identity or the presence of a certain drug in their blood) and subjective analyses, such as information, views, and assessments. Although the ECJ has since clarified, relevant legal analysis (the evaluation) does not constitute as personal data, unlike information contained in a residence permit application and data from legal analysis (Cases C-141/12, C-372/12, 2014). Additionally, personal information can be in any format can include text, numbers, images, videos, and more. Additionally, take note that Article 4(1) of the GDPR refers to “information” rather than “data,” suggesting that the data may need to have some informative value. It's not always simple to distinguish between information and data (Regulation (EU) 2016/679, 2016). When information is “about a particular person,” it is deemed to be pertaining to a data subject. This contains data from a person's file as well as vehicle data that provides insight into the data subject. When someone can “separate” himself from others, that person is said to be recognized or identifiable. This does not imply that the person can be recognized by name; rather, she might be recognized via alternate methods, such a phone number (Craig, Búrca, 2021). This emphasizes the need for a broad interpretation of the definition of “personal data,” a position that the Court has consistently supported (Watchter, Mittelstadt, 2018). The phrase “any information” represents “the goal of the EU legislative to attribute a wide scope to that notion, which is potentially inclusive of all forms of information, not just

objective but also subjective." The ECJ determined that metadata (such as location information or IP addresses combined with log files on retrieved web pages) that only permits the indirect identification of the data subject can still be considered personal data because it enables "to know the identity of the person with whom a subscriber or registered user has communicated and by what means, to identify the time of the communication and the location from which that communication took place"(Cases C-141/12, C-372/12, 2014) (Craig, Búrca, 2021).

Both personal and non-personal data are recognized categories under the European data protection framework. There are certain types of data that are never personal (since they are not related to a known or recognizable natural person) and others that were formerly personal but are not anymore (as linkage to a natural person has been removed). Recital 26 of the GDPR contains the legal standard for differentiating between personal and non-personal data (Regulation (EU) 2016/679, 2016).

Sender	Receiver	Date	Type of good	Price
John Smith	Jane Miller	12 February 2019	Laptop	1309
Sender (Pseudonymized)	Receiver (Pseudonymized)	Date	Type of good	Price
2342	1337	12 February 2019	Laptop	1309
Pseudonym	-	-	-	Name
1337				Jane Miller
2342				John Smith

Table 4. Example of data pseudonymization. Source: author

Pseudonymized personal information that may be linked to an identifiable natural person through the use of supplementary data should be regarded as information on such a person (Craig, Búrca, 2021). A natural person's ability to be "directly or indirectly identified by the controller or another person should be taken into consideration when determining whether that natural person is identifiable" (Watchter, Mittelstadt, 2018). In order to evaluate whether measures are fairly likely to be employed to identify the natural person, consideration should be given to all objective considerations, including the "expenses and the length of time necessary for identification" (Craig, Búrca, 2021).

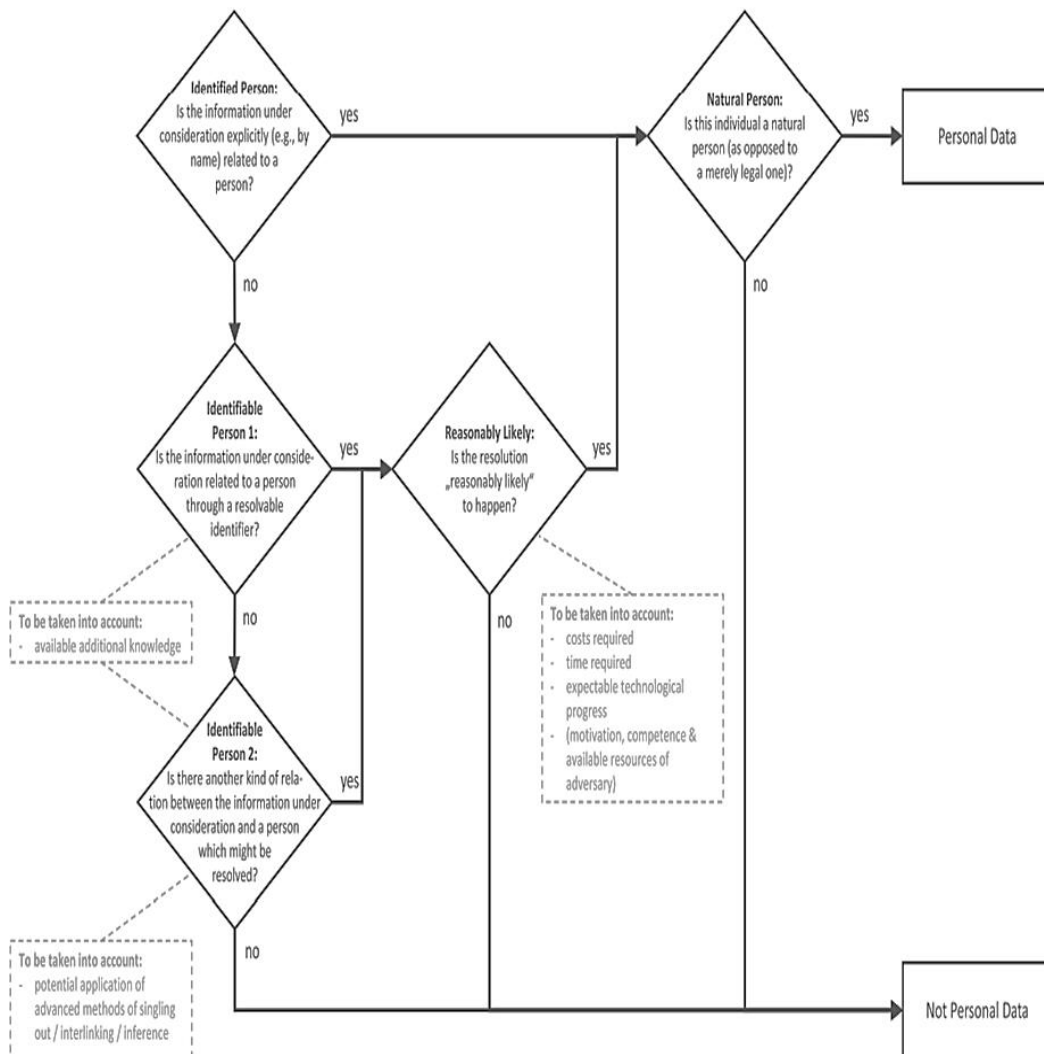


Figure 3. Assessment scheme for identifying the personal data. Source: Author

According to Recital 26 of the GDPR, “the principles of data protection should not be applied to anonymous information, or information that does not relate to an identified or identifiable natural person, or to personal data that has been rendered anonymous in a way that makes it impossible to identify the data subject” (Regulation (EU) 2016/679, 2016). Since the controller or another party may identify the data subject using “means reasonably expected to be employed,” the data is considered personal under the GDPR (Regulation (EU) 2016/679, 2016). Personal information that was never associated with a natural person or is no longer reasonably expected to be associated with a natural person falls under the category of “anonymous information” and is not subject to the Regulation’s applicability (see figure 3).

In essence, the criteria established by Recital 26 GDPR adopts a risk-based methodology to classify information (Regulation (EU) 2016/679, 2016). Data should be handled as personal data when there is a plausible possibility of identification. Data can be classified as non-personal data where the risk is just careless, even when identification cannot be

completely ruled out. However, a deeper examination indicates that some of the test's components lack clarity, particularly as a result of divergent interpretations by various supervisory bodies (Craig, Búrca, 2021).

Personal data is relevant when identification is "reasonably expected" to happen; if not, the information in question is non-personal (Watchter, Mittelstadt, 2018). A few national supervisory agencies have adopted GDPR interpretations that substantially support this risk-based strategy. The UK Information Commissioner's Office (ICO), for example, emphasizes that the pertinent criteria is "the identity or likely identification" of a data subject in its relativist interpretation of Recital 26 GDPR (Information Commissioner's Office, 2012). Because "it is impossible to know with confidence what data is now accessible or what data could be made public in the future", leads to the assumption that "the danger of reidentification through data linking is basically unpredictable" (Information Commissioner's Office, 2012). According to the Irish Data Protection Authority, an anonymization technique can be effective without having to demonstrate that it is impossible for the data subject to be recognized (Cases C-293/12, C-594/12, 2014). Instead, the data can be declared anonymous if it can be demonstrated that it is improbable that a data subject would be recognized given the specifics of the case and the level of technology.

Conclusions

While privacy has a very old history, it is still a very current issue today. Definitions of privacy and the right to privacy attracted the attention of legal experts, and later the issue was governed by regional and international human rights agreements. However, there are still some issues with privacy protection.

Invasion of privacy is a concept that is evolving, according to media discussions. Transparent and distinct infractions have given way to trespasses that are mainly invisible, unreported, and persistent. The imagined limits of privacy appear to be eroding. The boundaries of one's privacy are now largely defined by their information, ideas, and movements rather than by the more obvious physical barriers like property lines, walls, or their bodies. The most influential social agents, over whom people have little authority, are also invading these aspects of privacy.

The ability to participate in contemporary society will depend on the sharing of personal information as technology develops. New categories of personal information or even new types of personal information will emerge when new technologies are developed, formed, and embraced by society in addition to a growth in the volume of personal information processed online. Technology's quick advancements provide a number of difficulties for society, especially for data protection authorities trying to create progressive laws that can handle how personal information is evolving. Due to this possibility, the privacy regime will always be a source of policy conflict.

The relationship between privacy and data protection perceptions and other societal objectives was taken into consideration. The discussion surrounding privacy, data protection, and security is the most prominent of these situations. Although poll findings varied widely, they usually showed a nuanced picture of the citizenry, highlighting variance and aspects of trust in and mistrust of authorities as well as a contextual approach to the perception of security measures. It's possible that "the public" has a far more complex strategy in this area than many policymakers may believe. Thus, future studies should concentrate on how issue-specific institutions impact the EU's contemporary digital

agenda generally or, conversely, how issue-specific institutions at the national level affect the GDPR's implementation and enforcement.

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The contribution of neuroscience on ascertaining individual responsibility in anti-social and anti-legal behaviour

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Abstract

Lately, neuroscience studies on deviant and criminal behaviours have been intensified, with particular reference to the implications on the field of law and the criminal process. By analysing the origin of behaviour, these emerging sciences, would be able to identify possible biological or genetic causes that may have affected the will and awareness of anti-social and anti-law acts committed. It is obvious that the debate shifts to the 'question' of liability. The re-founding of the criminal law on a scientific basis, as the probative reconstruction of criminal facts is increasingly entrusted to the results of technical-scientific evidence, raises concerns regarding their relevance and reliability, while being used together with the traditionally known instruments. This study intends, therefore, to investigate both the results achieved so far by neuroscience for the explanation and interpretation of deviant (or criminal) conduct on scientific grounds, and to understand its possible contribution at a legal level, without any prejudice to the guarantees of a fair and free criminal trial for the individual and the principle of human free will. In any case, neuroscience has opened a window towards a new approach to the criminal law, since knowing man better and understanding his behaviour will inevitably lead to both an adaptation and a renewal of the law and its types.

Keywords: *deviance; crime; justice; neuroscience; law; anti-social; anti-law; individual responsibility.*

1. Introduction

Neuroscience studies are fairly new, while having a purely clinical application over the years, has increasingly established itself on the legal scene. Before analysing the controversy over the relationship between 'neuroscience and law', it is appropriate to

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introduce this topic by starting with the definition of neuroscience provided by recent studies and dictionaries. The Oxford learner's dictionaries explains it as "the science that deals with the structure and function of the brain and the nervous system" (Oxford Learner's Dictionaries 2023), while the Cambridge dictionary as "the scientific study of the nervous system and the" (Cambridge Dictionary 2023). Collins dictionary explains neuroscience as "the study of the anatomy, physiology, biochemistry, and pharmacology of the nervous system" (Collins Dictionary 2023).

According to Kandel, Schwartz and Jessell, neuroscience is a mix of neurophysiology, cognitive psychology, developmental biology, cellular and molecular biology, anatomy and it is cognitive (Kandel, Schwartz and Jessell 2003: p.1165).

For Ciro Grandi the term "neuroscience indicates a heterogeneous group of scientific disciplines, united by the objective of explaining how neuronal connections superintend the performance of all human activities, not only those extrinsic in simple bodily movements, but also the more complex ones (volition, emotions, even the formulation of moral judgments, the choice to deviate and delinquency), traditionally attributed to the domain of the mind and considered inaccessible to experimental investigation" (Grandi 2016: p. XI). Indeed, this new scientific evidence allows for a more precise appreciation and understanding of "the functioning of the central and peripheral nervous system, through advanced research guided by computer simulators and new molecular technologies applied to optical techniques" (Balconi 2020). In particular, neuroscientists investigate "the links between the brain and a given mental activity, analysing how the mind emerges from its biological substrate" (Benini 2022; Posa and Losa 2016). Neuroscientific studies therefore aim to "identify the relationship between these neural connections and human behaviour that can identify genetic particulars. In the past, these investigations had the sole purpose of qualifying such behaviour as pathological or deviant, today the research carried out by neuroscientists aims to understand 'how human beings think, make decisions and act in the normal course of their activities'" (Presti 2019).

The growth of this new discipline developed more in the 2000s, in fact, it was during these years that the first scientific papers were published in the journal "Philosophical Transactions of the Royal Society of London" in 2004, which was then resumed and updated in 2006, while in 2004 was published the volume "Neuroscience and the Law. Brain, Mind, and the Scales of Justice" by Garland et al. (Garland et al. 2004). All the dates of these publications follow the important conference entitled "Neuroethics: Mapping the Field" (Chapman and Soares 2010: p. 481), which took place on 13 and 14 June 2002 in San Francisco, thanks to the initiative of Stanford University and the University of California, where the "term neuroethics was given a new meaning, namely: the study of the ethical, legal and social issues that arise when scientific discoveries about the brain are brought into medical practice, legal interpretations and health and social policy" (Figueroa 2013: pp. 259-268). These discoveries are taking place in the "field of genetics, brain imaging and in the diagnosis and prediction of diseases. Neuroethics has the task of examining how doctors, judges and lawyers, insurers and politicians as well as the public deal with these issues" (Figueroa 2013: pp. 259-268).

The 2002 conference "developed the awareness of the need for the study that would for the first time closely relate neuroscience to law, a topic that involves concepts such as 'free will' and the 'monist' or 'dualist' conception of the individual, which

inevitably touch upon the world of social norms and thus law” (Felten and O'Banion 2022). Many scholars over the years have analysed, with reference to their own legal system, this new field of science (neuroscience), expressing doubt but confidence that it is indeed capable of studying the human brain as never before. The first two researchers to relate neuroscience to law were the Americans Greene and Cohen in their famous article “For the law, Neuroscience will change everything and nothing”, published in the special issue of “Philosophical Transaction of the Royal Society of London”, in which they focused on the mind, in biological terms, and the brain in all its functions (Green and Cohen 2004: pp. 1775-1785).

2. The problem of human 'free will'

A fundamental point for the analysis of “the relationship between 'neuroscience and criminal law' can only concern the defendant, the causes of his behaviour that constitute the crime and consequently the issue of responsibility” (Bertolino 2020: pp. 1-22). Today, the applications of neuroscientific studies are also extended to (non-criminal) social deviance. In relation, however, to the perpetrator of criminal conduct, neuroscientific studies “come into conflict with both the recognition of the biological basis of human choices and actions and free will. The risk is that neuroscience will classify as biological neuronal defects the reasons that drive the subject to deviate socially and to commit crimes. In reality, on closer inspection, neuroscience discoveries do not conflict with the principle of man's freedom; on the contrary, they seek to improve knowledge of his decision-making processes, choice and controllability of conduct, so as to better interpret all his behaviour and verify or not his responsibility” (Posa 2019). This is not to say that “neuroscience can prove 'the impossibility of acting otherwise' and thus deny free will. On the contrary, they may be able to point to causes that exclude his or her responsibility, albeit by identifying the prospect of a biological determinism and related decision-making mechanisms and finding pathological neuronal forms in the offender” (Durisko et al. 2016: pp. 159-165). Even in cases in which “neuroscientific reflections equally lead towards determinism, there are those who do not rule out the possibility that it may nevertheless be compatible with free will (so-called compatibilist thesis), arguing that human freedom is absolutely reconcilable with the recognition of a universal and causal rule, except in cases in which there is actual physical coercion. These theories are confirmed by the fact that, according to cognitive neuroscience, our consciousness is influenced by a decision driven by intrapersonal and unconscious mechanisms. They find their explanation in so-called pre-consciousness, so that consciousness only takes responsibility for actions insofar as it retains control over them. From this perspective, the neuroscientific delineation of decision-making devices seems to be compatible with the definition of free will, understood as the ability to acquire power over the world around us and to influence the use of that power itself” (Watson and Breedlove 2014). This interpretation and vision is consistent with what is stated in the Rocco Code. It refers to “certain central norms that, precisely, regulate the relationship of causality” (Article 40 Italian Criminal Code), particularly in” cases of omissive and culpable offences. In short, neuroscience does not go against what are the foundations of modern penal thinking, nor does it deny the existence of a power of self-determination” (Di Florio 2021: pp.2-11). Studies on the relationship “between 'neuroscience and law' have also recently been extended to the principles of the Italian Constitution” (Errigo 2022) With regard to the developments that have taken place over

the years on the subject of “free will and consciousness of action”, mention must be made of the first scholar to carry out experiments and studies on the subject was Benjamin Libet. He stated that “the neuronal process underlying motor action would tend to occur before the subject's will to perform the action. In fact, he demonstrated through various experiments that voluntary actions begin first at the neural level and then the actual awareness of the movement comes into play. As a result of these findings, experts began to doubt the principle of 'free will', claiming that it is merely an illusion generated by common sense, just because the brain and its neural basis are unknown. Once the biological substratum of decisions was discovered, the brain increasingly became the centre of origin of all our behaviour, almost becoming the one and only true 'culprit' of our offences. On the basis of what has been said so far, neuroscience would be best placed to identify the 'when', 'where' and 'how' of the mechanistic process that causes action. Their aim is not to reform law, specifically criminal law, but rather to demonstrate the true illusory mechanisms of free will and to provide a new idea of justice” (Libet 1999: pp.47-57).

3. Law, imputability and neuroscience

Having clarified the role of neuroscience and its development over the years, it is necessary to shift the analysis to the relationship between “law and neuroscience”, with particular reference to the legal institution of imputability. The latter, made explicit by Article 85 of the Italian Criminal Code, “bases its elements on the 'presupposition of guilt' and thus on the reproachability for the evil committed, only when one is in the presence of subjects who at the time of the commission of the act constituting the crime are capable of 'intending' and 'willing'” (Garofoli 2022). The “‘capacity to intend’ is the person's ability to understand the social value of the act he or she intends to perform, being able to assess the consequences and determine the means and effects. In other words, through the use of knowledge processes and the reality principle, the individual is able to overcome difficulties in any situation. The 'capacity to will' is, on the other hand, the ability to determine oneself autonomously, selecting the right inputs to act or not to act, referring to the values of the culture one belongs to, the society one lives in and the demands of rationality, in order to be able to express one's actions in a socially appropriate and accepted manner” (Bianchi 2009: pp.327-330).

The infirmity of mind referred to by the Italian Penal Code, in Articles 88 and 89 (total and partial vice of mind), “must alter the two aptitudes of the person with a real pathological process, capable of interfering in the dynamics of will, widely compromising the capacity to understand and/or to want. The latter express that 'psychic normality' on which the so-called 'free will' is based; experts in courtrooms pursue the objective of understanding the possible causes that cause precisely this free will to fail” (Marchetti 2014: pp.20-26).

In essence, the expert has to “pronounce on the possibility that a subject had of not committing a given crime, which is not exactly an easy task given that he or she has to express an opinion that constitutes the 'presupposition of the presupposition' within the penal system. He must also establish a boundary between 'normality and pathology' that does not exist, is not formally determined as it is in other cases, so the expert witness is led to have to translate clinical categories into legal ones as best he can” (Pellegrino 2022). In reality, “a clear demarcation between 'mental health and mental illness' is not considered scientific; it varies according to the school of reference, the historical era and

the subjective inclinations of each expert in relation to the individual case. Imputability actually defines the psychic functions that circumscribe the boundary of meaning in the criminal justice system” (Brownsword and Harel 2019: pp.107-125). As neurosciences develop, imputability begins to lose certainty about its boundaries, even if one cannot speak of a “true crisis of imputability as the capacity to understand and will, which, as a 'capacity for guilt', remains entirely fundamental and, moreover, well established in the culture, construction and developments of modern criminal law” (Dova 2019). In (relative) crisis, on the other hand, is “the concept of mental illness, which creates considerable problems in the legal field” (Nappi 2019). In the medical field, reference is made to various interpretative models of mental illness.

Wanting to make a synthesis of those that are currently used in forensic psychiatry, it is inevitable to mention: “a) the 'integrated model', in which the mental disorder is classified according to explanatory hypotheses about its nature and origin. In the event of the rejection (in so far as it deresponsibilises) of any determinism (biological or social), the integrated multifactorial conception takes its place: 'here then are contextually interacting in the genesis of the mental disorder the biological and organic-constitutional components, which in turn are reflected on the psychological-psychodynamic ones, which integrate with the social-situational-environmental ones. The various factors integrate reciprocally in producing the effect, i.e. the mental disorder'; b) in response to an anti-psychiatric outlook, 'biological psychiatry' is developed, which does no more than rework the developments that have already taken place in the fields of neurology, psychopharmacology and genetic engineering, proposing a 'reduction of mental illness to a purely medical-biological situation of a biochemical and transmissive nature'; c) the "dynamic-structural" model is different, based on a radical psychologisation of the concept of mental illness understood as behaviour unrelated to the personality's directives; d) also relevant is the emergence of "nosographic psychiatry" in which nosographic classification is seen as a "conceptual platform" that allows the construction of a minimum defining substratum for the functioning of psychiatric science itself” (Vaccarino 2021; Hogg and Tindale 2001: pp. 56-86).

It should be noted, therefore, how between the legal concept of imputability and the psychological concept of mental illness there is a “plurality of heterogeneous conceptual categories in which legal and medico-psychological perspectives alternate, but clinical criteria are unsuitable, since they deal with completely different ideas and purposes, to be used in the legal sphere” (Jung 2000).

Neuroscience can also provide significant insight in favour of a review of Articles 94 and 95 of the Italian Criminal Code, relating respectively to habitual drunkenness or stupefaction and chronic intoxication by alcohol or drugs. With regard to these articles, the first (art. 94) is considered an “aggravating circumstance, while the second article (art. 95) a cause of exclusion of imputability, since, as reiterated by the Constitutional Court itself in Judgement No. 114 of 1998, it is a non-transitory alteration of the biochemical balance of the subject such as to determine a real and proper psychophysical pathological state of the defendant and, therefore, a corresponding and non-transitory alteration of the intellectual and volitional processes”(Grasso and Pascale 2020).

Chronic intoxication is equated with “mental defect, total or partial depending on the degree to which it affects the subject's capacities, because the irreversibility of the condition in which the toxic phenomena remain stable, even after the alcohol or substance consumed has been eliminated from the body, has been noted; consequently,

the previously mentioned provisions contained in Art. 88 and 89 Italian Criminal Code are applicable, and also that the “alcoholic psychoses that arise in the course of chronic intoxication (delirium tremens, hallucinosis, etc.) are susceptible to recovery even in a short period of time” (Fiandaca and Musco 2019). In this sense, the definition of chronic intoxication by alcohol or drugs cannot exist, as often a “pathology of somatic, psychological and psychiatric significance with characteristics of permanence, even after the cessation of the abuse, cannot be found. The Italian Court of Cassation, however, considered the question unfounded, affirming the reasonableness of the legislative discipline which, despite the fact that psychiatric and medico-legal doctrine cannot find certainty, means that the discrepancy can be considered plausible at least with reference to guilt. In truth, neuroscience further demonstrates that the criterion of irreversibility, which characterises chronic intoxication, has become rather anachronistic and lacks a reliable scientific basis, since it has been verified that, in the case of major substance or alcohol addiction problems, the capacity to understand can be excluded or diminished even in the absence of damage of an organic nature, even if neurobiological” (Flick 2014: pp.1-10). This leads to the conclusion that the neuroscientific evidence confirms that there is a need to revise the discipline (Imwinkelried 1983:pp. 554-571).

4. A possible collaboration between neuroscience and law

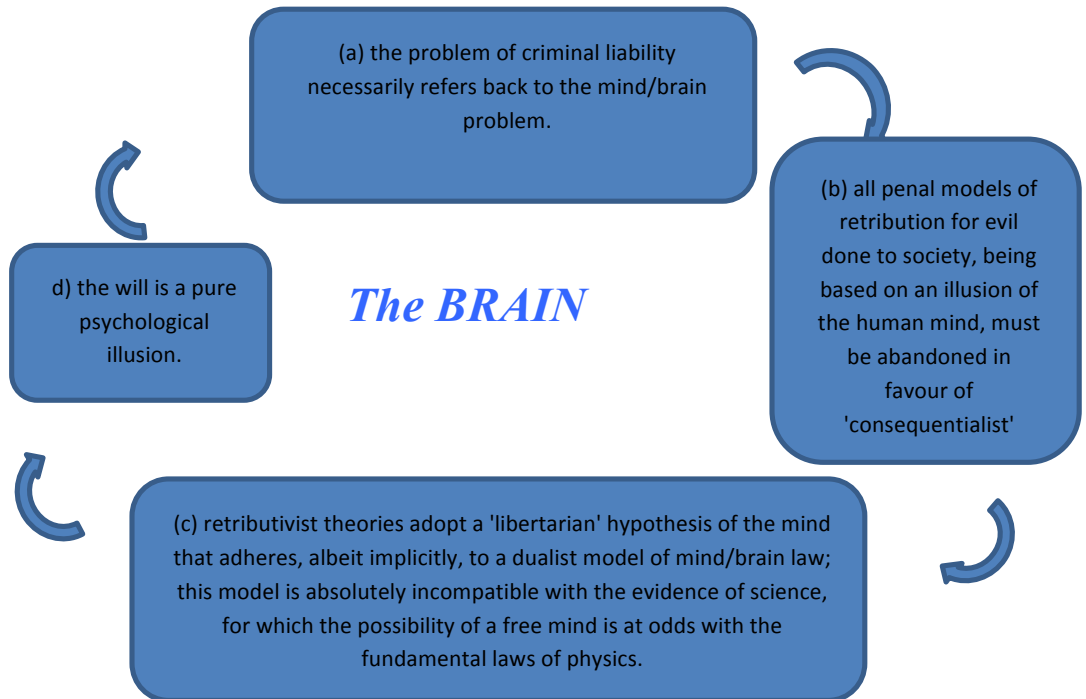
The debate on the extent to which neuroscience can have a concrete impact on law is wide open. A fundamental question animates national and international debates: is collaboration between neuroscience and law possible? To adequately answer this question, it is appropriate to analyse the question from two aspects, the theoretical and the practical (Grandi 2016: p. XI). From a theoretical point of view, the question has given rise to quite a few perplexities, which can be summarised in three critical configurations: 1) in the first hypothesis, neuroscience is “seen as one of many attempts over time to provide a uniquely causal explanation of crime. Previously, the focus had fallen on sociological or medico-biological factors such as poverty, race, culture, chromosomal characteristics, skull conformation, and so on; now the 'cause' of crime is intercepted in the neuronal interconnections and the subject's nervous system. This theory is countered by the most significant contributions in the criminological literature: many approaches, both sociological and medical-biological, have put themselves forward as unicausal theories (of crime), in the sense that they polarise their interest on a single factor, which is considered necessary and sufficient to account for the causes of criminal behaviour alone. This is an attitude that should be rejected, as it may appear dangerous due to the excessive one-sidedness of the premises and consequences; unicausal theories must be understood as particular contributions to be placed within a broader vision, which, at the same time, takes account of the entire constellation of factors, also considered causal, highlighted by the other individual theories. Inevitably, a unicausal criminological theory ends up neglecting those aspects that are not crucial from the point of view of that theory, emphasising instead a single condition. The unicausal theories, in short, do not take into account the set of motivations and other factors (such as family, school, environment, experience, education, etc.) that instead play a fundamental role in the development of the crime” (Gava 1994). 2) secondly, re-founding criminal law on the basis of scientific evidence from neuroscience would lead to a sort of “categorical error”, thus violating the epistemological principle according to which “each science is only able to understand the object of study to which its instruments give it access” (Gazzaniga

2005: p. 12). Because of this error, in fact, supporters of these proposals “risk misjudging the role that conceptual categories play in criminal law. This error could also cause a further misunderstanding: 'the (erroneous) conviction that the penal discipline of imputability, culpability, retributive punishment slavishly follows the acquisitions provided by the so-called "hard" sciences on the subject of free will', even if this is not the case” (Gazzaniga 2005: p. 12). 3) finally, “reinforcing the concepts that have just been reported, all the discoveries and developments made over the years by neuroscientists do not justify any change in criminal law, not least because the aim of neuroscience is not to change the law, but rather to make a contribution by providing methods and techniques to better assess legal concepts such as the imputability, responsibility and dangerousness of a subject. For all the reasons listed above, it certainly seems to be agreeable that it is not appropriate to refound criminal law on neuroscientific foundations, at least as far as the theoretical aspect is concerned; wanting to shift the question to a more pragmatic perspective, one should not exclude a priori any future possibility of collaboration between neuroscience and criminal law” (Greenwald et al. 1998: pp. 1464-1480). As Sartori and Zangossi (2016) state, “with the advent of modern forensic neuroscience, there are the prerequisites for a true innovation of the trial, not through a substitution, but through an enrichment of the traditional psychiatric-forensic assessment, in order to increase its objectivity and accuracy” (Sartori and Zangossi 2016: pp. 689-712). Neuroscientific data, in fact, allows for “the addition of essential information for understanding the case, not available with the traditional approach” (Hassemer 2011). It may, therefore, be useful to adopt neuroscience methodology. There are numerous fields of research where “neuroscience can make a significant contribution to the legal question of imputability: for instance, the now well-known research on frontal lobe pathologies” (Lanza et al. 2011) particularly affect an “individual's socio-moral capacities while maintaining general cognitive functioning substantially intact; they are relevant in the legal study of what is termed 'insanity'. In cases where lesions occur in areas of the prefrontal cortex, there is a pathological dissociation between 'cognitive faculties' and 'artificial intelligence' (i.e. the ability to interact correctly in social contexts). Thus, patients who present conspicuous abnormalities in social behaviour may respond quite normally in intelligence tests” (Libet 1999). A further effect of this syndrome is a kind of inability to learn and benefit from experience, a deficit that can easily be deduced from “the Wisconsin Card Sorting Test, which analyses precisely the ability to interpret different problem-solving strategies by adapting them to each environmental demand. In the 'frontal syndrome', the faculty of free will is impaired and thus precisely the faculty that compromises imputability” (Lüderssen 2010).

From what has been proposed so far, it can be deduced that new technologies and new discoveries in the scientific field can certainly make an important contribution to the understanding of brain mechanisms and the resulting behavioural patterns, but from a theoretical point of view this is not yet sufficient for a re-foundation of criminal law on neuro-scientific grounds. Internationally, the scientific and doctrinaire positions on the possible contributions of neuroscience in law basically rest on two mass positions: the radicals and the moderates.

The 'radicals' strongly support a possible entry of “neuroscience into the cornerstones of law, believing that:

Tab. 1 The position of the 'radicals' in the neuroscientific landscape



To summarise, this thesis identifies mental phenomena with the physics of brain phenomena, thus solving the question of imputability upstream.

The 'moderates', on the other hand, while recognising neuroscience as being of great use, especially in subjects such as biology and neuropsychology, do not want to underestimate the risks of mismatch that could be created with law. In this second approach, two relatively independent points of view exist in parallel:

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1) The first purely scientific view involves an increasing study of the components that provoke violent and antisocial behaviour. | 2) The biological components of such behaviour are divided into two strands: behavioural genetics and neuroimaging. In the latter field, there are many developments, especially with regard to 'structural' and 'functional' neuroimages. | 3) Restricting ourselves to neuroimaging technologies, we noted: the problem of defining experimental and control populations, the problem of correctly comparing neuroimages and the problems relating to the correct and unambiguous interpretation of neuroimages. |
| 4) The second view, of a forensic-psychological nature, casts doubt on the concrete possibilities of transposing neuroscientific knowledge directly into the criminal courts. | 5) The problem concerns the method and the discourse between science and law, in fact, the controversy that could be created is precisely a misrepresentation between the answers given by science that are not suited to the questions posed by judges, in particular with regard to the more 'narrower' area of 'neuro' sciences. | 6) Neuroscience will not discover the brain equivalent of responsibility, because it is something we attribute to people and not to brains. Responsibility is a social construction, which is not found in the neuron structures of the brain. |

More recently, as well as in the international sphere, an open debate has been ignited in Italy on the two contrasting positions and on the possible collaboration between the

scientific and legal spheres, given that 'neuroethics' is being joined by the debate on 'neurolaw'" (Lavazzi 2022). Contrasting opinions have also emerged within the Italian cultural frontier: some are convinced of the revolutionary capacity of neuroscience on the world of law, while others have taken a cautious stance, especially when it comes to the application of neuroscience in the legal sphere. Leaving aside the actual debate, what is instead interesting with reference to the 'sociological' perspective, is to "rediscover that movement of 'reciprocal search for legitimization' between science and law that had previously been noted by psychiatry. From a historical point of view, it should be remembered that relations between legal doctrine and the sciences that study behaviour have, over time, alternated between phases of rapprochement and phases of rigorous assertion of their own boundaries: this has been especially beneficial for relations between 'law and psychiatry', in which the literature agrees in finding a path of 'mutual legitimisation' between the two knowledges" (Fuselli 2016). In doctrine, it is emphasised that the relationship "between 'justice and psychiatry' is historically determined by the 'state of development' of the latter. The weakness of the relationship between law and psychiatry, with their periodic crises, can be explained by the fact that the 'behavioural sciences' have always had a quite peculiar supporting role in relation to law. The purpose of these sciences is to investigate the functioning of our mind, but, often, they find themselves in a relationship of conflicting competences, especially when scientific 'labels' overlap with purely legal categories (the most classic hypothesis is being able to correctly categorise anti-social behaviour that, psychologically speaking, is defined as 'psychopathic', while for law it takes on the qualification of 'criminal')" (De Mari 2018). Nowadays, there seem to be important novelties and developments in the clinical field, marking the beginning of a new phase. In fact, if the "anti-psychiatry revolution had led to some crises in the relationship between psychiatry and law, with an escape from what has always been seen as a weak subject, now, the situation appears to be completely reversed, as judges increasingly seek the help of psychiatrists" (Fornari 2018). Today, the numerous studies and developments in the field of neuroscience have led to a rapprochement between the two worlds. Among the causes of this "rapprochement is the refinement of new techniques for the morphological and functional exploration of the brain, known by the Anglo-Saxon term neuroimaging or brain imaging, which have pushed the cognitive sciences beyond traditional topics, leading them to use an empirical approach to address issues that were normally reserved for philosophical speculation, such as free will" (Forsting and Jansen 2017). A further area for a possible collaboration between criminal law and neuroscience is the ascertainment of 'social dangerousness', the latter envisaged by Article 203 of the Italian Criminal Code as the probability that the perpetrator of an offence will commit new crimes in the future. If it is true that: "thanks to the techniques offered by neuroscience, it would probably be possible to provide the magistrate with an analysis of the risk of recidivism based on specific instruments capable of amplifying and integrating the clinical judgement, scientifically founded" then neuroscientific techniques could really be able to measure the capacity for self-control and therefore could have 'a certain usefulness also in relation to the assessment of the social dangerousness of the subject" (Popper 1996).

5. The obstacles to collaboration between criminal law and neuroscience

Having investigated the real and important contribution that neuroscience can make to law, it is now necessary to analyse to what extent it can be used in the courtroom. The path is certainly not easy because of many obstacles not only in the criminal law but also arising from the neuroscientific front itself. As for the criminal law obstacles, it is necessary to mention several prohibitions placed by the Italian criminal law and criminal procedure law: “the prohibition of expert opinions aimed at ascertaining the character and personality of the defendant and, in general, the psychic qualities independent of pathological causes (Art. 220, para. 2, Italian Code of Criminal Procedure) and other prohibitions placed by Articles 64, 188 and 189 (of the same Code) to protect the moral freedom of the declarant” (Della Ragione 2022). It has already happened in the past that these prohibitions barred access in “criminal proceedings to instruments such as the polygraph, better known as a lie detector (an instrument that detects changes in certain physiological parameters of the individual under examination such as blood pressure, respiratory rate, heartbeat and palmar sweating), narcoanalysis (performed by slow intravenous administration of barbiturates combined with amphetamine-type psychostimulants) and hypnosis” (Stephens-Davidowitz 2018). Assuming that these prohibitions turn out to be irrelevant or otherwise surmountable, “neuroscientific evidence should nevertheless be subject to the limits within which so-called 'scientific evidence' is admitted. In general, scientific evidence consists of 'evidentiary operations for which, at the moments of admission, assumption and evaluation, instruments of knowledge derived from science and technique are used, i.e. scientific principles and methodologies, technological methods, technical apparatus, the use of which requires expert skills’ (Sammicheli and Sartori 2015). It is essential for the judge in his assessment during admissibility to ascertain the reliability and trustworthiness of the evidence, hence its scientific validity. Obviously, not possessing the appropriate expertise, the judge can only check the scientific method used to ensure its quality. He must not “substitute himself for the expert but must ascertain 'how' he arrived at the result presented. The issue of evidence in criminal procedural law has always been full of theoretical and practical implications. Generally speaking, it can be observed that scientific evidence, like declarative evidence, must only be sought, admitted, taken, assessed and, therefore, then validated, if it admits verification and resists cross-examination. All this means that the judge, while having to ascertain *ex post* that the agent's conduct 'is' (not 'may be') a necessary condition of the single damaging event, is engaged in the hermeneutic operation in the light of the common canons of 'procedural certainty', leading, conclusively, at the outcome of the probative reasoning of a largely inductive type, to a judgement of liability characterised by a 'high degree of rational credibility' or 'confirmation' of the hypothesis formulated on the specific fact to be proved: a judgement also enunciated by jurisprudence in terms of 'high logical probability' or *probability bordering on certainty*” (Spanò and Tedeschi 2012). It follows that the level of “statistical probability must always be assessed with reference to the individual case, on the basis of the evidentiary findings since it is not permitted to deduce automatically (and proportionally) from the probability coefficient expressed by the law the confirmation of the hypothesis on the existence of the causal relationship” (Rossetti 2012). The obstacles, however, come not only from criminal law but from a more strictly technical perspective. For example, some perplexities fall on: “a) the risk of activation of circumvention strategies by the subject under examination with neuro-scientific techniques; b) the predisposition of some of the techniques to detect differences between

groups (e.g. bias analysis) and not to analyse the state of the individual; c) the inadequate maturity of other techniques. Some of these doubts can be remedied by comparing the data collected from the test subject with those of an adequate number of control subjects (at least one hundred). It is more difficult, on the other hand, in the case of comparison in the field of neuroimaging evidence, since data from healthy 'control' participants are essentially absent, not least because of the high cost involved in such investigations. Then there is the issue of the disproportionate persuasive power that brain images and explanations based on neuroscientific data might have, given their apparently simple reading, on judges and jurors" (De Luca 2021). Another major obstacle is that the neuropsychological investigation normally takes place under conditions that are nowhere near the 'natural' conditions in which the crime occurred. Finally, the big problem that all investigations that deal with the "mental capacity of the defendant have is that they can provide us with an analysis of the subject's behaviour and brain at the present time, not at the 'time when he allegedly committed the crime', which can be months or even years earlier. Only with a careful assessment developed on a case-by-case basis, taking into account the totality of the available clinical data, can one arrive at the conclusion, quite probabilistically, that the neurological and neuropsychological functioning at the time of the defendant's ascertainment can be considered similar to that at the time the crime was committed" (Barba and Geminiani 2021). As has been effectively noted, in fact, "the brain' changes. It is practically not feasible to continuously measure brain functioning in such a way that it is possible to relate brain activity recorded at a specific time to a later time. Thus, it may be difficult to know (before an expert opinion or scientific investigation) how the same brain functioned months ago, at the time when the legally relevant event occurred" (Sartori and Zangrossi 2016).

6. Neuroscientific evidence in criminal proceedings: the expert opinion

Neuroscientific evidence highlights the possibility that using scientific evidence or laws in the course of a trial requires specific expertise and knowledge that the judicial authority does not have. The term 'scientific expertise' is "quite broad and variable because it is certainly connected to the scientific progress that has developed over time but is also determined by the fact that less complex scientific laws are now part of common knowledge. The instrument that helps judges supplement their knowledge is the 'expert opinion', a means by which the legislator has shown an openness to science. It is well known that an expert's report is typical evidence expressly provided for by law (regulated by Articles 320 et seq. of the Italian Code of Criminal Procedure), which includes it among the means of evidence in which a 'party' request is not necessary for its admission, so it is admitted by the judge, as for all other evidence, only if not manifestly superfluous or irrelevant in relation to the subject of the evidence itself. The judge who orders the expert's report substantially limits his room for discretion in deciding, although he is not bound by the result of the report and may depart from or disregard altogether the conclusions reached by an individual expert. The Judge, however, according to Criminal Court of Cassation sentence No. 12026/2020 would not be *peritus peritorum* and could not disregard the results of an expert report solely on the basis of his own personal knowledge, based on uncertain and generic non-specialist elements" (Tonini and Conti 2022). It is necessary, at this point, to draw attention to what is termed "neuroscientifically oriented expertise. Essentially, it criticises the classical psychiatric approach, as psychiatric expertise is based exclusively on the clinical interview and thus

only on verbal interaction. Following these interviews, the appraiser compares the results of the latter with anamnestic, clinical data and court documentation to formulate hypotheses about the psychopathological state of the individual and the relationship to the behaviour/offence. The deficit of this diagnosis by means of an interview is that it is judged differently by different experts, so it has a very low concordance (e.g. with personality disorders, which are a frequent diagnosis in mental defect assessments, research shows low concordances of around 55%). Even lower is the estimated reliability in forensic evaluations that have to deal with opposing theses, which are also conditioned by different trial positions. Classical psychiatric diagnoses based only on the clinical interview and tests can certainly help. The technological progress that has developed over the last few decades has led to the emergence of new, increasingly sophisticated methodologies, which have made it possible to make important advances in the analysis of the relationship between cognitive processes and underlying neural mechanisms” (Algeri 2020). Thanks to these new advances, we are now able to obtain a great deal of information, as we can: “1) analyse brain activity by taking into account energy metabolism, neurotransmitter activity (e.g. Positron Emission Tomography, PET). The latter exploits the properties of certain radioactive isotopes with which substances of biological interest are marked, such as deoxyglucose, an analogue of glucose, the sugar that represents the main energy metabolism for the brain; 2) studying the fibres connecting different brain areas by means of Diffusion Tensor Imaging (DTI), which makes it possible to highlight anatomical connections between brain areas by measuring the speed of diffusion of water in the various directions; 3) studying the density of grey matter (neurons) and white matter (axons) in the brain by means of Voxel Based Morphometry (VBM), making it possible to show anatomical changes that escape visual appreciation. In addition to the improvement in brain investigation techniques, there has also been a singular development in the construction of neuro-cognitive tests that, with increasing precision, allow the psychological and cerebral mechanisms underlying the functions of interest to be analysed. The more in-depth study of cognitive domains has made it possible to address topics that were traditionally considered intractable by the sciences, such as empathy, moral values, feelings, emotional behaviour, etc. Functional imaging methodologies, in fact, make it possible to measure brain activity. To add to the difficulties previously discussed, there is another aspect that is little considered: the simulation of the psychic disorder. A depressive state, for example, can easily be simulated as the detection would be based solely on the patient/defendant's accounts. In the clinical context, the account of a symptom turns out to be more reliable because the patient has no interest in amplifying or distorting his symptoms as he himself would be penalised with an ineffective therapy; in the forensic context, on the other hand, the defendant gains great advantages in amplifying his symptoms, thus, his account turns out to be unreliable. In summary, neuroscience allows for increased objectivity in forensic psychiatric evaluations by introducing more certain data of the symptomatology and its neural and genetic correlates. Therefore, if in the traditional psychiatric assessment carried out by means of an interview the concordance of the opinions of different experts is low, then the scientific method that manages to be more objective and more reliable can undoubtedly give an important help in better assessing the subject” (Paige, 2017).

7. Neuroscience and testimony: mind-reading

In Italian and international criminal trials, 'testimony' is undoubtedly essential for the reconstruction of the fact being tried. Jurisprudence provides that the "witness is a 'third' subject with respect to the parties and is called upon to recount the facts of which he or she has become aware, if these are relevant or constitute the object of evidence in the trial" (Miucci 2011). Without dwelling too much on testimony in general, attention must be turned to the new techniques that neuroscience is developing in order to help the trial to interpret witness accounts more accurately. One of the most popular topics in the field of law and neuroscience is the possible the "use of the latter as 'mind-reading' tools. The subject has a certain popularity not only from a historical point of view, since it constitutes, together with the polygraph (lie detector), one of the first instruments applied to 'neuroscience' as an investigative technique, but also from a literary point of view, since the thought of being able to read the minds of others has always fascinated readers and writers. The goal of neuroscientific science is to try to investigate as much as possible the neural correlates of different mental functions (cognitive, emotional, behavioural); thanks to developments in recent years, this perspective has achieved a considerable increase through the development of neuroimaging technologies. In the example of 'lie detection', new neuroimaging techniques have brought about the development of neuropsychological models relating to 'the activity of lying', i.e. the study of all the parts of the mind that develop the cognitive activity of telling falsehoods (typical behaviour of deviants and criminals). Although the polygraph always used physiological indicators, considerable progress has been made: while the well-known polygraphic techniques measure peripheral correlates of the emotional state (variations in heart and respiratory rates, blood pressure, palmar conductance), in this case the observation from the periphery moves directly to the brain, in an attempt to identify a neuronal pattern that can be specifically associated with the mental activity of 'lying'. This would make it possible to overcome the limitations of polygraphic techniques, which measure generic parameters of emotional response and as such are neither sensitive nor specific; in the case of an instrument that can be traced back to memory detection, mention can also be made of the auto-biographical IAT. The latter is an indirect means of measurement that, based on the latency of responses, determines the possibility of association between concepts. It is essentially based on the compatibility effect, i.e. it compares compatible situations with incompatible situations; in simple terms, it simply checks response times, which, in the case of concepts associated with each other in the subject's mind, the times will be very fast; on the other hand, in the case of two non-associated concepts, the times will be slow, as testified by the numerous experiments carried out on the subject. In the autobiographical IAT, instead of investigating the association of concepts, the existence of a trace of the autobiographical memory is investigated in order to make it more suitable in the investigative and forensic sphere. The neuroscientific techniques briefly illustrated so far could constitute significantly relevant tools for the definition of the fact being judged, since with a certain objectivity they would be able to guarantee a minimum of perceived veracity of the statements collected during the trial" (Curci et al. 2015). Obviously, the question of the legal possibility for the application of these instruments remains somewhat complicated. It must be remembered, however, that "ascertaining the truth is not the sole objective of the criminal trial, but also has as its ultimate goal, if not above all, the protection of the fundamental rights of the defendant, the witness and those involved in the trial. Starting

from this assumption, Article 64 (2) of the Italian Code of Criminal Procedure, with regard to the interrogation of the person during the preliminary investigation, and Article 188 of the same Code for the trial phase, prohibit, with regard to the taking of declarative evidence, the use of methods or techniques suitable to affect the freedom of self-determination or to alter the ability to assess or remember facts, as they would be considered detrimental to individual guarantees” (Agosta et al. 2010). Hence the ban on the use of “techniques such as hypnosis, narcoanalysis, polygraphs or any other instrument that could manipulate the subject's psychophysical sphere, thus also affecting his or her freedom of self-determination. Much more complicated is the issue of neuroscience since neuroscientific tests, requiring interaction with the body of the person being examined in order to be carried out, are confronted above all with the limits set by the Italian Constitutional Charter: in Article 32 for physical integrity and in Article 13 for personal freedom. Neuroscientific techniques are minimally harmful to health, so much so that brain scanners or electrodes placed on the skull are used (methods also frequently used by doctors such as electroencephalograms or X-ray examinations). Even in matters of imputability, the taking of functional biological material samples to study the subject's genetic profile and identify possible genetic vulnerabilities would entail practically no health risk. Yet, since in criminal proceedings these techniques are carried out as part of expert investigations, the subject often finds himself being subjected to these examinations coercively or having to give his consent for them to be carried out. In this respect, in fact, neuroscientific testing could find a limit in the inviolable right to personal liberty under Article 13 of the Italian Constitutional Charter, since, tests such as magnetic resonance imaging, brain scans and even the administration of the IAT test would result in a restriction of the individual's liberty, since, for a certain period of time, he or she is detained at the site of the operations (sometimes immobilised in the case of scans or resonances). It is obvious that this is ruled out when the subject gives consent and voluntarily lends himself to acts restricting his freedom” (Canzio and Luparia 2022).

8. Conclusions

Summarising everything that has been illustrated up to this point and having already ruled out the hypothesis of a re-foundation of criminal law for all the reasons explained, the most plausible solution seems to be that of a possible collaboration between neuroscience and law that can develop in different sectors of the criminal process, each of which presents its own difficulties also in view of the instrument used and the specific peculiarities. However, the issue remains delicate and too broad to be able to find a single and unequivocal resolution to the debate, also because studies and research in this field are constantly evolving. Certainly, avoiding a dogmatic and 'prophetic' use of neuroscience can help to avoid dampening its very potential and to preserve the right guarantees for the process. There is no disputing the importance of neuroscience studies and the fundamental contribution they have made to research on social behaviour and how, indirectly, they are undoubtedly also useful for the legal world, albeit used with extreme caution and delicacy. As far as the strictly applied field is concerned, neuroscience should perhaps only be used as a means of circumstantial evidence, since the body data, in the application phase of the law, have a strong evidential value. What needs to be proven by judges is a 'pathological mental functioning'; the neural correlate turns out to be an effective proof of this. As soon as it is possible to establish with certainty an anatomo-functional correlation between a given mental function (which is

legally relevant) and the activation of a given brain region, it will be possible, with the help of neuro-imaging techniques, to introduce into the trial a possible proof of a mental dysfunctioning that must be judicially ascertained.

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School drop-out/early leaving from education and training: diachronic and comparative analysis of conceptualisation and operational definition in Europe and Italy

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Abstract

The political-institutional and academic literature shows a lack of unambiguous positions on the phenomenon of school drop out/early leaving from education and training, both with regard to its conceptualisation (nominal definition) and its operational definition (properties, unit of analysis, reference time of the detected condition, institutions involved).

Considering that the nominal definition and the operational definition of a social phenomenon assume relevance because its descriptive analysis and its monitoring are based on these elements, expressing its significance (prevalence) on a given territory, but also and above all because they serve to help take decisions to solve practical problems, in this specific case, relating to the design and planning of measures aimed at combating it, the contribution aims to help disambiguate the meaning associated with the different expressions and indicators used in the European and Italian political-institutional contexts.

The contribution proposes a diachronic and comparative analysis of a number of European (European Council; European Commission; Council of European Union) and Italian (Ministry of Education) political-institutional documents considering the period from 2000 - the year of the Lisbon Strategy approval, which focuses on the role of education for Europe's social and economic growth - to the first half of 2023.

Based on the salient aspects observed from the analysis of the documents, the contribution traces two perspectives of conceptualisation and detection of the phenomenon: the “*ex post* perspective” in the European context, the “*in itinere* perspective” in the Italian context.

Keywords: *school drop out; ESL; ELET; European political-institutional documents; Italian political-institutional documents.*

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1. Introduction

The contribution aims to reflect on the conceptualisation (nominal definition) and operational definition (properties and units of detection) (Lucchini 2018) of the phenomenon of school drop out/early school leaving in the European and Italian political-institutional “discourse”.

The nominal definition and operational definition of a social phenomenon are important because these elements are the basis for its descriptive analysis and monitoring, which express its significance (prevalence) in a given territory, but also and above all because they serve to help make decisions to solve practical problems, in this case relating to the design and planning of measures to counter it.

Beginning a reflection on the topic just outlined already forces one to face a choice: *what expression should be used to express the meaning of this phenomenon? School dropout? Early School Leaving (ESL)? Early Leaving from Education and Training (ELET)?* Expressions that, moreover, open up for further investigation and broaden the spectrum of categories attributable to the phenomenon: think, for example, of the expression NEET-*Not in Education, Employment or Training*, the term *truant* (school evasion) and so on.

This question introduces the “kaleidoscopic” nature and the complexity of the analysis of this phenomenon, also due to the multiplicity of causes and effects that are articulated in it (Autorità Garante per l’Infanzia e l’Adolescenza 2022). This characterisation cannot but also be linked to the different expressions used in political-institutional documents and academic literature to define it. Therefore, the intent of this reflection diverges from those who use the different terms - such as early school leaving, dropout, early withdrawal, attrition from high school, and student elimination - interchangeably (De Witte et al. 2013b).

Disambiguating the meaning associated with the different expressions on the topic is an intention that certainly parallels that pursued by other authors already a decade ago. For instance, Estêvão and Álvares (2014) pursued the aim of discussing the definition of school dropout and the challenges posed - for research and public policy - by defining school dropout in terms of ESL, recalling the statistical indicator used by Eurostat. The authors distinguished between *formal* definitions (based on the concept of compulsory education, thus linked to age and time spent in the education system) and *functional* definitions (which consider employability and occupational performance linked to the level of education achieved) of school dropout and classified the ESL indicator among the functional ones.

Some have compared the conceptualisations and indicators of the phenomenon used in the international context. Ross and Leathwood (2013), for instance, analysed the conceptualisation of ESL by comparing the European context (which refers to 18-24 year olds who have finished no more than lower secondary education - the compulsory levels - but who may not have obtained any qualifications), the US (where the expression refers to those who have not completed a high school diploma) and the OECD (which indicates 20-24 year olds with education below upper secondary education level). In a similar vein, Santagati (2015) conducted a comparative analysis of school dropping out in Europe and the OECD area, analysing three main indicators, namely ELET, NEET and low achievers in reading, mathematics and science without an adequate level of basic skills.

De Witte et al. stressed the difference between two indicators used by Eurostat – “early leavers from formal education [only]” (ELFE), and “early leavers from education and training” (ELET) - although both “measure the size of yearly cohorts leaving secondary

school ‘without any qualification’” (2013a: p.6). Dwyer and Wyn (2011) stated that the term “early leaving” is more neutral than the term “dropout”.

Other authors have pointed out the increased complexity of the description of the phenomenon when the multiple national definitions are also considered: Vogt, for instance - recalling authoritative overviews of the variety of national definitions of dropout/ESL, such as that of Lamb and Markussen (2011) and that of the European Commission (2014) - states that alongside a basic consensus on the meaning of ESL/dropout, “there is considerable variety in definitions and measurement procedures” (2018: p. 284).

The academic literature also sheds light on the lack of unambiguous positions. In this regard, Besozzi (2017) recalls the debate between positions that consider school dropout as an all-encompassing term, referring to forms of irregularity and or deviation from linear and continuous paths, and positions that, instead, refer only to the exit from the education system. The author, sharing the first position, speaks of it in terms of “[...] a complex and variegated phenomenon that includes everything that is 'lost' - temporarily or permanently - in the course of evaluating the outcomes of the school learning process” (*ibidem*: p. 205, footnote 10), outlining it in terms of “*discontinuity of paths* (delays, slowdowns, early exits) with respect to the regularity envisaged by the regulations and curricula” (*ibidem* 2017: pp. 205-206). The expression school drop-out describes the phenomenon according to which part of the student population does not reach the educational goals it sets itself (Colombo 2010: p. 23), including different indicators of a bumpy pathway, “*evasion of the obligation, dropping out of upper secondary school, dropping out of the obligation without obtaining the qualification, repetitions, flunking out, repeated absences and irregular attendance, delays with respect to the regular age, low performance, fulfilment of the obligation with poor quality of the results*” (Ghione 2005: pp. 51-2).

This introductory framework announces another aspect of the complexity of defining the phenomenon, which suggests another question: *is it necessary to conceptualise, describe and monitor school dropout/early school leaving with reference to a pathway, the outcome of a pathway or both?*

Within the frame of reference just outlined and with the aim of helping to disambiguate some of the expressions mentioned above, the contribution sets itself the objective of analysing the evolution of conceptualisations and operational definitions on the subject of school dropout/early school leaving, presenting a diachronic analysis of some European and Italian political-institutional documents from 2000 - i.e. from the year of the Lisbon Strategy approval, which highlights the role of education for the social and economic growth of Europe - to the first half of 2023.

The first part presents the conceptualisation and operational definition of phenomenon in some European political-institutional documents; in the same vein, the second part looks at the Italian national level, analysing the policy documents produced by the Ministry of Education; the third part, on the basis of the salient aspects highlighted in the first and second parts, presents a comparison between the conceptualisations and operational definitions found in the European and Italian contexts. The fourth and final part concludes by hinting at application implications.

2. Conceptualisation and operational definition of the phenomenon in the European context

The analysis of the conceptualisation and definition of the phenomenon in European policy documents was carried out on the documents summarised in Table 1, which refer to the

Lisbon (European Council 2000), Europe 2020 (European Commission 2010) and European Education Area-EEA 2030 (Council of the European Union 2021) strategies and the Recommendations of the Council of the European Union, i.e. the Council Recommendation of 28 June 2011 on policies to reduce early school leaving and the Council Recommendation of 28 November 2022 on Pathways to School Success.

The analysis showed that, with the exception of the Lisbon Strategy, which provides a definition in the absence of a “label” for the phenomenon, the documents analysed use two expressions to describe the phenomenon (the people who embody it): *early school leaving* (leavers) and *early leaving* (leavers) *from education and training*.

Table no.1. Conceptualisation and operational definition
of early leaving from education and training in the European context

Document	Conceptualisation and operational definition
European Council (2000) <i>Lisbon 2000 Strategy</i>	The number of 18 to 24 year olds with only lower-secondary level education who are not in further education and training
European Commission (2010) <i>Europe 2020 Strategy</i>	- Early school leavers (leaving) - The drop out rate
Council of the European Union (2011)	-The term ‘early school leaving’ is used in connection with those who leave education and training with only lower secondary education or less, and who are no longer in education and training.
Council of the European Union (2021) <i>European Education Area (EEA) 2030 Strategy</i>	- Early leaving from education and training - Eurostat (EU-LFS): the share of the population aged 18-24 with only lower secondary education or less and no longer in education or training. - Early school leaving
Council of the European Union (2022)	- Share of early leavers from education and training - The rate of early leavers - Early school leaving

Conceptually, the Lisbon Strategy, the Europe 2020 Strategy and the 2011 Council Recommendation refer to the expression “early school leavers”. The first and the third document, unlike the second, each report a definition of the phenomenon that allows one to observe some differences attributable to the condition they describe: the Lisbon Strategy with this expression refers to persons who have *only* attained *lower-secondary level education* and *who are not in further education and training*; the 2011 Council Recommendation refers to those who leave education and training with *only lower secondary education or less*, and *who are no longer in education and training*.

In the EEA 2030 Strategy, the expression “early leaving from education and training” appears, although this expression has already been included in other previous documents. For its definition, the document refers to the statistical indicator ELET used by Eurostat: this

indicator expressing “the share of the population *aged 18-24 with only lower secondary education or less and no longer in education or training*”.

Therefore, it is noted that the naming of this indicator brings together the salient aspects already identified in the Lisbon Strategy and the 2011 Council Recommendation. Furthermore, the term “early leaving from education and training” does not entirely replace the previous term.

The 2022 Council Recommendation uses several expressions - share of early leavers from education and training, the rate of early leavers, early school leaving - without providing a disambiguation, a nominal or operational definition of them. The lack of the phenomenon definition seems to highlight a nominal convention now established on the use of these expressions by the various political-institutional actors, expressions that - as we have seen - now appear to be assimilated.

Since the different documents analysed have set and/or referred to different desirable levels of the phenomenon to be reached in predefined time frames (*benchmarks*), the analysis conducted here extends to the statistical indicator used by Eurostat, which is, moreover, referred to in the EEA 2030 Strategy.

In the Eurostat *Glossary* (2022) the expression “early leaver from education and training” replaces the expression “early school leaver”, and the statistical indicator ELET refers to two conditions, which are described in detail with reference to the level of education attained and non-participation in education and training.

Specifically, Eurostat refers to young people between the ages of 18 and 24:

- whose highest level of education or training attained is at most lower secondary education;
- who received no education or training (neither formal nor non-formal) in the four weeks preceding the survey.

The level of education attained - at most lower secondary education - is defined with reference to ISCED (International Standard Classification of Education), specifying that for lower secondary education the indicator assumes:

- from ISCED 1997 (UNESCO 2006) until 2013, education levels 0-3C short (i.e. 0 - Pre-primary education; 1 - Primary education or first stage of basic education; 2 - Lower secondary or second stage of basic education; 3C- short - programmes giving access to labour market, level 4 programmes or other level 3 programmes);
- by ISCED 2011 (UNESCO 2012), considered from 2014 onwards, education levels 0-2 (i.e. 0 - Early childhood education; 1 - Primary education; 2 - Lower secondary education).

Furthermore, it is noted that the indicator used by Eurostat temporally delimits non-involvement in education and training activities, i.e. in the four weeks prior to the survey.

Overall, therefore, the ELET indicator - which, in fact, describes the prevalence of the phenomenon in Europe by comparing the situation in the member States - refines the definition of the term “early leaver from education and training” in the documents, showing:

- a contraction of the education discriminating level from ISCED 1997 level 0-3C short, i.e. an upper secondary education level, to ISCED 2011 level 0-2, i.e. a lower secondary education level, thus excluding any level 3 programmes that “are typically designed to complete secondary education in preparation for tertiary education or provide skills relevant to employment, or both” (UNESCO 2012: p. 38);
- a time reference of the condition of inactivity in education and training that makes the description and monitoring of the phenomenon more dynamic.

Finally, the nature of this indicator is noteworthy: it is taken from the EU Labour Force Survey (LFS), which aims to obtain information on the labour market and related issues (Eurostat 2021).

3. Conceptualisation and operational definition of the phenomenon in the Italian context

The analysis of the conceptualisation and operational definition of the phenomenon in the Italian context has considered the political-institutional documents produced by the Ministry of Education (which has changed its name over time) from 2000 to the first half of 2023 (tab. 2), assimilating the time span of the analysis to that considered for the European level, i.e. since the approval of the Lisbon Strategy.

On the whole, Italian documents conceptualise the phenomenon with the expression “school drop-out” (more appropriate translation to the Italian expression “dispersione scolastica”, i.e. school dispersion), as can be seen from most of their titles. However, the conceptual definition of the phenomenon appears to differ from year to year: it has been observed, in fact, that 1) some documents give a more extensive and articulate description of the meaning of the phenomenon; 2) others, on the other hand, present circumscribed and more concise descriptions.

The first grouping includes the ministerial documents (MPI 2000; MPI 2006 and MIM 2023) which define early school leaving as a:

- “complex phenomenon” encompassing different aspects (e.g. non-entry; evasion of compulsory education; drop-outs; leaving compulsory education without qualification; repetition; flunking out; irregular attendance; delay with respect to regular age; formal fulfilment of compulsory education; poor quality of outcomes);
- “systemic phenomenon”, since it affects not only the subjects but also the entire education and training system and its quality.

The first two documents clarify the meaning of the phenomenon by also resorting to the Latin etymology of the Italian term “dispersione scolastica” (which in this contribution is translated as school dropout), linking them to the verb “dispargère” (composed of *dis* and *spargère*), which recalls scattering things here and there without a predefined order, squandering, leading back to the dissipation of intelligence, resources and the potential of young people.

These documents emphasise that “school dropout” denotes the irregularity of the curriculum, of the course, the discontinuity of the courses with respect to the regulatory provisions (regulations and curricula).

In the second grouping, it is possible to consider ministerial documents produced from 2011 to 2021, which explain school dropout in terms of drop-out, early exit from the education and training system, drop-out during the year, in the transition from one year to the next and from one cycle to the next.

However, the Minister of Education recently (MIM 2023) clarified that “school drop-out” and “early school leaving” “are actually distinct situations”: the first denotes “the discontinuity of pathways with respect to the regularity envisaged by regulations and curricula”, taking on a character both explicit (failure to enrol at school, repeating school years, failure and dropping out) and implicit (the qualification obtained does not correspond to the attainment of adequate skills); the second - i.e. dropping out - represents the outcome of a cumulative process of disengagement that takes place over time, indicating a definitive

interruption of studies without having obtained a qualification by young people who have reached the age of sixteen, thus referring to individuals no longer of compulsory school age. Moreover, the Minister distinguishes these expressions from that of “school evasion”, which indicates “the interruption of studies and the abandonment of school by subjects still of compulsory school age, expressing, on the part of the families, a real violation of the obligations relating to the education of minors”.

Finally, regarding the conceptualisation of the phenomenon, it is noted that some ministerial documents also refer to the European reading based on the indicator *early school leaving* (MPI 2006; MIUR 2013) and *early leaving from education and training* (MIUR 2017; MIM 2023).

The grouping logic of the documents just highlighted for the conceptualisation of the phenomenon cannot be traced for its operational definition: in other words, the conceptual focus highlighted in each document has not always been consistently traced in the declination of the indicators used to describe and monitor the phenomenon.

The ministerial documents produced from 2000 to 2013 assume a series of indicators describing the trend of school dropout according to different phenomena, including rejected pupils, repeat pupils, pupils falling behind the regular age, attendance irregularities, non-formalised interruptions, students admitted to the next class with educational debt. In many of these documents these phenomena denote the condition of true “dropout risk”.

The focus on dropping out, however, is central in the most recent documents (MIUR 2017; MIUR 2019; MI 2021) which describe and monitor the set of pupils leaving the national school system through “five pieces” referring to Secondary School I and II grade: two are related to drop-outs in *Secondary School I grade* during the year (Piece I) and in the transition from one year to the next (Piece II); one concerns drop-outs between one year and the next in the transition between school cycles, from Secondary School I grade to II grade (Piece III); two concern drop-outs in Secondary School II grade during the year (Piece IV) and in the transition from one year to the next (Piece V).

It can be seen that Piece III has been progressively refined in the three documents, taking into account the possible conditions of the pupils, including non-transition to other pathways, such as vocational and adult education pathways.

The Minister of Education (MIM 2023) includes the census survey of implicit school drop-outs, which combines data on the different statuses of students (collected in the Anagrafe dello Studente) and the national surveys of learning levels in Italian, mathematics and English (INVALSI).

Table no. 2. The conceptualisation and operational definition of the phenomenon in Italian political-institutional documents

Document	Conceptualisation	Operational definition
MPI (2000)	<ul style="list-style-type: none"> - School dropout (closer to the expression “school dispersion”) is an indicator of the quality of the education system. - “School dropout is a complex phenomenon, which cannot be reduced to univocal interpretations of cause and effect and must be analysed according to a systemic model.” (CM 257/94) - Curriculum irregularities and drop- 	<ul style="list-style-type: none"> - Dropping out (dispersion) during schooling: <ul style="list-style-type: none"> – rejected pupils, – pupils not assessed at the final examinations for non-formalised reasons (too high a number of unexcused absences, interruptions in attendance during the year without any reason, pupils enrolled but never attending),

Document	Conceptualisation	Operational definition
	<p>outs.</p> <p>- In the phenomenon of school drop-outs: non-entry; evasion of compulsory education; drop-outs; dropping out of compulsory education without obtaining a qualification; repeating; flunking out; irregular attendance; falling behind the regular age; formal fulfilment of compulsory education; poor quality of outcomes.</p> <p><i>Dispersion</i> derives etymologically from 'dispargêre' - compound of dis and spargêre - but is heard as derived from 'disperdere' - compound of dis and perdere -. If the former verb recalls scattering things here and there without a predefined order, squandering, the latter recalls dividing, separating, dissipating, squandering, sending to perdition. Both, in intransitive usage, also mean to stray, to disperse, to vanish (the 'dispersed' or the fog that 'scatters' in the sun). The combination of etymology and meaning leads one to evoke with the term dispersion the dissipation of intelligence, of resources, of the potential of young people.</p>	<ul style="list-style-type: none"> - repeat pupils, - pupils lagging behind the regular age. - Fulfilment of compulsory schooling - Interruptions in attendance during and at the end of the school year - Leaving vocational education after qualification
<p>MPI-Directorate General for Studies and Programming Office of Statistics (2006)</p>	<p>School dropout is a complex phenomenon encompassing different aspects and affecting the whole school-educational context.</p> <p>The Italian terms "dispersione" and "disperso" do not derive from the Latin 'disperdere (to disperse from a fixed location) but from 'dispargere' (to scatter here and there). In this sense, school dispersion is to be seen as an anomaly in the educational processes that is brought about by the combined effect of both the subjects, who disperse during the normal schooling process, and the school system, which is unable to respond to the needs of the school population with an adequate educational offer.</p>	<ul style="list-style-type: none"> - The difficulties of statistical knowledge on school dropout (dispersion) are connected with its being at the intersection of several educational worlds: school, vocational training and work. Restricting the analysis to the school sphere, school dropout is not identified solely with dropping out, but encompasses a whole range of phenomena - <i>irregular attendance, lateness, non-admission to the following year, repeats, interruptions</i> - which can lead to the early exit of children from the school system. These data only allow the identification of those who are at risk of dispersion and/or abandonment. - students not admitted to the

Document	Conceptualisation	Operational definition
	<p>The phenomenon of school dropout is therefore understood as a set of factors that alter the regular course of a student's school career.</p>	<p>next class/not graduated/not dismissed</p> <ul style="list-style-type: none"> – students admitted to the next class with educational debt; – repetitions; – migration from one school to another (change of study address and in a transition from state to non-state school); – drop-outs: not assessed in the final examination for formalised (due to transfers to other schools or for health reasons) and non-formalised (without any reason or due to a high number of unexcused absences) attendance interruptions; <p>Non-participation in the education system has an impact on the system's summary indicator: the schooling rate.</p> <p>+ Early School Leaver (ESL)</p>
MPI (2008)		<p>National reading key</p> <ul style="list-style-type: none"> - Number of <i>drop-outs</i> detected during a school year: interruption of studies during the school year not formalised. - Indicators of possible causality of the phenomenon (phenomena of irregularity and school failure) such as: <ul style="list-style-type: none"> – repeat and lateness rates; – rates of non-admission to the following year and admission with educational debt; – transfers to another address or school. <p>European reading key</p> <p>Early School Leaver (ESL): share of young people aged 18 to 24 who have only a secondary school leaving certificate and are out of the education and training system</p>
MIUR (2011)	<p>The phenomenon of drop-outs: share of students who drop out or continue their studies late.</p>	<ul style="list-style-type: none"> – Selection: pupils not admitted to the next class; – tardy pupils, i.e. those attending a given year of a course at a higher age than the regular age, i.e. the age stipulated by current enrolment regulations; – Suspension of judgement in the

Document	Conceptualisation	Operational definition
		<p>secondary school of the second cycle: admission to the next class is suspended for insufficient assessments in one or more disciplines, but considered recoverable;</p> <ul style="list-style-type: none"> – likelihood of graduation (ratio of number of graduates to first-year entrants 5 years earlier) – graduation rate
MIUR (2013)	School dropout: premature exit of students from the school system	<p>Italian scope</p> <ul style="list-style-type: none"> – at risk of dropping out - unjustified exit from the national school system: such an interruption does not preclude the student from re-entering the school system in subsequent years. Moreover, some of the pupils at risk of dropping out, once they have left the school system, could decide to fulfil their right to education by choosing an alternative pathway to the education channel (regional vocational training or apprenticeship). <p>European scope</p> <p>Early School Leaver (ESL): consists of the share of the population aged 18-24 with no higher than lower secondary education and not in training programmes. This indicator, taking a snapshot of a situation referring to earlier times, does not allow a measurement of the phenomenon at present.</p>
MIUR (2017)	<p>School dropout is considered as the phenomenon of students leaving the education and training system.</p> <p>In Europe the indicator used to quantify the phenomenon is the Early Leaving from Education and Training (ELET) indicator, which refers to the share of young people between 18 and 24 years of age with at most a lower secondary school qualification or a</p>	<p>“Five pieces of the school dropout” that together form the set of pupils leaving the national school system:</p> <ol style="list-style-type: none"> 1. pupils attending I grade secondary school who interrupt their attendance without a valid reason before the end of the year (<i>dropping out during the year</i>); 2. pupils who have attended the entire school year (I and II year of I grade secondary school) and who

Document	Conceptualisation	Operational definition
	<p>qualification lasting no more than two years and no longer in training. By quantifying the premature exit from the education system after a few years, it provides a snapshot of a situation from earlier times.</p>	<p>do not pass to the following year either to the II or III year as repeaters, and do not pass to the II year of I grade secondary school (<i>dropping out between one year and the next</i>);</p> <p>3. pupils who have attended the entire school year (year III in I grade secondary school) and who do not pass on to II grade secondary school in the following school year or attend grade I secondary school again as repeaters in year III (<i>dropping out between one year and the next in the transition between school cycles</i>);</p> <p>4. pupils attending II grade secondary school who interrupt their attendance without a valid reason before the end of the year (<i>dropping out during the year</i>);</p> <p>5. pupils who have attended the entire school year (years I to IV of II grade secondary school), who do not progress to the following year either to year II, III, IV, V in good standing or to year I, II, III and IV as repeaters (<i>dropping out between one year and the next</i>).</p> <p>+ Early Leaving from Education and Training (ELET)</p>
MIUR-Uffice for Information Assets Management and Statistics (2019)	<p>Overall dropout - understood as the sum of the dropout occurring during the school year and the dropout occurring between one school year and the next, starting from year 1 of Secondary School-I grade up to year 5 of Secondary School-II grade.</p>	<p>“Five pieces of the school dropout” that together form the set of pupils leaving the national school system:</p> <p>1. pupils attending <i>I grade secondary school</i> who interrupt their attendance without valid reason before the end of the school year (<i>dropping out during the year</i>);</p> <p>2. pupils who have attended the entire school year (years I and II of I grade secondary school) and who do not pass on to the following year either to year II and III as repeaters or to year I and II as repeaters (<i>dropping out between one year and the next</i>);</p> <p>3. pupils who have attended the entire school year (year III in I</p>

Document	Conceptualisation	Operational definition
		<p>grade secondary school) and who do not pass to grade II secondary school in the following school year, in good standing, nor do they attend year III I grade secondary school again, as repeaters (<i>dropping out between one year and the next in the transition between school cycles</i>), nor do they enrol in IeFP courses;</p> <p>4. pupils attending II grade secondary school who interrupt their attendance without a valid reason before the end of the year (<i>dropping out during the year</i>);</p> <p>5. pupils who have attended the entire school year (years I to IV of II grade secondary school), who do not progress to the following year either to year II, III, IV and V in good standing or to year I, II, III and IV as repeaters (<i>dropping out between one year and the next</i>).</p>
MI-DGSIS-Office of Information Asset Management and Statistics (2021)	The total number of pupils exiting the education and training system and are represented, for each school order, by the drop-outs occurring during the school year and the drop-outs recorded in the transition between one school year and the next.	<p>“Five pieces of the school dropout” that together form the set of pupils leaving the national education system:</p> <ol style="list-style-type: none"> 1. pupils attending secondary school who interrupt their attendance without a valid reason before the end of the school year, in each year of the course (<i>dropping out in the course of the year - lower secondary school</i>); 2. pupils who have attended the entire school year, year I or year II of secondary school, and who do not advance in the following year either to year II or III in good standing, or to year I or II as repeaters, or to grade II secondary school as a result of merit advancement (<i>dropping out between one year and the next - lower secondary school</i>); 3. pupils who have fully attended the third year of the first-cycle secondary school, have taken the first-cycle final exam, do not move

Document	Conceptualisation	Operational definition
		<p>on to the second-cycle secondary school in the following school year, in good standing, nor do they attend the first-cycle secondary school again, as repeaters, nor do they enrol in IeFP pathways, nor in first-level pathways at CPIAs or in second-level education pathways at second-level educational institutions (<i>dropping out in the transition between cycles</i>);</p> <p>4. pupils attending secondary school who interrupt their attendance without a valid reason before the end of the school year, in each year of the course (<i>dropping out during the year - upper secondary school</i>);</p> <p>5. pupils who have attended the entire school year, the I, II, III or IV year of secondary school, who do not move on to the following year either to the II, III, IV or V year as repeaters, or enrol in IeFP pathways, first level pathways at CPIA or second level education pathways at II level educational institutions (<i>dropping out between one year and the following year - upper secondary school</i>).</p>
MIM-Legislative Office (2023)	<p>School dropout as “School dispersion”: discontinuity of pathways compared to the regularity foreseen by regulations and curricula.</p> <p>Explicit dispersion: non-enrolment in school, repeating school years, failure and dropping out.</p> <p>Implicit dispersion: the qualification obtained does not correspond to the attainment of adequate skills.</p> <p>Early school leaving: the outcome of a cumulative process of disengagement that takes place over time. The term dropping out refers to a definitive interruption of studies without having obtained a qualification by young people who have reached the age of 16. The term early school leaving thus refers to individuals who are no longer</p>	<p>ELET (Early leaver from education and training): percentage of the population aged between 18 and 24 who have at most obtained a secondary school qualification and are not in education or training.</p> <p>Census survey of implicit school drop-outs: through the Student Registry established by the Ministry of Education and through the INVALSI national survey and test administration system.</p>

Document	Conceptualisation	Operational definition
	<p>of compulsory school age.</p> <p>School evasion: the interruption of studies and dropping out of school by individuals who are still of compulsory school age, expressing, on the part of families, a real violation of the obligations relating to the education of minors.</p>	

4. Conceptualisation and operational definition of the phenomenon: European and Italian approaches compared

The salient aspects observed by the diachronic analysis of the conceptualisation and operational definition of phenomenon in the European and Italian context allow a comparison between the two levels, based on the units of analysis, the reference time of the condition detected, the institutions (in)directly considered (tab. 3).

Summarising what has been observed with regard to the European context, the phenomenon is conceptualised and measured in terms of “early leaving from education and training”, it is measured on 18-24 year olds and is expressed in terms of the level of qualification achieved (ISCED 0-2) and current inactivity in education and training. The ELET indicator has replaced the previous ESL, refining the level of education considered (from ISCED level 0-3C short, to ISCED level 0-2) and the time of detection of inactivity in education and training (last four weeks since detection).

With reference to the Italian context, instead, the phenomenon is conceptualised in terms of “school drop-out”. However, this expression in the course of time has shown a conceptual contraction, shifting from encompassing the “complexity of school *dispersion*” - expressed by multiple aspects and measured through multiple indicators, mostly referring to the irregularity of the school career - to the exclusive focus on “dropping out of school”, recorded during the school career, in the transition from one year to the next and from one cycle to the next (“five pieces” relating to the lower and upper secondary school), juxtaposing these pieces with the surveys on learning levels in basic skills, also carried out periodically throughout the school career.

Comparing the two approaches of conceptualisation and detection of the phenomenon, it is possible to state that the European approach is configured as an “*ex-post* perspective” and the Italian approach as an “*in itinere* perspective”.

The European approach, in fact, focuses on pathway outcomes and the “externalities” of early exit from education and training, considering young people who have already left the education and training system, have inadequate qualifications for entry into the labour market and are currently inactive in education and training.

The categorisation of the European approach in the *ex-post* perspective is in continuity with analyses that in the past have highlighted its “retrospective” nature (Estêvão and Álvares 2014), which quantifies the phenomenon with reference to a “population now outside the system” (MPI 2006: p. 2), to a situation referring to previous eras (MIUR 2013; MIUR 2017), calculated “a consuntivo” (Santagati 2015). Moreover, this categorisation, in view of the time of collection, converges towards those characterisations that describe the indicators as a “cumulative measure” and as a “measure of circumstance or status, since it gives a measurement of the situation, defined by the criteria applied, at a given point in time” (Estêvão and Álvares 2014: p. 27).

The salient aspects of the *ex post* perspective traced in the European context, again, refer to intersystemic logics linked to the centrality of the nexus between education and training, on the one hand, and employability, on the other hand, a nexus - in turn - linked to the promotion of Europe’s development. Aspects that represent the foundation and common thread of the documents analysed. The Lisbon Strategy prescribed the reduction of the phenomenon in the awareness of having to adapt Europe’s education and training systems “both to the demands of the knowledge society and to the need for an improved level and quality of employment”. The Europe 2020 Strategy placed education among the targets to be invested for the promoting a smart (developing an economy based on *knowledge* and innovation), sustainable and inclusive growth (fostering a *high-employment economy* delivering social and territorial cohesion) of Europe, proposing - among six others - the flagship initiative “Youth on the move” with the objective of “to enhance the performance of education systems and to facilitate the entry of young people to the labour market” (European Commission 2010: p. 4).

Table no. 3. Conceptualisation and operational definition of the phenomenon in the European and Italian context: a comparison

	Conceptualisation and operational definition	Analysis Unit	Reference time of the detected condition	Institutions involved	Perspective
<i>European approach</i>	ELET (formerly ESL) - Inadequate level of education attained for entering the labour market - Current inactivity in education and training paths	18-24 year olds	- Passed (ISCED level 0-2 achieved) - Present (inactivity in education and training)	- School - Labour Market	<i>Ex post</i>
<i>Italian approach</i>	- From the focus on early school leaving as a complex phenomenon - the focus on early	Lower and Upper Secondary School students (in compulsory	Present: during the school career (in the transition from one	School	<i>In itinere</i>

	school leaving. - Learning levels in basic skills	education and training)	year to the next and from one cycle to the next)		
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Recently, the Council of the European Union (2021), recalling the first priority of the EEA 2030 strategic framework for the next decade - *Strategic priority 1: Improving quality, equity, inclusion and success for all in education and training* - agrees that to thrive in the world of today, and to cope with future transformations in society, the economy and the labour market, all individuals have to be equipped with the appropriate knowledge, skills, competences and attitudes. Education and training is key for the personal, civic and professional development of European citizens. (C 66/4).

Finally, the Strategic Framework for School Success (Council Recommendation 2022) calls for the implementation of an integrated and comprehensive strategy that pursues school success for all learners by ensuring, among other aspects, coordination with other policy areas, including employment.

The intersystemic orientation extolled in the European context, linked to the education-training-employability nexus, however, seems unbalanced on education, attributing it a decisive role, since - as Ross and Leathwood (2013a; 2013b) observe - the basic assumption of the European policy orientation posits a relationship between the creation of a skilled workforce and Europe's economic growth, as well as a causal relationship between early school leaving and alarming levels of youth unemployment, albeit refuted by the share of unemployed graduates.

In the words of Estêvão and Álvares, a drawback of the European indicator might be to consider it as “an indicator of the education- and training-system performance towards achieving its fundamental mission: to qualify the population” (2014: p. 26), which reveals a functional perspective (*ibid.*), an instrumental, utilitarian and standard conception of education and training, neglecting the dynamics of labour demand (Ross and Leathwood 2013b).

Unlike the European approach, the Italian approach is configured as an “*in itinere* perspective”, since it is focused on outcomes recorded during the school career, referring to students still in compulsory education or training who drop out of school in the transition from one year to the next and from one cycle to the next and/or who show inadequate learning levels in basic skills. This perspective juxtaposes with that of other countries where data are collected through student registries, which enable the monitoring of absenteeism, functioning as alert systems for conditions at risk of early dropout (European Commission 2016). Furthermore, it meets the position of those who stress the usefulness of having quantitative data that more accurately report “the main points of resistance and bottlenecks regarding school dropout” in the education and training system (Estêvão and Álvares 2014: p. 28).

Therefore, the Italian perspective makes it possible to highlight the different meaning of the expressions “school dropout” and “early school leaving”, since - as recently reiterated by the European Commission (2019) - the former expression indicates “discontinuing an on-going course, e.g. dropping out in the middle of school term”. In a similar way, the Autorità Garante per l'Infanzia e l'Adolescenza in Italy describes school dropout as “*the missed*,

incomplete or irregular use of education and training services by young people of school age" (2022: p. 20).

From what has been highlighted above, therefore, although the two perspectives diverge with respect to the survey time considered (during the school career in Italy vs. outside the school career in Europe) and, consistently, with respect to the survey units (learners vs. 18-24 year-olds), the expression of the phenomenon in the two contexts is in any case linked to the *exit from the school career*, being the cumulative outcome of a pathway that is to some extent compromised, i.e. marked by multi-factor signals that can be considered risk factors or prodromes of drop-out and disinvestment in education and training.

5. Conclusions

The contribution presented a diachronic and comparative reflection on the conceptualisation and operational definition of the dropout/early school leaving phenomenon, analysing the European and Italian political-institutional "discourse". The interpretation of the policy orientations analysed led to the identification of two perspectives of conceptualisation and measurement of the phenomenon: the "*ex post* perspective" for the European context and the "*in itinere* perspective" for the Italian context.

In conclusion, we would like to express the hope that the disambiguation work carried out and the diachronic framework outlined will support political decision-makers, regional and local institutional actors, professionals, the educating community, etc. in the phases of conception, design and activation of measures to counter the phenomenon (prevention, intervention and compensation, as recommended by the Council of the European Union in 2022). In fact, it is considered necessary that a disambiguous and conscious "use" of the perspectives of signification of a given phenomenon, which guide the study of its significance in a given context, is also placed at the basis of the measures to counter the phenomenon, as well as of the process of evaluating the results and impact of the counter measures activated, in a manner consistent with:

- the conceptualisation of the phenomenon assumed;
- the time frame in which the phenomenon is recorded (during schooling; at the time of entry into employment), also in view of the fact that - as Vogt (2018) pointed out with regard to GSE - the indicators chosen prescribe ages within which results and qualifications are to be achieved;
- the age group of those involved (learners and young people), as well as the institutional actors involved (school, labour market, public services, etc.).

Furthermore, the monitoring of the phenomenon - according to different perspectives - has to be seen as complementary to the analysis of the multiple factors that in national, regional and local specificities may co-determine the phenomenon. In the Council Recommendation 2022, in fact, the focus on what precedes early leavers from education and training is reinforced by recommending that Member States develop or strengthen data collection and monitoring systems at national, regional and local level (according to different territorial circumstances) in order to systematically collect quantitative and qualitative information on learners and factors affecting learning outcomes: on the subject of early leaving the Recommendation highlights the importance of analysing "the scope and incidence of and possible reasons for underachievement and early leaving from education and training, including by collecting the views of marginalised learners and families", as well as of early detecting and identifying "learners at risk of leaving education and training early and those who have done so, in order to provide timely and appropriate support, without labelling or stigmatising such learners". In Italy, the Minister of Education (MIM 2023) traces the causes

of school drop-out to “two types of factors”: on the one hand, the “socio-economic-cultural” ones, linked to the student’s personal conditions of discomfort (deeper discomfort and malaise) and to the context in which he/she lives; on the other hand, those “internal to the school context”, calling into question “unfavourable situations linked to the classroom context and to the school as an institution”.

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Reduction of statehood and widening of inequalities in the period of neo-liberal globalization

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Abstract

In the contemporary world, sociology must deal with a series of issues that extend into the most diverse spheres of knowledge. This 'duty' objectively places sociology at the center of a series of dynamics that can effectively enhance its reflections and ultimately make it a compulsory part of present-day scientific literature. This analysis will examine the specific implications of globalization at the level of social, economic and legal institutions and highlight how globalization is often presented as a process in continuous evolution whose main effect is a profound change in the social representation of distance and political boundaries of the world (Zolo 2004; Cassese 2009).

Keywords: *reduction of statehood; inequalities; neo-liberal period; globalization.*

1. Introduction

To understand the significant social, economic and institutional transformations that globalization produces, it is necessary to briefly examine the characteristics of institutions, in particular, how nation-state societies have evolved since the modern age in light of the role attributed in the past to the factor of space and borders. One of the most attentive observers in this field was probably Michel Foucault. At the heart of his *Institution-Panopticon*, there is an innovative focus on the spatial dimension, almost an obsession with space, which was traditionally neglected (Barou 1983) but later carefully analyzed, particularly in terms of its role in social and legal spheres. Space, for example, was often used to circumscribe state legislative lordship, in the sense that "territory does not mean an extension of land, but a sphere of lordship: it is the sphere of space in which the state implements its right to rule" (Perassi 1958). An image of law strongly connected with space and its rigid boundaries was vigorously presented by Carl Schmitt in *The Nomos of the Earth*, where law exists in a strong and insurmountable structure

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formed by borders, walls, roads and houses, which "make orders evident" (Schmitt 1991). The relationship between law and space, however, is not resolved in the simple search for the place where a rule is applied, but it is the very essence of law that is unquestionably created to coincide with the spatial location of a people, with all its distinguishing features, social and legislative organization *in primis*, and even more precisely, with the presence of its political and social order on a strictly defined and determined part of the earth's surface. Taking possession of space unquestionably becomes the constitutive foundation of the legal system while the precise definition of the boundaries that subdivide space has, since ancient times, had the fundamental and absolute role of supporting the spatial affirmation of law and of rights, including those of citizenship and social belonging.

2. Globalization

However, it is becoming evident that globalization has inevitably affected this historical scenario, as it has effectively and profoundly restructured the space factor. The objective universalism of economic exchanges, inherent in the foundations of globalization, has come to play a crucial role in this context: "right here, in the field of economics, the ancient spatial ordering of the earth has evidently lost its structure" (Schmitt 1991). The question inevitably becomes if and how law without the earth's physical constraints is conceivable and if and how a world society is possible. The answer, however, cannot disregard the fact that the relationship between law, sociality and space cannot be defined unambiguously, since a radically different approach to what has been described thus far is also possible.

We refer to what was first hypothesized by Georg Simmel and later taken up and completed by Hans Kelsen. If for Schmitt the reference to territory distributed among peoples was the constitutive principle from which laws and legal principles derive (Mini 2006), for Kelsen, territory is merely 'an element of the [...] normative content' (Kelsen 1989). Kelsen presents territory as a completely artificial and arbitrary indication, modifiable according to the democratic will (Kelsen 2010) and legislative will: the 'delimitation of validity to a given territory, precisely circumscribed once and for all' (Schmitt 1991: p. 106) is therefore not essential. Space is therefore datum which is external to law, and the norm becomes positive, imposed by the will of people and therefore artificial. Even in globalization, law, which in this case refers to the 'great spaces' delimited by the degree of technical and industrial development, necessarily has an artificial character. With this approach, the loss of territorial constraint, far from jeopardizing the very existence of law and depriving it of its constitutive foundation, prompts a reconsideration of the relevance of pure Kelsenian normativism. As an exegete of Schmidtian texts, Massimo Cacciari observes that:

the international economy frees itself of European inter-state law which is based on the existence of effectively sovereign states [...]. The victorious language of economics and technology demands a

single space, a single concept of space, as an a priori form, free of all differences of place (Cacciari 1994: p. 126).

From this point of view, what has been missing with globalization is precisely the connection between the dimension of the democratic nation-state and the scope of economic policy choices, while the antithesis between territorial law and planetary economy is lost with the disappearance of the so-called 'telluric foundation' of law. The nation-state no longer has the exclusive or the natural spatio-temporal dimension of law that it had in the past; it is only one of the many points of reference (Cassese 2007: p. 13). Every action is currently framed in at least three different dimensions: local, national, and global, and there may be other dimensions, as in the case of the European Union, as far as the member states are concerned. In other words, modern states are deprived of the monopoly of legislative production, which had distinguished them from their origins, and instead share the national legal sphere with other social and, above all, economic forces and creators of law, which operate simultaneously at an inter-state level and entertain complex and multi-directional relations with the state, intervening on different dimensions and from different interpretative perspectives (Pistor 2021). Natalino Irti states with great clarity that state territory is no longer a measure, at least an exclusive one, of law (nor, obviously, of politics and economics) and that today, through *inter-se* agreements, states attempt to follow global phenomena and frame them in a specific terrestrial position. Ultimately, it is a matter of choosing an artificial location to identify the applicable law and the competent judge. Irti succeeds brilliantly in grasping the implications of this phenomenon:

Each of us feels that together we belong to two spatial orders: on the one hand, the concrete places of family origins, the native land, the small or large homelands, the exchange relationships defined by borders; on the other hand, we would concur with Hegel, the system of 'universal dependence', the global expanses of technology and the economy, 'telematic navigation', the silent and objective markets. We come and go, with lacerating alternation, between places and non-places, between earthly positions and pure spaces (Irti 2001: p. 88).

Analyzing his work, however, it is not difficult to see that Irti, like other authors who have studied the repercussions of globalization in relation to law, although faced with the major innovations of the legal system, nevertheless holds firm to his positivist legal credo (Irti and Severino 2001).

If we then wish to examine the role of judicial institutions in a globalized liquid society (Bauman 2010), we must verify how globalization, despite the persistence of the legal positivist creed and of strong advocates of legislative *ratio*, has nevertheless produced, as far as we are concerned here, real legal overcrowding

that has deprived national law of its traditional role as the undisputed mistress of the legal scene (Cassese 2009). In addition, there has been widespread emergence of new sources of law, new legal entities, and new institutions with new ways of operating them, in a complex entanglement with the previous order. It is worth noting that while on a formal level the sources remain virtually unchanged, from a substantive point of view they have taken root in transnational terrain. The institutional transformations, in particular, have resulted on the one hand in a loss of rigidity of the institutions, and on the other, in an increasing responsiveness of these institutions to economic reasons: "What is being drawn before our eyes is an institutional horizon that is much more mobile and indefinite than in the past" (Ferrarese 2000). Moreover, a kind of reticular coordination between the sources seems to have developed, guided to a large extent by practical and concrete facts and needs, making it difficult to predict its development. Analyzing legal institutions in more detail, one can detect, firstly, an increasingly accentuated protagonism of the Courts and praetorian law, a disruptive growth of the discretionary power of the judiciary, in the face of the evident erosion of executive power, and its unprecedented activism, resulting in what has been called 'global expansion' (Tate and Vallinder 1995). This new imbalance of power, which should be read against the backdrop of a more general and widespread crisis of representative institutions, represented the end of the 20th century and the beginning of the current century.

In this regard, the American jurist Katharina Pistor, believes that it is law firms, especially in the Anglo-Saxon world, that succeed in bending and transforming national legislation in favour of their rich clients, with the obvious consequence of ever-increasing inequality: "the holders of resources, with the best lawyers at their service, can pursue their interests with very few limits" (Pistor 2021). Within this line of argument, we cannot fail to take into consideration the decisive contribution by Thomas Piketty, who points out how, precisely on the basis of the historical fact of the increase in inequality, the confirmation of this trend becomes evident based on the vast amount of research and data. He also attempts to provide indications about reforms that could reduce inequality without sacrificing the welfare of citizens. He explains (Piketty 2014) that the overall lesson of the research is that if left to its own devices, the dynamic process of a market economy and private property fuels powerful and potentially threatening divergence factors for our democratic societies and the values of social justice on which they are founded. Piketty points out how the evolution of income inequality, wealth inequality, and the ratio of capital to income in developed countries follows a U-shaped curve, and how the levels of inequality reached at the beginning of the 21st century are similar to those of the *Belle Époque*.

These results call the Kuznets curve into question. Formulated in 1950 by Simon Kuznets, it underlies the hypothesis that economic development is mechanically accompanied by a decline in income inequality. Reality, on the contrary, shows that capitalism is characterized by powerful intrinsic forces of divergence, based on $r > g$ inequality (return on capital > economic growth rate). In

a society with little growth, past wealth becomes increasingly important and tends naturally to accumulate in the hands of the few. During the 20th century, there was a historical exception, in which for the first time in the history of capitalism, inequality was reversed to $r < g$. As a result, gradually accumulated wealth very quickly lost importance as industrialization dramatically increased productivity and in turn the amount of new wealth produced. Piketty suggests several policy and legal measures to limit the increase in inequality including, in particular, the creation of a highly progressive global capital tax, accompanied by greater global financial transparency. In his most recent work, *Capital and Ideology* and *A Brief History of Equality* (Piketty 2021), Piketty goes far beyond economics to a legal-sociological analysis of ideologies of power and of economic history on a global level. He says: 'Inequality is not economic or technological: it is ideological and political'. In *A Brief History*, he focuses on 'content issues, in particular, the property system, the tax, social and educational system and boundaries: that is, the social, fiscal and political institutions which could contribute to the creation of a just society'. The work is rich in economic and social data and accompanied by scrupulous historical investigation, starting from antiquity, with particular attention to the forms of inequality (Giancola and Salmieri, 2022) and arriving at the present day. He explains that market and competition; profits and wages; capital and debt; skilled and unskilled workers; local and foreign workers; tax havens and competitiveness, do not exist as such. Rather, they are social and historical constructions, which depend entirely on the legal, fiscal, political, educational and social system chosen by the ruling classes and the categories of thought and justification they decide to adopt.

As the Marxist tradition, among others, has affirmed, ever since agriculture has existed and we are no longer hunter-gatherers, every human society does nothing but justify its inequalities: justifications must be found, otherwise the entire political and social edifice risks inexorable collapse. Every age therefore produces discourses and ideologies that do nothing more than legitimize existing inequality, and those in power do nothing more than try to describe it as natural. The economic, social and political rules that structure societies as a whole are constructed by the ruling classes to justify and implement, as much as possible, their privileges.

In contemporary societies, the dominant narrative is the 'meritocratic' one analyzed by Michael Young (Young, 2014) in the 1950s in a book in which Meritocracy is understood in the opposite sense. Piketty summarizes the *storytelling* of neo-liberalism as follows: modern inequality is fair because it derives from a freely accepted process where everyone has equal access to the market and property, and where everyone spontaneously benefits from the accumulation of the richest, who are also the most enterprising, the most deserving and the most useful. But Piketty accurately retorts that: under the guise of personal 'merit' and 'ability', social privileges are actually perpetuated because the disadvantaged groups do not have the codes and dialectical tools by which merit is

recognized. The student population has increased greatly 'but the working class remains almost completely excluded'. The borderline case is that of agricultural labourers. According to statistics, almost identical in all western states, less than 1% of the children of these workers access university education, compared to 70% of the children of industrialists and 80% of the children of professionals. In short, cultural and symbolic privilege is more insidious, because it presents itself as the result of a freely chosen process in which everyone, theoretically, has the same opportunities. The French economist points out that this view, in theory, is at the opposite extreme to the mechanisms of inequality in pre-modern societies, which were based on rigid, arbitrary and often despotic inequalities of status. The problem, he argues, is that this grand proprietary and meritocratic narrative was first constructed in the 19th century, following the collapse of *Ancient Régime* societies, and had even more radical and widespread confirmation worldwide after the fall of Soviet communism and the triumph of 'hyper-capitalism', yet every day it appears increasingly fragile, and the result of an invention not based on facts.

In *Capital and Ideology*, the analysis is widened to include cultures other than those of traditional Western countries. All the world's societies are studied, using a method that draws on the solid economic-statistical basis of property and income studies, arriving at the present day from as far back in history as possible. The choice of the title *Capital and Ideology* derives from the importance Piketty attaches to the ideological arguments with which the various inequalitarian societies have justified their structure and hypostasized their inevitable 'naturalness'. Piketty does not conceal the fact that the cultural and political objective of his research is to provide tools of interpretation and action for the emergence of what he calls an "egalitarian coalition", which aims to overcome capitalism and move towards a just society for the 21st century based on a democratic deliberative and participatory path. This is increasingly happening worldwide, even in the *civil law* legal system with the consequence that "states are not neutral when it comes to deciding which interests should be given priority: possible future gains are more likely to be supported by the state than claims aimed at self-government or environmental protection". This has spread concern about a profound alteration of the democratic rule of law, even prompting, most notably in Italy, some people to speak of 'judicial democracy' (. Portinaro 2003). However, the success of the judicial institution does not correspond to the formation of a truly strong 'jurisdictional state', as described by C. Schmitt. This type of state is not only based on the centrality of the judge, but also on the fact that "law and justice, without the intervention of norms, maintain unambiguous content and are not merely instruments of power and economic interests" (Portinaro 2003).

Beyond a precise definition, some important considerations must be made. In the scenario outlined, it seems unrealistic, if not highly misleading, to believe that there is a centralization of the judicial function and a consequent hegemonic power at supranational level. In fact, rather than moving in the direction of a 'government of judges', the globalization process seems to be advancing towards

"the affirmation of mercenary, partisan and lawyer expertocracies that strategically exploit the opportunities and resources of a litigation society" (Portinaro, 2003). Wanting to identify a category of jurists who are, in today's context, holders of effective power, it is necessary to refer to the now predominant figure of the so-called 'law merchant' (Dezalay 1995), who is present at the large federal or national centers of executive power, as a specialist in the increasingly important roles of political, economic, business lobbying and business litigation. And it is precisely these large centers, true multinationals of commercial, fiscal and labour law, that dominate today's global scene unchallenged, leading to a dominant return of the *lex mercatoria* (Ferrarese 2000), correctly defined by some as 'the transnational law of economic transactions, the most successful example of stateless global law' (Teubner, 1997). In the absence of either State control or a regulatory authority, the management of business is carried out on the basis of contractual schemes that large law firms supply to international legal corporations (D'Eramo 2020: p. 65), with the consequence that "the judge is nothing more than an aide to the natural process of selection of rules in a market society" (Hayek 1989).

Affirming itself in a distinctly positivist legal and institutional culture as the one in Europe, albeit with differences between the various countries, the protagonism of judicial law, however understood, was undoubtedly a surprising trait. In eighteenth-century literature, as well as in the pages of Kant, it is not difficult to locate a plan aimed at the affirmation of universal rights, rights which were founded on natural law and attributed to humans as such and were apparently created in the great constitutions of the late eighteenth century. However, the consolidation of centralized national states brought this process to a decisive halt. Rights were inexorably framed solely in the light of the specificities of national legislations, consistent with the idea of national sovereignty which had been affirmed from the very beginning of the European nation-states, and therefore specific to each individual state. Even a simple agreement on the search for a common legal language has revealed itself to be a goal that is not easily attainable, the legal issues being precisely that upon which the states have most decisively asserted their legislative autonomy.

The current explosion of rights is, at last, concerned primarily with the transnational dimension. However, it certainly does not fail to influence states, thanks to the potential contrast created with traditional conceptions of sovereignty and might therefore appear to be a revival of the old Kantian project. However, it would be misleading not to take into consideration all the changes imposed, in our panorama of reference, by the experience of the European Union and, more generally, of globalization. The prominence of rights, especially human rights, translates into the presence of legal entities that are difficult to locate in the legal positivist system, as they tend not to be ascribable to the sole source of state legislation. Back in 1965, having fully grasped this issue, Norberto Bobbio stated that the expression 'human rights' was rather vague, asking, a few years later,

numerous questions about the actual juridical or non-juridical character of human rights. Bobbio had warned of their fragility, noting that while they certainly lend themselves very well to being the subject of solemn declarations, they turn out to be precarious when they are violated or disregarded, especially when the violation is attributable to states. The almost undisputed conclusion is that we are faced with a sort of new 'imperialism of rights' (Gambino 2001), which inevitably, unquestionably, reshapes the concept of the sovereignty of states and which, while enjoying considerable success, has not been exempt from major criticism, both recently and in the past. Edmund Burke, for instance, understood the salient aspects of human rights as the new protagonists of the post-revolutionary legal universe and, first and foremost, their enormous dynamic capacity. He wrote the following in 1792:

examples from antiquity, precedents, statutes, parliamentary acts, hold ready underground a mine that will blow them all up in one immense explosion. This mine is called 'the rights of man'. Against these there is no custom that retains its prescriptive value, there is no treaty that obliges; every small detraction of the absoluteness of their claims constitutes fraud and injustice. In the new light of the rights of man, no government should consider itself protected by its long existence or by the justice and mildness of its administration (Burke 1963).

The explosion of the "mine" foretold by Burke was avoided in Europe by bringing rights back to the ratio of legislation, i.e., endowing them with their Enlightenment characteristics of certainty and predictability. Today, with globalization, rights tend to regain new strength, their proliferation, in fourth- and fifth-generation rights, which seem to respond to the increasingly widespread cosmopolitan needs of a world with uncertain borders, cannot but recall that 'mine', and impose on the European-continental legal culture, centered on the primacy of legislation, changes in the old legal structures and a 'deviation' in a judicial sense of the law, as mentioned earlier. In the European context, but more generally in the context of globalization, several supranational and international courts identify themselves as sources of substantive and procedural law, often autonomous and independent of states (MacCormick 1993).

The affirmation of judicial power as a legal source has implied not only a growing production of praetorian law, but also a series of perspective changes affecting the area of law in the sense that law and legal institutions tend to take on a judicial aspect. In particular, we can identify three important changes in perspective which are linked to the growing affirmation of rights: from the national level to the preponderant transnational level; from a normative approach to a 'promotional' approach; from a typically objective perspective to a substantially subjective one. These changes betray a more general transformation of the legal and social landscape that involves not only the spatial and cultural

parameters of law, but also the structure of sources, which becomes, as mentioned, increasingly mobile and effectively uncertain. Considering what has been described thus far, with reference to the changes brought to the social and economic world by globalization, particularly from the perspective of the legal world, the following consideration by Paolo Grossi seems particularly significant:

There are layers and dimensions of the legal universe to be unearthed and enhanced [...]. Law, in its autonomy, strong in its roots in social custom, has lived and lives, has developed and develops even outside that cone of shadow, even outside the obligatory tracks of so-called official law: an inevitable consequence of not being a dimension of power and the state, but of society as a whole. This is not an anarchic discourse, but rather the recording of the actual reality that is the plurality of legal systems (Grossi, 2001: pp. 62-63).

Alongside international corporations, an ever-increasing number of public but also private legislators, other than national ones, operate in multiple transnational sectors and at different levels, making a moist and uniform conception of law totally inadequate. All of this means that trade and finance can flourish everywhere often without considering the laws of the various nation states (Beck 2016.). At this point, the interests of the ruling classes have no need "to bend the hand of the state" to obtain the best legal protection. All they need are good lawyers capable of fully mastering the law of capital, with the experts, i.e., lawyers in law firms, making choices without interference regarding the law that best benefits their very rich clients. One prime example within the European Union is that any private company can choose the state where it pays its taxes, therefore all the major industrial groups and multinationals choose the most convenient tax system. This occurs without any consideration for the infrastructures they benefit from or the national funds they draw on at every opportunity, which are paid from the general taxation of the state where they operate, produce or sell their goods; without any advantage for the state, and its citizens, and above all, without any compunction on the part of the capitalists and entrepreneurs of the moment who take advantage of these laws, or regulations which allow them to do what suits them best, to the detriment and cost, of the general public, and therefore of the majority of the population (Urbinati 2021: p. 11). In other words, the positivist notion of a single legal system, rationally ordered and hierarchically divided, must necessarily leave room, in fact it has already left room, for the plurality of legal systems, whose coexistence is normally ascribable to four spheres: a) the enormous global expansion of the market economy; b) the consequences of this expansion at the level of the eco-system, migratory flows and the socio-economic system of poor countries; c) the question of human rights; d) international criminal law.

If legal pluralism was considered by anthropologists to be a peculiarity of primitive societies, many authors believe, however, that it is also present again in modern societies. It is a phenomenon that can be read from different angles, thus focusing now on the existence of different codes of conduct, both social and

economic, as well as of law, derived from the hybrid nature of a given culture, now on the coexistence in the same space of several partially autonomous regulatory systems, especially the economic order, and now finally on the consequences of a distorted application of law by the state. These three perspectives are the result of a cultural, socio-legal or institutional approach respectively. The main sociology and anthropology of law research on the subject, dating back in particular to Leopold Pospisil (Pospisil 1972), describes the law existing within the state as something heterogeneous, inconsistent, almost a *bricolage* of different social norms with unexpected effects compared to the original intentions of the national legislator. The studies of Sally Falk Moore play a fundamental role in the development of this school of thought. Alongside the so-called 'internal plurality' of legal systems, she identifies the presence of an 'external plurality': different social actors are producers of valid norms, and thus, various normative systems exist not only within a society, but continuously interact with other normative systems, giving rise to what has been defined as 'law as process' (Moore 1978).

However, we are indebted to Boaventura de Sousa Santos for the formulation of a real theory to explain the strongly transnational character of legal systems. He emphasizes that "modern societies are regulated by a plurality of legal orders, interrelated and socially distributed in different ways" (de Sousa Santos 2002), thus clearly and unequivocally raising the issue of legal pluralism, although he prefers to speak of a plurality of legal orders, as an expression of the idea that more than one legal order operates in the same political unit of reference.

The concept of legal pluralism is, as we know, rather ancient. Generally defined as the coexistence of several legal systems in the same geo-political space, it was the subject of study by many jurists, who adopted a purely sociological approach in their research. Of fundamental importance is the reflective itinerary of the jurist Santi Romano and his well-known work aimed at rediscovering the complexity and articulation of the legal universe (Romano 1969). In his concise and fundamental critique of monist representations of the legal system, he tends to relativize the principle of state sovereignty, giving prominence to numerous other actors, hitherto confined and hidden behind the scenes of the legal scene (Grossi 2000). The recovery of an effective reality, truly more flexible and indefinite, but clearly more adherent to historical and social reality, was a clear demonstration that "the various theories on the plurality of legal systems [...] do not emanate from the brains of the authors who formulated them more or less happily but emanate immediately from the reality of things". It is also possible to include, for example, Gurvitch, who focused his attention on the identification of a plurality of 'promulgating centers' of law, both supra-state (international organizations) and infra-state (trade unions, associations). From his reflections, however, a so-called 'false pluralism', transpires, since the phenomena described, far from constituting a different kind of law, different law, were nevertheless absorbed into the dominant legal system, making it in a sense possible to unify. Finally, the sociological study of law cannot avoid facing new and pressing questions that will soon infringe in an

increasingly devastating way, towards those realities which today seemed defined, albeit fluid.

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Is There Anybody Out There? Young People from a Bucharest Deprived Neighbourhood in Search of Lost Echo.

A photovoice exercise¹

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Abstract

This article explores in what way and to what extent the life of some teenagers from a disadvantaged urban community is affected by the relationship with formal institutions (school, town hall, police, social assistance, employers / labour market) and relationships with other members of the community (neighbours, friends, acquaintances).

The first part of this title obviously refers to the famous song by Pink Floyd "Is there anybody out there?" (The Wall, 1979), but also to the song by Machine Head (2016) "Is Anybody Out There?", the soloist of the band Rob Flynn saying that "*The song is about love, loneliness, racism, and not getting what is going on in the world/America...It's very much about current events, but applies to a bigger picture.*"² The second part paraphrases Marcel Proust's famous novel „In Search of Lost Time”, because the echo of the desires and needs of the young people we are talking about is not found in social policies and everyday realities.

The participatory research took place within an illegal camp of recently evicted families, mostly Roma ethnics. Over 100 people (27 families) living in a yard of houses in Bucharest, were evicted on September 2014. The research team designed research using

¹ This article is the result of a research carried out within the FP7 project SocIEtY - Social Innovation - Empowering the Youth (SocIEtY) for a Better Life for all" and was presented within project in a raw form with the title „Disadvantaged Romanian youngsters in finding a way to be heard ... by whom? A photovoice exercise". The project was coordinated by Prof. Dr. Dr. h.c. a lot. Hans-Uwe Otto - Bielefeld Center for Education and Capability Research, Faculty of Educational Science, Bielefeld University (Grant agreement ID: 320136 - <https://cordis.europa.eu/project/id/320136>). The University of Bucharest team also included Oana Banu and Marian Ursan who contributed to the coordination and data collection in the field for this photovoice. A great support in data collection was granted by *Carousel Association* via Marian Ursan. Special thanks to all participants within photo-voice, for accepting to share with us their expectations, thoughts, fears and hopes ...

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² Machine Head // To Release Single 'Is Anybody Out There?' <https://www.hysteriamag.com/machine-head-will-release-single-is-anybody-out-there/>

photovoice as a method, involving 10 youngsters from this community, focusing on topics like important things in their life; social relationships - group of friends / family; education; employment - future aspirations, the importance of education in finding a job; involvement / participation in community life. The main conclusion drove toward the fact that for (these) young people, *the family is the cornerstone*. All their values, dreams, aspirations and needs are gravitating around family and mostly in the absence of almost any effective institutional support. Although at the level of public and political discourse there is a declared interest in improving the situation of adolescents and young people (especially from disadvantaged social segments), included in various strategies, programs and projects and in the speeches of decision-makers and politicians, in reality "real life beats the written strategy", the discord between the two practically leading to innovative adaptation and survival strategies ... but marginal!

Keywords: *Disadvantaged youngsters; deprived neighborhood; photovoice; capability approach; social innovation.*

1. Introduction

Photovoice is a participatory research method that combines photography and storytelling to give individuals or communities a platform to share their experiences, perspectives, and concerns. It is often used in social and public health research to amplify the voices of marginalized or underrepresented groups. In photovoice projects, participants are provided with cameras and are encouraged to take photographs that represent their daily lives, experiences, or issues they want to address. They are then guided through a process where they select and discuss their photographs in group settings. Participants are also encouraged to share the stories behind their photographs, which may involve personal narratives, reflections, or critical analyses of the captured images. The key objectives of photovoice are to empower participants, foster critical dialogue, raise awareness about specific issues, and promote social change. It allows individuals to communicate their perspectives visually, transcending language barriers and engaging with a wider audience. Researchers or facilitators typically guide the process, assisting participants in analyzing and interpreting the photographs and facilitating group discussions. The insights and narratives gathered through photovoice can then be used to inform policy-making, advocate for social justice, or contribute to community development initiatives. Photovoice has been applied in various contexts, including healthcare, community development, education, environmental issues, and social activism. Its participatory nature enables individuals to have agency in shaping their narratives and contributes to a more inclusive research process [Wang, C., & Burris, M. A. (1997); Catalani, C., & Minkler, M. (2010); Wang, C., & Redwood-Jones, Y. A. (2001); Palibroda, B., & al. (2009); O'Mahony, J. M., & al. (2015)].

There are relevant studies that have employed the photovoice method to engage young refugees or immigrant youth in sharing their perspectives, experiences, and challenges related to integration processes. They shed light on the participants' sense of belonging, identity formation, cultural adaptation, and their engagement with the host society. The use of photovoice allows these youngsters to visually express their experiences and promote a deeper understanding of their integration journeys [Valibhoy, M. C., & Kaplan, I. (2013); Anic, G. M., & Lee, H. (2016); Levin, L. L., & Markides, E. (2018); Mathews, S., & Stevenson, K. T. (2019)].

The participatory research took place in the district 3 of Bucharest, near to city centre, within an illegal camp of recently evicted families, mostly Roma ethnics. Over 100 people (27 families) living in a yard of houses on 50 Vulturilor Street, Bucharest, were evicted on September 15, 2014. Among those targeted were children & youngsters, elderly persons, people with disabilities. The evictees had at the eviction moment no real alternatives for relocation, according with the Common Front for Housing Rights. The evicted people consider the treatment of local authorities a blunt breakage of their rights and a racist act given that most of the evictees identify as Roma. Most of the tenants have been living in the 50 Vulturilor Street for 20 years, having been accommodated in that nationalized dwelling in the beginning of the 1990s by the state companies for which they worked. Since the 2009 their tenancy contract expired and the new owner did not renew it and up to now the tenants have been living in those homes without a legal contract. Not having the possibility of renting or buying apartments on the market solely by their own resources, the majority continued to live (2009-2014) in the houses from which they had been told they were going to be evicted. Among the 100 people evicted were many young people, many of them enrolled in the school (some of them in the “*Second chance*” programme) and some others looking for a job while only few have a low-paid job.

The proposed and tackled themes were focused on:

1. Important things in my life
2. Social relationships - group of friends / family
3. Lifestyle and leisure - hobbies etc.
4. Education - education in the family, education system, teachers, peers, non-formal education
5. Employment - future aspirations, intention to immigrate, the importance of education in finding a job
6. Importance of health and access to health care services
7. Risk behaviour (alcohol, drugs, unprotected sex etc.)
8. Involvement / participation in community life

2. Research design / methods and research questions

The research team approached the people in the area, having extensive discussions with adult and young people, as well as mediating the conflict and facilitating negotiations with local authorities. The lack of cooperation between the two conflicting parties made many victims among evictees who refused the accommodation solution proposed by the Local Authorities and continued to live in the street, also during the harsh winter. In this context we decided to try to hear the voice of the young people, not only about the current situation, but mainly about their perception and perspectives in making their voice hearable by decision makers mostly regarding their chances to access quality education and job market.

The photovoice approach was a good option because it is participatory in its essence. Being disadvantaged / socially excluded does not necessary suppose lack of access to various resources but sometimes the access to such resources is driving the beneficiary to a deep dependency, lack of self-support and self-exclusion. Photovoice is a community-based participatory research (CBPR) approach that makes the people to express their voices and concerns related with the life, setting and aspirations, from the perspective of the inhabitants (Wang, 2003). In our particularly research, Photovoice have been use to create a proper environment in order to assess and reflect the youth's life,

promote critical dialog and raise awareness about community concerns, inform and promote innovative changes. Photovoice facilitates the improvements at personal and community levels, empowers individuals and communities, in order to enable them to point solutions and participate in all the stages of community change initiative. (Wilson & Wang, 2007).

The participants of photovoice consisted in a total number of 10 Roma ethnics youngsters, aged 16 – 20 years old, most of them part of the group evicted from Vulturilor Street and nearby, district 3rd of Bucharest. The recruitment plan was conducted in collaboration with Carusel Association, an organization active in the area by providing social services. In order to select the participants, the interviews took place nearby the places of residence, in the neighbourhood, so the participants could have the full control to express their interest and concerns related with this process. In order to select the participants, several criteria (Powers, Freedman, & Pitner, 2014) have been established: (1) Residents of the camp recently evicted from 50 Vulturilor Street of nearby area. (2) Age appropriate for the focus group, 15 – 29 years of age. (3) Ready to share ideas about how to improve the situation of young people. (4) Drew in learning how to use a camera and/or want to improve their photography skills, (5) Enjoy working in groups, (6) Willingness to share their time to participate in the project.

Several policy areas have been taken into account - education, employment, work and social assistance supporting self-determination, participation/ involvement etc. Thematic analyses have been conducted in collaboration with the participants in several steps over the course of the project. Through both inductive and deductive thematic analysis, we identified the emergent themes aligned nicely with and supported existing theories in the literature. After each photo shooting process was done, the research team conducted sessions of discussions with all participants; each photo was analysed and accompanied by stories / messages. The aim of the session was to realize a ‘macro-picture that underlines there are also others in their situation and appropriate to intervene at this level. All the pictures have been printed on special boards displayed during the confrontation phase. The confrontation was organized in the premises of the University of Bucharest, Faculty of Sociology and Social Work, with the participation of the young people involved in the Photovoice process and other key stakeholders.

In order to achieve these objectives, prior to photovoice we undertook: documentary review / analysis of European / national policy / legislative documents, scientific reports / research, secondary data analysis and national statistics, local electronic press - to provide a contextual overview.

We realised some group discussions with different types of youth (highly / poor educated; employed / unemployed; Roma / Romanians etc.) from Vulturilor street as well as stakeholder (public / NGO) and professionals. After each photo-session (corresponding to a main topic, discussed with young people before photo session reprise) the research team had extensive discussions with youngsters in order to catch the main ideas as well as to clarify the problems.

The driving research questions were linked mainly to work & education and relation between them:

- What is your opinion on the youth labour market access?
- What do you think is the role of education in finding a job?
- How do you think the result of professional training courses can help young people in finding a job?

- Do you think that non-formal education (explanations about non-formal education) may have a role in helping young people to have access to the labor market? (Explain)
- What about (re) introducing apprenticeship programs for young people?
- How do you think you can succeed in acquiring a first professional experience?
- Do you think backgrounds affect access to the labor market?
- What do you think about consulting young people in policy development (education, labor market etc.) topics which directly concern them?
- What measures do you think can be taken to avoid unemployment among young people?
- Do you think young people from disadvantaged backgrounds measures should be taken different / special in terms of reducing unemployment / access to the labor market?

All the youngsters from the target group have been provided with digital cameras and they were stimulated to make photos on different themes, accompanied by stories / explanations. The stories / explanations have been exposed to the whole participants during the weekly meetings. Part of the pictures and stories has been selected by the participants, part of them by the research team. The selected pictures have been used to be exposed during the final confrontation with the key stakeholders.

The purpose of these techniques is to learn how to place a day in their life and in pictures, not just verbal, which will add valuable information to our research including the CA approach. The format for reflecting on the photographs is to respond in writing (a “free write”) to the following questions (which are referred to by the acronym SHOWeD): What do you see here? What’s really happening here? How does this relate to our lives? Why does this problem or asset exist? What can we do about it? (Wang, 2003; Wang & Burris, 1997). The methods employed in our research project were approved by the University of Bucharest, Faculty of Sociology and Social Work. In order to proceed with the Photovoice community-based participatory research, have been undertaken, such as:

Recruitment

The recruitment process of young people was conducted in collaboration with the Carusel, an organization active in the area by providing social services. The idea of making a photovoice was promoted within community, among young people, who expressed their interest to participate and then all the applications have been analysed. Part of the applicants have been invited for interviews in a place nearby the residence, in the neighbourhood, so the participants could have the full control to express their interest and concerns related with this process. In order to select the participants, several criteria (Powers, Freedman, & Pitner, 2014) were followed: (1) Residents of the camp recently evicted from 50 Vulturilor. (2) Age appropriate for the focus group, 15 – 29 years of age. (3) Ready to share ideas about how to improve the situation of young people. (4) Drew in learning how to use a camera and/ or want to improve their photography skills, (5) Enjoy working in groups, (6) Willingness to share their time to participate in the project.

Procedures

As it was planned, we met with the youth starting early December for weekly sessions over 8 weeks, in the afternoon. Each session was co-facilitated by the

representatives of Carusel. All the participants have been provided with digital photo cameras and specific request have been made in order to shot certain aspects of their own life but in accordance with the pre-determined themes. Every meeting had a theme, priority discussed and established with the participation of the target group.

Participatory Data Analysis

The research team paid a careful attention to use a community-based participatory research approach in the data analysis of this project. Thematic analyses have been conducted in collaboration with the participants in several steps over the course of the project. Through both inductive and deductive thematic analysis, we were able to identify the emergent themes aligned nicely with and supported existing theories in the literature. At the end of the process, the research team organized a group meeting. The aim of the session was to realize a macro-picture that underlines if there are also others in their situation, and what is considered to be appropriate to intervene at this level. All the pictures have been printed on special boards in order to be displayed. In order to organize a debate on the situation of young people, an event was organized in the premises of the University of Bucharest, Faculty of Sociology and Social Work, with the participation of the young people involved in the Photovoice process and other key stakeholders.

3. Research findings

Inequality and disadvantage

One of the first intriguing finding was related to Inequality and disadvantage but not talking direct & only about their disadvantage but also by others. The young people argued that not only they & other peers of them are disadvantaged and marginalized but many other vulnerable groups, like elderly and disabled. Even for the moment the young people are disadvantaged in the long run they argued that have better chances to succeed as comparative with elderly which sometimes are forced to beg in the street affecting their human dignity:

„In this picture I'm giving an old beggar some food. I can't stand to see older people in the streets, sick and cold, begging, because I think of the fact that I also have older relatives at home and that we all have. And we would not like it if our older relatives would end up like them. Many are made to beg by swindlers, and they are everywhere, even abroad. Others beg to obtain money for alcohol. I don't agree with giving money to young people who'd rather keep their children in the cold instead of going to work for their sake. Why are they having children? To make them beg? I help older people in the streets because I'm outraged about the fact that no one helps them. If you would give them a chance to stay in a retirement home, a shelter; some would stay, but there are others would return to the streets and continue to beg. But I wish they would at least get the chance, they should not be left in the streets, unheeded and mocked.” (Amir)



On the other hand, Amir is blaming the behaviour of some parents that force their children to beg in the street. The same idea is expressed by David, who is catching with camera two children ...

... who are made to beg and look for iron by their parents. Their parents are like this: we have a child, we receive his pension and allowance and they live on that. Romanian authorities have to change the situation of the children, children should be at kindergarten or at school. Instead, they are on the street. I would go home to the parents with the Child Protective Services. If they don't take care of them, we take them and take care of them." David



The same idea of vulnerable and excluded people it was grasped by another participant, Andreea, which is picturing a hopeless homeless. Even Andreea doesn't know how wide / small is the dimension of homeless in Bucharest / Romania, she is catching at common sense what was documented in various studies – that the number of homeless in Romania is not as big as comparative with other countries but there is a huge deficit of services for this vulnerable group (Dan, 2009).

“This picture represents the life of a man that doesn't get any help from anyone. He ended up sleeping in the streets, the system won't get involved in helping him.” (Andreea)



Poverty, lack of job, hopeless, dependency by minimal state aid are well spotted in two different pictures made by David and Emi, which is sending a message to policymakers to address the issue of excluded people, to develop programs for inclusion. Explaining the meaning of his picture David is tackling also the problem of enrichment by corruption:



A photograph showing a person wearing a full-body blue protective suit and a hood, pushing a small cart across a street. In the background, a white train is visible on tracks, and a pedestrian crossing sign is on the left. The scene is outdoors with bare trees and a brick building in the distance.

[illegible]

I couldn't picture him that well, but he's a young guy in about his 30s that wears bottles. I captured him along with his car and everybody homed at him, but he still thrives and was smiling at his classmates. The thing that worked on me was that after he's a hostess, a go-around, he made his own decisions, and people would go to him for support. But if we think about it, I think an education for his parents were more efficient, maybe he wouldn't be in this situation. Any of us could be in his situation, I could ask and say the best thing to do is to go to the teachers who have good skills, who have our parents by our side, who are still teaching and want to teach, we have to keep going to school.



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mirrored the wealthy people, but not necessarily as a positive example, as a 'final destination wish' of every person but as huge cleavage between (the many) poor and wealthy people which do not care about their less fortunate human fellows.

In this sense, and continuing the ideas from pictures taken by David, Emi, Andreea and Amir, two other youngsters – Monalisa and Timotei – had shut similar pictures:



„This are houses that were demolished and now it's a yard full of garbage. People are not allowed to stay there anymore. There are many innocent teenagers who don't have a place to live, who were evacuated because of a decision off "the big people" and they didn't have any choice. My opinion is that they shouldn't take this good thing away from them, even if it is little. Now many young men have started to steal, to beg and also went abroad to foreign countries where they humiliated themselves to be able to earn a living.” (Monalisa)



„It is an improvised electric cooker. Many families who can't afford to heat their home are using this method. It's on non-stop and if a thread burns it can burn down your whole house. It's very risky to have an electric cooker in your house, both for children and for adults. But it is the cheapest method. (Timotei)

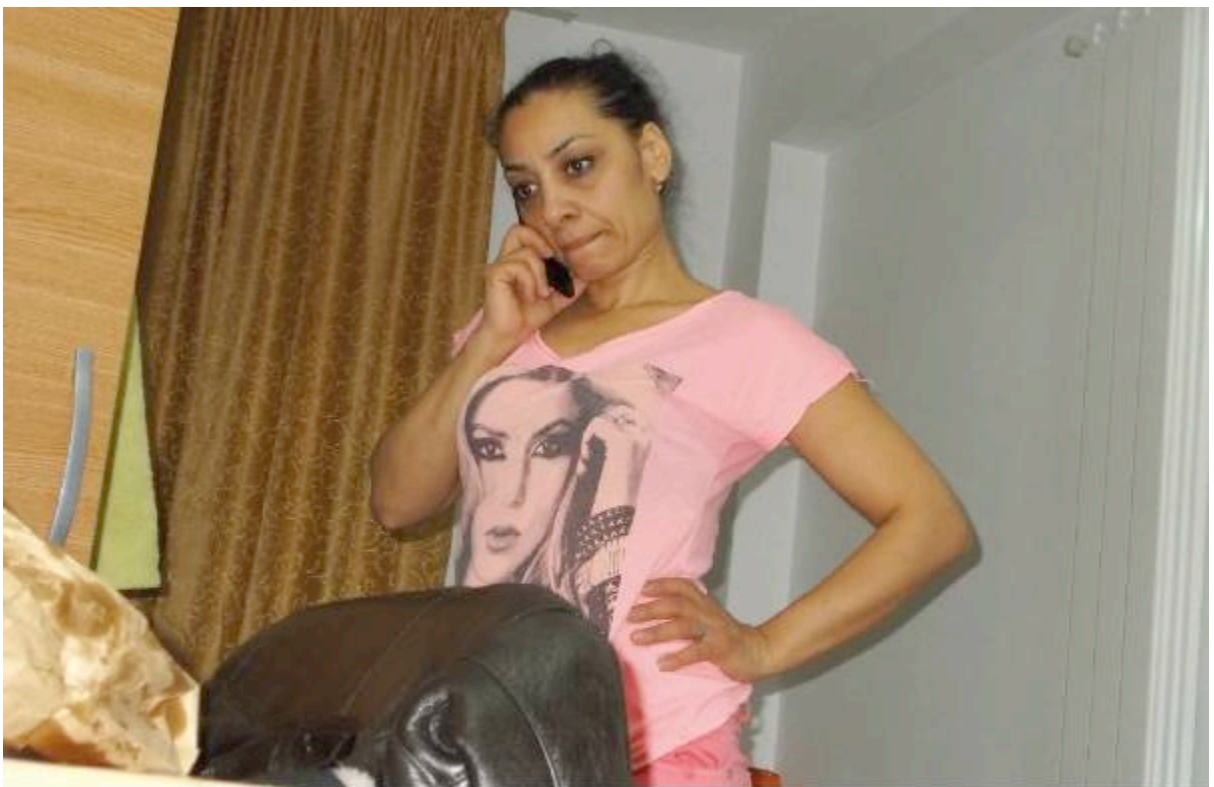
Family – the central value ... But also, the 'friendship' ...

Following the discourse about lack of willingness of society and in charge social institutions to help in need people and families, the main idea of youngsters focused on *family values and family support* as the main agent in helping its members in crisis situation.

The focus on family as a centered value reflects not only a more general trend among youngsters in Romania³, but particularly in our group of young people. It is not only a kind of subsidiarity (family / relatives / friends/ community/ state agencies) when young people think about/ are confronted with problems, but a desperate awareness of the

3 Within the program “Authentic Leadership” developed in 2010-2011 with youngsters 14-18 years old, they were asked to select the values that are mostly defining them. From a list of 45 values, they choose only 28. Two thirds of them choose as their first three definite values the 'family', 'friendship' and 'respect'. “If we compare the most frequently called 3 values and the rest, we notice that in fact these three represent the core of attitudes of young, as well as the desirable portrait which they attribute to others.” [“Familia” și “prietenia” principalele valori din viața adolescentului roman - <http://www.leaders.ro/familia-si-prietenia-principalele-valori-din-viata-adolescentului-roman/>]

fact that most of the times behind of (failure) family support is merely nothing but only the silly (on paper only) entitlements to rights embedded in a huge bureaucracy.



Amir

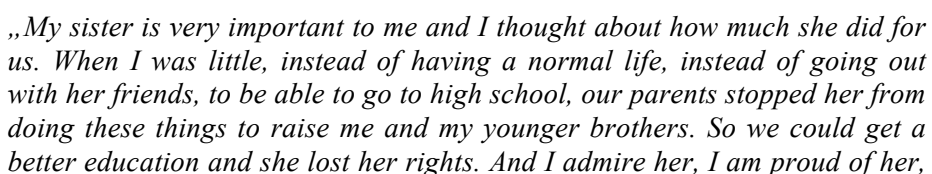
Foto mama mea. Ap vreau să transmit un mesaj tuturor adolescenților: să își prețuiască, respecte, iubească și aprecieze mama, indiferent de situație. Pentru că mama este doamna și trebuie prețuită când trebuie, nu când nu mai este. Multii adolescenți nu își apreciază mamele și nu știu pentru ce fac ei asta ca să îi crească. Ei știu numai să ceară, iar dacă la un moment dat nu mai au de unde să le dea, ei încep să se răsturne. Trebuie să se gândim că părinții fac eforturi mari ca să le dea tot ce îi dorim. Multii adolescenți își dăruie proprii părinți pentru stupoare, și mai multe. Într-un final vineu să spun că orice adolescent trebuie să îi trăiească mama aproape și să o aprecieze toată viața.

This is my mother. I would like to send out a message to all teenagers. To cherish, respect, love and appreciate their mother, no matter what. Because you only have one mother and she has to be valued now, not when she won't be around. Many teenagers don't appreciate their mothers and don't know what their mothers went through raising them. They only know how to ask for things, and if sometimes the parents don't have what to give anymore, they start blaming them. They have to think about the fact that their parents make great efforts in order to offer them everything they want. Many teenagers are selling their own parents for drugs, and so on. Finally, I want to say that any teenager should keep their mom near and appreciate her all their life.



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(Amir)

For many families (especial poor families, traditional families) the children's care is based on older brothers / sisters who are empowered to take care of their younger



although I'm not really that respectful with her. Family for me is power, they are by your side. A kind word, a bad word, they sometimes make fun of you, they make you laugh, they encourage you, they bring you down. It's family. For me family means the people next to you, you don't only think about yourself and you're not an egoist. I think that we all have this instinct to protect, to do what is right.” (David)



„This is one of my sisters, Ana Maria and Emi junior, my nephew, who is the son of my older sister, Nicoleta. I really missed her because we don't spend so much time together as when we were little and when she came by my place I took a picture. I have two more nephews, a girl and a boy, but he is my favourite. Maybe because of the fact that he's named Emi, just like me. For me family means strength, hope and courage. Family is everything,

sometimes you don't have the words to express how much you love or care about a person. They are part of my family and very important. Not just them, the whole family.” (Emy)

It is important to frame this attitude of young people within the global context of Romanian values. According with B. Voicu (2008), „86% of Romanian family considers to be "very important". [...] similar scores received work and religion which does not differ significantly (56% and 51%), leisure and friends are almost equal (35% and 29%), while the politics is considered to be very important only by 6% of Romanian respondents in the 2008 European Values Survey wave. The order preferences do not change by sex, age or education.”

... friendship values

... and models of friendship represents a solid anchor for youngsters; sometimes these relationships are guiding them for the entire life:



Alexandra

În această poză sunt colegii mei de clasă, eu și doamna dirigintă. Am făcut poza asta deoarece rămâne o amintire frumoasă pentru colegul nostru, Cătălin, care s-a mutat din liceul nostru. Am vrut și noi și el să avem amintiri uniți cu alții, el este și va rămâne ca un frate. Fără el, în clasă este pustiu și prea multă liniște.

In this picture are my classmates, me and my homeroom teacher. I took this picture because it will remain a beautiful memory for our classmate, Catalin, who moved from our school. Both we and him wanted to have memories with one another, he is and will remain as a brother to me. Without him, the classroom is too quiet and deserted.



„In this picture are my classmates, me and my homeroom teacher. I took this picture because it will remain a beautiful memory for our classmate, Cătălin, who moved from our school. Both we and him wanted to have memories with one another, he is and will remain as a brother to me. Without him, the classroom is too quiet and deserted.” (Alexandra) -



Amir

Sunt eu alături de copilul, fratele, prietenul meu cel mai bun care m-a iubit și încă iubesc chiar dacă nu mai este lângă mine. Poate aceasta poartă mine reprezintă durere, deoarece din cauza locului am ajuns să fi pierdut, nu am mai putut să fi în lângă mine. Am plâns deoarece mi-a dorit să fi rămas lângă el. Nu îmi plăcea niciodată. Măcar din același sandwich, dormeam împreună, mergeam până la înșurător. Dar acum, din cauza fetei de apă și a celor de sus, am ajuns să-mi pierd prietenul. Atunci când m-au evacuat pe mine și familia mea, am fost nevoit să-l dau.

It's me with my child, my brother, my best friend who loved me and still loves me even if he's not by my side anymore. This picture represents pain for me. I lost him because of greed, I could not keep him by my side. I cried because it hurts that I lost him. I would never replace him. We ate from the same sandwich, we slept together, we went everywhere together. But now, due to lack of space and those above, I ended up losing my friend. When they evacuated me and my family I had to give him away.



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Participation

We consider that the next pictures will explain by themselves the attitude of youngsters to participation, as well as theirs real chances for participation.



David

Aici sunt eu încercând să dau un exemplu bun la niște copii de la un liceu unde am făcut niște ore de voluntariat. Dacă stați acasă și tot nu aveți ce să faceți, puteți să faceți voluntariat ca să ajutați pe cineva.

This is me, trying to give a good example to some children at a school where I did some volunteer hours. If you stay at home and don't have anything to do, you can volunteer and help someone.



„This is me, trying to give a good example to some children at a school where I did some volunteer hours. If you stay at home and don't have anything to do, you can volunteer and help someone.” (David)



Timotei

Această poză este cu sora mea. Facea gogoși pentru copiii de la biserică. O iubesc, m-a crescut. Așa cum hrănește alți copii, așa m-a hrănit și pe mine. Familia este darul cel mai prețios, nu toți au o familie iubitoare.

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„This picture is of my sister. She was making donuts for the children from the church. I love her, she raised me. The way she feeds other children, she fed me. The family is the most precious gift, not everyone has a loving family.”
(Timotei)



Timotei

Aici este profesorul meu, un coleg și o colegă. Cu ei petrec mult timp la școală și în afara școlii. Profesorul mă învață lucruri bune, cum ar fi să nu mă droghez și alte chestii. De asta am ales să fac poza asta cu ei. Dacă nu ai 12 clase nu te primește nimeni la nici un loc de muncă. Tinerii ar trebui să nu lipsească de la școală, ca să își facă clasele.

This is my teacher and two of my classmates. I spend a lot of time with them, both at school and outside school. My teacher teaches me good things, such as not to use drugs and stuff. That's why I chose to take this picture of him. If you don't finish 12 grades, nobody gives you a job. Young people should not skip school, they should finish their 12 grades.



„This is my teacher and two of my classmates. I spend a lot of time with them, both at school and outside school. My teacher teaches me good things, such as not to use drugs and stuff. That's why I chose to take this picture of him. If you don't finish 12 grades, nobody gives you a job. Young people should not skip school, they should finish their 12 grades.” (Timotei)



Tony

În generală pot să spun, pe strada unde am rămas și acum încă locuiesc. Am făcut această poză pentru că vreau să atrag atenția oamenilor care ne-au lăsat aici și ne-au evacuat, în special primăria. Pentru că în situația în care suntem noi sunt și alți tineri care dorm, mănâncă și se spală pe stradă. Oamenii care au grijă de România ar trebui să aibă grijă și de noi, tineri, pentru că noi suntem viitorul României. VREM O SCHIMBARE!

It's me in this picture, on the street where I lived and where I still live. I took this picture because I want to draw people's attention, the ones that have hurt us and evacuated us, especially the mayors. Because in the situation that we are, there are other young people who sleep, eat and wash in the street. People who take care of Romania should take care of us, young people, because we are the future of Romania. WE WANT A CHANGE!



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Social innovation

„This picture represents our street protest because we were evacuated. There, in those barracks, are three families with children, three families who withstood the cold, the rain, the snow. We wanted to send a message with this protest, that no matter who you are or what you've done, we are all people. We have rights and we are equal, whatever you do or whoever you are. For me, the protest means hope because all the people in the street are my neighbors, but it's also an important thing because all of us who live there are like a team, like a family.” (Emy)



„Funeral services are always a secure workplace. They can't stop existing; people die all the time and then people turn to the funeral services. It is a job for the future. You earn money and it's not a hard work.” (Timotei)



Aspirations

“This is a picture of a classmate of mine who likes to look nice and attract attention, but through things that don’t characterise her. For example, the contacts, I don’t understand why she uses them because they can affect her eyes. Well, they already started to affect them, they water, they began to be smaller, and the pupil started to shrink. In high school, I think that of all the girls, many of them use lenses and I don’t understand why. She almost always resorts to beauty tricks and I don’t understand why, she’s beautiful and natural.” (Alexandra)



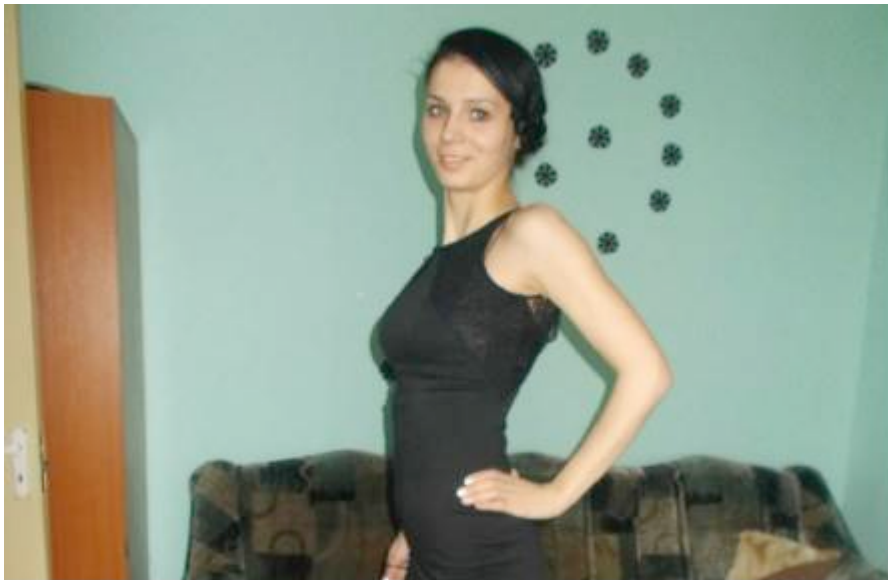
Alexandra

Eu poartă o scurte și o rochie albă și ți place să arăți bine, să arăți
atragătoare, dar ți place să arăți și caracteristică. De exemplu, scribi
de nu te îngrijoră de pielea ta și cum porți și altele. Ești, deși
ai început să i aflești, ți place să arăți și cum arăți, și
te îngrijoră să nu te îngrijoră pielea. La fel, când ai și o altă fel de
scurte multe sunt cu lenjerie, înțeleg de ce. Când te îngrijoră
lași că te îngrijoră și nu înțeleg de ce, o înțeleg și natural.

This is a picture of a character of mine who likes to look nice and attract
attention, but through things that don't characterize her. For example, the
character I don't understand why she uses them because they can affect her
skin. Well, they already started to affect them, they started, they began to feel
better and the past clothes to affect. In high school. Even that of all the girls,
many of them use them and I don't understand why. She almost always
resorts to beauty products I don't understand why, she's beautiful and natural.



„This is at my place, I was getting ready to go out with my friends to see some Romani musicians. It is a passion of mine, to go out and have fun, and last but not least I love being chic and elegant all the time.” (Alexandra)



Alexandra

Este aici la mine, mă pregăteam să merg cu prietenii la Butari. Este o pasiune de a mea de a mă duce la distracții, nu în ultimul rând îmi place să fiu cochetă și elegantă tot timpul.

This is at my place, I was getting ready to go out with my friends to some party Romanian musicians. It is a passion of mine, to go out and have fun, and last but not least I love being chic and elegant all the time.



Alexandra

Este un atelier de manichiură, îmi place foarte mult această meserie și aș dori să învăț mai multe despre acest job. Să pot câștiga bani prin ceea ce-mi face plăcere, ceea ce mă face să fiu mai răbdătoare.

If a nail salon, I really like the job and I would like to learn more about this job. I can earn money through what pleases me, which makes me more patient.



„It's a nail salon, I really like this job and I would like to learn more about this job. I can earn money through what pleases me, which makes me more patient.” (Alexandra)



„In this picture you see me and my classmates from high school, during school break. We were bored and generally when we get bored, we do all kinds of blunders, like lock ourselves inside the cabinets. High school years are the best years of a teenager's life. You should cherish them and have fun, because when high school ends only memories remain. And that's all.” (Alexandra)



„This car caught my attention and my eyes flashed when I saw it and I said I wanted to have it, but it's hard for me to get it. I can not have it unless I turn to other things, such as drug trafficking, prostitution, theft. A car is important, it's my image. Most people need cars to go on vacations, or to work. But nowadays people have very low incomes to afford a car.” (Amir)



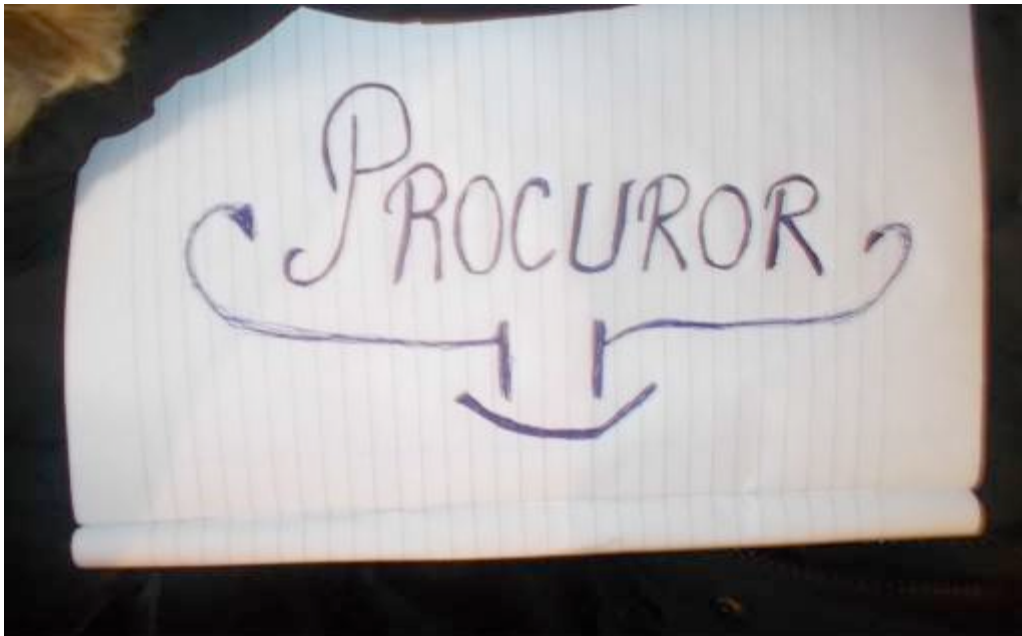
Amir

Amir: I took the picture because I remembered something, a Facebook status, the friendship such as the snow melts, and this gave me a lot to think about. With this picture I would like to say that the friendship, a lot of the time, wants to look like this snowball, pure, clean, crystal, beautiful. But it's not like this. As this snowball, the friendship melts. It vanishes right away. I'd like to transmit this to everyone: because of shortages, shortcomings, people who only think of themselves, the friendship ends; they start to stab one another and steal from each other, to lie to one another. And this friendship thing doesn't exist anymore. Nowadays you can't trust anyone. And no one calls each other friends anymore. Only on the basis of financial status because your friends often only stay by your side when you have money. When you don't have money they forget about you.

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Andreea

Prin poza asta am vrut să exprim că acest lucru este foarte important pentru mine, mă pregătesc pentru asta ... este foarte important pentru mine să ajung ceea ce mi-am propus. Pentru a nu fi bătăie care să dau la admitere la facultatea de drept, sunt teste la română, logică, psihologie și depinde de profilul pe care îl alegi. Eu îl fac mai mult pe cel de psihologie și română (gramatică). Și sunt prezentate pe net și cursurile pe care le faci la facultate.

With this picture I wanted to express that this thing is very important to me. I'm preparing for this ... it is very important for me to obtain what I planned. There are tests on the internet that you take for the admission into law school, there are tests for Romanian, logic, psychology and it depends on which profile you choose. I mostly take the psychology and Romanian (grammar) ones. And the courses that you take in college are available on the internet.



„With this picture I wanted to express that this thing [procuror = prosecutor] is very important to me, I'm preparing for this ... it is very important for me to obtain what I planned. There are tests on the internet that you take for the admission into law school, there are tests for Romanian, logic, psychology and it depends on which profile you choose. I mostly take the psychology and Romanian (grammar) ones. And the courses that you take in college are available on the internet.” (Andreea)



David

Frații mei. Așa cum suntem noi, nebuni, ne batem, ne certăm, dar tot frați suntem. Mă mândresc cu toți frații mei chiar dacă ne înjurăm, ne batem și nu știu ce. Așa este o imagine veselă și înțeleg că în viață frații veseli, plini de energie, plini de putere că să pot să fiu și eu plin de putere și să știu că ei sunt mereu în spatele meu și eu în spatele lor.

My brothers. The way we are, crazy, we fight, we argue, but we are still brothers. I'm proud of all my brothers even if we cuss at each other, fight and whatever. This is a cheerful image and I like to see my brothers cheerful, energetic, powerful so I also can be powerful and know that they are always backing me up and I'm backing them up.



„My brothers. The way we are, crazy, we fight, we argue, but we are still brothers. I'm proud of all my brothers even if we cuss at each other, fight and whatever. This is a cheerful image and I like to see my brothers cheerful, energetic, powerful so I also can be powerful and know that they are always backing me up and I'm backing them up.” (David)



„I took this picture to show that this is my dream, I really want to become a perfect manicurist. I like this job and it calms me when I'm angry. From my point of view manicure is very important to a girl. Based on this you realize how she takes care of herself.” (Monalisa)



Timotei

Aici sunt eu, în biserică. Îmi petrec aproape tot timpul aici. Mă duc acolo și cânt și atunci mă simt bine. Când sunt nervos, îmi găsesc sprijinul în cântăreala acestor cântări care mă ajută să mă pot liniști. De mic copil mi-a plăcut cum a cântat mama mea și în prezent eu înșiși cânt. Am avut prietenii care m-au ajutat să cânt când timp de trei luni și acum am un prieten care cântă în instrumente și mă învață și pe mine să cânt pe note.

This is me, in the church. I spend almost all my time here. I go there and sing and then I feel good. When I'm angry, I find support in these songs and I want a career within this. It's a passion of mine. As a child I liked how my sister sang and I started to like it as well. I had friends who taught me how to sing for three months and now I have a friend who plays instruments and teaches me how to play.



„This is me, in the church. I spend almost all my time here. I go there and sing and then I feel good. When I'm angry, I find support in these songs and I want a career within this. It's a passion of mine. As a child I liked how my sister sang and I started to like it as well. I had friends who taught me how to sing for three months and now I have a friend who plays instruments and teaches me how to play.” (Timotei)



Tony

În viitorul apropiat aş vrea să practic această meserie pentru că îmi place foarte mult să tund şi este o meserie bănoasă.

In the near future I would like to practice this profession because I really like to cut hair and it's a paying profession.



„In the near future I would like to practice this profession because I really like to cut hair and it's a paying profession.” (Tony)

4. Conclusions

We'll start our concluding remarks with a very shocking fact which is ... out of conclusions:

The “confrontation” of youngsters with various stakeholders was scheduled to take place in a sunny day of April 201x, at 16:00, the Council Room of Faculty of Sociology and Social Work. Where invited a lot of representatives (around 70) from Local Authorities, NGO's, journalists etc. About 30 of them confirmed their participation. At 16:30 we started the debates with 4 guests: 1 from General Direction of Social Assistance and Child Protection, Bucharest, and 3 from NGO sector. All of them old friends / collaborators of us ...

Based on our photovoice exercise (but we can extensively extrapolate our conclusions to overall young population and not only), the social policies and practices do not take the perspectives of (disadvantaged) young people seriously. Even there are

governmental strategy and programs addressing the issue of wide social integration of young people, in practice the things are slightly different.

Youngsters' experiential knowledge, even limited due to lack of information, participation and opportunities, reflects some fundamental aspirations and conceptions of justice which are very few articulated, heard and contested in social policies and practices as well as in other aspects of their daily lives.

They are considering themselves as disadvantaged / marginalized and that have to succeed mostly by their own or with family support but not the state/ institutional support. The disadvantaged youngsters are not at all informed / aware about local social programs targeting them (excepting "Second chance" school program and some AJOFM job related programs); in fact, such programs are missing. They are considering ineffective such programs / not appropriate to the real needs of them. They are aware that the only chance to succeed in life is through school attendance but the school is not attractive at all – has old fashioned courses and teachers that do not motivate them to perform. Their aspirations are modelled (lowered sometimes) by the family and are from deep pessimism to unachievable ones through legal ways.

For youngsters, the family is the **cornerstone**. All their values, dreams, aspirations, needs are gravitating around family and mostly in the absence of any agency/ institutional support. Eventually the public institutions / services are seldom seen as temporary and accidental vehicles which drive them closer to the final goal: independence in absence of the State. In terms of employment the main requests refer to job creation and non-discrimination.

In terms of *participation*, the young people are perceiving it mostly through the lens of family and school. Volunteering could be a very good example for others to share their resources, like David which was doing volunteering in a school for pupils, and telling them about "No hate speech", or Timotei's sister who does volunteer (making donuts) for the children from the church. The school is seen as the most important 'vehicle' driving one's life to success and prosperity, to be respected and integrated in society. But school is sometimes a very abstract agency and it make sense for young people through the teachers but not necessarily the knowledge that they can achieve. As Timotei mentioned, the teacher is very important in the life of young scholars, because he/ she is not only teaching mathematics / geography etc. but has a pedagogical approach helping youngsters to understand what are the real values and behave according to these: „*This is my teacher [who] teaches me good things, such as not to use drugs and other stuff [like this]. That's why I chose to take this picture of him. If you don't graduate the high school, nobody gives you a job.*” There are some studies in Romanian literature (Dan, 2011, Voicu, 2009) which underlined that the educational performance of youngsters in school is strongly linked by their positive appreciation of teacher (if they feel the teachers friendly, if they liked them, then they like also the discipline these are teaching and also the risk of drop out is decreasing).

In terms of social innovation, it was difficult to catch relevant points of view. The only innovation they tackled referred to finding a solution for accommodation/ having a home (they were evicted in September 2014). Emy underlined a very original form of protest (writings on barracks like "*houses for everybody, no matter the ethnicity*") against indifference of Local Authorities but society as well, explaining that "*no matter who you are or what you've done, we are all humans. We have rights and we are equal, whatever you do or whoever you are. For me, the protest means hope because all the people in the*

street are my neighbors, but it's also an important thing because all of us who live there are like a family."

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Anthropocene, Capitalocene, Plantationocene, Necrocene, or Chthulhucene. How to interpret the Environmental crisis

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Abstract

Numerous crises that follow and intersect with each other generated the complexity of our time. Environmental, Social, and Economic effects are spread out on a local and global scale. What is the main characteristic of the crisis of our time? Is our time characterized by an invisible climate crisis accentuated by the hoarding of global natural resources, or the crisis we are experiencing is of an economic and military nature and leads us to rethink the economic and cultural models characterized by the forces of domination of our time? How do the multiple crises on social aspects manifest themselves within local communities? What can be a synthesis of the period we are experiencing under the fractures that the inhabitants of Gaia, the protagonists of this time, are called to mend? This article proposes an analysis of the main phenomena that are characterizing the twenty-first century, following the traces of the structures of domination and power inherited from the previous centuries, but which are already conducting humanity towards a new geological, the *Anthropocene*. This paper explores the interdependence between ecosystems, climate, biodiversity, and the human sciences to understand the need and urgency to stay within the relative threshold of 1.5° global temperature to ensure human survival.

Keywords: *Anthropocene; Environmental Crisis; Climate Change; Global Capitalism; Complexity; Human and Social Sciences; Chthulhucene; Climate Justice.*

1. Introduction

The complexity of our time is determined by numerous crises that follow and intersect with each other, generating multiple social and environmental effects on a local and global scale. Depending on the perspective scholars adopt, one rather than the other

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crisis emerges. For scholars of the environment, nature, and climatology, the current crisis has an environmental character; for economists, it is an economic crisis; while scholars of Humanitas read in our time a social crisis that distances us from the pursuit of Goals of the UN 2030 Agenda for Sustainable Development and the achievement of the fundamental common good of peace in our Planet. The crises that characterize our time are entangled, forming a global connection network. The reductionist culture has separated knowledge; this simplification does not allow us to understand the complexity of our time. We live in a time when the crisis of autarkic regimes intersects with the European energy crisis. This crisis in February 2021 turned into a European military crisis, generating a profound social and humanitarian crisis in Ukraine, which already has repercussions for global food. There is another silent but, at the same improvisation and violent aspect of our time that concerns the climate crisis, better known with the definition of climate change, to highlight its transformative rather than catastrophic character in terms of extinction of the human race. What is the main characteristic of the crisis of our time? Is our time characterized by an invisible climate crisis that is accentuated by the hoarding of global natural resources, or the crisis we are experiencing is of an economic and military nature and leads us to rethink the economic and cultural models characterized by the forces of domination of our time? How do the multiple crises on social aspects manifest themselves within local communities? What can be a synthesis of the period we are experiencing under the fractures that the inhabitants of Gaia, the protagonists of this time, are called to mend? Which of all the fractures best represents our time? This article proposes an analysis of the main phenomena that are characterizing the twenty-first century, following the traces of the structures of domination and power inherited from the last century, but which are already ferrying humanity towards a new geological era which can be summarized in the Anthropocene, precisely to underline man's responsibility in exercising a source of pressure on the Planet causing Climate Change, but reed against his species. This paper aims to explore the interdependence between ecosystems, climate, biodiversity, and the human sciences to understand the need and urgency to stay within the relative threshold of 1.5° global temperature and long-lasting regional ones that pursue the goal of a fairer and more just global society, having sustainability as a transformative strategy. This paper aims to explore the interdependence between ecosystems, climate, biodiversity, and the human sciences to understand the need and urgency to stay within the relative threshold of 1.5° global temperature rise over the next decades to achieve a fair, tasteful and sustainable way reducing the risk of extinction of the human species (Pörtner & Roberts, 2022).

2. Anthropocene

In 1980 the American biologist Eugene Stoermer began to use the term Anthropocene informally to denote the growing anthropic pressures on the planet, but only in 2000 did the term enter the scientific debate, in 2000 the article *Anthropocene* was published by the chemist P.J. Crutzen and E. Stoermer, marking a turning point in history in the relationship between humanity and the planet. With the term Anthropocene, the two authors intend to distinguish a new geological epoch into which humanity has entered, simultaneously determining the end of the previous epoch, the Holocene. The latter, which corresponds to the glacial era denoted as "entirely recent," began in 10,000-12,000 b.p. (before present) when man, first through the invention of agricultural systems and through the introduction of livestock farms later, began to exert a forcing action on the planet (Merchant, 2020) by overturning the dynamics between man and the environment. The

modification of the survival conditions that occurred in Ancient Egypt through the introduction of agricultural systems, allowed not only to get out of the period of deep famine in which the Egyptian population had found itself due to the drastic cold conditions that had occurred, but the introduction of agriculture was the primary condition that allowed the increase in the global population and therefore represented the first condition of anthropic impact on the planet. Secondly, agriculture has started a process of structuring lifestyles and behaviors oriented towards a sedentary lifestyle, also altering the shape and structure of the human body. The Holocene cannot simply be ascribed as the geological era prior to the Anthropocene, but it is the era in which, for the first time, the balance between man and nature is altered, favoring the emergence of the new Anthropocene epoch.

Crutzen and Stoermer, in their article, identify 1784 as the exact point of the timeline in which the Anthropocene starts, the year in which James Watt created the first steam engine causing an epochal change in the history of humanity which contributed to the industrial revolution, to the consumer society and probably also to the end of humanity.

Human activities are exerting increasing impacts on the environment on all scale, in many ways outcompeting natural processes. This includes the manufacturing of hazardous chemical compounds which are not produced by nature, such as for instance the chlorofluorocarbon gas which are responsible for the “ozone hole”. Because human activities have also grown to become more significant geological forces, for instance, through land use changes, deforestation and fossil fuel burning, it is justified to assign the term “Anthropocene” to a current geological epoch (Crutzen & Stoermer, 2000).

Anthropocene is the era in which humanity, through anthropogenic activity, has an unprecedented and direct impact on the planet, causing climate change. The chemical-environmental matrix of the two authors in arguing the Anthropocene highlights the character of the scientific disciplines in describing the new geological era, leaving aside the humanistic disciplines, which are instead fundamental in directing the socio-economic and ecological transformations towards sustainable and durable global models.

Over the course of the last fifty years, the theme of the environment has been addressed both from a political and scientific point of view in a separate way from the Human and Social sciences, directing the debate rather than on the causes acting on the environment on effects and solutions, sometimes producing Greenwashing phenomena as a result that contribute to fueling the climate and social crisis rather than relieving it. Considering the environment as an object separate from the surrounding reality and independent of the context means adopting a reductionist approach that does not allow for the interpretation of the complexity of the systems; the scientific revolution of Systems Theory by giving centrality to interconnections through a multidisciplinary and interdisciplinary approach, allows for a systemic analysis of the elements that are together within complex relationships (Angelini & Pizzuto, 2021) and can therefore be used as a tool for interpret reality and provide complex solutions.

The most serious threat comes from the climate, greenhouse gases of anthropic origin have exceeded the levels of the entire Quaternary. We are in the presence of an abrupt and very rapid change that occurred in the last 740 thousand years and the levels of carbon dioxide and methane are the highest ever recorded in the last 15 million years.

Faced with dramatic evidence - the melting of glaciers and the increasingly frequent recurrence of extreme weather events - the Abrupt Climate Change report by the

US National Research Council was published in 2002, in which it is argued that substantial evidence indicates that global warming will occur significantly during the 21st century. The Report, recalled by Massimo Scalia who, focuses attention, in the light of the indisputable elements of the theory of stability, "on the rupture, precisely, of the stability of climatic cycles as an effect of the accelerated variation of the structure of the atmosphere" (Massimo Scalia, 2008).

The cause of climate change, on which the Anthropocene theory is based, is due to the massive use of fossil fuels in the industrial age, which saw the world's energy needs increase by three and a half times in the second part of the twentieth century, generating carbon, CO₂, have gone from about 16 thousand Mton (1973) to about 27 thousand Mton (2004) with an increase of 68% with the consequent increase in concentration in the atmosphere at an altitude of 380 ppm (parts per million), increasing by 20 % in less than half a century (Scalia, 2008, p.19).

At the St. Petersburg summit (2006), the Academies of Sciences of the G8 countries, plus those of China, India, Brazil, and South Africa, presented a Statement that began with these words: "Last year we indicated the greatest challenges posed by climate changes. They are predominantly related to energy and its use". In maintaining that the primary cause of Global Warming is "human activity," the Statement affirms that "anthropic" cause, which until then had been denied by American technicians accredited to the Intergovernmental Panel on Climate Change (IPCC, table" of experts appointed by governments adhering to the United Nations to address the issue of climate change).

3. Capitalocene

In 2014, the writer and activist Naomi Klein railed against the World Trade Organization, "an intricate global system that regulates the flow of goods and services around the planet, under which rules are clear, and violation are harshly penalized" (Klein, 2014, p. 16), proposes an explicit reading of our time, as an intricate global system that regulates the flow of goods and services through forms of neo-capitalism, the real antagonist of the climate crisis and not the whole of humanity, as Crutzen had identified in Anthropos. Klein's interpretation redefines the causes of the climate crisis after fifteen years by shifting the center of gravity of the study from anthropocentrism to capitalism.

Klein shifts the focus from Anthropos to capitalism and, in particular, to the Global North, on the economically most prosperous and advanced nations that contribute the central portion of greenhouse gases.

Shifting the responsibilities of the climate crisis from humanity to neo-capitalism may allow us to identify strategies for changing the fate of humanity thanks to social movements.

According to Klein, the environmental question only entered the full international political agenda at the end of the 1980s, just as policies of deregulation and globalization started, causing an acceleration in the global capitalist system and thus also an acceleration in the wear and tear of natural systems and going beyond the limits that nature itself indicates to us (Bologna, 2007). The recurring economic crises of the global system show that there is a need for continuing global economic growth to avoid the collapse of the economy - grow or die; this economic growth, based on the rhetoric of developmentalism -Sviluppismo-(Angelini & Pizzuto, 2021) determines from on the other hand, a growing process of spoliation of the Earth's resources by strengthening and accelerating climate change; to be fed, the capitalist system requires a growing

consumption of natural resources. Therefore it is possible to state that the economic system, dependent on natural systems and resources and the plundering of natural resources, has an environmental matrix. Similarly, the economic system determines the environmental crisis since each anthropic activity contributes to the consumption of natural resources and the production of waste and pollutants, including the production of CO₂, accelerating Global Warming and climate instability (Angelini et al., 2015).

Capitalism can be considered a crucial factor in the fracture between the environmental crisis and the Planet. Pursuing decoupling policies between economic growth and the consumption of natural resources is necessary to initiate a radical change so that we can return within the limits of the Planet by re-establishing the physical-chemical and biological balances that the Earth performs in its self-regulation functions "The Earth system behaves as a single, self-regulating system, comprised of physical, chemical, biological and human components. The interaction and feedbacks between the components part are complex and exhibit multi-scale temporal and spatial variability" (Lovelock, 2006), a balance that is not purely scientific but also human as regards the survival of our human and non-human species on the Earth. It is possible to subvert the order of power and the global equilibria used by the capitalist world-economy, which reinforce and structure global inequalities (Wallerstein, 1989).

We will have to wait for 2017 for a more precise definition of our time by starting a process of historicizing the Anthropocene. Jason Moore introduces the concept of the Capitalocene by referring to the power and profit system of the networks of life. Moore defines, "The Anthropocene is a comforting story with uncomfortable facts" (Moore, 2017) Moore's Critique moves on two different levels, on the one hand on the epistemological level of the Anthropocene and on the other on the identification era. While Crutzen identifies the origin of the new age in the discovery of the steam engine, Moore places the accent on capital and the system of domination, arguing that the Anthropocene is not determined by a simple abstract and one-to-one relationship between humanity and nature according to the narrative that man impacts the environment, but the current ecological crisis affects many factors that make reality complex. Secondly, Moore makes a deep capitalism analysis, identifying 1492, the year of the discovery of America, as the starting point of global capitalism through the proliferation of global trade and the consolidation of systems of colonial power and the trade of slaves, in this sense, according to Moore it would be more appropriate to speak of "the age of capital" instead of "the age of man"-"Are we really living in the Anthropocene – the 'age of man' – with its Eurocentric and techno- determinist views? Or are we living in the Capitalocene – the 'age of capital' – the historical era shaped by the endless accumulation of capital?" (Moore, 2017) the concept of Anthropocene identifies the causes of climate change in the anthropic impact exerted on the planet, or to a generic human category, flattening, making equal and democratic the environmental and social impact on the planet of each man, diluting the dynamics of power and global domination in an equal way. Moore rejecting Crutzen's Eurocentric perspective, recognizes the diversity of individuals, in the exercise of power and the production systems categories and, at the same time, confers dignity and role to different social and geographical groups: the countries of the Global South, indigenous peoples and of the oppressed living in the Global North laying the foundations for the empowerment of global human lives in the age of capitalism. Capitalocene names capitalism a system of power, profit, and re/production in the web of life. It thinks capitalism as if human relations form through the geographies of life." (Moore, 2017).

The term Capitalocene identifies underpaid work and slavery-cheap labor and the depreciation of natural resources -cheap nature- the two factors which, intertwining and through colonial policies, determine environmental consequences which are not simply linked to systems of distribution of opportunities and global justice. Still they concern a system moving towards extinction. With the term Capitalocene Moore does not intend to deny the current climate crisis nor the harmful role of fossil fuels on the Planet, his is rather an invitation to reconnect with nature and with ecological systems by rethinking the capitalist economic system that spread with civilization, his theory on the Capitalocene, incorporating aspects such as the web of life, is therefore complementary to the Anthropocene. McBrien (2016) with the term Necrocene refers to socio-environmental and political systems that lead our Planet towards oblivion and, in particular, towards the 7th mass extinction through capital accumulation policies that have a violent and necrotic character, to define the new era as "New Death", a capitalist expansion that produces a biological process capable of leading to extinction (McBrien, 2016).

4. Plantationocene

Plantationocene may be an alternative to renaming the current age, recently called the Anthropocene. The concept of Plantationocene takes us back to the origins of the relationship between humans and the environment, with the relationship with the Earth, at the same time, brings us closer to modern forms of agriculture, made up of large-scale intensive cultivation using labor slavery that spread on a global scale proposing structures of domination and global power in which the poorest and most vulnerable social and geographical groups became slaves in the global market. The Plantationocene concept dates back to the origins of colonial plantations when Europeans colonized the New World. Plantationocene also refers to large-scale crops that rely on cheap labor to serve international trade. The plantations are systems of production of consumer goods such as palm oil and sugar cane; due to global food consumption increasing, also global plantations are growing. These systems of production are located in poorer countries such as Liberia, Sierra Leone, and South Sudan and which are rooted in the growing demand for global food; in Malaysia, for example, 220,000 hectares of land are cultivated to serve the global palm oil market, including tropical fruit crops in Brazil and Latin America. Growing global food demand requires growing crops that impoverish the land and contribute to structuring systems of forced labor and slavery by large companies or multinationals. At the same time, these become a source of attraction for immigrants; on the other hand, it is a migration push factor due to land-grabbing practices or policies. In this territory, the government requires local inhabitants to move and abandon the lands with which they have developed an ancestral relationship, thus contributing to increasing social inequalities and global migrant flows.

According to this social perspective, environmental problems cannot be decoupled from history, from the dynamics of colonialism, capitalism, and racism reverberating in the present on our planet in the form of Climate Change. The great acceleration of the twenty-first century puts humanity at risk not only from an environmental point of view but also from the point of view of global justice and climate justice.

5. Chthulucene

A notable contributor to this debate is Donna Haraway, inspiring generations of authors to critically rethink the most pressing issues of the present through the Humanities perspective. Haraway wonders how the simultaneous planetary crises of the present that

intertwine with each other can be depicted and visualized and through which figures of the current age can be thought. Haraway identifies an extravagant Californian jellyfish Cthulhu that weaves her tentacles, the shape of the present. This non-human figure of the *Pimoid cthulhu*, indigenous to Northern California, leads us to the essence of Donna Haraway's thought that Nothing is connected to everything; everything is connected to something (Haraway, 2016)

The author is a thought that bypasses anthropocentric logic and seeks a different way of living within a connection network in which the lives and experiences of each element reconnect with those of the others in an environment in which different human and non-human species interact simultaneously with each other. Taking up J. Lovelock's theory of Gaia, Haraway introduces the theory of tentacular thought that allows her to overcome the concept of humans and to project herself towards new dimensions of existence that transcend human life on Gaia "We are humus, not Homo, not anthropos; we are compost, not posthuman" (Haraway, 2016).

Chthulucene is a figure, visible and tangible. At the same time, the Anthropocene does not clarify what the characteristics of Anthropos are; this does not clarify if it refers only to the human species that burn fossils or to all those who possess these features, how to visualize who is part of what nor, which are the networks of connections between govern global capitalism, the ecological crisis and the connections with the past. Chthulucene is a real figure in the continuous movement that weaves plots in a long period between the past and the future and with a constant biological exchange of matter.

The difference between the Chthulucene and the Anthropocene and the Capitalocene lies in having shifted the investigation asset from man (ego) to the environment (eco), understood in the broadest sense, an environment composed of human and non-human species present, but also past, which through biological, physical and chemical phenomena return to being humus, part of the soil and all those components that keep Gaia in chemical and physical balance.

6. Conclusions

This article explains some of the main factors of our time and how the climate and ecological crisis merge with the human and social sciences. To better understand the complex issues of our time, a greater fluidity of knowledge between the natural sciences and the humanities. It is necessary to have adequate tools to understand what is happening to our Planet and species. Beyond the need to progress, to develop, it is necessary to rethink what is the role of the human species on the Planet and to act immediately within the limits of the Planet and of man; the 2030 UN Agenda for Sustainable Development represents a guide for individuals, communities, and nations to mend the disconnects that have occurred between humanity and Nature. The climate crisis can be an extraordinary opportunity for humanity to improve the quality of life of global citizens, bridge their social gaps, and pursue a more equitable and just world. Further interdisciplinary and multidisciplinary studies aimed at an action in each disciplinary field are needed to find coherent solutions aimed at daily actions between the climate crisis and social crises.

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Respect for freedom of (religious) conscience in the context of diversity – legal foundations and sociopolitical dilemmas

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Abstract

Between 2020-2022, the Sociological Research Center LARICS – ISPRI has managed an already extensive project of sociological investigation of religiosity, and attitudes and opinions related to or based on religion, specific to the Romanian public. All this has triggered a consistent scientific and public debate. The article below is an attempt to respond to a number of elements of this debate. After all, there is a methodological problem at stake, which is significant since the design of the data collection tool in the case of such a theme. Axiological neutrality is hard to define when we study religious beliefs, as long as being religious and refusing religiosity are both value options, and both sociologically legitimate today. The following pages represent a conceptual navigation, from legal to sociological, among the nuances of complex terms, which you can find in the list of key concepts presented immediately below.

Keywords: *religiosity, tolerance, pluralism, secularization, public space.*

In the period 2020-2022, the Sociological Research Center LARICS – ISPRI has managed an already extensive project of sociological investigation of religiosity, attitudes and opinions related to or based on religion, specific to the Romanian public (Dungaciu, Cristea 2020; 2021; 2022a). One of these works was also an exercise in measuring religious tolerance (Dungaciu, Cristea 2022b). All this has triggered a consistent scientific and public debate. The article below is an attempt to respond to a number of elements of this debate. After all, there is a methodological problem at stake, which is significant since the design of the data collection tool in the case of such a theme. Axiological neutrality is hard to define in the case of studies of religion, as long as being religious and refusing religiosity are both value options, and both sociologically legitimate today. The following pages represent a conceptual navigation, from legal to sociological, among the nuances of

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complex terms, which you may find in the list of key concepts presented immediately below.

1. Legal foundations of respect for freedom of conscience

The regulations of the domestic and international normative acts on freedom of conscience and religion set up the content of these rights and the general framework of the ways of exercising such rights in social conduct or in a private manner. Together with the legal norms of international and constitutional regulations (which are rules-principles), internal normative acts (containing rules-means) regulate in detail and accompany with sanctions the rules on freedom of conscience and religion.

"In a broad sense, freedom of conscience is the possibility for the citizen to have and publicly express a conception of himself/herself about the world around him/her" (Muraru, Tănăsescu 2003: p.209).

The rationale of the legal regulations on the freedom of conscience integrates this right into a natural succession, that confers content and external forms of its manifestation in the social conduct of the individual, the international normative acts that represent the basis of the internal regulations using the phrase *freedom of thought, conscience and religion*, thus stressing that there is a whole in the protection and actual exercise of freedom of conscience, which begins with freedom of thought, then configuring itself into systems of values and principles of conscience, which can be exercised within a legal, regulated framework of freedom of religion, as a form of external manifestation of freedom of conscience.

Article 18 of the Universal Declaration of Human Rights clearly regulates the foundation of freedom of thought, conscience and religion:

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance" (United Nations, Universal Declaration of Human Rights of December 10, 1948, published in the Brochure of December 10, 1948, Article 18).

At the level of European regulations, the provisions of the Universal Declaration of Human Rights on freedom of thought, conscience and religion are taken over, expressly stating the right to conscientious objection.

The Charter of Fundamental Rights of the European Union, in Article 10, entitled Freedom of thought, conscience and religion, provides:

"1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.

2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right" (The Charter of Fundamental Rights of the European Union, binding upon the entry into force of the Treaty of Lisbon on 1 December 2009, Article 10).

In domestic law, the constitutional foundations of freedom of conscience are established by the regulations of Article 29 of the Romanian Constitution, entitled "Freedom of conscience", which provides:

- the guarantee of the freedom of thought and opinion, as well as freedom of religious beliefs;

- the prohibition on restricting these freedoms in any form;
- the prohibition of coercing any person to adopt an opinion or to adhere to a religious belief, contrary to his/her convictions;
- the imperative of manifesting the freedom of conscience in a spirit of tolerance and mutual respect;
- the freedom of religious cults to manifest and organize according to their own statutes, according to the law;
- the prohibition, in the relations between cults, of any forms, means, acts or actions of religious enmity;
- the autonomy of religious cults towards the government;
- the support provided to religious cults by the government, including by facilitating religious assistance in the army, hospitals, penitentiaries, asylums and orphanages;
- the guarantee of the right of parents or guardians to ensure, according to their own convictions, the education of minor children whose responsibility lies with them (*Constitution of Romania*, Article 29, para. 1-6).

The complexity of religiosity, as a form of exercise in the social conduct of the freedom of conscience, must be viewed at least through the prism of the essential components, related to belonging (identity), faith (spiritual conviction), participation (adoption of liturgical conduct) (Cristea 2022), preventing the exercise of any such component that configures religiosity as a whole and it is actually a violation of the freedom of conscience.

Law No 489 of 2006 on freedom of religion and the general rules governing religious denominations, in Article 1(2), states that "no one may be prevented or compelled from adopting an opinion or from adhering to a religious belief contrary to his/her convictions, nor may he/she be subject to any discrimination, pursuit or a situation of inferiority for his/her belief, belonging or non-belonging to a grouping, religious association or cult, or for the exercise of religious freedom under the conditions laid down by law" (Law no. 489/2006 on the freedom of religion and the general regime of cults, art. 1, para 2). The text establishes the legal protection of the three essential elements mentioned above (faith, belonging, participation in liturgical acts, by virtue of freedom of religion), and it also establishes the obligation to protect and respect equally, indiscriminately, the belonging or non-belonging to a grouping, religious association or cult, thus equally protecting the right to have or not to have a religious belief or conviction.

The concept of freedom of conscience is also based on the legal protection and free exercise of other essential rights: freedom of thought, freedom to have and express opinions, freedom to have and externalize religious beliefs, freedom of religious cults, freedom of religious education.

"Religious freedom, as part of freedom of conscience, is the most delicate and difficult component for societies and states to manage. The explanation lies in the specifics and complexity of its expression, in the light of the relevant and extensive social legal effects it contains, having major consequences for the social order, social control and societal specificity. While the freedom of thought or the freedom to support religious opinions (as forms of freedom of conscience) are predominantly theoretical components of freedom of conscience, the exercise of religious freedom is the practical, applied component of freedom of conscience, which generates social relations and legal relations with profound implications in the history of states. The eventuation and exercise of the

dogmatic and liturgical specificity of religious beliefs, the alignment and discipline of social conduct and lifestyle by reference to religious norms, the social legal organization of religious cults, their involvement in the educational process, in social assistance and religious assistance, are fundamental landmarks in the specificity of the society of a state, regarding the social order, social control, crime rate, and social economic development" (Firțală 2020: p. 88).

Article 2 of the Law No 489/2006 on the freedom of religion and the general regime of religious denominations, details the ways of exercising freedom of religion and mentions the exceptional context in which such right could be affected by certain restrictions, the situations being exceptional, expressly regulated by law, and the exceptions being of strict interpretation and implementation.

"1. Freedom of religion includes the right of any person to have or adopt a religion, to manifest it individually or collectively, in public or in private, through practices and rituals specific to religious denomination, including through religious education, and the freedom to maintain or change his/her religious belief.

2. Freedom to manifest one's religious belief shall not be subject to restrictions other than those which are ruled by law and are necessary measures in a democratic society for the purposes of public security, the protection of public order, health or morals, or the protection of human rights and fundamental freedoms." (*Law No 489/2006 on the freedom of religion and the general regime of religious denominations*, Article 2).

It is worth noting that both international regulations and domestic normative acts emphasize the equality of the protection of freedom of conscience and religion, both at the level of thought and concepts on which the formation of value systems is based, as well as on the ways of expressing these conceptions in social conduct, and at the institutional level, through activities in various fields. Not only different ways of exercising freedom of conscience and religion, but the very attitudes of *having* or *not having* a religion, regardless of the social cultural or historical context of a society at any given time, are legally and non-discriminatorily protected.

Together with all the domestic and international normative acts regulating the freedom of thought, conscience and religion, the case-law of the domestic and international courts in the field of protection of human rights is relevant in this respect, due to it also serves as a rich source of interpretation and implementation of the rules on the international protection of human rights. "In many cases, the correct interpretation and implementation of the conventional rules are only possible in the light of the case-law developed on the basis of them. In this way, the role of international jurisprudence as a formal source of the international protection of human rights is increasingly important" (Popescu 2000: p.30).

2. From legal to social

If at the legal level things seem quite clear, social practice is much more complicated. Furthermore, the purpose of this article is precisely to draw attention to less discussed issues and to summarize the points at which the reporting of today's society to religious tolerance is somehow problematic. Why, because even sociological investigation and the measurement of phenomena such as religiosity can no longer be done in the absence of these conceptual clarifications.

We will list and discuss them further:

1. Intolerance, tolerance, inclusion, pluralism

Although in the specialized literature and in the one dedicated to public policies in the field, the concept of *tolerance* is commonly used when discussing religious issues, it should be noted that the way in which Western civilization has evolved (North America, Western European Union) has overcome the need for a discussion on religious tolerance and has reached a point where the main topic of analysis tends to be *religious pluralism*, which cannot be thought of outside of a serious discussion on *secularisation* (Norris, Inglehart 2004; Bruce 2011).

The main point of this discussion is not about religiosity as an individual phenomenon, for, ultimately, the freedom of conscience and belief also refers to religiosity and its absence, but to the fact that religion is not, most of the time, a private matter. As a major cultural phenomenon, religions and a number of its elements require a community, public presence.

The space is sacred by religious institutions (and not only by the physical presence of places of worship), through a series of public manifestations related to holidays, religious symbolism (beyond the one individually worn), etc. In this context, as democratic societies tend to become increasingly poly-religious/confessional, religious pluralism must solve the problem of the joint management of the public space, including its sharing with the public without religious interests (which, in turn, could be defined by a whole scale of attitudes in this regard: from disinterest in the presence of religion in the public space, to the acceptance of religious pluralism and from the refusal of the presence of religion in the public space to the rather refusal of the presence of the dominant religion/or which was traditionally numerically dominant in a given space).

2. Tolerance of minority religions / tolerance of majority religion

Here also, there is a little paradox. While, traditionally, majority religions oppressed minority religions, as Western societies secularize, majority religions lose community support and public sympathy, minority religions being less affected by this trend. Even the newly introduced, exotic religions, or elements thereof, are accepted as a sign of multiculturalism.

3. Tolerance for secularism / tolerance for religiosity

Historically speaking, religious institutions have not exactly been friendly to the minority religions / denominations with which they shared the same territory. Nor with those who showed no interest in embracing religious identity. The other side of the coin is also valid. When modernity and secularization intersected with political power, it was not infrequently that those who identified themselves religiously became victims.

Many of today's Western societies have experienced, in recent decades, an accelerated process of secularization, primarily in terms of traditionally majority denominations (Catholic and, respectively, Protestant). The trend is also beginning to appear in orthodox (and declared more religious) countries of Eastern Europe. However, a new problem also arises from this point of view – people declared non-religious, otherwise attached to the idea of civil liberties, promote an anti-religious discourse. Of course, there is also a value opposition here: often, religious discourse is directed against certain kinds of civil liberties that today's secular societies consider normal. At the same time, the opposition against religion is linked to the religious institution rather than religion, the way it is financed, etc. But the blame often extends to the believers (e.g. in the case of Romania: they are called "relic kissers", "repentants" if we refer to other denominations, etc.).

After all, the problem here is focused on the presence of religious institution, symbols and manifestations of faith in the public space. And on the support from the state budget of religions / denominations recognized as being legitimate cults in a particular country.

4. Religiosity and religious institutions

One of the main challenges addressed to classical religions/denominations in the Euro-Atlantic world is the level at which religiosity manifests itself. At least at that level of the citizens who are dissatisfied with religion, most criticism is directed against the institutions that manage religiosity (the Churches), as organizations and bureaucrats.

One theory is that the viability of a religion lies in practicing it among the public, not in an institution funded by the state budget or managed as a corporation. Especially since wealth is not a virtue in almost any religion. Much less so in Christian denominations. Is a religion less institutionalized, less public and less represented organizationally more authentic? Is it desirable to give up the formal support of religious organisations that belong to the cultural tradition of European states and to see the cults as a market where the institution survives if it has parishioners willing to attend it and possibly contribute?

5. Public vs. Private

Logic can go on. If authentic religion is assumed, private/familial and non-institutionalized, what will be its public status? Does it have its place in public? What if it bothers those of another denomination/religion, or those who do not believe and possibly even dislike the idea of religion?

The problem is much more serious, because religion, through the church institutions that are often criticized even by parishioners, through the calendar and holidays, through the transformation of the public space on (Amos 2016) such occasions, all these are landmarks of the community of believers (its members having, of course, varying degrees of religiosity - Saroglou et al. 2020). Religion is like a language, somehow. You can't do and you can't express a language or religion on your own. The essence of both is communal, of course, beyond the transcendental charge. The banishment of religion from the community and from the daily public space is problematic because the public presence of signs and symbols, community, holidays and religious expressions is a matter of the freedom of expression of the religious faith. Of course, religion disputes the same public space with other religions and with those who refuse religion, but tolerance implies accepting diversity, not labelling it as disturbing. The fact that religions, in turn, are not necessarily tolerant of other religions or of those who define themselves as atheists has no relevance from this point of view.

6. Missionary work

Last but not least, almost all religions also have an apostolic/missionary dimension. If premodern Western ethics associated religion with the single truth and the obligation to take it to others (including violently), the modern Western state and religious cult accepts cohabitation more fully, in certain terms, with minority religions. A reasonable dose of secularism has also contributed to this, modernizing not only Western societies, but also religiosity. Of course, it is to be discussed what reasonable means, but also how religiosity has passed from a daily presence, to being isolated in symbols, holidays and rituals, so that, subsequently, its entire public status and its entire public presence be challenged.

Attracting followers is considered a relatively aggressive act in current secular societies. Except in the case of "exotic", minority cults, which are probably accepted also because they do not present the risk of too much "market share".

Paradoxically, salvation also comes from the soft form of secularization: each of the cults accepted in a society/state is free to exercise its missionary function in the community it shepherds, trying to stimulate the religiosity and participation of those who formally belong to it but show no interest in this belonging (for example, the concept of "non-practicing Christian" is almost a *brand* of European culture).

Conclusions

It is a fact that today's Euro-Atlantic world is more secularised than in the past (Inglehart 2021). But, even in recent decades, religiosity has had rebounds, even unexpected we might say, in many places on the planet. The linearity of modernization/secularization pertains to a more subtle relationship. The concept of secularization itself carries a number of nuances, from the decline in importance of religion to its sectorization, from indifference to religious phenomenon to its refusal. But again, even if this tendency were to eventually lead to the disappearance of religion, the journey would be long, and respect for freedom of conscience, with all the above scenarios, will remain for a long time a democratic component of the idea of freedom.

Respect for freedom of conscience (in the essential components of the manifestation of religiosity through belonging, faith, participation) represents a social legal value, protected by fundamental normative acts on the international protection of human rights, both at international level and by normative acts of domestic law. It is indiscriminately protected the choice to have or not to have a religion (as an opinion or as an attitude), as well as the socio-institutional manifestation of the doctrinal and liturgical peculiarities of all legally recognized religions / denominations. The harmonious and equidistant construction of all the legal regulations on the observance of the freedom of conscience is implemented in a much more varied and complicated compound at the level of social norms and conduct, in the context of modern societal specificity. The communal essence of the religious phenomenon raises great challenges in any society, by reference to its reaction to the manifestation of religiosity in the public space. The social legal history of the interaction of society with the religious phenomenon highlights the main attitudinal forms: intolerance, tolerance, inclusion, and pluralism. With the integration and social legal assimilation of the religious phenomenon, the administrative institutional organization of the religious life determines new perspectives of debates and attitudes. The manner of organization and administrative functioning is not always agreed by the whole community, the mechanisms of institutional support and funding sometimes determine polemics, the dialogue between the political-state bodies and religious institutions being also a subject that has provoked intense debates over time. In the context of secularization (which transforms the mission of living a spiritual ideal into a design accessory of modern social conduct), the *brand*-concept of "non-practicing Christian" determines new analyses and evaluations regarding the identity and religious belonging, increasingly limited to the private space, given that the religious phenomenon has also essentially a form of community manifestation. The increasing diminution of the communitarian religious manifestation, specific to the culture of the societies of the "non-practicing believers" or indifferent brings, somehow paradoxically, an increased importance of the existence of religious institutions, as a way of maintaining religious identity in modern society.

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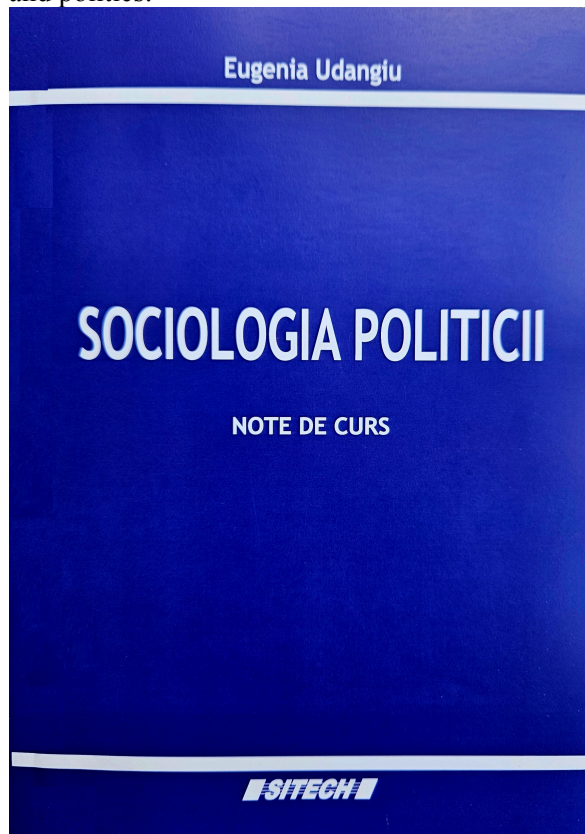
Book review

Eugenia Udangiu, Sociologia politicii [Sociology of politics] Craiova, Sitech, 2023, 112 pp., ISBN 978-606-11-8367-8

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The book "Sociologia politicii" [Sociology of politics] written by Eugenia Udangiu is a comprehensive and insightful exploration of the complex relationship between sociology and politics.



As a sociologist and professor with extensive in-depth knowledge and expertise in the field, Eugenia Udangiu offers a multidisciplinary approach to understanding the complicated dynamics between society and politics in contemporary contexts. The author takes readers on a journey through the social dynamics that shape political processes and institutions and shows us how power operates within political structures, shedding light on the complex dynamics of our societies.

One of the book's strengths is its interdisciplinary perspective. The author masterfully integrates concepts and theories from sociology and political science, providing readers with a holistic understanding of the interplay between society and politics.

Eugenia Udangiu begins the work by mentioning in the introduction that this book is addressed to students majoring in the field of social sciences, who are initiated, during one semester, in the specific issue of political sociology.

The author's writing style is clear and concise. Despite dealing with complex sociological concepts, professor Udangiu manages to present her arguments in a manner that is approachable for both academics and general readers. She avoids excessive jargon and provides adequate explanations for key terms and theories, making the book accessible even to those unfamiliar with the field of sociology.

The book encompasses a wide range of topics, covering various aspects of the sociological study of politics. Eugenia Udangiu skillfully delves into the intersections between politics and policy, political actors, power, political parties, state, political culture and political behavior, providing readers with a nuanced understanding of how sociology contributes to a deeper understanding of politics and helps identify the underlying factors driving its evolution.

Eugenia Udangiu's book is divided into four well-structured chapters, each focusing on a specific aspect of the sociology of politics. The progression of topics allows readers to grasp the core concepts gradually, building a strong foundation for deeper exploration.

The first chapter, "Politics and policy" starts from a definition of the concepts and then makes a detailed analysis of the political regimes.

The second chapter "Politics related to power", analyzes the psychological perspective and the sociological perspective on power, detailing the general forms of manifestation of power and the problems related to its definition and localization, and also addressing the subject of rational power. . By examining these issues, she highlights the multidimensional nature of power and its implications.

The third chapter " Politics as a system" begins with a section that includes theoretical analyzes of concepts and functions and then investigates topics such as: the structure of political action, political actors, elites and political people, political parties and the state as a global political actor. Moreover, her analysis adds depth to the book and provides valuable insights into the dynamics of society and political transformation.

The fourth chapter, " Elements of political culture" examines various aspects related to ideology, ritual, language and political action, but also related to myth and political action.

This nuanced perspective enriches the reader's understanding of politics as a social construct.

While the book covers a broad range of topics, given the vastness of the subject matter, it is inevitable that certain aspects receive more attention than others. However, Udangiu's efforts to present a comprehensive overview of the sociology of politics must be appreciated.

In conclusion, *Sociologia politicii* [Sociology of politics] by Eugenia Udangiu is a valuable resource for anyone interested in understanding the intersection between politics and society. Through its interdisciplinary, balanced, and accessible approach, this book proves to be an essential read for those seeking a deeper understanding of the sociology of politics.

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Book review

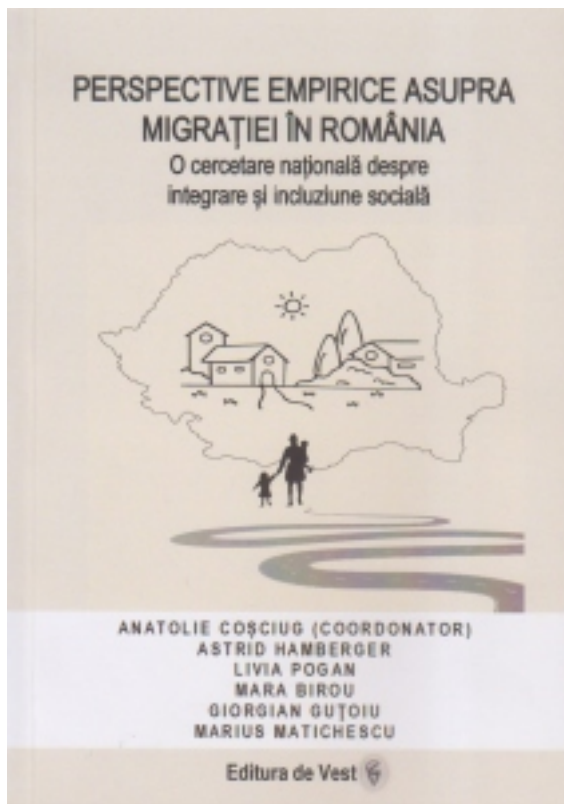
Anatolie Coșciug (coordinator),

Perspective empirice asupra imigrației în România. De la țară de tranzit la țară de destinație [Empirical perspectives on immigration in Romania. From a transit country to a country of destination]

Timișoara, Editura de Vest, 2022, 142 pp., ISBN 978-973-36-0820-2

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The volume coordinated by Anatolie Coșciug, suggestively titled “*Empirical perspectives on immigration in Romania. From a transit country to a country of destination*” brings together theoretical approaches well established in the migration studies, and field research, managing to capture both institutional and social aspects, based on the perspective of the host community and immigrants alike.

If in other Western European countries, the studies on the integration of immigrants in the host societies already have a tradition, in Romania this theme has only been approached relatively recently. Considered and analysed rather from the positions of a source country for emigrants or a transit country, Romania has experienced a constant increase in the number of newcomers in recent years, and these developments deserve,

of course, to be understood and interpreted in a scientific manner. In this sense, the book presents the results of a fourth study of a series that started in 2017, results obtained within the CRCMIS project - the Romanian Migration and Social Inclusion Research Center carried out by the Center for the Comparative Study of Migration in partnership with The Romanian Association for the Promotion of Quality and Successful Practices (ARPCPS) and the Human Rights Defense League (LADO) - Cluj Branch.

The in-depth review reveals that the content of the paper is structured in three main directions of study, starting from aspects of a more general nature, up to the particular analysis of the various processes and institutions associated with immigration in Romania. The three chapters are preceded by an introductory part, in which Marius Matichescu, familiarizes the reader with the general directions of research included in the study, as well as with the methodological framework and the context in which they were developed. Through this presentation of the congruence of the three research directions brought together in the work, the volume becomes accessible both to the public specialized in the phenomenology of international migration, as well as to the reader uninitiated in this field, as the key to analysis is provided, in a concise and clear manner for each of the collected data segments.

The first part of the book, suggestively titled *“It is not within the competence of this institution. The governance of the integration of immigrants in Romania”* is carried out by Anatolie Coșciug and Astrid Hamberger and, as the authors explain, it is *“the result of older concerns and questions that arose from a long experience of processing and presenting data collected from public institutions in Romania and for which we could not give a satisfactory answer until now”*. This section starts from the premise that institutions have a fundamental contribution in the specific processes of integration, namely in acculturation and assimilation, and analyses the reason why significant differences appear in the way institutions relate to the issue of immigrant integration. In this sense, the analysis of institutional participation from the perspective of integration governance is particularly relevant from a methodological point of view, establishing as levels of analysis the involvement of international organizations, the framework of national institutions, and focusing especially on the local institutional level. The final part of the chapter includes, for a better understanding of the phenomenon, the detailed series of data that were used for the research.

The second chapter, written by Livia Pogan and Mara Birou, *“The perspectives of Romanian citizens on immigration and integration in Romania”*, represents a detailed analysis of the opinions and positions of the local population towards immigrants. Thus, starting from the experience of previous research, the study focuses on *“attitudes regarding the impact of immigrants in economic, social or cultural terms, the role of the authorities in the integration of immigrants, the rights they could benefit from and opinions regarding the necessity of the existence of social policies in favour of their integration”*. The data analysed in this section were collected in a survey with over 1300 respondents, starting from general questions of socio-demographic nature, and continuing with aspects related to contact with immigrants, cultural consumption, distance or tolerance towards other groups, aspects related to the economic impact of immigrants etc., the authors explaining how each of these directions influence the specific processes of integration.

The final chapter of the book captures the perspectives of immigrants on integration in Romania, and the analysis carried out by Georgian Guțoiu *“aims to study the integration of immigrants in Romania using a methodology specific to a quantitative opinion survey,*

collecting the answers to the questionnaires during several months in 2021". The conclusions of this study section reveal an increase in the level of integration compared to the situation of previous years, based on data collected through questionnaires applied to immigrants. The analysis perspective is a comparative one, thus ensuring the observation of the temporal evolution of the integration indices in 2021 compared to 2020.

Writing a synthesis book that captures all aspects of a social, cultural, legal, economic and, not least, institutional nature, associated with immigration in Romania, is an extremely daring approach, calling for knowledge and methods specific to each of the mentioned fields. The collective of authors coordinated by Anatolie Coşciug manages to capture in this volume both the institutional dimension of immigration in Romania and the specifics of the integration of immigrant groups into the host society, including at the same time the opinions and perceptions of the latter towards this category of people, constituting a remarkable contribution to migration studies in Romania. It should be noted that, although laboriously constructed and argued from the theoretical point of view as well as the design of each of the researches, the volume opens the possibility for new documentations in each of the proposed research areas. The three main areas approached in the study - the institutional contribution to the integration process, the perception of the host population, and the evaluation of the level of integration among the immigrant population, deserve thorough investigations in terms of temporal evolution, being given their transformative nature over time.

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