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Guest Editor’s Preface

Ukrainian Policymaker journal is a platform for international academic discussion in the field of political research in Ukraine for more than six years. In 2014, it was established in the form of an analytical electronic journal. The journal passed the series of development steps. Since 2018, it represents the results of researches twice a year as a paper and online journal. Each of the journal issues is a result of the work of an international editorial board, represented by Ukraine, Poland, the USA, Japan, China, and several other countries.

The mission and goals of the journal in the process of the journal development allowed it to attract well-known researchers from Central and Eastern Europe, as well as countries such as Israel, China, Greece, etc. Staying committed to declared mission, the journal tried to present the studies that make a significant contribution to the development of urgent problems facing Ukraine on its pages. The editorial board traditionally referred to such issues as political and institutional modernization processes in Ukraine, transit society issues, national security challenges in hybrid war conditions, etc. The first half of 2020 involved the pandemic of the coronavirus COVID-19 to the rank of urgent problems for all the national states, including Ukraine. This problem has catalyzed a previously less relevant research discourse, the purpose of which is to search for effective political and managerial tools to prevent epidemics, overcome them, and ensure post-epidemic activities.

The sixth issue of Ukrainian Policymaker journal made it possible to present some studies that summarize the experience of other countries in countering the pandemic coronavirus due to the thematic nature of the issue. For example, this practice was already successfully used by the journal when studies by Israeli scholars appeared on its pages, presenting successful cases of discovering the possibilities of higher education in conflicted society. It is difficult to dispute the thesis that the Israeli experience in the modernization of education to implement the principles of peace-building is heuristic for Ukraine. In this vein, the current issue presents heuristic cases of medical reform in China, aimed at the active use of traditional Chinese medicine in public health emergencies. No less compelling is a study on the construction of public health safety legal system framework from the perspective of the precautionary principle. Also, the futurological studies analyzing the problems of freedom in the new social architecture of a post-pandemic society are presented in this issue. The issue also offers legal research, offering an author’s vision of approaches aimed at the construction of law-based government in the context of counteraction to COVID-19. No less interesting for Ukrainian and international researchers may be an article devoted to the analysis of legal instruments to counteract the spread of false information, in particular, the criminal law regulation of the behavior of fabricating and deliberately disseminating false information of epidemic.

At the same time, although the central theme of the issue is the COVID-19 pandemic, the issue contains articles devoted to no less pressing problems of the political life of modern Ukraine. The editorial board proceeded from the thesis that the epidemic is the most important, but not exhaustive, fully relevant problems of Ukraine in 2020. In the light of modernization processes in the field of pension provision in Ukraine, the journal offers an article with a detailed analysis of risk management mechanisms in this area. Also, the issue provides a series of philosophical
studies that develop the methodology of understanding the current transformations in the political sphere of Ukraine: the journal offers an analysis of the Revolution of Dignity (2014, Ukraine) through the prism of Hegel’s teachings; analysis of the paradigms of the concept of “nation” from the standpoint of Soviet and European Marxism. In the light of the European integration course of Ukraine, the intensification of migration processes and the associated challenges of a geopolitical nature, the research on hybrid challenges in Central and Eastern Europe, as well as several studies of policies related to national minorities in developed countries are presented.

The editorial board hopes that the research presented in the thematic issue of Ukrainian Policymaker will help solve the series of problems in the sphere of political and institutional modernization of Ukraine being focused on the challenges of the coronavirus epidemic. At the same time, the contents of the issue demonstrated the great potential for analyzing Ukrainian political and legal problems in relation to global challenges, and, the prospect of extensive development of civilizational studies on the pages of the magazine; the issues of cultural dialogue, and, in particular, European-Chinese studies as a separate area of future researches.

Guest Editor-in-Chief,
Denys Svyrydenko
Legal Thinking on the Participation of Traditional Chinese Medicine in Public Health Emergencies

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The healing effect of traditional Chinese medicine in the epidemic situation with COVID-19 is increasingly confirmed. In a medical system dominated by Western medicine, it is necessary to overcome many obstacles to the participation of traditional Chinese medicine in responding to public health emergencies. This includes (a) natural institutional difficulties; (b) insufficient regulatory ability of traditional Chinese medicine and lack of provisions Traditional Chinese emergency medicine of the public health legal system; (c) the lack of a rational understanding of traditional medicine by the population; and (d) the dilemma of the practice of traditional Chinese doctors. To fully appreciate the role of traditional Chinese medicine in responding to public health emergencies, it is necessary (a) to improve the relevant public health emergency laws; (b) improve the status of local branches of traditional Chinese medicine; (c) strengthen advocacy for the development of traditional Chinese medicine; (d) expand the areas of traditional Chinese medicine in public health emergency management, as well as the openness of traditional Chinese traditional medicine in public health emergencies.

Keywords: traditional chinese medicine, public health emergencies, COVID-19, emergency legal system

Received: May 12, 2020; accepted: June 1, 2020

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Introduction

The COVID-19 epidemic overwhelmed in China at the beginning of 2020. On January 23, Wuhan City announced an unprecedented decision of lockdown. Wuhan, a hero city, began to fight against an arduous war of “epidemic.” In this war against the COVID-19 epidemic, hospitals are battlefields, and medical staffs are soldiers. Currently, the universal medical system determines the dominant role of western medicine in response to public health emergencies around the world.

To some extent, traditional Chinese medicine (TCM), which has a long history of over 1000 years, has been developing and perfecting continuously based on fights against epidemics (Liang, 2020: 6). How is the cooperation of TCM and western medicine in this COVID-19 epidemic war in Wuhan? China has achieved outstanding progress in this fight since March. However, COVID-19 epidemic began to spread quickly in other countries, firstly in European countries like Italy. Virus is the enemy of the entire mankind. The curative effect of Chinese treasure — TCM in fighting against the COVID-19 epidemic is more and more confirmed. This study is going to investigate barriers against the participation of TCM in response system to public health emergencies as well as the relevant perfection pathways, aiming to make full use of TCM in epidemics.

Foreword

Based on performances in SARS epidemic control, the important role of TCM in response to public health emergencies has been confirmed from the perspective of governments. On February 12, 2020, the General Office of National Health Commission of the People’s Republic of China and Office of National Administration of Traditional Chinese Medicine issued the Notices on Establishing and Perfecting A Collaboration Mechanism of Traditional Chinese Medicine and Western Medicine for Epidemic Control including COVID-19 together, which regulated to establishing a collaboration mechanism of TCM and western medicine and increasing treatment powers of TCM. On February 13, 2020, the central government held a meeting of the leading group to cope with COVID-19 epidemics, which asked to combine TCM and western medicine, facilitate deep intervention of TCM throughout the treatment of patients with COVID-19, and promote effective prescriptions and Chinese patent medicine timely. However, there’s a doubt about the participation of TCM in Wuhan, according to public reports. TCM was applied to intervention for the first time and achieved a high participation (>90%) in many other provinces and cities. However, the 24th conference of Hubei Province on COVID-19 epidemic control work announced on February 14, 2020, that the participation rate of TCM in treatment to diagnosed patients in was higher than 75% in relative to the national level of 85.2% (60,107 cases) by February 17, 2020. On February 19, 2020, the National Health Commission of Hubei Province issued the Notices on Further Improving Cooperation of Traditional Chinese Medicine and Western Medicine in COVID-19 Epidemic Control, which emphasized on increasing participation and arrangement measures of TCM in the intervention. Hubei Province is not the sole province that makes delayed responses to the use of TCM. Currently, TCM still faces many barriers to participate in public health emergencies before the COVID-19 epidemic. As a legal scholar and a fan and a learner of Chinese traditional cultures, the author attempted to make an in-depth
study and propose some legal countermeasures to promote the participation of TCM in various public health emergencies to save lives and protect people. The author also expects to make some contributions to the revitalization of TCM.

Barriers

The public health emergency system of the People’s Republic of China was built up to cope with SARS epidemics in 2003. According to Regulation on the Urgent Handling of Public Health Emergencies (passes in 2003 and revised in 2010), public health emergencies refer to serious infectious disease epidemic, massive diseases of unknown causes, serious food and occupational poisoning which occur suddenly and can or might cause severe damages to public social health as well as other events that can cause serious impacts on public health. After 2003, TCM has presented outstanding performances in sudden events, including the Wenchuan Earthquake, Yushu Earthquake, Zhouqu Debris-flow Disaster, etc. However, TCM still has a limited role in response to public health emergencies, and it still faces many barriers to participate in public health emergencies.

Firstly, the medical system dominated by western medicine has natural institutional difficulties against the intervention of TCM.

Similar to the impact of university education mode from western countries on the old-style private schools in China, China finally chooses the medical system dominated by western medicine for practical reasons. According to public data, there were more than 500 hospitals of traditional Chinese and Western medicine in China by the end of 2017. Still, there are respectively more than 10,000 public hospitals and private hospitals in the same period. General hospitals have TCM departments, but they only occupy a very low proportion. Although there are no accurate data available yet, the low proportion of TCM hospitals and TCM department in the whole medical system is an indisputable fact. Such a low proportion is more prominent in Wuhan, the center of the COVID-19 epidemic. Wuhan ranks top among Chinese cities in terms of medical power for the settlement of many super-strong general hospitals, including Tongji Hospital, Concord Hospitals, People’s Hospital of Wuhan University, and Central South Hospital. However, such an ultra-strong western medicine system brings greater inertial difficulties for intervention of TCM. This can be proved by screenshots of dialogues between medical workers who came to Wuhan for the COVID-19 epidemic fight on the Internet.

Secondly, the nonuniform setting of local supervision departments for TCM leads to the unbalanced development of TCM in China.

In the field of market failure, government supervision can influence the development of the field directly. The State Council of China set a National Administration of Traditional Chinese Medicine (NATCM), which is subordinate to the National Health Commission of the People’s Republic of China. According to the function-organization-system fixation scheme, NATCM possesses not only macroscopic functions of “formulating strategies, plans and policies for the development of TCM and ethnic medicine industry,” but also microscopic supervision responsibilities of “treatment, prevention, health care, rehabilitation and clinical administration of TCM.” Due to the vast territory and abundant resources, China has unbalanced development among different regions, and settings of TCM administration bureaus vary in different regions. In view of links of 31 provinces (autonomous regions and municipalities) and Hong Kong
Special Administrative Region provided by NATCM, only websites of TCM administration bureaus of Beijing, Jilin, Zhejiang, Anhui, Henan, Hunan, Tibet and Shaanxi are accessible. The author further checked official websites of TCM administration bureaus of 35 provinces (autonomous regions, municipalities, Xinjiang Production and Construction Corps, special administrative regions and Taiwan, subjected to the official website of the State Council), and found that only five provinces have set TCM administration bureaus, which are Shanxi Province, Fujian Province, Jiangxi Province, Guangdong Province and Guangxi Province. Among these official websites, some will skip automatically to the subordinate webpage of NATCM. With respect to information disclosure, which is an essential evaluation standard in existing reform of the administrative system, there are great regional differences in the setting of TCM supervision departments in China, which will surely lead to an unbalanced TCM development level. Accordingly, the response of TCM to emergencies is influenced.

Thirdly, the legal system of public health emergencies lacks regulation on the collaboration of TCM and western medicine.

Significant and direct legal references involved in medical emergency responses to COVID-19 epidemic include Law of the People’s Republic of China on the Prevention and Treatment of Infectious Diseases (passed in 1989 and revised in 2004), Emergency Response Law of the People’s Republic of China (passed in 2007), Regulation on the Urgent Handling of Public Health Emergencies and National Contingency Plan for Public Health Emergencies (issued in 2006). The whole of China entered into an emergency state after the occurrence of the COVID-19 epidemic. Provinces and cities set up a corresponding level of emergency response center. The department of health administration was responsible for “investigating, controlling, and medical saving issues,” while other departments were held responsible for relevant tasks in their scopes of official duties. After the occurrence of the COVID-19 epidemic, the whole country from central government to the National Health Commission of the People’s Republic of China, NATCM, and even the Health Commission of Hubei Province all have made great efforts in allocation and promotion of TCM intervention. Unfortunately, there are some problems in implementation. Under the current medical system, general hospitals centered in western medicine will surely occupy the leading role in emergency admission and treatment of patients. Under this circumstance, how to combine TCM and western medicine is a very complicated problem, for example, how to connect the infection department of traditional Chinese medicine and Western Medicine (Wang et al., 2020: 9). Based on reviewing of legal norms and policy documents at different levels, the author found no description of a combination of TCM and western medicine. Of course, it is understandable that there’s no detailed legal regulation over the allocation of medical resource allocation. Nevertheless, no regulation on practices of combining TCM and western medicine has been formed yet in emergency plans at all levels.

Fourthly, there’s a lack of reasonable public understanding of TCM and a dilemma of folk traditional Chinese doctor practice.

The delayed action of Hubei Province in using TCM intervention indicates that China has some barriers against the implementation of combining TCM and western medicines in response to public health emergencies. However, great contradictions of online public opinion over TCM, including superstition and mystification of TCM, strong boycott of TCM and neutral attitudes, imply a great dispute on TCM in China (Li, 2012: 80). To some extent, folk
trust and supports to TCM might be more difficult to be achieved compared to official approval and promotion. It is the public that is the primary victims of public health emergencies. The participation effect of TCM in response to public health emergencies will be affected significantly if the public has no rational understanding of TCM.

How folk TCM doctors participate in public health emergencies is another challenge. During the COVID-19 epidemic, rejection of folk TCM doctors to “fight request” and private visits of folk TCM doctors are disclosed online continuously. Difficulties for folk TCM doctors to participate in responses to public health emergencies are manifested in the following aspects. Firstly, some folk TCM doctors either have no certificate or are facing mandatory shutdowns during the epidemic period, even though they have certificates or practice places. Secondly, folk TCM doctors scatter around, which brings difficulties in organization and allocation. Thirdly, although some therapies of folk TCM doctors are effective, they cannot be verified according to an existing associated standard system. In a word, the great power of folk TCM doctors still remains underused in public health emergencies.

Countermeasures

The important assistance has proved the necessity of TCM in response to public health emergencies during SARS and curative effect in some aspects of the COVID-19 epidemic (Huang, 2020: 2). However, there are still many barriers against its participation in public health emergencies, regardless of the great official promotion efforts. With considerations to the achievements and problems of TCM in COVID-19 epidemic, the author proposed some immature policy suggestions in the light of limited experiences:

1. Perfect legal regulations concerning the combination of TCM and western medicine in responses to public health emergencies. National Contingency Plan for Public Health Emergencies is composed of general rules, system functions, administration guarantee, and emergency plan management supplementary provisions. With respect to the working principle, statements to protect and strengthen the participation of TCM in public health emergencies can be supplemented. In administration guarantee, contents about the allocation of TCM hospitals and TCM teams, as well as a combination of TCM and western medicines, can be added into the emergency medical treatment team and maneuver. Considering unique situations, China issued the Law of Traditional Chinese Medicine in 2016 to inherit and promote TCM and facilitate TCM industrial development. Article 18 of Law of Traditional Chinese Medicine regulates explicitly that People’s Government of county-level or higher shall make full use of TCM in responses to public health emergencies and strengthen emergency supplies, equipments, facilities, technologies, and talent resources of TCM. However, there’s no description of the combination of TCM and western medicine in this regulation, which is the essential key in emergency practices (Yang & Zhang, 2013: 152). Therefore, supplement provision shall be discussed and given. Moreover, attention shall be paid to how to implement legal responsibilities rather than a mere scrap of paper. For example, the first article of legal responsibility in Law of Traditional Chinese Medicine stipulates that “TCM administration sectors and other sectors of People’s Government of county-level or higher are instructed by People’s Government at the same level or higher levels to correct for non-fulfillment of relevant responsibilities; persons in charge and persons directly responsible will be punished according to laws in cases of gross violation.” From this perspective, whether the People’s Government of county-level or higher can be held responsible for non-action in strengthening
2. Improve the position of local TCM sectors and strengthen the promotion of TCM development. Why is it necessary to set up a TCM administration bureau since there’s the National Health Commission of the People’s Republic of China? Why is it necessary to issue the Law of Traditional Chinese Medicine as there are Law of Practicing Physicians and Regulations on Medical Organization Administration? Reflection on these problems is of important significance in the background of the strong role of western medicine and the weak role of TCM since the foundation of the People’s Republic of China. Deng Tietao, a TCM master in the first session, recalled that due to great endeavors of the old generation of TCM doctors in the 1980s, the central government decided to set a National Ministry of Traditional Chinese Medicine on the level of State Council for special management of TCM affairs. The Regulations on Traditional Chinese Medicine, which was issued by the State Council in 2003, cannot adapt to new problems against TCM industrial development. Therefore, the Law of Traditional Chinese Medicine has developed accordingly. Special management and legislation of TCM have to be set up because TCM is the field that is easier to suffer market failure compared to western medicine, and there are great differences in national planning, training, and supervision of TCM (Su, 2015: 2). In particular, the competent department of the local government is extremely important. Attention of central government often will end up with significant differences in local execution powers after delivery through several levels. The author suggested that the provincial government shall set uniform ministry of TCM administration in China, and existing structures of TCM in department and organizations shall be adjusted after beating the COVID-19 epidemic. Ministry of TCM Administration at the city level and county level shall be set according to local situations. According to situations in some provinces and cities, some provinces have no ministry of TCM administration, but many cities of the province have set ministries of TCM administration. In January 2019, the first Ministry of TCM Administration at the county level was established officially in Zhejiang Province, which was also one of few special TCM administration organizations at the county level in China.

3. Expand fields of TCM in response to public health emergencies. During the COVID-19 epidemic, the public’s attention on TCM still focuses on centralized treatment at designated hospitals and the cooperation of western medicine. In fact, it has stipulated in the Law of Traditional Chinese Medicine that TCM has more application fields in public health emergencies: “medical and health organizations shall take the initiative to use TCM theories and techniques in disease prevention and control” (Article 18). TCM owns unique advantages in disease prevention. Various protection measures are indispensable to medical staff who are engaged in treatment at designated hospitals. However, whether additional protection can be offered to them by taking TCM or other TCM treatment means? Except for designated hospitals, TCM can play an important role in disease prevention at quarantine sites (Cao, 2013: 3). Clustering infection in nursing homes, mental hospitals, and prisons have been reported during the COVID-19 epidemic, which gave us an important lesson. At present, the fight against the COVID-19 epidemic is going to win, and China is facing challenges for return to work and school. Enterprises and organizations can implement prevention measures by making full use of stifling, perfumed medicine bags, and oral taking of TCM. Additionally, the role of TCM in treatment to patients with severe and critical disease conditions deserves enough attention. Zhang Boli, an academician of the Chinese Academy of Engineering and
the president of Tianjin University of Traditional Chinese Medicine, talked in the interview of CCTV that he was exploring a precipitation with Professor Liu Qingquan, the director of Beijing Chinese Medicine Hospital. They have participated in the treatment of three patients in critical condition (all three patients were doctors) and saved them from death. Similar cases are taken place continuously in Wuhan. Such exciting news is enough to break the public’s opinion on “treatment to chronic diseases” and “slow progress” of TCM (Cao, 2020: 2). What are other fields that TCM can participate in? This shall be studied and demonstrated by enlisting TCM into the institutional program and then writing into the relevant emergency plan.

4. **Open channels for folk TCM doctors to participate in responses to public health emergencies.** In the whole response process to public health emergencies, public medical institutions assume the main force of admission and treatment of patients. Based on the response to the COVID-19 epidemic, medical reinforcements are mainly from public medical institutions. However, there’s a considerable power of scattered folk TCM doctors in China. Opening channels for folk TCM doctors to participate in public health emergencies can relieve the shortage of medical resources significantly. In fact, cross-infection after massive admission of patients with fever into hospital is one of the causes of the serious epidemic in Wuhan. Mild cases occupy a high proportion of such public health emergency of virus-induced respiratory infection, and there are objective conditions for scattered treatment and even remote diagnosis and treatment. Since medical institutions where folk TCM doctors have small scales and potential risk in prevention and disinfection, remote diagnosis and treatment can be considered. The rapid development of online medical services in recent years provides strong technological and market mechanism supports for establishing an online medical treatment pathway after the occurrence of epidemics. During responses to public health emergencies, an online remote diagnosis and treatment platform for folk TCM doctors shall be established by encouraging enterprises to provide free services or at the cost of government. Of course, only folk TCM doctors with relevant certificate can apply for remote diagnosis and treatment. TCM doctors must pass the assessment before practices, which is extensively denounced by advocates in the long period. TCM advocates believe that different from western medicine, TCM certificate shall be given according to practical effect rather than assessment. The author deemed that in 2017, the original *Interim Measures for Assessment and Registration Management of Certificates to Traditional Chinese Medicine Doctors with Specialty* issued by National Health and Family Planning Commission of the People’s Republic of China-proposed regulation on assessment and practice registration to doctors who have learned TCM from masters or practiced over the years and have a specialty. This solves the long-term problem of legal practices of folk TCM doctors. On the contrary, folk TCM doctors who have not gained certificates according to these interim measures are judged illegal practice of medicines even though they have practical medical ability and level, and they cannot be recruited to respond team to public health emergencies (Deng, 2017: 2).

5. **Strengthen promotion and guide public opinion to help the public form a rational understanding of TCM.** The modern concept of “TCM” is originated from modern times. For distinguishing from the introduced western medicines before and after the First Opium War, the name of traditional Chinese medicine was proposed. In 1936, *Regulations of Traditional Chinese Medicines*, which were formulated by the Kuomintang Government determined the legal term of “traditional Chinese medicine.” However, TCM took a back seat as western medicine became the main medical power in the society. More and more medical instruments and drugs were derived from the western medicine diagnosis and treatment technologies,
which involved huge market benefits. Since then, TCM and western medicine began to form competition and opposite relations. It is widely accepted that the benefit group of western medicine is to slander and shame the backbone force of TCM. Another group opposes TCM for doubts on some theories and practices of TCM, which disagree with the spirit of modern sciences. Opposite with “shaming TCM,” some “TCM fans” are blind in believing TCM and exaggerate the curative effect (of course, there might be some stakeholders). The Layout for Traditional Chinese Medicine Development Strategic Planning (2016-2030), which was published by the State Council, gave a special statement on public opinion and propaganda. It expects that “a good pattern for the thick atmosphere of ‘trusting TCM, loving TCM and using TCM’ and joint development of TCM” can be formed in the whole society. Public are extremely sensitive to various diagnosis and treatment schemes and information at the occurrence of public health emergencies. Rational understanding of the public on TCM is fundamental to give full play of TCM in response to public health emergencies. Therefore, rational popularization guidance on public opinion through various modes, especially through new media and self-media, is needed in addition to the front-line treatment during responses to public health emergencies.

**Conclusions**

It is confident that TCM will win more and more trusts after the COVID-19 epidemic. Moreover, emergency treatment during the COVID-19 epidemic also accumulates valuable experiences for TCM to participate in public health emergencies. The author hopes that the performance and problems of TCM in the COVID-19 epidemic can attract enough attention. It is expected to perfect and strengthen relevant legal system and government supervision ability and supplement regulations on a combination of TCM and western medicine and TCM intervention fields at the appropriate time to protect participation of TCM in public health emergencies. Finally, the author cited the opinion of Zhang Boli on the fight between TCM and western medicine: there’s no need to fight between TCM and western medicine because both are for disease treatment, and they have unique advantages. Chinese people shall be pleased to have two medical systems of TCM and western medicine.

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The Pension Fund of Ukraine: Rethinking Risk Management during the Creation

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The article is dedicated to the establishment and first steps of the work of the Pension Fund of Ukraine. After the declaration of independence and the creation of a democratic new Ukraine among other issues, the question arose of the formation in Ukraine of its own financial body that would provide retirees with retirement benefits. In early 1990, a special working group was set up under the USSR Council of Ministers, and the necessary legal framework was developed during the year. On December 21, 1990, the decision was made to establish the Ukrainian Republican Branch of the USSR Pension Fund. The resolution testified not only the emergence of a new financial institution in the state, but also the beginning of new revolutionary changes in the ideology of the functioning of the pension system, which now did not rely mainly on the state budget, but received targeted sources of replenishment, its own mechanisms for their accumulation and the distribution and, most importantly, the opportunity to involve other social partners — employers and employees — in financial participation in the resolution of retirement benefits.

Keywords: pension fund, Ukraine, socio-economic processes, risk management, pension fund stabilization

Received: December 20, 2019; accepted: February 5, 2020

Introduction

According to the analysis of data collected by Soviet representatives in the international organizations, of which the USSR was a member, as well as by Soviet diplomatic missions, in the vast majority of countries the most effective source of financial resources for the pension system was not only and not so much the state budget, but the contributions from the population and target funding by the employers.

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Following the declaration of independence in Ukraine, the concept was gradually formulated that the state could not provide support to all pensioners, it could not perform such functions and that it should make these payments through close interaction with the public society (Holovatyi, 2015).

At the time in Ukraine, as a whole in the USSR, there was no its own institution that would accumulate pension funds and transfer them to citizens. In the world practice, there have already been known examples of successful work of state and non-state pension funds involved in this business. On the basis of international experience, the concept of creating a specialized financial institution was born in the Soviet Union — the USSR Pension Fund, and in May 1990 the Law on Pension Provision of Citizens of the USSR was adopted; one of the fundamental differences from its previous laws was that the payment of pensions was envisaged not from the state budget, but from a new financial institution — the Pension Fund (On pension, 1990).

The collapse of the USSR and the creation of a democratic, independent Ukraine have become the main precondition for the birth in Ukraine of its own financial body, which would form a separate financial system. The pension fund still had to be built. Therefore, its appearance in society has been received ambiguously (Fatkhutdinov, 2019).

**Establishment of the Ukrainian Republican Branch of the USSR Pension Fund**

In early 1990, a special working group was set up under the USSR Council of Ministers, comprising representatives of all the Union republics. During the year, the necessary legal framework was developed: the Regulations on the Pension Fund of the USSR, the instruction regulating the procedure for payment of contributions to the Pension Fund and spending its funds, and other documents.

At the same time, there was a process of forming the organizational structure of the USSR Pension Fund, which was represented at the level of the Union republics by the respective republican branches of the Fund. On December 21, 1990, the Council of Ministers of the USSR and the Ukrainian Council of Trade Unions approved joint Resolution No. 380 on the formation of the Ukrainian Republican Branch of the USSR Pension Fund (On the Establishment, 1990).

De facto, this date is considered the official date of foundation of the Pension Fund of Ukraine. The Resolution testified not only to the emergence of a new financial institution in the state, but also to the beginning of new revolutionary changes in the ideology of the functioning of the pension system, which now largely did not rely on the state budget, but received targeted sources of replenishment, its own mechanisms for their accumulation and distribution, and, most importantly, the opportunity to involve other social partners — employers and employees — into financial participation in the resolution of pension issues.

From the very first days of 1991, when the USSR was still in existence, a new pension institution began to accumulate compulsory insurance payments for businesses and citizens, which allowed for the first time in December this year to finance pension expenditures at the expense of the Fund rather than the state budget.

During the year, the structure of the central apparatus of the Ukrainian Republican Branch of the USSR Pension Fund was formed, consisting of three departments, four independent units, and the audit committee. Also, in February, regional bodies of the Pension Fund were established — branch offices in the Autonomous Republic of Crimea, regions, and Kyiv city,
which included the authorized branch representatives in districts, cities, and city districts. In addition, by the end of 1991, more than 2000 workers were employed in the system of the Republican Branch, including more than 60 specialists in the central office (Pension Fund, 2020).

The creation of its independent pension system of Ukraine

In fact, the USSR Pension Fund operated for only one year and ceased operations after the collapse of the USSR. Following Ukraine’s declaration of independence in August 1991, the urgent question arose — the creation of its own independent pension system. On November 5, the same year, the Law of Ukraine “On Pension Provision” was adopted, which clearly defined the status of the Pension Fund as an independent financial and banking system (On Pension Provision, 1991). Thus the work began on the creation of the Pension Fund of Ukraine on the basis of the Ukrainian Republican Branch of the USSR Pension Fund, which ended on January 28, 1992, by the resolution of the Cabinet of Ministers of Ukraine No 39 on the creation of the Pension Fund of Ukraine based on the Ukrainian Republican Branch of the USSR Pension Fund, and on the basis of the branch offices — the divisions in the Autonomous Republic of Crimea, regions and Kyiv city (On creation, 1992).

The Pension Fund of Ukraine is the central body of the state executive power under the responsibility of the Cabinet of Ministers of Ukraine, which manages the pension finance. And just a few weeks later, the newly formed Board of the Pension Fund of Ukraine approved its own normative documents: instructions for payment of the levy, provisions on the divisions of the Pension Fund in the Autonomous Republic of Crimea, regions and Kyiv city (Pension Fund, 2020). That is, in early 1992, the legal framework for the functioning of the newly independent state’s Pension Fund was fully formed (Shumsky & Dikhtereva, 2001).

Since 1994, significant changes have taken place in the structure of the Pension Fund: it has been transformed from an independent financial and banking system to a central executive body, endowed with appropriate powers (Zaichuk, 2004). At the same time, the Fund’s organizational structure has been significantly improved (Fatkhutdinov, 2019).

The status of the Pension Fund as the central body of executive power is defined by the Regulation on the Pension Fund of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 01.06.1994 No.345 (The Question, 1994). Accordingly, the service persons and officials of the Pension Fund of Ukraine and its bodies were recognized as the civil servants (On civil service, 1993).

At the same time, Ukraine’s Pension Fund employees were constantly selected and trained, and work was carried out to improve its structure and to train specialists. In 1994, during a seminar of all heads of the regional branches and heads of funds from the former USSR republics held in Mykolaiv city, it became clear that the work done in Ukraine to develop documentation and organization of the activity of the Ukrainian agency was almost the most detailed and significant compared to similar developments beyond (Kravtsov, 2011).

With the transformation of the Republican Branch into the Pension Fund of Ukraine, not only the name of the agency was changed, but also there were some changes in the process related to the mechanism of raising funds and financing the payment of pensions. In 1991, in the USSR Pension Fund, as in its Ukrainian Republican Branch, the rate of insurance payments for employers was 20.6 percent. Revenues at these tariffs in all republics and in Ukraine, in particular, did not fully meet the needs for pension payments, so redistribution and subsidies

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from the USSR Pension Fund were taking place. Moreover, having gained independence, Ukraine was no longer able to count on these grants and had to solve the problem on its own (Zaichuk, 2005).

Therefore, as of January 1, 1992, according to the government decree of January 21, 1992, the social security contribution rate for the self-financing enterprises was set at 61 percent of the payroll fund and for the budgetary institutions and organizations — 37 percent (On creation, 1992). Of the total contributions, the Pension Fund received 91.6 percent and 86 percent respectively, and since May 1993, this percentage has been slightly reduced for the self-financing enterprises — from 91.6 percent to 88 percent. The rest of the money went to the Social Insurance Fund.

The tax base was the payroll fund and other payments, including in-kind, which were subject to personal income taxation. In July 1992, the administrative liability was instituted for violating the calculation and payment of social security contributions. All these measures provided an opportunity not only to finance the expenditures on pensions fully, but also to create a certain reserve of funds for the future.

It should be noted that the financing of pensions was carried out despite the termination of subsidies from the USSR Pension Fund, which at the end of 1991 owed several billion Soviet rubles to the Ukrainian Branch (Zaichuk, 2005).

It is also interesting to note that in 1991-1993 the first attempts were made to introduce elements of the expanded reproduction of pension finances inherent in cumulative pension systems (Barr, 2018). Attempts were to place temporarily free funds of the Pension Fund during the specified period to the bank deposited for gaining profit, to deposit into the authorized funds of enterprises, to use for granting loans, etc. (Milan, 2020).

Such actions, while providing some income to the Pension Fund, were not entirely successful in terms of administration and proper legal support and were discontinued in mid-1993. At that time, the Pension Fund money had been scattered across 12 banks. This did not affect the work in the best way. After all, when it was necessary to transfer excess cash from one place to another, the banks interfered, causing delays in the payment of pensions.

Therefore, in December 1993, in order to create conditions for reducing the period of circulation of funds intended for payment of pensions, financial assistance, and postal remittances, to ensure their timely payment, with the participation of the Pension Fund the Joint-Stock Postal-Pension Bank Aval was created, associated with all these payments (Joint Stock, 2020). The Fund itself was reformed. It began with a change in the structure of the central office. The divisions were created: budgetary, pension, revenue, control and audit, computerization, as well as human resources, financial, legal, organizational and media relations, case management (Zaichuk, 2005).

The Fund itself was transformed from an independent financial and banking system to a central executive body and endowed with appropriate powers. The status of the Pension Fund as the central body of executive power was determined by the Regulation on the Pension Fund of Ukraine, approved by the Cabinet of Ministers of Ukraine Resolution No. 345 of 01.06.1994 (The Question, 1994). Respectively, the service persons and officials of the Pension Fund of Ukraine were recognized as civil servants. According to this regulation, there were established units of the Pension Fund of Ukraine in districts, cities, and city districts (Fatkhutdinov, 2019).

Thus, a vertical structure of the Pension Fund management was created, which fully corresponded to the administrative and territorial structure of the state, as well as to structures
of other state bodies, which had similar functions for collecting obligatory payments (bodies of tax and audit services).

An important step was to streamline the financial flows in the Pension Fund system, as well as to resolve issues related to the cash settlement of its funds. Until 1994, there had been a rather inconvenient system of financing pension payments. The procedure for transferring funds had been complicated and too cumbersome. Funds collected from taxpayers in districts and cities were channeled to the Regional Divisions of the Pension Fund and subsequently distributed between the areas according to the needs for financing the payment of pensions.

At the same time, funding was provided through social protection bodies, and they transferred funds to postal companies for direct payment of pensions to pensioners. Also, in different regions, the Pension Fund was serviced by various banks, which created additional problems, the main one being that it sometimes took several weeks for money to circulate. This made it challenging to finance pension payments and took a lot of time to find money in numerous bank accounts.

Therefore, in May 1994, the mechanism of financing the payment of pensions was radically changed, and the procedure was introduced, according to which insurance contributions were accumulated in the accounts of the district and city units of the Fund and at this very level were directed to pension payments, and transfers of funds along the route “district-region” and, even more so, “region-center” occurred only in case of need for redistribution of funds due to their lack or surplus.

A direct transfer of funds by the Pension Fund bodies to postal companies was also introduced. The social protection bodies were only required to provide information lists and applications for payment of pensions. With the introduction of such a mechanism, the bodies of the Pension Fund immediately felt its effectiveness, were able to increase the efficiency of the disposal of funds, and their movement became more transparent, it became easier to control. The introduction of the new pension payment mechanism was carried out at the same time as the concentration of the accounts of the bodies of the Pension Fund in one bank — the Joint-Stock Postal-Pension Bank Aval.

Thus, within one bank not only the movement of funds in the Pension Fund system was concentrated, but also the Fund’s calculations with the postal companies, which accelerated the process of their circulation from the payer of insurance contributions to the pensioner, and therefore significantly increased the possibilities of rational use of the Pension Fund’s money. In particular, the possibility of rapid redistribution of money between regions and between districts and cities. For example, under the new financing system, the funds that were received in the morning from a payer to a district unit in Zaporizhzhia region and where they were a surplus, were paid on the same day as a pension in Chernihiv region, where there was not enough money.

In the mid-1990s, lack of funds to pay pensions became a widespread phenomenon due to the stagnant economy and barter calculations. The Pension Fund often had to pay pensions to people in kind instead of cash payments. The needs of the people were analyzed, lists were drawn up: some of the pensioners needed to renovate the house at the expense of the pension, and someone might agree to some goods. In total, there were 78 types of pensions in kind at that time. Thanks to this, we can say that the process of workers’ pension provision was continuous. That testified to the effectiveness of the actual mechanism of the pension system (Martynenko, 2017). It was preserved after the transition of the Pension Fund’s bodies to the Oshchadbank.
The Basic Directions of Reforming Pension Provision (1995-1998)

In 1994-1997, under the state budget laws for those years, the Pension Fund was included in the state budget. At that time, the phenomenon of non-payment to the Pension Fund was widespread against the background of the deep economic crisis that gave rise to the shadowing of the economy and unemployment (Bazaluk, 2016). The financial base of the pension system was undermined and deformed.

The negative impact on its financial status was made by imposing on the expenditures of the Pension Fund necessity to finance pensions to certain categories of citizens in accordance with numerous laws adopted over those years that governed the provision of pensions together with the Basic Law on Pension Provision. For example, the Laws of Ukraine “On Civil Service” adopted on December 16, 1993 (On Civil Service, 1993); “On Local Self-Government in Ukraine” passed on May 21, 1997 (On Local Self-Government, 1997), “On General Prosecutor’s Office” adopted on November 5, 1991 (On General Prosecutor’s Office, 1991); etc.

In addition, at different times, the Fund financed social payments that were not related to the pension system at all, and by their nature would have to be paid at the expense of the budgetary funds — child support, additional payments for caring over the disabled persons, etc.

Funding pensions for preferential treatment in relation to harmful working conditions from the Pension Fund money can also be attributed to negative factors. Since 1992, such workers’ retirement benefits have been significantly expanded. At the same time, despite the obligation to reimburse the Fund’s relevant expenses by the enterprises with these conditions, the real level of reimbursement of pension costs under the so-called List No 2 in the late 1990s averaged only 30 percent.

As a result, since 1995, pension arrears have arisen. This is despite the fact that the level of pension provision remained low, and its differentiation depending on the employee’s labor contribution was actually lost.

All this has shaped society’s awareness of the need for pension reform. However, for its implementation, it was necessary to overcome acute crisis phenomena in the pension system itself. Therefore, the main task of the Pension Fund in the second half of the 1990s was the financial stabilization of the pension system, the elimination of pension arrears, and the creation of the necessary preconditions for pension reform.

The main directions of work of the Pension Fund during this period were improvement of the legislation on payment of obligatory payments, the introduction of their personified accounting, strengthening of payment discipline of enterprises, exemption of the Fund from general expenses. That is, in the system of the Pension Fund at this time, the new directions of management started to be introduced (Romanenko & Chaplay, 2016), which were subsequently realized into the other state bodies.

In fact, the first step to reduce the debt of mandatory payments to the Pension Fund was an approval on September 6, 1996, the Resolution of the Pension Fund of Ukraine No. 11-1 of the “Instruction on the procedure for calculation and payment by enterprises, institutions, organizations and citizens of insurance contributions to the Pension Fund of Ukraine, as well as accounting for the receipt and spending of its funds” (On approval, 1997), which determined that contributions to pension insurance are paid at the same time as the receipt of funds at the bank’s institutions. At the same time, in case of insufficient funds, the issuance by the banks of money for wages and transfers of contributions to the Pension Fund should be carried out.
in proportionate amounts. There was also introduced the right of the heads of the subordinate bodies of the Pension Fund to suspend the operations of enterprises, institutions, organizations, private entrepreneurs within the accounts in the banks in case of refusal of such legal entities and individuals to register as payers of contributions to the Pension Fund.

In 1997, active work began on major pension reform bills. The Law of Ukraine “On Obligatory State Pension Insurance Fee” was adopted, according to which the collection rate for the pension insurance system was set at 32 percent of the wage fund (On Obligatory 1997). Measures were also taken during that period to settle the arrears of the payment of compulsory state pension insurance by self-produced products (On approval, 1997). Collective rural agricultural enterprises massively plowed the private plots of pensioners with their consent at the expense of part of the pension, issued grain and other agricultural products — flour, sugar, as well as industrial goods — TVs, refrigerators, gas pipes, plates and counters, firewood, briquettes, various everyday goods.

By Resolution of the Cabinet of Ministers of Ukraine of April 21, 1998 No. 525 “On urgent measures for repayment of arrears of wages, financial provision, pensions, scholarships, and other social payments” (On urgent, 1998), and the Law of Ukraine On Amendments to the Law of Ukraine “On Obligatory State Pension Insurance Fee” adopted on October 22 of that year (On Amendments, 1998) there were introduced additional rates for the compulsory state pension insurance. At the same time, a specialized state-owned enterprise of the Pension Fund of Ukraine was created in order to fulfill the functions of realization of goods (services), property, property rights transferred at the expense of the collection for compulsory state pension insurance.

Considerably contributed to the filling of the Pension Fund’s budget the adoption of the Cabinet of Ministers of Ukraine Resolution “On the state and additional measures for payment of pensions, repayment of debt from obligatory payments to the state and local budgets, arrears to the Pension Fund and the Fund for the implementation of measures for elimination of consequences of the Chornobyl disaster and social protection of the population” (On the state, 1998). At the Cabinet of Ministers of Ukraine and regional administrations, the standing committees were established to settle the debts on paying contributions to the Pension Fund, which considered each fact of the debt and the ways of its repayment. In addition to the measures towards the management of the debtor enterprises, the non-traditional sources of filling the budget of the Pension Fund were used.

Thus, a mechanism for repayment of in-kind pension arrears by the products of debtors was introduced. Due to such actions, the debt to the Fund was paid off in the amount of over UAH 800 million.

Conclusions

1. Complex and ambiguous socio-economic processes of the second half of the 1980s caused the transition from the Soviet system of pension provision of citizens to the pan-European one, as evidenced by the creation of the USSR Pension Fund as a separate specialized financial institution. It was the very institution called for the accumulation of funds to provide pension payments to Ukrainian citizens.

2. However, the formation of an independent Ukrainian state has put on the agenda the question of organizing its own financial institutional structure, which could ensure the realization of the state function in the field of pension payments to Ukrainian citizens.
citizens. This necessitated the creation of its own Pension Fund of Ukraine, which should function in the difficult realities of the early 1990s, which were marked by hyperinflation, an imbalance of the economic situation, lack of control over the flow of funds to the Pension Fund of Ukraine, etc.

3. Therefore, the main activities of the Pension Fund of Ukraine in the first half of the 90’s were: professionalization of employees, social insurance, repayment of debts to the Fund, search for a reliable banking structure (Bank Aval), which could provide pensions to citizens.

References


Central and Eastern Europe: the Globalization Process, and Hybrid Threats, Viewed through Political and Legal Aspects

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Central and Eastern Europe have a special place in the new multipolar world order, shaped by the influence of the European Union, the United States of America, People’s Republic of China, and the Russian Federation. To understand the European perspective in the rules-based international order, the geopolitical trajectory of the region and its status in international law should be discussed with regard to the whole scope of historical, political, economic, and ecological issues. The hybrid globalization process includes divisions and armed conflicts initiated for the sake of far-reaching global interests. Central and Eastern Europe today, after the Russian aggression against Ukraine, is turned into a frontline of the conflict between the global East and West. Russian militarism, predictably dangerous and insidious, in propaganda presents its thrusts as a reaction to the militarization of the region by the NATO forces. The annexation of Crimea, military invasion into Eastern Ukraine, and arms race are examples of Russian imperialist policies. Robust strategy and meaningful transformations are needed to prepare Central and Eastern Europe for future challenges and threats in a contingent geopolitical environment.

Keywords: globalization, Central and Eastern Europe, sustainable development, multipolarity, hybrid war, terrorism

Received: March 12, 2020; accepted: April 18, 2020
Introduction

The concept of the Central and Eastern Europe (CEE) was crystallized in political geography after the World War II when Winston Churchill identified “these Eastern States of Europe” as the lands behind the iron curtain (Wolff, 1994). Originally it described the European part of the Soviet Union and satellite countries on the continent. After the dissolution of the USSR, former Soviet republics and ex-members of the Warsaw Pact started democratic reforms in a rush to join the family of European nations (Taylor & Flint, 2000) and preserve their independence under the protection of EU and NATO.

This paper is aimed to research the historical and geopolitical trajectory of CEE, as well as the further role of Central and Eastern European nations in the sustainable development of Europe and contemporary multipolar world, led to future by the great powers, such as European Union, United States, China, and Russia.

Literature in the field suggests that CEE today is a likely contested region than a player at the international stage.

Describing the interwar power balance in the first half of 20th century, Snyder wrote that Berlin and Moscow were launched colonization of the region, exploiting “the Ukrainian breadbasket” and dividing Poland where Pilsudski attempted to prevent the colonization looking at the lands between Russia and Germany as independent political subjects whose history was linked to Poland, and whose leaders, especially in Ukraine and Belarus, should wish to reunite with a new version of the old Polish–Lithuanian Commonwealth (Snyder, 2012).

Applebaum claims that the term “Eastern Europe” is not a geographical term but an outdated political term that belongs to a particular historical period between 1945 and 1989. She proposes to avoid the term because it became negatively stereotyped and because Eastern Europe is no longer a single entity. Poland, Czechia, Slovakia, Hungary, and the Baltic states succeeded in radical reforms, leading to liberal democratic capitalism and EU membership. Ukraine, Russia, and Moldova became crony capitalist societies whose businessmen make money not through economic competition but a symbiotic relationship with corrupt state bureaucrats; in Belarus, despotism was re-established (Applebaum, 2013). It seems that, in her view, CEE countries should either become provinces of Western Europe or remain outside, in the Eastern neighborhood. On the contrary, Horbulin explains the Russian aggression revealed inefficiency and indecisiveness of the European Neighbourhood Policy, which turned out to be unable to prevent and mitigate the risks for Europe in the Mediterranean and Eastern European regions (Horbulin, 2017).

Sakwa notes that the era of globalization is accompanied by deepening disjuncture and contradictions, and European leaders have no coherent response, apart from new “iron curtain” dividing the Atlantic community from Eurasia (Sakwa, 2016). There is a view that Ukraine is the country divided like cold-war Germany by the Berlin Wall, a battlefield between Russia and the West (Higgins, 2017).

Ștefan et al. argue that new members of the EU from CEE have a lower level of economic development compared to Western Europe and are more dependent on foreign capital, given their need to implement policies that contribute to sustainable, harmonious, and socially inclusive economic growth (Ștefan et al., 2019). This view leads to the conclusion that dependence on foreign capital is a strategic weakness of CEE countries, especially those with crony-capitalist economies, making them vulnerable to the influence of economic superpowers with their geopolitical agendas, like United States, China, and Russia.
So, researching CEE trajectory, we should understand which concept of CEE is the most reliable, as a contested borderland or as a geopolitical actor; what internal and external forces drive regional politics, and whether they bring sustainability or contingency into Europe; what kind of legal and political framework is needed to ensure peace and welfare for CEE nations.

**Analysis and Discussion**

The greatest paradox of geopolitical contingencies is that the main source of it lies in the attempts to build some hegemonic sort of the world order; for example, the nations started WWII in 1940 Berlin Pact wrote that their ultimate goal is the world peace, in which “all nations in the world be given each its own proper place.” Along with dangerous quarrels between the great powers, chaotic violence such as terrorism and international crime (sometimes used as an instrument of geopolitical manipulations), plus ecological emergencies like climate change and the recent pandemic of COVID-19 are factors destabilizing CEE and whole Europe.

The new coronavirus disease has come suddenly and unpredictably from China. The controversy around the origins of the pandemic, mutual allegations that the “Chinese virus” or “USA virus” is bioweapon are typical manifestations of our disturbing era of hybrid wars and conspiracy theories. Proper international investigation of these allegations by the experts of competent UN bodies is needed to find the truth. However, it well may be found that no facts but pure propaganda underlies such accusations. In recent years, after China started the Belt and Road infrastructural initiative in which CEE constitutes a significant cluster of foreign direct investment network (He & Cao, 2019), U.S. media called the initiative “expansionist” and increased criticism of geopolitical rival without any hesitation to denigrate China.

After the collapse of the USSR, China has confidently occupied the niche of the independent player in the world political arena. In contemporary realities, China’s role in global politics is strong and prominent. This can be explained by the powerful development of the Chinese economy, technological leadership, robust military doctrine, possession of the newest military weapons. Their military industry shows dynamic growth and multiplication of the branches of production of advanced battle systems.

China relies on its development exclusively on its own strength, competing with the main imperialist and hegemonic states of the world, namely Russia and the United States, at least in the assessment of the Central Committee of the Communist Party of China. Chinese people have their own concept and ideology of the world order, and they are taking practical steps to secure their global leadership and influence, creating global mechanisms of economic, political, and military leverage. It works; for example, in 1997, the UK returned Hong Kong to China after 156 years of colonial rule. Chinese influence spreads through the proliferation of numerous ethnopolitical communities around the world. Chinatowns thrive in lots of cities, including the economic centers of Europe, the USA, and Russia.

Having more than three millennia of written history, China survived old divisions and created a remarkable culture of community life. The idea of order was a cornerstone of ancient Chinese political thought preserved for today in the popular philosophy of Confucianism. In the current political doctrine, China sees itself as the center of the existing world, considering other countries as “poor” both in the context of history and in modern realities. Communists claim that the doctrine of Atlanticism is outdated and hardly appropriate for Asian countries, especially because “the liberal hegemony” is based on contradictory and false individualistic values that ruin families and society. Strong governance, discipline, paternalism, traditional
family, and communist morality are firmly rooted in the minds of the overwhelming majority of Chinese people to be symbols of success in the 21st century.

Indeed, China managed to build a powerful economy, the first in the world ranking of GDP by purchasing power parity, and to invest a significant part of the wealth to the long-run projects almost everywhere in the world. Investing in strategic sectors of foreign economies, China protects its economy. China’s economic assistance in Africa and Asia is a part of the global security strategy aimed for military dominance at the north of the Indian Ocean and over key trade routes of East and West, like in ancient times the Great Wall of China was built to protect the Silk Road. The Islamic world, as a traditional trade partner, accepts Chinese protection and demonstrated its loyalty many times, including silent disapproval of the scandal at the West concerning the detention of Uighur Muslims in the communist re-education camps.

China maintains intensive trade, with the USA being its biggest foreign creditor. Therefore it avoids direct conflict with the United States but helps Moscow to oppose Washington to contain Atlanticist efforts aimed to achieve military domination in the world. One of the results of the policy is the indifferent reaction of Beijing to Russian aggression in Eastern Ukraine and annexation of Crimea. China abstained from voting for the United Nations General Assembly Resolution 68/262 “Territorial integrity of Ukraine” and took no steps to support Ukraine contrary to security assurances given in 1994 when Ukraine became a party to the Nuclear Non-Proliferation Treaty.

Similar security assurances were given to Ukraine in Budapest Memorandum by U.S., UK, and Russia; the last after its military aggression against Ukraine tried to blame the United States for an alleged coup in Kyiv. War in Ukraine exposed the vulnerability of CEE and a whole system of international relations where the major players can breach their obligations and oppress neighbors remaining almost unpunished; only economic sanctions were imposed on Russia by European Union and the United States, but not compelled Moscow to withdraw its troops from Donbas and Crimea.

Ukrainian nuclear capacity in the 20th century was the third in the top of world rankings. Still, our peace-loving nation voluntarily decided to renunciate of nuclear weapons in exchange for security guarantees of Budapest Memorandum. However, one of the signatories to the memorandum launched aggression against Ukraine and other signatories in times of need demonstrated reluctance to support Ukrainian defense from Russian aggression, started in 2014 when president Putin was formally permitted by the Federation Council to conduct military operations in Ukraine. Former U.S. ambassador to Ukraine, John Herbst, said, “the Budapest memorandum did not guarantee Ukraine security.” Strobe Talbott, former U.S. Deputy Secretary of the State, who pled the negotiations on the memorandum, later explained that the document does not mean the U.S. is willing to come to the defense of Ukraine if it is attacked militarily (Atlantic Council, 2017).

Not only Ukraine targeted by direct military aggression, but CEE and the whole world now became the battlefield of Russian-incited hybrid war, including economic warfare, propaganda efforts, and secret operations. Kremlin openly intends to oppose NATO presence in CEE, including American troops in Poland, Romania, and the Baltic states; in the Russian view, it violates security assurances against NATO expansion to the East given in 1990-1991 to Soviet leaders (Savranskaya & Blanton, 2017). In the eyes of Russian leaders, such vague reason can excuse annexation of Crimea and deployment of a powerful military contingent, unleashing war in Eastern Ukraine. The global community, however, remained almost unanswered.
the challenge to international legal norms, historical and cultural traditions of Europe, and universal human values.

Imperialist ambitions of Russia and intentions to claim dominance over the post-soviet region led to six-year hybrid war in Eastern Ukraine, bloodshed killed more than 14,000 victims and turned to seek sanctuary near two millions of refugees. Russian aggression in Ukraine is not a genuinely unique situation but a continuation of the chain of tragic events in Afghanistan, Iraq, Syria, Moldova, Armenia, and Georgia. Frozen military conflicts of a destabilizing nature in Donbas and Transnistria undermine the security of CEE. World turmoil is caused by legal nihilism and unilateralism of undemocratic leadership. It is a dangerous tangle of global problems, which require effective international legal and political solutions.

Unfortunately, international legal bodies have not given a clear answer to complex vital problems and questions, for example, concerning safeguards against abuse of the right to self-defense and limits of the breach of national sovereignty under the performance of doctrine of humanitarian intervention, that Russia deceptively claimed when invaded Ukraine. United Nations works properly when the great powers are interested in it; in other cases, like in frozen armed conflicts in CEE, it relegated to the role of the passive observer.

Neither UN Charter nor UN GA Resolution 68/262 mentioned before aren’t prevented Russia from aggression against Ukraine. Another example of the weakness of international law in regard to maintaining peace in CEE was almost neglected Security Council Resolution 1244 (1999) on the situation relating to Kosovo. The Yugoslav Wars was a difficult test for Europe’s democracy and unity. For the first time since its inception in 1949, NATO resorted to the mass bombardment of European cities. The legitimacy of the military operation was highly disputable; the issue deepened division in the international community and provoked further violent hostilities. The Balkans is a strategic interconnection of routes from Europe to Africa, Asia, and the Middle East, many geopolitical interests are intertwined there, and it is important to maintain balance.

Tragic events at the Balkans in 1999 created a precedent on a global scale, threatening the existence of the United Nations, a global organization designed to achieve universal peace, security, and friendly cooperation among all nations on the base of respect to international law and human rights. The world saw relentless killings and destruction, blood, tears, spreading of fear, and the dark side of globalization. It provoked a kind of chain reaction, a rise of cruel policies, authoritarian regimes, and international crime, the greatest of which is terrorism, horribly demonstrated its inhuman nature by killing near three thousand people during September 11, 2001 attacks on World Trade Center in New York.

It became quite clear that everything in the world is interconnected; one injustice causes another. When hegemonic ambitions of the great powers undermine peace and unity of peoples, it brings no good to anybody, including modern imperialists. And yet, instead of geopolitical modesty, we observe new attempts to oppress the world, arrogant claims of military, economic, and political superiority. Motion pictures and mass media cultivate a vision of the world where killings and aggression are a usual part of everyday life. The new generation of politicians has grown up with ambitions of domination, in the absence of perception of universal human values and culture of peace. They inflate arms race, ready to use new dangerous types of weapons to win the war at any cost.

The forceful imposition of imperialist agendas in CEE under deceptive slogans of “compulsion to peace,” “protection of the Russian world,” “re-education,” “prevention of humanitarian catastrophe” contradicts the very foundations of the rules-based international
order. It is a slippery slope, a path into the abyss that leads to the global catastrophe. Someone calls it the new world order, but it rather seems like moral corruption causing total chaos.

Sustainable development of CEE nations is unthinkable in the case if the region remains contested borderland of the great competing powers, Jurassic park of crony capitalism, and snake nest of terrorists and other organized crime. No nation in the region is strong enough to prevent negative tendencies unilaterally. Instead of surrendering one by one to the humiliating role of buffer states, CEE countries should take effective collective measures as UN Charter suggests. There are historical and cultural preconditions for regional cooperation since the vast majority of Eastern Europeans are Slavic in their linguistic and ethnic origin.

The term “Central and Eastern Europe” has not only political dimension, but historical, cultural, geographical, and logistical meaning. Indeed, CEE’s position in the center of Europe and between the seas is uniquely placed on the crossroads of the global East and West, as well as the global South and North. The political unity of the region was forged from the Early Middle Ages, in particular by the statesmen of the Kyivan Rus and Polish–Lithuanian Commonwealth, and cultural cohesion emerged in the late 18th century during the Enlightenment. The Jagiellonian idea of the multinational geopolitical alliance in CEE is popular in contemporary Poland; it was supported by Presidents Aleksander Kwaśniewski and Lech Kaczyński, Ambassador Jan Piekło, prominent historian Oskar Halecki, and others (Boichenko, 2020).

There is a puzzle of European integration of CEE, namely, can the region fairly become European remaining also Eastern. On the other hand, there are no clear boundaries between the Western, Central, and Eastern nations of Europe, rather there are symbolic differences. With regard to Ukraine, it considered Eastern European country, but Western Ukraine geographically belongs to Central Europe; this includes Transcarpathia, Lviv, Ivano-Frankivsk, Ternopil, Chernivtsi. In the texts of Western European intellectuals and travelers of the Enlightenment, politically and ethnically diverse CEE was described as a large, neglected region, sandwiched between Europe and Asia, civilization and barbarism. Renouncing communist utopia of the Soviet Union and launching democratic nation-building, CEE chose European civilization, but this choice, for now, have a little chance to be realized.

Regional cooperation in CEE is especially relevant because it can resolve the puzzle of European integration. For example, Polish diplomats promote aspirations of Ukraine to join the EU and economic partnership between Belarus and EU, but Western Europe reacts coldly to this advocacy; as explained Jakub Wolski, it is due to lack of geographical proximity and close historical relations (Bergedorf Round Table, 2005). Collective efforts can help CEE to gain the trust of Western Europe.

**Conclusion**

The notion of CEE as a battlefield of superpowers struggling for military and economic domination is related to various policies: Russian Pan-Slavism, Eurasianism, and energetic hegemony; Chinese Belt and Road initiative; and the Atlanticism, promoted by the United States. Europe is targeted by hegemonic ambitions from outside, and torn apart by the internal struggle for power and non-systemic sources of contingency like terrorism and international crime. International law, world economy, military alliances, and current institutions of the rules-based global order are not suitable enough and must be reformed to deal with the new challenges like hybrid wars, global pandemics, and chaotic violence.
The geopolitical trajectory of CEE in historical perspective shows the movement of different nations towards cultural and political cohesion, for the progress of European civilization. However, further motion through the trajectory is slowed down by the great powers imposing their own political and economic interests, very far from the care about sustainable development of Europe and the whole world.

The vision of CEE as a buffer zone between Russia and the EU underestimates the strategic potential of the Central and Eastern European nations. So, all the people of CEE should take democratic control over their own destiny and claim the right place at the international stage. It is a hard task, especially during Russian aggression against Ukraine, but there is no alternative to our European choice.

Building a sustainable system of international relations in CEE, we should avoid the recurrence of past controversies and contradictions, commemorating common historical evolution, jointly confronting hybrid challenges and threats of today. Economic cooperation is especially needed to strengthen regional well-being and fix the greatest vulnerability of CEE nations before foreign influence on corrupted elites, economic warfare like Russian energy hegemony, and temptation to surrender sovereignty in exchange for financial assistance of economic superpowers.

CEE needs new architecture of partnership in economic, political, and military spheres on the basis of European values, commitment to democracy, human rights, the rule of law, and welfare of the people. Also, we should pursue strengthening of the UN system and the International Criminal Court to make international law completely enforceable, prevent aggressive wars of hybrid nature, and ensure accountability of perpetrators, committed crime of aggression.

International cooperation and call for the fairness of rules-based international order will secure the geopolitical status of Central and Eastern Europe as a key player at the international stage with independent voice in EU and NATO, capable of contributing to global sustainable development, building peace and prosperity on the Earth.

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He, Q. and Cao, X. (2019) Pattern and Influencing Factors of Foreign Direct Investment Networks between Countries along the “Belt and Road” Regions. Sustainability. 11(17), 4724.
The outbreak of COVID-19 has plunged China and the world into a dilemma in dealing with sudden social and public health incidents. The epidemic has affected both the economy and society as a whole. From the perspective of the principle of precautionary, the existing legal framework for public health security has three major dilemmas, namely, lack of information regulation, unbalanced decentralization regulation, and lack of effectiveness regulation. In order to better cope with the epidemic situation caused by the novel coronavirus, the legal system of the public health system should be reconstructed from the three dimensions of perfect information regulation, decentralization regulation and effectiveness regulation to deal with the crisis.

*Keywords: coronavirus, precautionary principles, public health safety, legal system framework*

Received: February 28, 2020; accepted: March 26, 2020

**Introduction**

At the end of December 2019, an unknown virus began to appear. After the coronavirus was recognized and worried by the public, the new virus epidemic has already started to sweep across China. According to the official data released by the National Health Commission, the cumulative number of confirmed cases in Wuhan City, Hubei Province is 67,803, with a cumulative total of 3,219 deaths, and the number of diagnosed cases in 31 provinces and Xinjiang Production and Construction Corps are 82,052, with a total of 3,339 deaths. However, this data is still increasing and fluctuating. Confronting unknown viruses and diseases, mankind seems to be in a dilemma: where did viruses come from? How did it spread? How should we face the challenge and solve unknown problems? With the current level of human knowledge...
and technology, it is impossible to predict the scope of the problem (Tan, 2020). “Every time the threat becomes more urgent and obvious, we find ourselves unable to use scientific, legal, and political measures to determine evidence, find the cause, and remedy it” (Zhao, 2009). The “Precautionary Principle” comes from the book “Risk Society Towards a New Modernity,” published by the German scholar Ulrich Baker. It first proposed the risk society theory, and the principle of precautionary was reconstructed under this theory.

To deal with the unknown viruses and diseases, we should change our strategy from the past dangerous response to risk prevention and take precautions. The fear and confusion of the unknown virus is pushing us forward in accordance with the “precautionary principle.” Social development has shifted towards a risk society, and the principle of prevention using law as a measure should also be adapted to the needs of the formulation of the precautionary principle. The Chinese “Public Health Emergency Response Regulations,” “Infectious Diseases Prevention and Control Law,” “Emergency Response Law,” “Border Health and Quarantine Law,” “Animal Epidemic Prevention Law,” and other legal norms have not yet been fully adapted to the requirements of the precautionary principle. Therefore, this article mainly takes the most representative “Public Health Emergency Response Regulations,” “Emergency Response Law,” and “Infectious Disease Prevention and Control Law” as examples to discuss the response to imperfect public health laws issues, and then discuss the construction of the legal system framework.

**Analysis of the existing legal framework for public health safety**

The legal framework is divided into form and substance. The formal legal framework is the composition form of a law, and the substantial legal framework has different frame models according to different classifications. This article analyzes the framework according to the implementation form of the law and the implementation subject, and classifies the legal framework into an information adjustment framework, a decentralized adjustment framework, and an effectiveness adjustment framework. The so-called information regulation framework is to analyze how the information network of the relevant government department operates in the legal process when responding to prominent social public health events; the so-called decentralized regulation framework refers to the regulation stipulate the division of the powers of law enforcement actions by different actors responding to public social emergencies. The so-called effectiveness adjustment framework refers to the aspects in which the effectiveness of the existing social public health emergencies is mainly reflected and what are the lacks of legal norms that fail to achieve effective purposes. When a health emergency occurs, the role of the information network as a central hub is to drive different government between the upper and lower levels, and between the same levels to take immediate response to the outbreak. And when the information network has covered the law enforcement agencies at the upper and lower levels and at the same level, it has promoted its decentralization. The final validity adjustment is the expected legal effect that can be achieved after the completion of the preliminary actions prescribed by the law.

(1) **Analysis of information adjustment framework**

The information regulation framework pointed out that in this article refers to the hierarchical reporting system of sudden social and public health events procedurally. As a public authority department, the government plays a leading role in emergency events, with
which reporting on the epidemic is particularly important. Crises in public health emergencies will pose a serious threat to the basic values of social systems and the framework of the code of conduct. Urgency and high uncertainty call into question the ability of the government to respond to force majeure circumstances (Zhu & Peng, 2020). “The Emergency Response Law” divides emergency events into natural disasters, accident disasters, and public health events according to the degree of social harm, impact range, and other factors. As well as emergency situations, are divided into four major levels: particularly significant, major, large and general. The coronavirus is a public health event, and it should be classified as a particularly significant public health event according to its damage. According to the Chinese “Regulations on Emergency Response to Sudden Social and Public Health Incidents,” under ideal circumstances when a suspicious infectious disease occurs in an area, the State Council needs to be informed and altered within 9 hours. If the new crown epidemic is passed on from person to person within 9 hours, if no emergency response measures are taken, hundreds of people will be affected. To this end, China has formulated the “Technical Specification for Direct Reporting of the National Health Statistics Network,” which is a VPN private network established using national public data network resources. In addition, the general public cannot access the intranet to supplement health information data (Zhou & He, 2009). As far as the occurrence of the coronavirus epidemic is concerned, the doctor who first discovered the unknown virus from Wuhan Central Hospital, was not clear whether he has the rights and responsibility doctor belongs to report to the higher authorities directly. Therefore, when the relevant doctor found the suspicious virus, it did not immediately draw attention, nor take immediate response to emergency measures. As a result, it may be one of the reasons for missing the best opportunity as well to control the spread of the virus.

(2) Analysis of the decentralization adjustment framework

The decentralization adjustment framework referred to two aspects. One is the relationship between the central government and the local government; the other one is the relationship between the local government and the health administrative department at the same level. The basic organizational form of a modern country is a bureaucratic organizational form, the core of which is that the central government has the power of administrative planning, especially in the power of personnel arrangements and resource allocation (Zhou, 2011). In response to sudden social public health incidents, the central government is in a dominant position in emergency response and emergency plan setting. The specific manifestations of this bureaucracy include, the emergency response work of emergencies implements the principles of unified leadership and hierarchical responsibility; the State Council establishes a national emergency response command headquarters; the State Council administrative department of health in accordance with the requirements of classification guidance and rapid response, formulate National emergency plans for emergencies, and submitted to the State Council for approval; the state establishes a unified emergency prevention and control system and other aspects. This form of responding to emergencies in social health is “bar-shaped,” and the form itself shows that the central department is not only simply a decentralized person, but also a supervisor and a direct participant (Yu, 2016). In the legal provisions, due to the unclear division of responsibilities between the central and local governments, only at a certain level, the governments of provinces, autonomous regions, and municipalities directly under the central government are authorized by the central government in accordance with the national emergency response plan, combined with actual local conditions Formulate emergency plans.
for emergencies in this administrative area. The relationship between the local government and the health administrative department at the same level is mainly to divide the responsibilities in response to the “tragedy of the public land” and the “prisoner’s dilemma,” which reflects that the individual’s rational strategy might lead to the collective irrational ending (Ostrom, 2000; Bazaluk et al., 2020). As the main body in response to the sudden public health incidents in the law of the local governments at various levels and the health administrative departments at all levels, their division of responsibilities is particularly important during the response to the epidemic.

The division of responsibilities is shown below:

<table>
<thead>
<tr>
<th>Enforcement subject</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government departments at all levels</td>
<td>Responsible for publicity and education; implementing emergency contingency plan requirements; responsible for technical investigation, confirmation, handling, control, and evaluation of emergencies</td>
</tr>
<tr>
<td>Health administrative department</td>
<td>Publicize and educate the personnel of medical institutions; be responsible for formulating emergency reporting standards for emergency; release emergency information to the society</td>
</tr>
<tr>
<td>Joint responsibility</td>
<td>Appropriate subsidies and health allowances should be given to medical and health personnel participating in emergency treatment; emergency personnel should be commended and rewarded for contributing to emergency treatment; sickness, disability, and death caused by participating in emergency treatment In accordance with the relevant regulations of the state, the employees are given corresponding subsidies and pensions.</td>
</tr>
</tbody>
</table>

It can be confirmed from the above figure that government departments at all levels are mainly responsible for the implementation of emergencies and implement the actual level of the emergency plan requirements. The administrative department of health is responsible for formulating technical specifications, which follows its original purpose. However, under the actual operation of the epidemic situation, the main body and procedures for publicizing the epidemic situation, as stipulated by laws and regulations, are inconsistent in actual implementation. Since the occurrence of the epidemic is divided into different levels, it is difficult to implement the procedures for the announcement of epidemic information and the implementation of the procedures for the announcement of the epidemic at different levels and types. However, the announcement of the epidemic situation is an important measure that traps the hearts of the people of the country. For the people in the non-epidemic area as well as the people in the epidemic area, the development trend of the epidemic situation and on-time news is crucial.

(3) Analysis of effectiveness adjustment framework

The validity adjustment framework referred to the legal effects that can be produced by the existing legal framework system, including effective legal effects and invalid legal effects.
Among these, the invalid legal effect is mainly due to the lack of validity of the legal framework. Consequently, the analysis of the effectiveness adjustment framework is to break through the legal effects of the formal aspect and face the legal effects of the substantive aspect. On the other hand, the effectiveness adjustment framework is to distinguish the actuality level of the legal system, and the formality should be changed to actuality, so that the lack of actuality will become one of the reasons why the risk cannot be estimated before the outbreak.

China has experienced and learned the lesson from the “SARS” epidemic and formulated relevant laws and regulations to prevent prominent social and public health incidents. These laws and regulations have played an extremely important role in combating the epidemic. Its effectiveness mainly reflects the compensation for the past epidemic reporting system, the emergency response system to respond to the epidemic, and the epidemic situation announcement system. The perfection of institutional norms has greatly contributed to limiting the spread of the coronavirus, which also made China the first country in the world to effectively control the exacerbation of the epidemic. In the aspect of effective regulation, there are inevitably opposite examples. For example, the specific manifestations include the failure to formulate a perfect emergency plan in the legal norms, and the failure to establish a unified emergency disposal command system in accordance with relevant laws. Various normative documents have irregularities, uncoordinated measures, and even violations of laws. They mainly address the problem of inadequate filing and review of regulatory documents for epidemic prevention (Xia, 2020). In addition, the legal provisions for responding to social health emergencies do not confer appropriate law enforcement power that can adapt to the specific conditions of each region. In this respect, the epidemic situation cannot be resolved by local measures.

**Three dilemmas under the principle of precautionary**

Through the analysis of the legal framework, it is found that the relevant laws and regulations used to deal with sudden social public health incidents have flaws. Imperfect laws and regulations will bring corresponding problems, that is, the actual implementation of emergency operations and risk prevention. The outbreak of the COVID-19 epidemic is a national crisis and an era crisis affecting society, politics, and the economy. Under panic, the local government and the central government are the core to deal with the crisis and the center for coordinating social stability. When facing the crisis, the local government should realize that the crisis may become a regional or even a global crisis. Therefore, when facing a crisis, local governments, and health administrative departments at the same level should increase awareness and be alert of the importance of risk prevention. However, the regulation and behavior of the government and administration of health administrative departments mainly stem from the regulation of laws and regulations. Due to the blank of information regulation, the imbalance of decentralization regulation, and the lack of effectiveness regulation in China’s current laws and regulations, when facing the new outbreak of the epidemic, we still went through many detours in the face of crisis.

(1) **Lack of information regulation, lack of preventative measures in emergency**

To understand the principles of precautionary, we must first distinguish between the definitions of “risk” and “danger.” The focus of modern administrative law on public health incidents is to prevent hazards, and the terms “hazard” and “risk” are in the meaning and
governance Modes belongs to different categories. “Danger is a situation in which, during the foreseeable time, with a high degree of probability that damage will occur in the course of uninterrupted facts; if empirical rules have not yet determined the possibility of damage, it cannot be scientifically excluded, and the possibility of its occurrence belongs to the category of risks. The resulting problem is how to deal with uncertain risks, the law with the protection of legal interests as the core” (Zhang, 2020). Therefore, when dealing with dangers and risks, the measures and intensity it takes are quite different. On the other hand, the prevention, management, and decision-making of risks all belongs to the administrative category of order. Because of the abstract nature of risks, they are not the actual damage that occurs in detail; as a result, they cannot be specified in the law, while this gives administrative agencies the discretion to adopt policies to deal with risks. The Emergency Regulations for Public Health Emergencies are formed to effectively prevent timely control and eliminate the hazards of public health emergencies, to ensure public health, safety, and maintain normal social order. The basis of its formulation contains the meaning of hazard prevention. However, prevention of hazards is different from risk prevention and might have different effects at the practical level. For example, in the initial stage of the outbreak, the acceptance of outbreak information was within the discretion of the relevant departments. When “Unknown Pneumonia” was proposed by some groups, the relevant departments were hindered at the initial stage of transmitting information because they did not consider risk prevention. From the framework analysis, it can be seen that the time taken for the information source of infectious diseases to be reported to the State Council and transmitted to its neighboring provinces, autonomous regions, and municipalities are already highly valued. Nevertheless, if it is hindered in the initial stage of information transmission, it might lose the best opportunity in control of the epidemic situation. The outbreak of the coronavirus epidemic happened right. During the Spring Festival period with the largest number of mobile populations in China, and it began on the eve of the Spring Festival. It can be seen from which the importance of risk prevention to information regulation. On account of the core of laws and regulations has not been transferred to the core of risk prevention, and the disorder of information regulation cannot play its stabilizing role. The root cause of the maladjustment of information lies in national activities, which may become an origin of risk. If the government’s discretion on public safety emergencies is not regulated and controlled, it will become an unpredictable risk diffuser and a source of specific damage. The reason is that the government’s remarks will affect the public’s response to public health incidents and the extent to which medical institutions and media attach importance to the incident. To deal with “risk,” we must adopt different system construction from “dangerous” response, so as to form perfect response measures in different situations.

(2) Decentralization adjustment imbalance, lack of coordination in emergency

The disease is still spreading, and the emergency measures are not only in the epidemic area but also in the non-epidemic area. The cross-regional characteristics of emergency measures mean that the coordination and cooperation between them is extremely necessary, and the imbalance of decentralized regulation might lead to a lack of coordination in emergencies, and corresponding problems may occur during the implementation of emergency measures. In the course of this epidemic, the imbalance of decentralization is mainly reflected in:

1. The imbalance between central and local decentralization, which in decentralization between the central and local governments, is mainly reflected in the emergency
reporting system. Local governments or grass-roots health authorities can only report through layers when they discover “unknown pneumonia.” The central government will eventually formulate an emergency plan system. The local government can only carry out the implementation according to the plan formulated by the central government. Whether it is the new coronary pneumonia or the SARS virus this time, its ability to spread and speed are extremely high and fast. At this time, the local government needs immediate response to the unknown virus in time to prevent the risk of transmission. For a modern government that undertakes public management duties, the emergence of a crisis is a warning signal. If an organization can grasp the opportunity of a crisis and respond quickly to the causes of the crisis and the crisis management process, the crisis can be a rational and dynamic government. In other words, it can become an external driving force for public policy improvement (Xue & Zhang, 2003).

2. The division of power between the local government and health authorities is unbalanced. The imbalance of decentralization adjustment is reflected as well as in the imbalance of power division between local governments and health authorities, and it is mainly due to the unclear provisions of laws and regulations. In the analysis of the legal framework, it was found that, theoretically speaking, local governments and health authorities have their own duties when responding to the epidemic and have their own exclusive jurisdictions. Yet still, in the actual operation process, it may encounter more problems than the law requires, and its jurisdiction and power division needs to be further refined. For instance, in response to an outbreak, there is no unified emergency response command institution. Local governments and health authorities have their own duties and are lack of cooperation with each other. As another example, in the face of epidemic reporting, the law only stipulates that the health administrative department is responsible for formulating reporting standards, and government departments are responsible for the control and evaluation of the epidemic. It is not clear which department should report the level of the epidemic at different levels and who should report between the government department and the health administrative department between different levels. At the beginning of the coronavirus, data release was faced with problems. Notably, the untimely release of data in the epidemic area would lead the public to lose their trust in the government and to cause panic.

(3) Lack of effectiveness adjustment and lack of overall risk prevention

Efficiency is the ultimate goal of legal norms to deal with sudden outbreaks. Achieving the effectiveness of epidemic control and public stability is the ultimate destination of legal norms. The relevant laws and regulations formulated by our country in response to the SARS virus in response to emergencies in social public health events and infectious diseases have played an important role in response to the COVID-19. Even so, those laws still pale in front of the outbreak. - The lack of effectiveness is mainly manifested in the lack of a holistic approach to risk prevention by government departments at all levels.

Cities in closed provinces do not have enough medical equipment, basic necessities, and the necessary safety conditions for residents. Governments at all levels have successively imitated Wuhan’s relevant measures to respond to the epidemic. However, in the epidemic provinces, the economic conditions, medical conditions, and population structure differ from
different regions. When the nation’s attention is focused on Wuhan, other cities in Wuhan, such as Jingzhou and Yichang were facing a greater crisis since there is no response mode that suits the actual situation of the city. Compared with its surrounding cities, Wuhan has advanced medical conditions and more convenient transportation conditions. Still, its surrounding cities do not own, and the local government’s financial allocation also has corresponding problems. The widening of this difference has led various local governments to act independently in response to the epidemic situation in various places, and the response measures taken by some local governments are completely incompatible with the law. Article 17 of the “Administrative Compulsory Law” states: “Administrative coercive measures shall be implemented by the administrative organs prescribed by laws and regulations within the scope of statutory powers.” Administrative coercive measures shall be implemented by qualified administrative law enforcement personnel of the administrative organs, and no other person may be entrusted to implement them. In practice, it is debatable whether the rural villagers and community security personnel in some places have implemented the lawful means of enforcement spontaneously or in accordance with the instructions. Administrative law enforcement personnel in some localities do not consider the degree of the subjective malignancy of the perpetrators and the degree of social harm caused by illegal acts. Excessive law enforcement has impaired the fairness and justice of laws and regulations.

**Construction of a legal system framework for public health emergencies based on the principle of risk prevention**

The principle of risk prevention was first proposed in the 1982 United Nations World Charter for Nature, but its application is no longer limited to the field of environmental law. In the process of changing from order administration to payment administration, the government, as an assistant and servicer to the people’s happy life, should provide residents with a more comprehensive life guarantee while preventing risks. The principle of risk prevention requires decision-makers to take action when the corresponding evidence, information is insufficient or difficult to explain. It is granted to administrative agencies to judge whether there is a risk that needs to be prevented according to their own professional knowledge (Zhao, 2009). The emergence of law enforcement disorder in the case of disease outbreak is mainly due to the difficulty of government organizations to identify and manage emergency public health events and emergencies, as well as the lack of infrastructure construction. As a result, the outbreak of disease requires adjustment of the legal system, and the establishment of a legal system for public health emergencies based on the principle of precautionary.

**(1) Improving the information regulation framework and realize risk prevention**

The information regulation framework is the central hub for spreading information in response to outbreaks when the disease occurs. This central hub affects the administrative actions of the government and various health administrative departments. It can also affect the guidance of the people by the news media and public opinion. At the stage of the outbreak, the most fundamental thing is to rely on the transmission of information to arouse the vigilance of the relevant government and the person in charge to take precautionary measures.

First of all, improving the information regulation framework first requires shortening the time for information transfer. In response to the occurrence of an emergency epidemic, it should be able to report from the grass-roots to the central government within a short period of time,
and the direct reporting system currently adopted in China is to report at the internal network level. This is not conducive to the prevention of sudden outbreaks, and the transmission speed of online public opinion should be faster and more accurate. When the “unknown pneumonia” claims spread on the Internet, the official has not yet determined the authenticity of the news, and the best way to shorten the reporting time is for the grass-roots government or health administrative department to confirm its source and report it across levels. Due to the administrative operation system of “bureaucracy,” the central government must issue general orders, and the central government will obtain information on the epidemic situation to other provinces, autonomous regions, and municipalities in the shortest time.

The efficiency of the municipalities directly communicating information with each other is more rapid.

Secondly, improving the information regulation framework requires laws and regulations to strictly distinguish between “risk” and “danger.” For example, a well-known disease or natural disaster should be defined as a “danger category.” The most fundamental purpose of dealing with the danger category is to eliminate the danger. The response to “risk” is in the unpredictable range and intensity of communication of the relevant government departments. The outbreak of the coronavirus cannot be predicted before its outbreak, but when it has characteristics similar to SARS, it is necessary to take preventive measures when it is distinguished from ordinary pneumonia by professionals. It is impossible to ask experts to determine the source of a disease or even formulate a treatment plan in a short period of time, but we should be able to determine whether it has potential dangers. Under a risk society, government departments, as the implementers of administrative tasks, should even consider the existence of risks. Therefore, the definition of risks in laws and regulations should be adjusted in a timely manner to enhance its preventive function.

(2) Improve the decentralization adjustment framework and enhance coordination

Emergent public health incidents generally belong to the category of public affairs, and the management belongs to the state. Private individuals do not have the corresponding enforcement power. Consequently, citizens give the state the power to exercise. The state should be a trustee with respect to the environment, that is, manage, protect, and use trustees in good faith (Keith, 2000). However, as a whole, the state is still an abstract concept in the actual implementation process implemented by various departments and administrative agencies. In response to the epidemic situation, the main body of the emergency plan includes the vertical central and local governments, as well as the horizontal local governments and health administrative departments. Therefore, the division of its power and function is the best way to avoid the “tragedy of public land” and “prisoner’s dilemma.”

First of all, the division of emergency law enforcement between the central and local governments should be resolved. In the current public health emergency laws and regulations formulated by our country, the separation of duties and responsibilities is small between the central and local governments, but more focused in local initiatives after the central government has given instructions. However, in actual operation, due to the serious epidemic situation, commonly, there will be joint enforcement by the central and local governments. When the joint enforcement by the central and local governments occurs, the local government will lose its right to speak. However, local governments at all levels have a higher level of understanding than local areas, so the division of responsibilities between the central and local governments should be clearly defined in the emergency legal system.
Secondly, the division of responsibilities between the local government and the health administrative department at the same level should be distinguished clearly to avoid overlapping powers and law enforcement vacuums. Although the division of responsibilities between the health administrative department and the local government is clear in the law, in the actual law enforcement process, the lack of refinement somehow leads to chaotic law enforcement. Therefore, the construction of new laws and regulations to deal with sudden unexpected social and public health incidents should focus on a deeper level of subdivision and make provisions for liability. Only when the functions and the consequences of responsibilities can be specified clearly, can the administrative enforcement of various departments be more efficient.

(3) Improve the effectiveness adjustment and enhance the overall

The most fundamental measure to improve the effectiveness of adjustment is to adopt measures to local conditions in responding to sudden outbreaks. Different law enforcement methods should be adopted in the face of outbreaks in different regions. Special financial allocations should be made for regions with relatively weak finances to fund medical activities of medical institutions and the people’s normal living security. Greater attention should be paid to areas with weak medical facilities, and more medical personnel should be dispatched to enhance the supply of medical equipment to ensure the health of medical personnel. As far as the fiscal part is concerned, local finance can be appropriately relaxed to allow it to use taxation legally and reasonably for local relief. However, adapting to local conditions does not mean that we are independent, since everyone is connected, and global awareness should be gradually being heightened. Government departments must recognize the spread and cross-regional risks.

Conclusions

On the issue of how the law responds to sudden social and public health incidents, three response mechanisms are proposed within the existing legal framework system, that is, to improve the information regulation framework, the decentralization regulation framework, and the effectiveness regulation framework. Since 2003, China has paid attention to sudden social public health incidents and formulated a series of laws and regulations to respond to emergency moments. However, in this epidemic, the old laws and regulations are no longer adapt to the large-scale outbreak of infectious diseases. The imperfect information reporting mechanism has hindered the risk prevention of the COVID-19 situation, so that the risk expansion has quickly become a threat. The chaos brought by the epidemic also provided opportunities for illegal administration, and excessive law enforcement infringed upon the rights of citizens, which led to reconsidering the old decentralized regulation system. Finally, under the great success of China’s fight against the Coronavirus, it is also necessary to reflect and decisively summarize the detours in fighting the epidemic. Effectiveness also requires Pareto optimality in law enforcement.

The future is full of uncertainties and risks. With the deterioration of the global environment, new viruses and unpredictable natural disasters will not become extinct because of our victory in one fight. As a consequence, the construction of emergency laws and regulations should incorporate the principle of risk prevention. Of course, risk prevention does not mean excessive law enforcement. Only by accurately grasping the boundaries of risk prevention can we actively respond to crises.
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Ukrainian Revolution of Dignity perceived from a Hegelian Perspective

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The political protest against the former decision of Yanukovych to reject the Association Agreement with the EU quickly evolved into mass mobilization against the corrupt socio-political structures that dominated Ukraine throughout its post-Soviet history. For that reason, it became evident that Euromaidan showcased a historical process marking a transition towards the formation of a “prototype” civil society that has been virtually non-existent in the country’s post-Soviet era. In this article, in order to understand these underpinning historical dynamics, the event will be analysed through Hegel’s framework of the state and the historical dialectic. In this context, authors argue that the “Revolution of Dignity” is a historical turning point towards the formation of a new civil consciousness and self-identification with the Ukrainian state through laying down foundations for the creation of a liberal democratic state post-Maidan. As an important step of this analysis, Hegel’s and Marx’s concepts of history were examined. Firstly, Hegel’s view on the state made it possible to argue that the Ukrainian post-soviet state resulted in the alienation of citizens from the state. This idea was furthered by using Hegel’s historical dialectic to allow for an interpretation of Euromaidan as an antithesis to post-Soviet era. Finally, the focus was shifted towards the limitations of applying Hegel’s theoretical framework to the 21st century events.

Keywords: Ukraine, Revolution of Dignity, Euromaidan, Hegel, Marx, history, state, revolution

Received: March 26, 2020; accepted: April 23, 2020
Introduction

The Revolution of Dignity was, at the same time, tragic and glorious moment of recent Ukrainian history. It is tragic because of numerous human victims in civilians (“Heavenly Hundred”) as a result of force confrontation between people and police troops. The number of victims is still growing because later, the Revolution grew into a military conflict in Donbas, which remains escalated for five years already with no perspective for resolution within the nearest observable time. It was glorious because of a set of broad political transformations that succeeded the revolutionary events, probably the most profound since the time Ukraine got its Independence in 1991.

The Revolution of Dignity, also known as “Euromaidan,” was not the first uprising of Ukrainian people since the collapse of the Soviet Union. The first attempt to overcome the soviet, totalitarian, and suppressive way of ruling the country was made in 2004 by more than half of the Ukraine population led by Victor Yushenko. The set of protests all over the country between November and December 2004 was named the “Orange Revolution” and widely supported by the majority in Ukraine. As a result of those first transformational steps a lot of positive and progressive amendments were made to Ukrainian legislation that defined the European course of Ukraine. That first uprising never involved any armed confrontation between the parties, which essentially differs it from the second wave — Revolution of Dignity.

In both cases, the Russian Federation’s geopolitical interests were infringed that caused a set of political actions against Ukraine (gas prices war, diplomatic crisis, etc.) in 2005 and the escalation of a military conflict in 2014 (the annex of Crimea and separation of a part of Donetsk and Luhansk regions ruled by the terroristic organizations DNR and LNR). The partly-successful reforms managed by the pro-European Ukrainian leaders between 2004 and 2010, the internal political instability of Ukraine and political, economic, and diplomatic counteraction from the side of the Russian Federation lead to a political reverse and coming Viktor Yanukovych into power again in February 2010.

Since 2010 the European course of Ukraine became rather nominal then practically real. The internal and international policy of Ukraine was under the substantial influence of Russia, and, as a consequence, most of the democratic changes and steps made to leave the totalitarianism behind were suspended. Under the mask of the democracy, Yanukovych was hiding his real totalitarian “face,” which could be seen from the policy provided by his political party and methods that were used to control the fields of economy and politics in Ukraine.

The protests that eventually turned into Euromaidan started as a small political action that took place on the European Square and Independence Square in Kyiv after Yanukovych’s refusal to sign the Ukraine-EU Association Agreement in November 2013. People peacefully demanded to preserve the European Course of Ukraine. As the answer to that demand, the special police troops attacked the group of student protesters in order to intimidate people and stop the protest. This violent action became a final straw that made Ukrainian people rise again. The number of protesters was growing fast after that first attack and reached 1 million people, who demanded changes to the constitution, the Ukraine-EU Association Agreement, and Yanukovych resignation. The severe violence escalation started after Yanukovych regime started to suppress the protesters both by introducing anti-protest laws and using police to
attack the protesters. On February 21, 2014, Yanykovych signed the capitulation agreement with opposition, and soon after it, he exiled to Russian Federation. As a result of a violent escalation during the Revolution of Dignity, more than 100 people were killed and more than 1100 injured.

In the complicated and challenging historical situations, it seems to be beneficial to look for the answers in the history of Philosophy, which proved itself as a reliable crisis counselor. One of the best examples of scrutinized philosophical consideration of revolutionary changes in the societies and their historical role was done by prominent German 19th century philosopher Georg Wilhelm Friedrich Hegel (1770-1831). Another philosophical theory that attempted to clarify the same issues was developed by Hegel’s prominent follower Karl Marx. We will try to examine the phenomenon of Ukrainian democratic revolutions through the lenses of Hegelian understanding of history and see if they could be explained from such perspective and what consequences we should expect, respectively.

Written in 1820 G.W.F Hegel`s *Philosophy of History* marked a notion of history that is dialectical, resulting in an overall view that conceives the movement of history in progressive terms towards greater Human freedom. Such interpretation has given many grounds of critique and influence on later thinkers. Most notably, Hegel`s influence on Karl Marx had a profound impact on his understanding of History that adopted Hegel`s progressive view of history to arrive at his theory of social change. In this context, Hegel and Marx both envisage a progressive dialectical pattern towards greater Human freedom but present a magnitude of fundamental differences in their theories on History. Within this framework, authors claim that Hegel`s understanding of historical change needs to be understood as contradictions between ideas that result in greater human freedom, whereas Marx inverts this theory to conceptualize history as material tensions that shape progressive human freedom. This thesis will be supported by, first, establishing a comparative frame through highlighting the crucial distinction between Hegel`s absolute idealism and Marx`s historical materialism, in connection to their views on History and Freedom. Building on this distinction, it will be argued that while both use a progressive dialectical method, they fundamentally differ in their content of historical epochs. Subsequently, this idea will be furthered by examining their divergence in the choice of agency for bringing progressive change. Finally, the focus will shift towards the argument that both anticipate a distinct point of historical culmination but contradict each other in their definition of absolute freedom.

**Hegel`s and Marx`s understanding of history and historical change**

In order to fully comprehend the Hegel-Marx distinction in their particular understandings of History, it is important to place these two thinkers in their respective philosophical traditions. Here, it is crucial to bring forth the debate of idealism and materialism as two distinct ways to approach the question of interpreting history. Most notably, Hegel is known to be living in the Prussian state during the time of German idealism (Redding, 2015). However, it is important to point out that Hegel did not take an idealistic stance in the moral sense that he expects well of the world in general but “in a deeper philosophical sense that reality is ultimately thought or idea” (Williams, 2008: 558). In this regard, from the standpoint of Hegelian idealism, it is the idea in the abstract which impacts the environment and drives further development (Mohsin, 2014: 4). For him, ideas serve as the mechanism for historical progress, in the sense that it involves the development and realization of Reason (Sayers, 2010: 3). This implies that ideas
create objects and are the roots and build of the world. Therefore, the fundamental characteristic of Hegel’s absolute idealism is that it places ideas before matter resulting in a view that ideas are the foundation for conceptualizing historical development (Mohsin, 2014: 4). Contrarily, Marx’s historical materialism rejects this account of idealism and inverts it. In this sense, Marx claims that “it is not the consciousness of men that determines their existence but their social existence that determines their consciousness” (Marx, 1859: 4). Here, it becomes evident that for Marx, it is not the ideas that drive history, but rather the material conditions that define man’s existing reality and act as the agitators for its evolution and progress (Mohsin, 2014: 8). Thus, Marx believes, unlike Hegel, that human beings come before ideas and that the world is ultimately matter in origin (Williams, 2008: 558). Therefore, Marx’s materialism adopts Hegel’s basic progressive dialectical methodology but views History not as a contradiction between unreason and reason but instead between social-economic production systems (Soulmani, 2014: 9). Hence, it becomes clear that Marx’s historical materialism diverts fundamentally from Hegel’s idealism, which is crucial to further analyse the dimensions of how these two thinkers differ in their understandings of history.

Building on the aforementioned distinction, it became evident that there is a fundamental contrast between these two schools of thought. However, to understand Hegel’s and Marx’s view of history more precisely, it is important to unpack their views of historical stages. As already noted, Hegel establishes a model in his Philosophy of History that conceives history as the unfolding of Reason, which means that mistaken modes of self-understanding transfer into new formations of self-understanding, resulting in a new manifestation of the consciousness of freedom (Hutchings, 2014: 22). In this understanding, Hegel contends that for him, “History of the world is none other than the progress of the consciousness of Freedom” (Hegel, 2001: 33). At the core of this progressive development is Hegel’s dialectic, which acts as a method of an idea (Thesis) being contradicted by a counter idea (Antithesis), creating an absolute idea of consciousness of freedom (Wisdom, 1940: 243). Here, Hegel conceptualizes four so-called “Realms” — the Oriental, Greek, Roman, and Germanic — that have contradicted each other throughout history to attain pure Reason and Freedom (Sayers, 2010: 4). Here, Hegel views the cunning of Reason through different layers of knowing and being (Mccarney, 2000: 135). As the fundamental motif is freedom, it is the progress from the ancient world where at best, some people are free to modernity where freedom in Hegel’s view is known to be a basic right of all human individuals (Mccarney, 2000: 136). In this context, it is a process from a state of being where society is not one with universal Reason, to a state of the Germanic Realm in which the “state reveals the image and actuality of Reason” (Hegel, 1991: 380) and absolute Freedom.

This is not to say that Marx completely opposes this progressive dialectical pattern. In fact, he agrees with Hegel as seeing History as rational and law-like, but, as it was argued previously, he inverted it to arrive at his philosophy of historical materialism. In this regard, it should be pointed out that Marx’s view on History follows a similar pattern, but they crucially differ in their content of historical stages (Sayers, 2010: 5). This suggests that Marx acknowledges Hegel’s progressive process of historical development, but unlike him, he does not locate historical stages in universal reason but in a dialectic of social material activities (Soulmani, 2014: 9). This view is explicitly made clear in his Economic Manuscripts in which he declares that “with me, on the contrary, the ideal is nothing else than the material world reflected by the human mind, and translated into forms of thought” (Marx, 1873: 14). Here, the material realities of individuals created distinct historical stages that subsequently produced classes of
property owners and workers. However, although Marx stresses five historical stages, only the three main ones are important for this analysis.

As seen under Feudalism, the land was owned by the aristocracy who exploited the peasantry, creating eventually a capitalist class of factory owners (bourgeoisie) and workers (proletariat). In this context, Marx insists that these new productive forces will eventually cause overproduction and lead to the collapse of the entire capitalist system through a proletariat insurgency (Yadav, 2018: 3). Therefore, it is only under communism that the historical class struggle will cease, and individuals will attain complete freedom. Thus, the historical stages for Marx are defined by the continuous class struggle that emerged as a consequence of the material reality, underpinning his understanding that “the history of all hitherto existing society is the history of class struggles” (Marx, 1848: 14). Through these claims, it is evident that Marx’s stages of history emerge from the mass of productive forces, not from the unfolding of Reason and self-consciousness, which ultimately supports the view that Marx’s progressive history needs to be grasped as material tensions that shape human freedom.

Expanding on the aforementioned distinction, there is one more fundamental difference within this argumentation that should be highlighted. As it was noted, historical stages for Hegel are defined by the unfolding of Reason. This encompasses that the cunning of Reason is a self-mediating process in which humans are only receptors of its activity, and thereby man has no conscious of the outcome of his actions (Williams, 2008: 199). Here, it should be mentioned that Reason is the essence of the absolute spirit (Geist), which means that “spirit is in and for itself reason” (Hegel, 1991: 372). In this regard, the spirit appears to be not “only substance but rather an active subject as well” (Hegel, 2001: 7). Therefore, the spirit is for Hegel, the main agent that guides the unfolding of history (Williams, 2008: 199). Human individuals, on the other hand, are the objects as they are the instruments of the spirit to move towards a new consciousness, presenting a process of collective learning to guide all world events towards a realized end (Hutchings, 2014: 5). Similarly, Marx agrees that there is agency during historical development but rejects Hegel’s theological standpoint (Williams, 2008: 199). Instead, as it was argued, he places emphasis on the forces of production. For Marx, agents are the social classes that historically created tensions between the free and not free people. He sees the main agency in the proletariat, which will guide the task of world history towards a realized end (Williams, 2008: 199). This implies that once this proletariat class becomes politically aware, they will rise up and overthrow the bourgeoisie through the catalyst of a revolution. Thus, it can be argued that Marx’s choice of agency is mainly devoted to the way in which the working class can most constructively shape history in the desired direction (Williams, 2008: 199). Furthermore, since the social classes are the principle agent for Marx, it becomes clear that there is an opportunity for the human individual to consciously intervene and shape the course of history (Williams, 2008: 199), subsequently undermining the implication that their choice of agency is different in its emphasis.

Insofar, through the analysis of historical stages and agency, it became evident that for both thinkers, history has a purpose, as there is a specific point of culmination in which absolute freedom is attained. Here, it can be argued then that both Hegel and Marx employ a Teleological Notion of history, despite their visions of the end of history contradicting each other. In this regard, it was pointed out that Hegel sees the end in the Germanic Realm, in which the condition of full human freedom and self-consciousness has reached its realization in the “final aim of the world” (Hegel, 2001: 54). This implies that for Hegel, the Germanic stage is embodied in the Prussian state that constituted a modern bourgeois liberal society.
(Sayers, 2010: 4). However, there are certain limitations in this view that have to be taken into consideration. In this context, it is not necessarily an end of history in itself but rather an end that is dynamic. Since Hegel lived in the Prussian state, he referred to himself as a child of his own time, which signifies that he only saw an end of history in his own temporary perception (Hutchings, 2014: 21). Likewise, Marx’s end to history is also dynamic in the sense that there is a high point reached, but this point is a continuous process (Williams, 2008: 198). However, the main difference in their end of history is to be found in their contradiction of absolute freedom; whereas Hegel sees the realization of freedom within the bourgeois society, Marx contradicts and criticizes this viewpoint by arguing that freedom can only be attained through communism where the proletariat will finally return to himself as a social being (Williams, 2008: 206). Therefore, it is clear that despite both envisaging an ultimate purpose in history, they fundamentally divert in their definition of what absolute freedom truly means.

A Hegelian perspective on Ukraine’s “Revolution of Dignity”

To understand the complexity of Euromaidan as a historical process, it is worth assessing the socio-political structures in post-Soviet Ukraine. Hegel’s political theory on the state makes substantive claims on the function of the state in relation to the individual’s self-consciousness (Hutchings, 2012: 4). For Hegel (1991: 275), the state functions as a mechanism of ethical behaviour and is thus the highest embodiment of self-consciousness. This view implies that the state is the ultimate reflection of the consciousness of civil society. Where the state fails to implement the aforementioned rule, Hegel would classify the state as a “bad state [...], which merely exists” (Avineri, 1972: 182). Under Hegel’s conception of a bad state, it “cannot reach its full ethical potential without [...] a robust civil society” (Searle, 2015: 8). In regards to post-Soviet Ukraine, the civil consciousness and the state have been alienated from each other since the state utilized the “monopolization of the public sphere” (Searle, 2015: 8) for private ends. During Yanukovych’s presidency, his criminal syndicate reached almost all components of the Ukrainian state and life by allegedly embezzling almost 100 billion dollars and upholding a mafia-like social structure (Faulconbridge et al., 2014). In Hegel’s view, this act resulted in the self-consciousness of the people not finding its expression in the post-Soviet Ukrainian state. Therefore, the Ukrainian civil society’s self-consciousness could not emerge from the structures built by the governing elite’s criminal setting of the functioning of the society. This, then, further aggravated the dehumanization of the collective moral consciousness (Searle, 2015: 9). The aforementioned served as a prerequisite to the “Revolution of Dignity”, where “the possibility and necessity of overall social change” (Avineri, 1972: 185) furthers the need for political development. To further evaluate Euromaidan as a consequence of historical developments, Hegel allows exploring the issue through his dialectical method of how historical change takes place.

Having explored post-Soviet Ukraine through the lens of Hegel’s notion of state, it is evident that Euromaidan can be interpreted as a logical progression in Ukraine’s development. In Philosophy of History, Hegel argues that the “History of the world is none other than the progress of the consciousness of Freedom” (Hegel, 2001: 33). In this understanding, Hegel establishes a model that conceptualizes history as a progressive historical development, as mistaken modes of self-understanding shift towards a new form of self-understanding in terms of consciousness of freedom (Hutchings, 2014: 22). Hegel’s interpretation of history is, therefore, towards greater freedom, achieved through the means of an idea (Thesis) being
challenged by a counter-idea (Antithesis), subsequently producing a new idea (Synthesis) (Chalala, 2013). At the core of the development towards greater freedom, humans are at the center of the nation in order to fulfil the move towards a new consciousness (Hegel, 1991: 375), presenting a process of collective learning, in which socially and historically embedded self-consciousness comes to realize itself (Hutchings, 2014: 5). Therefore, a Hegelian analysis through the lenses of his historical dialectic would argue that the “Revolution of Dignity” can be regarded as the “antithesis” to the corrupt socio-political structures that were evident in all spheres of Ukrainian civil life prior to the Revolution (Shveda and Park, 2016: 86). In this context, Euromaidan challenged the post-Soviet consciousness deeply embedded within Ukrainian civil society and replaced it with a freedom-loving consciousness that portrays the coming of age of Western values of democracy and freedom (Searle, 2015: 4). Therefore, in viewing Euromaidan as the antithesis to Ukraine’s post-soviet era, Euromaidan resulted in a Hegelian “synthesis” that laid the foundations for a future liberal democracy and new civil consciousness.

However, using Hegel’s methodology to understand contemporary events presents its limitations and problems. First and foremost, Hegel was opposed to a change in perception and self-consciousness through revolutionary means (Tytarenko, 2019). In this case, an application of a different, later thinker might be able to account for the revolutionary aspect of this analysis. Furthermore, Hegel was a supporter of a constitutional monarchy (Hutchings, 2014: 19), not contemporary political structures and their interpretations of freedom, such as liberal democracy. Lastly, Hegel noted that he was a child of his own time, which impairs the analysis by having to set it back in time to his perception of the Prussian state, which carries a different mode of governance than argued here.

Conclusions

The author’s attempt to analyse recent Ukrainian revolutionary events through the lenses of the Hegelian philosophy of history and dialectical methodology has shown that it is possible to draw some important conclusions. The escalation of the Revolution of Dignity (2014) and the preceding Orange Revolution (2004) reflected the essential social tension that had been increasing gradually and reached its culminating point. According to Hegel, after the Ukrainian people finally became aware (“enlightenment”) about the real motives of the Yanukovich regime, a “controversy” (social tension) had turned to “contradiction” (culmination) and eventually to revolution. Such a scenario, in Hegel’s opinion, works for any revolution unless it is just a secret plan of any minority to take over the power in the state. Russian Federation has been tending to use the latter explanation for Revolutions in Ukraine since 2004. However, numerous political and cultural studies have shown that Ukrainian revolutions have essential social and political grounds.

Providing a substantial explanation of reasons why revolutions take place and their inevitability under particular circumstances, Hegel, at the same time, introduces his negative attitude to revolutions by highlighting that revolutions appear to be the result of a specific kind of ignorance concerning the ultimate rational principles of reality. Any revolution, in his opinion, violates his famous rule that “The rational is real, and the real is rational.” (Hegel, 1991:20) Such ignorance, according to Hegel, is widely spread among young people who are guided by the so-called “The law of the heart” — the state of being too emotional and ready to change the existing order to a better one. Hegel claims that this inevitably leads to “The frenzy of self-conceit” — the
state of being sure that one’s particular vision of necessary changes is the best and urgently needs implementation. Those two states are the representation of “moral sentimentalism,” which is typical for young people. However, Hegel thinks that revolutions, in fact, do nothing more than destabilization of a present political and state order, which is already perfect on its own. The problem is that young revolutionaries are not able to understand its perfection until they grow old enough. The main threat, which revolutions bring with them, is the threat of anarchy. The restoration of an appropriate state order may take a long time and effort without any guarantees. In the case of success, the revolutionaries feel the “absolute freedom” which in Hegel’s terms leads to “terror” — the aggressive war against the enemies of revolution and voluntarism. As a historical example, Hegel used the French Revolution of 1789. However, it is clearly seen that any political revolution can be described using the same scheme, and Ukrainian revolutions are not the exception. In the course of the Revolution of Dignity, all mentioned stages could be seen, and the restoration of the state order after the revolution took significant time (paralyzed police and other state services, uncontrolled weapons, vandalism, assaults, etc.) The main Hegel’s warning concerning revolutions as the method of change was that the result has to be worth the price state pays for it. The Revolution of Dignity lead to substantial positive democratic changes in Ukraine. However, the people still have to deal with the drawbacks of a revolutionary path (economic crisis, separatism, terrorism, political instability, etc.)

Hegel’s prominent follower Karl Marx had his own warnings concerning the possible results of revolutions. Through the analysis of Hegel’s and Marx’s understanding of history, it becomes evident that Marx has adopted fundamental characteristics of Hegel’s progressive notion of history. However, through the frame of the thinkers’ philosophical traditions, it has also been assessed that there are specific differences that have to be taken into account to understand that Hegel’s notion of history has to be grasped as ideas that shape Human freedom whereas for Marx this process is defined by the material tensions. This has particularly been supported through the discussion of Hegel’s and Marx’s conceptualizations of historical stages and the agency to bring Human freedom towards a realized end. Marx warned that revolution, whose aim is just to change the rulers (political revolution) — is a fake. Nothing ever changed after such revolutions. In order to bring real changes, the revolution must change society — the social order. In Ukraine, particular social change was inevitable in order to leave the totalitarianism behind and join the European community. The Revolution of Dignity has definitely started this social change.

Despite the aforementioned limitations in applying Hegel to modern events such as the Revolution of Dignity, there are certain positives from utilising his methods. Through using his theoretical framework in analysing Euromaidan, it allows to set the event in the historical timeline of the development of Ukrainian desire for a liberal democratic state and the development of the citizen’s self-consciousness of freedom. The further developments in Ukraine post-Maidan will be the first and foremost evaluation of the analysis and claims made in this paper.

📖 References


Armenian Diaspora Main Lobbying Agendas in the United States in the 21st Century

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This article is an introduction to the subject matter of the main points of interest for the Armenian lobbying groups in the United States of America. This ethnic community has become the second-largest group of Armenians living outside the Republic of Armenia and currently the most politically active. Not only do they affect their host country policy and economy of the homeland, but Armenian Americans aim to act on behalf of the whole global diaspora. In particular, they are lobbying for the recognition of the Armenian genocide and adopting specific policies towards Nagorno-Karabakh, Azerbaijan, and Turkey. The involvement of the Armenian minority in the United States of America goes beyond political and economic issues. Diaspora has managed to create academic centers at American universities researching Armenian culture, history, and language, as well as funding collections of Armenian art. In 2020 the construction of the Armenian Americans Museum will begin. The mission of the center will be to document the experience of Armenian migration. These initiatives are part of specific ethnic “soft power.” Armenian Americans lobbying groups have succeeded in passing Resolution 150 in the United States of America. Congress that recognizes as a genocide mass killing of Armenians in the Ottoman Empire. This is the result of almost 50 years of diaspora operations, always blocked by the Turkish lobby. Although relatively few, compared to the entire United States of America population, the Armenian Americans community continues to pursue their goals successfully. In 2015, as part of the celebration of the anniversary of the Genocide, the Armenian diaspora established a series of charitable events and funded the Aurora Prize for Awakening Humanity. Today, the largest number of American Armenians live on the West Coast of the United States of America, and Los Angeles has become the center of the diaspora. As a result of the actions of its social organizations, state schools have created classes for pupils speaking Armenian. Since 2010, the days of remembrance of Genocide have been officially celebrated in California. To identify the most critical factors, this article is based on various data from official United States of America government sources, monographs, and scientific articles, as well as press materials and geopolitics web portals.

Keywords: Armenian Americans, diaspora, ethnic group, minority, United States of America, ethnic lobbying

Received: May 16, 2020; accepted: June 12, 2020

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Introduction

The primary purpose of this article is an introduction to the most crucial lobbying agendas for the Armenian minority in the United States. This topic may be an exciting contribution for Ukrainian researchers to the scientific knowledge of the 11 million global Armenian diaspora. The Armenian minority in Ukraine is currently the fifth largest community living outside the Republic of Armenia and, in many ways, related to action priorities in the pan-Armenian movement. Armenians have lived in Ukraine for centuries, and as an ethnic minority are the subject of many analyses. The following paragraphs will present the phenomenon of the second in number in the world and the most known Armenian community and its achievements and policy guidelines.

Three decades since gaining independence, the population of the Republic of Armenia is about 3 million people (Armenia Population, 2020), while the size of the global diaspora is estimated at 11 million. This disparity continues to widen. In the years 1992–2014, the country’s population fell by one million citizens, and the main reason for this process has become emigration (Armenia’s Diaspora, 2014). After the catastrophic effects of the Spitak earthquake in 1988 and rapid changes that began in the 1990s, the living conditions in Armenia drastically worsened. Unemployment and inflation increased, society became impoverished, food was scarce, and blackouts were frequent. Besides, due to the Karabakh conflict and the tense situation with Turkey, trade contacts with the world could only be maintained via the northern border with Georgia or by air. All these factors have intensified the process of economic emigration.

Artem Yerkanian distinguished four main groups among those leaving Armenia: 1. refugees from Azerbaijan, 2. ecological emigrants after the earthquake in 1988, 3. members of ethnic minorities (in 1988 — 1989 mainly Azeris), 4. and the largest group of economic emigrants, of whom about 1/3 were teachers, scientists, technicians, engineers and economists (Yerkanian, 2000). By 2014, over 100,000 people have chosen the United States as their final destination (Armenia’s Diaspora, 2014). Their massive influx in the first years after the collapse of the USSR was possible thanks to the preferential legal regulations of the U.S. government. The Armenian Relief Society was actively involved in helping this new and numerous waves of immigrants.

The modern Armenian diaspora

At the beginning of the 21st century, the largest concentrations of Armenians outside their homeland are in Russia — 2.3 million, the U.S. — 1.5 million, France — 400 thousand, Lebanon – 230 thousand (Charkiewicz, 2012) and Ukraine — 100 thousand (Struminsky, 2011). Until independence, the mainline of division between we and they ran between immigrants and host countries. Nowadays, the differences are more clearly marked between Armenians living in the Republic of Armenia, the Russian Federation and former Soviet republics, and the so-called old diaspora in the Western countries.

The first pan-Armenian conference dedicated to relations between the global diaspora and the Republic of Armenia was held in Yerevan on September 22-23, 1999. In total, 6 similar meetings were since organized, the last one in 2017. Laurence Ritter states that today’s idea of homeland does not have only to mean geographical Armenia (Ritter, 2009: 106). Permanent restoration of Arme\nienanness for diasporas scattered around the world is as essential as their attachment to the real territory of the country of origin. In 1999 and 2002, the diaspora submitted
the need to create a committee, which would include representatives of emigration, providing
the Armenian government with its opinions and proposals. Recognizing diasporas inalienable
role in shaping the future of the country and to coordinate mutual contacts, on October 1,
2008, the Armenian Ministry of Diaspora was created. According to Ritter, one of the biggest
challenges is the fact that Armenians cannot refer to a common political philosophy, because
for a very long time they defined themselves mainly as an endangered minority, first in their
territory and then outside it. This form of self-description is still the most important for them.
Despite the emphasis on the language, culture, or religion, none of these above definitions was
able to re-define the entire nation (Ritter, 2009: 108). She argues, that “neither the Church,
nor the parties, nor individuals can solve the crisis of identity that appears in the sensitive
area of the diaspora’s relationship with Armenia.” For Ritter thinking about yourself mainly
in two dimensions of threat and self-protection has made the idea of the Armenian people
impossible. There is no “positive Armenian nation”, but a community that is “a slave to the
identity dimension based on being a victim” (Ritter, 2009: 110-111).

The government of the Republic of Armenia maintains such a narrative, continually
reminding the diaspora that the homeland is in a challenging situation as the result of historical
conflict with Turkey, the current frozen conflict with Azerbaijan and the economic blockade on
the part of both neighbors, that has been going on for years. Turgut Kerem Tuncel believes that
this is an element of intentional manipulation. On the grounds of necessity, there is no room
for critical voices from the diaspora, but global mobilization in the form of political support
and material assistance (Tuncel, 2014: 265). Indeed, the diaspora had suspended discussions
several times, especially after the tragic earthquake of 1988, when Armenian organizations
from around the world focused on helping victims. Then came the joint effort to rebuild the
country after regaining independence. During the recent refugee crisis, homeland borders have
been crossed by 17,000 people, mainly Armenians, from the Syrian diaspora (Gevorkyan,
2016). Armenian communities have once again engaged in global support by organizing
fundraising events. The Syrian Armenian Relief Fund has been created, with the help of the
Armenian Church from the U.S.

U.K.’s Foreign & Commonwealth Office has collected data indicating that in recent years,
most likely, the most significant contribution to the Republic’s economy has been made by
diaspora from Russia. According to analysts, in 2008 alone, it amounted to 15% of the total
official GDP of the country, although the numbers may be twice as high, taking into account
the transfer of money outside the banking system (Armenia’s Diaspora, 2014). Due to the
problematic situation in the Caucasus, bilateral relations with the Russian Federation are a
priority because Armenia fears stronger cooperation between Turkey and Russia. Armenia
has become a member of the Collective Security Treaty Organization, and the Russian 102
Military Base is located on its territory. At the same time, which is causing great controversy
among Armenians, the Federation has been selling weapons to Azerbaijan (Repadowicz, 2017).

Armenian Americans and the ethnic lobby

Armenian Americans have supported the country of origin with several billion dollars in
various forms since 1991. Only one organization — the California Lincy Foundation, managed
by billionaire Kerk Kirkorian, has invested over $ 300 million in the Republic. Armenian lobby
active influence on the U.S. administration has resulted in transferring funds of over 2 billion
dollars to the homeland since 1992 (Armenia’s Diaspora, 2014). The Armenian minority
sponsors scholarship programs for young generations to enable them to acquire education and experience in an international environment. A particularly valuable form of support is technological consulting and activities directed at improving the health care system and public roads in the Republic.

The pan-Armenian community is constantly lobbying on several issues. The most important are: recognition of the massacres of the Armenian population by the Turks in the Ottoman Empire and support for Armenia in the modern conflict over Nagorno-Karabakh. This conflict has a very complicated background because apart from economic issues, i.e., the exploitation of oil and natural gas deposits located in the Republic of Arcach, it has primarily symbolic significance for all Armenians. It became a manifestation of support for one of the endangered diasporas and breaking the role of a passive victim. It is as well a form of response to the resentment associated with the loss of ethnically Armenian lands to their neighbors. Anny P. Bakalian claims that for the pan-Armenian community, it is crucial to emphasize the survival of physical extermination (“red genocide”) and the recovery of the parts of historical territories of Greater Armenia (Bakalian, 2014: 2). Ritter adds that to this day Armenians are accompanied by the metaphorical sense of “passing a double death sentence,” because Turkish negation concerns not only the Genocide itself but the very presence of Armenians in areas where they lived for 25 centuries.” (Ritter, 2009: 113).

The province of Arcach has been included in the borders of Azerbaijan, but most of the territory was inhabited by Armenians, who in the late 1980s constituted about 75% of its population (Azerbaijan, 1994). In 1987, a wave of demonstrations swept across Armenia calling for the region to be returned, and a year later, Armenians in Arcach began to submit petitions to the Azeri authorities to hold a referendum on the province’s status. In 1988 Armenian pogroms took place in Sumgait, in which at least several dozen people died, according to various sources. In response, a military conflict broke out in which the Armenian citizens became involved. The riots have been supported by volunteers from the diaspora and the Republic of Armenia with Russian participation. The ceasefire was finally signed in 1994, and Arcach became an autonomous province as the Nagorno-Karabakh Republic or the Republic of Arcach. To this day, it is not recognized internationally, even by Armenia itself. Armenian subsidies cover 50% of its total budget, and the current situation in the region is described as “an unstable, frozen conflict” (Nagorno-Karabakh, 2016). This conflict resulted in a massive outflow of refugees and economic migrants from Armenia, as it significantly contributed to the country’s difficult situation.

At the end of 2019, the topic of the Armenian ethnic minority and the Republic of Armenia appeared in the global media and public debate. It was possible due to the Resolution 150 that recognizes as a genocide mass killing of an estimated 1.5 million Armenians between 1915 and 1922. The U.S. House of Representatives had passed the Resolution in October, and the Senate on December 12. This historical event, which has a deep symbolic meaning for all Armenians, harmed bilateral relations between Turkey and the U.S.

Achieving this goal was possible due to the 50 years of the constant activity of the Armenian community, especially the ethnic lobby. These groups can consolidate despite the structural differences and the competition for potential members.

Zbigniew Brzeziński — an adviser to the U.S. administration, already included the Armenian lobby together with the Jewish and Cuban ones, among three the strongest ethnic lobbies in the U.S. A pioneer, who laid the foundations for his functioning was an immigrant from the Ottoman Empire Vahan Cardashian — a lawyer and political activist (Vahan
Cardashian founder, 2020). He came to the USA in 1902, not speaking English, but two years later he began studying law at Yale University, which he graduated in 1904. Until 1915, one of his clients was the Consulate of the Ottoman Empire in New York, with whom he broke off cooperation after the beginning of ethnic cleansing. In 1918, he founded the Armenian Committee for the Independence of Armenia, associated with the Tashang party, which in the 1940s evolved into the Armenian National Committee of America (Vahan Cardashian biography, 1969). In 1982, the Armenian National Committee established the Zoryan Institute operating in the U.S. and Canada.

In 1972, a second interest group was created to represent the opposite side of the Armenian Assembly of America. The next step was to bring to life the Armenian National Institute, which aims to document Genocide and the virtual Armenian Genocide Museum of America.

As Konrad Oświęcimski mentions, for the next decades the main goals of the above organizations were: financial and humanitarian aid for Armenia; recognition of the fact of the Armenian genocide, recognition of the independence of Nagorno-Karabakh, maintaining the so-called Clause 907, limiting American assistance to Azerbaijan and the U.S. support to Turkey (Oświęcimski, 2014: 138). The activity of the Armenian minority is primarily based on grassroots movements. It is not financed by the Armenian government, while the Turkish lobby has a steady inflow of funds from the homeland and employs professional public relations companies. The Armenian interest groups reached their peak of influence in the 1990s. An independent political circle has been created that works solely for the benefit of the Republic of Armenia and the diaspora. A huge success was U. S. Congress passing in 1992 a 907 amendment to the “Act in support of freedom,” which forbade providing any support to the Azerbaijani government. It was suspended after the terrorist attacks of September 11, 2001. In its efforts to recognize the 1915 genocide, the Armenian lobby is supported by Greek interest groups.

It is currently estimated that there are up to 1.5 million Americans of Armenian origin (Armenia’s Diaspora, 2014) against approximately 329 million of the total population of the U.S. Official results of ACS and U.S. Census give much lower numbers. Still, the diaspora organizations claim that the actual Armenian group can reach up to 2 million people. This fact indicates the possibility of the existence of a large group of Armenians with undocumented status, especially among the latest wave of immigrants. According to World Atlas, most Armenian Americans live in California — 204,631, Massachusetts — 28,595, New York — 24,460, New Jersey — 17,094, and Michigan — 15,746 (U.S. States, 2019). In 2015, per capita income (PCI) in the U.S. was estimated at 29,979 dollars, and for the Armenian group, it was 36,644 (Totolyan, 2005: 45).

Nowadays, Los Angeles has become the city with the largest Armenian population in the U.S. The oldest Armenian ethnic district is called Little Armenia in Hollywood, where there are numerous clubs, headquarters of Armenian organizations, and restaurants serving traditional cuisine. However, it is Glendale that has the most significant percentage of Armenian Americans. In 2001 Armenian street signs were introduced among Spanish and English (Rocha, 2011), and soon the construction of the headquarters of the Armenian American Museum will begin. This institution aims to document the history and experience of Armenian migration, as well as run programs supporting the maintenance of ethnic identity in the future generations of the diaspora. This fact is an essential agenda of the Armenian Americans’ activity, which focuses on the threat of loss of Armenian culture, the so-called “white genocide” (Tuncel, 2014: 266), or “white massacre” (Bakalian, 2014: 2).
A significant initiative at the local level has been the diaspora organization’s effort to influence the primary schools education system. The first private primary Armenian school in the U.S. was opened in 1964 in Encino, San Fernando Valley. There are currently a few schools in Little Armenia, Pasadena and Glendale, but the last wave of Armenian immigrants have increased the demand for school classes with the Armenian language. The ratio of students in the Glendale school district reached more than 30% in 2004, which became the reason for a decision to include in the school calendar Armenian holidays as well (Pang, 2004).

The large group of Armenians in California also has an impact on other state administration decisions. During Governor Arnold Schwarzenegger’s term, not only the Armenian Genocide Remembrance Day was announced in Sacramento, but weekly celebrations were introduced in 2010. In 2015, around 130,000 people marched in Los Angeles during the jubilee. Within a few months, an information campaign was also conducted, which involved the purchase of 100 billboards by the diaspora. They were used for presenting posters informing about the Armenian genocide and an aid campaign — Near East Relief, which collected over 100 million dollars for the Middle East refugees in the 1920s. The Peace of Art Foundation has got involved in this project, and since the mid-1990s, Daniel Varoujan Hejinian’s private funds have paid for similar campaigns in the states of the East Coast. These types of activities have brought extensive coverage in the media and guaranteed a presence of the Genocide in the consciousness of American society.

The essence, the culture, and history of Armenia are manifested in Los Angeles in the artistic activities of the young generation of the diaspora. Apart from the System of a Down band, which is known globally, most of the albums that can be listened in both the Republic and Armenian emigrant communities, are released by music studios at Glendale.

The U.S. academic centers as an element of Armenian “soft power”

The emergence of Armenian Studies is an exceptional success of the Armenian minority in the U.S. and a manifestation of prestige. Studies on history, culture, art, and language are now offered at first-class American universities. They promote knowledge about Armenians and shape the perception of this minority as a group with a precious contribution to world heritage. They were formally included in the academic programs in the 1950s, although in a less defined form, Armenology has functioned much earlier. Harvard University lecturer Robert P. Blake who pioneered efforts to introduce Armenian subjects as a separate curriculum, offered the “Armenian Historical Documents” course as soon as in the 1928/1929 academic year. In 1946, the American — Armenian Cultural Association was founded, publishing the journal The Armenian Quarterly, and two years later, efforts began to create the Armenian Collection as part of the Library of Congress. In the same year, classes for Armenian students at Columbia University have been launched. In the spring of 1954, Dr. Armen V. Jerejian became a visiting lecturer at Clark University. Over time, there were more lectures on Armenia and Armenian language at Harvard, Princeton, Cornell, and Wayne University (Mamigonian, 2012: 153-184).

Over half a century later, the approximate list of study programs and scientific units with the subject of Armenian Studies in the U.S. includes Arizona State University, Boston University, California State University, Clark University, Columbia University, Glendale Community College, Harvard University, Iona College, Tufts University, University of California, University of Chicago, University of Michigan, University of Southern California, University of Wisconsin — Milwaukee, Wesleyan University, Worcester State College.
Besides, there are numerous international associations of researchers and teachers, for example, the Society for Armenian Studies, operating since 1975 in Fresno, California, which publishes the *Journal of the Society for Armenian Studies*, the Armenian International Policy Research Group, the Armenian National Institute located in Washington, Armenian Library and Museum of America at Watertown, National Association for Armenian Studies and Research at Belmont, Zoryan Institute at Cambridge and the American branch of Gomidas Institute at Princeton. The Armenian Library and Museum of America coordinates works on Project SAVE, which involves collecting and cataloging photos to establish continuity between the past of the diaspora, present, and its future. In 2010, the Armenian Heritage Park was opened with the monument commemorating the Armenian Genocide.

The most famous collections of Armenian art and memorabilia in the U.S. are located in Belmont, East Coast, in the Armenian Library and Museum of America and the Ararat — Eskjian Museum in Mission Hills, California. A private Armenian Cultural Foundation operates in Arlington with a small chamber of remembrance. All these initiatives are a manifestation of a relatively small minority, which consistently engages in efforts to mark its presence in the host country and to maintain its identity and culture for a long time.

**Genocide centenary celebrations as a promotion of the Armenian agenda**

The jubilee of the century of the Armenian genocide in 2015 has become a platform to promote the Armenian agenda in the U.S. and abroad. It has been accompanied by a series of activities in the humanitarian space, involving scattered diaspora communities and the homeland. On behalf of the survivors and as an expression of gratitude to those who helped to save them, Vartan Gregorian, Noubar Afeyan, and Ruben Vardanyan created the Aurora Humanitarian Initiative. The name of the foundation refers to the Aurora Mardiganian and aims to honor her contribution to promoting the awareness of the Armenian genocide. The main goal of the organization is to help those in need around the world in a project that will last until 2023. The campaign includes the Aurora Prize for Awakening Humanity, which will be annually awarded to a person who has made an exceptional contribution to saving human life, 100 LIVES Initiative that maintains the memory of remarkable characters and events in the history of Armenians, Aurora Dialogues, Aurora Humanitarian Index and the Gratitude Project. The opening gala took place on April 24, 2016, and Marquerite Maggie Barankitse from Burundi has become the first winner of the Aurora Prize.

**The U.S. and conflict over Turkish-Armenian interpretation of history**

Thanks to the Wiki Leaks publication and open access to the U.S. administration documents, it is possible to analyze reports of the American diplomatic service regarding the Armenian diaspora and answer the question of how the host country perceives the Armenian American diaspora and its postulates. The U.S. Embassy in Istanbul Report raises the issue of genocide and the relationship between the Republic of Armenia and Turkey. Its authors note that the Armenian genocide and its recognition is an essential element of Armenian identity. The negation of massacres in the Ottoman Empire was one of the main reasons for the emergence of terrorist organizations, seeking compensation in the 1970s through bombings (Armenian Genocide, 2004)
For the substantive discussion to take place, the Turkish side must make available documents that are part of the Ottoman Archives today. The U.S. analysts also confirm the correctness of complaints submitted for years by the researchers, that access to these materials is limited, and Turkish administrations may have intentionally destroyed a large part of them. The embassy calls for American intervention to resolve this situation. The report indicates the U.S. knowledge about the activities of nationalist political groups and elements of the Turkish administration supporting state propaganda of denying the Armenian genocide. Subsequent governments need to continue the existing historical narrative depicting the Turks as victims entitled to defense and occupation of Armenian territories. To admit that the murders of Armenians were intentional genocide, would at the same time call into question the shape of the current borders of the Turkish state and open the way to Armenian compensation.

It is worth adding that despite the knowledge of the lack of interest in the substantive discussion on the subject of genocide on the part of Turkey, and even its active obstruction, the U.S. has limited possibilities of intervention. For years, the U.S. has been in a situation of dependence on Turkey, an ally in the war against terrorism. The Turkish government is also providing the Incirlik Air Base in the Adana area for the American Armed Forces. This base, critical for the U.S. presence in the Middle East, has become the storage facility for nuclear warheads. Therefore, Turkey is a strategic partner in the region.

Mediation role of the Armenian Americans

The report of the U.S. Embassy in Yerevan made available by Wiki Leaks is a comprehensive analysis of the Armenian American diaspora. It draws attention to the significant influence of this group on the policy of the government of the Republic of Armenia, which results from both the cultural impact and generated cash flows. Armenians in the U.S. have capable pressure instruments that make policymakers in the homeland to aware of their power. These mainly include personal connections and real help for individuals and organizations. As a result, Armenia strives for close cooperation with the American diaspora (Deciphering the Armenian-American, 2004).

The analysis emphasizes the very high organizational level of the Armenian Americans group manifested in the number of secular and church associations. It also draws attention to the involvement of diaspora members in grassroots activities and strong ideological links between political groups, the Armenian Church, and lobbying organizations. The report identifies community priorities, which are: recognition of the genocide, financial support for the Republic of Armenia and shaping relations with Turkey and Azerbaijan. The authors highlight the mediation influence of the diaspora both on the U.S. administration and the government of the homeland.

Armenian diaspora in the U.S. and Armenian terrorism controversy

The decade of Armenian terrorism in the U.S is a controversial chapter in the history of Armenian Americans. The first terrorist act, the murder of a Turkish consul, took place in Santa Barbara in 1983 (Ślubowicz, 2009). Multiple attacks were carried out in 1980, 1981 and 1982, in New York, Boston, and Los Angeles. These tragic events resulted in many deaths and lawsuits, especially in Paris and Los Angeles, that drew the attention of the media and decision-makers to the problem of the mass murders of Armenians in 1915 (Global Terrorism, 1984). Radical ideas found fertile ground, especially among immigrants from the Middle East.
who arrived in California. The evidence collected by the FBI in the 1980s indicated that the headquarters of one of the essential terrorist groups were located in Los Angeles. This place is also where the most significant number of arrests were made in 1982. The diaspora publicly distanced itself from terrorists, but unofficially they were treated almost like heroes. As Ritter writes, referring to conversations held in France, “Armenians from France, Lebanon, and the United States supported terrorist movements by publishing newsletters, distributing petitions or organizing demonstrations” (Ritter, 2009: 117).

Returns to the homeland, diaspora’s investments — an open question

An exciting chapter in the history of the Armenian Americans and an example of many attempts to help the homeland is the period of regaining independence by Armenia and the following years. There were few Armenian returns from the U.S. to the independent Republic, documented by the Ministry of Foreign Affairs, which had published lists of such people on its website. There have been frequent investments in local enterprises or the purchase of the real estate. As Ritter noted, at that time, the diaspora moved from “aid logic” to “investment logic” (Ritter, 2009: 2). However, living in the West and accustomed to free-market business principles, diaspora had to face the specifics of doing business in a country where the post-Soviet mentality was still strong — extensive bureaucracy, informal networks, and corruption. The United Nations Development Program analysis indicates that corruption is still a serious obstacle to the economic development of the country and maybe the answer to the question of why Armenians are doing well outside their homeland. At the same time, in Armenia, it is much harder to achieve success (Sahakyan, 2017). For the Armenian “repatriates,” in the capital city — Yerevan kindergartens, schools, and the American University of Armenia have been opened.

Summary

There are many strong indications that global diaspora is an essential element for survival and the future of the Republic of Armenia. The first factor is the huge disproportion of the population living in the homeland and remaining in exile. Another is pan-Armenian loyalty supporting the promotion of the Republic’s demands in international politics. Especially in the current geopolitical situation and the blockade of Armenia by neighboring countries, its fate is strictly dependent on how it is perceived internationally and on what kind of support it can count on. In the 21st century, the Armenian Americans diaspora is the most active in lobbying for the homeland. Influencing the host country was were able to obtain billions in subsidies for Armenia, initiated changes in the law, and recently successfully reach the goal of recognition of the Armenian genocide at the level of the U.S. Congress.

Armenian Americans were able to create not only influential political pressure groups but also made an effort to appear in the prestigious space of universities, which makes up their ethnic “soft power”. They established cultural institutions, and Los Angeles became an important center for the publishing of Armenian music. In the future, the challenge for the growing diaspora in America may be the issue of the immigration status regulation for a significant part of its members, especially numerous last wave of immigration. The question of illegal immigration is currently a burning topic of public debates and political struggle for the office of the president of the U.S. and is negatively perceived by a significant part of American citizens.
Both the homeland and the host country have already recognized that Armenian Americans and their interest groups have become an essential moderator of mutual relations. There are many indications that a relatively small but influential Armenian minority will continue to play this key role in the long run. This fact is one of many arguments for which it is an interesting phenomenon for researchers.

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The Perspectives of Human Freedom in a Post-Pandemic Social Reality

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What will the post-pandemic world be alike? This is undoubtedly an issue that interests many people around the world. One thing is certain — the world after the pandemic caused by the SARS-CoV-2 virus will be different. This is primarily due to the noticeable processes of redefining the fundamental spheres of human functioning. This article presents a different perspective on the fight against a deadly virus because the essential aspect that is taken into account is the concept of social freedom. The different view of the coronavirus narrative lies in the pragmatic approach that allows indicating the processes and mechanisms of limiting social freedom under the pretext of fighting the SARS-CoV-2 virus. The research methods used for this purpose, characteristic of social sciences and humanities, make it possible to determine the discourse according to which the authorities of individual countries operate. Interesting in this context is also the process of imposing prohibitions and orders from society, which, through social apathy and fear of responsibility, will, in the future, become a social norm, thereby legitimizing the non-humanistic state control over society.

Keywords: global pandemic, SARS-CoV-2 virus, human freedom, responsibility, social determinism, biopower, social annihilation

Received: May 10, 2020; accepted: May 29, 2020

Introduction

A pandemic caused by the SARS-CoV-2 virus has today mastered virtually every sphere of human functioning. It is difficult to find an area of life that would not be directly or indirectly affected by the effects of a global pandemic. Today, the international community is facing the challenge of defeating this virus, but despite the passage of several months, we still do not know what each of us is dealing with. In mid-May, some media published a list of 11 pandemic questions that the global community is still unable to provide an exhaustive answer (Lopez et al., 2020). These questions rely on the number of people who will be infected and deaths

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The Perspectives of Human Freedom in a Post-Pandemic Social Reality
by Wiktor Możgin
Ukrainian Policymaker, Volume 6, 2020

caused by infection or about the invention of the SARS-CoV-2 vaccine. However, the list of these questions is not exhaustive, as it is also essential to know the effects of a pandemic. Today, in China, the United States, Russia, Germany, Italy, Spain, Great Britain, Ukraine, but also in other countries, there is a discussion on finding the right way out of the crisis. The first step is undoubtedly to invent a measure that would stop the spread of the virus. The global community should speak with one voice because only through social solidarity, not egoism, will it be possible to stop the deadly virus. But the current situation is slightly different from the assumed, because Donald Trump after he stopped funding the World Health Organization (WHO), postulates the legitimacy of using the hydroxychloroquine agent in the process of preventing the virus (Karni, et al., 2020). In turn, the American scientific community and the governments of some countries, including Poland, see hope in the fight against the SARS-CoV-2 virus through the use of Remdesivir (Kolata et al., 2020). In this context, the question also arises, which measure will be the most effective? Is it necessarily a vaccine or maybe the invention of an effective drug?

It is worth remembering what effects the hasty use of the swine flu vaccine in the United States in 1976 led to. At that time, a poorly tested vaccine led to a rare neurological disorder, Guillain-Barré Syndrome, in up to 450 people, which in turn had more negative effects than the symptoms caused itself by the flu (Lopez, et al., 2020). The second step will certainly be to overcome the effects of the crisis that resulted in the halting of global processes caused by the spreading pandemic. That is why it is reasonable to think about what will be the post-pandemic world today.

However, it is worth starting these divagations with the most existential and fundamental thing, namely, to consider the nature of post-pandemic man, taking into account, in particular, the issue of freedom, which has been so widely promoted and cherished by the global community over the last few centuries. Therefore, the purpose of this article is to analyze the effects of a pandemic caused by the SARS-CoV-2 virus on ethics, morality, but above all freedom of post-modern man. A multifaceted statement of contemporary events will be presented concerning philosophical, anthropological, sociological, and cultural studies perspectives. This will allow us to indicate processes that prove the redefinition of human nature while being strictly inclusive. In this context, it is worth assuming that humanity is a social organism that has its forms of evolution. Referring to the humanities and social sciences, it will be reasonable to state that human civilization has gone through certain stages of development that have been conceptually explained by the theories of pre-modern, contemporary and post-modern societies. These concepts, tradition, and methodology of the humanities and social sciences use aspects of ethicality, morality, and freedom in the human anthropological project, pointing to some variables testifying to the evolutionary process of man and the redefinition of his constitutive features.

Freedom in a Post-modern Society

These considerations require an explanation of the conceptual matter in which we will be moving. This is primarily because each of us can understand and feel the concept of freedom differently. If everyone were to answer the question: “What is freedom?” most certainly, the answers would be different. Nevertheless, they would all relate to a simple universal scheme of claiming that there is “freedom from” and “freedom to”. But, given the broad scope of the concept of freedom, we can talk about physical freedom, psychological freedom, legal
freedom, and moral freedom. It is also worth remembering that when discussing the concept of freedom, one should often take into account its comprehensive, inclusive nature. Thus, the narrative vector of this article will not be directed towards the formulation of the concept of freedom, but about the processes associated with this term, implemented in today’s world situation, which is the result of a pandemic caused by the SARS-CoV-2 virus.

Freedom is closely correlated with the concept of responsibility. Today, the belief that we associate freedom primarily with the democratic system has become established. But is it really so? Can a democratic system, or otherwise, representative democracy really be related to the notion of freedom? Is freedom, in this socio-political context, not limited essentially to the act of choosing the authority that decides for us in which political, legal, economic, social, cultural reality we will live for the next few years? Each of us gets rid of our freedom in fear of the proverbial Hobbesian Leviathan. This is because freedom means responsibility, which is why most people, fearing responsibility, agree to get rid of some of their freedom (Shaw, 1903: 228-230). Therefore, responsibility has become an unpopular concept, which is often avoided in the political and scientific community, because it is primarily reluctantly accepted by a generation that does not approve of any moralizing and compliance with ethical norms of conduct. It often causes open social hostility, because the immanent implication of human behavior is the belief that his actions and life position are determined only by circumstances over which he has no control. It is primarily a narrative direction of nineteenth-century philosophers. However, this rejection of responsibility is caused by fear, which also translates into the concept of freedom. So, this perspective refers to the claim that many people are afraid of freedom because the possibility of building their own lives is at the same time a permanent challenge, or in other words a task that requires a proper discipline that man must impose on himself to achieve his goals (Hayek, 1960: 124-126; 201-212).

The belief that all natural phenomena are determined only by previous events, or are subject to specific laws that can be determined and appropriately formulated, concludes that external circumstances determine human deeds and rational and irrational relationships occurring in his mind, given the postulate that man is part of the natural system of the world (Fromm, 2005: 78-80). The concept of universal determinism in the context of these considerations means that the global pandemic caused by the SARS-CoV-2 virus is an implication of previous phenomena and processes that shaped reality at the time. Man, as an integral part of this system, was also the driving force that led to the pandemic. In this way, the already mentioned nineteenth-century deterministic concept is expanded, allowing a man to influence his fate. Here again, the issue of freedom and the responsibility that comes with it must be returned. So if a man has the driving force, and thus the freedom to make specific decisions, then he should also be assigned due responsibility for these acts, which is, after all, such an inconvenient concept for every man. So how does this responsibility translate into decisions taken by contemporary, or otherwise, post-modern society? What is post-modernity in the context of these considerations?

The second half of the twentieth century and the beginning of the twenty-first century is a transition period between the modern world, in which the idea of the imperfection of material existence and the possibility of improving this state prevailed by subjecting all processes to reason. The post-modern world, which in the understanding of Zygmunt Bauman, deprives itself of the need for any moral theories — ethics, philosophy, religion, beliefs — and society can independently define moral principles, without resorting to assumptions and processes based on the Cartesian idea of the rationality of truth. The Bauman’s characteristic of post-modernity boils down to the processes of desacralization and secularization of the contemporary
culture of Western societies. Postmodernity forces people to have moral independence and autonomy, religion, and other ethical regulators are no longer needed. Social affirmation of the post-modern world boils down primarily to the concept of guaranteeing universal freedom on a worldwide and moral level (Bauman, 2000: 36-41; 181-183). However, this does not mean that we are dealing with an uncontrolled state today because, in certain crisis moments, we agree that our freedom, not only moral and ideological, should be limited in the name of the principle of security for us all. This is a picture of the state of reality with which we are dealing in a world engulfed in a pandemic.

The contact of post-modern man with the danger of threatening his existence exposes the weakness of human nature. It is visible above all in the moments when specific actions should be taken to fight the SARS-CoV-2 virus, and with that to be responsible for their actions. The main question that today interests many people around the world is whether the global lockdown was too radical? What way of fighting was more effective? Looking at a country like Sweden, which has not imposed glaring restrictions and bans on its citizens due to the spreading virus, today it is fighting the problem of the growing number of cases, which is drastically manifested especially in social care homes, where people staying there are served morphine, thus applying active euthanasia to them (Savage, et al., 2020). In turn, in neighboring Denmark, you can hear words of criticism about the complete suspension of the functioning of the state. Jens Otto Lunde Jørgensen, a professor at Aarhus University Hospital, says that the Danish healthcare system controlled the situation, and pressing the “STOP” button for Denmark was completely ill-considered move (Jørgensen, et al., 2020).

Nevertheless, the concept of freedom in its inclusive nature also refers to human behavior and deeds, which are limited in crisis moments. Denmark and many other countries where prohibitions and orders for appropriate conduct have been introduced are an excellent example of a vector for further consideration. Today, we are witnessing a restriction on the freedom of post-modern man, whose goal is to overcome the deadly virus. It would seem that it is necessary because post-modern man, according to Bauman’s characteristics, got rid of these necessary qualities allowing him to impose appropriate discipline, taking into account the aspect of morality and ethics. The restrictions imposed from above would serve as an effective tool to stop social annihilation, which is the result of SARS-CoV-2 virus interaction. What remains to be resolved, however, is to what extent can these human freedoms be restricted? And no less important, what shape will socio-political-economic relations take as a result of the imposition of such necessary restrictions?

**Human Freedom in a Post-pandemic World**

Today, during a pandemic caused by the SARS-CoV-2 virus, the Bauman paradigm of the post-modern world is collapsing. This is primarily due to the responsibility that should be borne for decisions taken both during and after the pandemic has ended. Responsibility in post-modern times, as has already been mentioned, has become an unpopular concept, a word that pragmatic thinkers, researchers avoid, because it is taken with reluctance and boredom by an individualized generation that was able to create the specific morality and with it an approach to particular problems. Postmodernity also frees people from the past and the need to remember. Therefore, the past does not create a typical continuous structure of events with the present. There is a hermeneutic approach to experiencing everyday life as something completely new. This does not change the conviction about universal determinism, where
man has causative potential. Therefore, post-modernity does not break with determinism but indicates a redefinition of existing values and attitudes.

Milan Kundera, in his work *The Unbearable Lightness of Being*, emphasized that existence without deeper emotions is meaningless, everyday life, everyday matters are light, yet they do not bring satisfaction (Kundera, 1984: 47-48). Contemporary society, by falling into the trap of permanent consumerism and a nomadic way of life in a globalized world, has broken with a sense of responsibility for its future. With this, the paradigm of freedom has been violated. Today, the principle of social solidarity has been reversed, because solidarity is being isolated from others today. However, it is worth explaining this situation in a certain way, because isolation should only apply at the social level to prevent social annihilation. In turn, the principle of solidarity should undoubtedly be present in the rhetoric of contemporary international relations in the field of scientific and research cooperation. The invention of a measure to stop the spread of a virus in one country must result in its immediate distribution to other countries.

The issue of human freedom in the era of today’s pandemic prompts reflection, which can be metaphorically reduced to the work *Nineteen Eighty-Four* by George Orwell. In particular, it is a fragment when the main character of the novel, looking out the window, sees his workplace — whose famous Ministry of Truth, and on it, and this is the most important in the context of these considerations, the inscription: “War is peace, Freedom is slavery, Ignorance is strength” (Orwell, 2018: 34-38). Nowadays, this inscription can be used to describe phenomena and processes occurring in the modern world. The symbolic character of Orwellian *Nineteen Eighty-Four* presents a complicated and still unexplained situation that was determined by human behavior during the pandemic. Therefore, it will be used as a background for reflection, providing a direction for further narration.

**“War is Peace” Metaphore**

What does war mean peace? First of all, the world has waged war on a virus that has slowed down all world processes. Today, war is not understood in the traditional Clausewitz sense, but it is a new type of war. This biological war undoubtedly plays its role for various entities, also greatly influencing the issue of freedom. There is no doubt that this war is fought by a man who expects concrete results from it. The purposefulness of man’s actions is assumed in his nature, because in *Homo sacer* by Giorgio Agamben it is noted that one of the constitutive elements of the category of life next to the concept of *dzoē* is the concept of *bios*, which refers to the sphere of action — *praxis* — aiming at a goal, as in the case of man meant happiness — *eudaimonia* (Agamben, 2008: 17-21). Well, if the pursuit of a goal is assumed in the nature of every human being, then each obstacle will constitute a restriction of freedom, which is an existential part of this process. Today, such a goal is to overcome the spread of SARS-CoV-2 virus. So this is a war that, after Carl Schmidt, can be blamed in a way on the political buckle.

Actually, politics accompanied the pandemic events from the very beginning. After all, through the decisions of state authorities, further restrictions were consistently introduced. The concept of freedom in this situation was constantly subject to redefinition because what could be done yesterday was becoming forbidden today. There is no doubt that all actions affecting the issue of human freedom were aimed at stopping a pandemic. Often, the basis for political decisions were model simulations of the spread of the SARS-CoV-2 virus both in individual countries and around the world (Rhodes et al., 2020: 253-254). However, the question arises
to what extent are these simulations, for example, proposed by British Imperial College, effective and reliable? Most countries base their political decisions regarding the introduction of quarantine restrictions, and thus restrictions on freedom, based on this type of simulation. Today, from the perspective of several months — this article is written in mid-May 2020 — it can be concluded that these simulations and models were often overestimated. This had, of course, political consequences, but above all, economic ones. Due to restrictions imposed on entrepreneurs, which in most cases resulted in the suspension of production or change of production profiles, the economies of many countries will fall into a post-pandemic recession.

Thus, by waging war against the deadly virus, the state, by introducing many restrictions on the functioning of economies, tries to respond appropriately to pandemic circumstances. By using the Orwellian metaphor cited, governments are adapting to biological and pandemic war, changing the narrative of their policies. From the perspective of the Polish state, this is manifested, for example, by the adoption of a special law regulating the sale of strategic items in the fight against the virus (masks, respirators, etc.). Of course, for the sake of the state, the goal is to ensure the safety of citizens, while for companies that produce the items as mentioned above, the goal is to sell them at the best price and in the most considerable possible quantity, i.e., following the principles of economics, it is in the interest of companies to make a profit. Of course, state-owned enterprises are required to comply with appropriate operating criteria, but this should not apply to private enterprises.

Striving for peace through war also means having effective combat tools. During the reign of SARS-CoV-2 in the United States, representatives of the Democratic Party drew up a bill H. R. 6666, which refers to the so-called coronawhistleblowing, in other words informing the relevant authorities about cases of violation of quarantine, or violation of restrictions imposed on citizens in connection with the SARS-CoV-2 pandemic. The case is interesting because this information will be heavily paid by the government, as the bill for its implementation assumed an amount of 100 billion dollars (Authenticated U.S. Government Information, 2020). Yes, it is the responsibility of every citizen to inform the authorities about violations of applicable rules. However, the question arises whether it will be an effective tool in the fight against a deadly virus, or a means to enrich a specific group of people? In this way, the authorities indirectly interfere with the private sphere and the freedom of their citizens. In turn, the Israeli special services Shin Bet by eavesdropping on phone calls and special applications tracked suspects as carriers of the SARS-CoV-2 virus, or people in quarantine (Scheer, et al. 2020). And in Germany, for example, tests for the presence of SARS-CoV-2 virus in the body were introduced in the Carolinum Junior High School in the Neustrelitz city. If they undergo such tests, which indicate a negative result, people will have more rights than people who did not undergo the tests, because it is a matter of voluntariness. These rights are manifested in access to more rooms, fewer restrictions on moving around the school. In Carolinum Junior High School, even separate entries were created for those who underwent tests and obtained a negative result, and those who refused such tests (Das Elternportal von Focus et al. 2020).

Analyzing the above examples, one may risk the thesis that they constitute an exemplification of state interference in the sphere of the personal freedoms of citizens. Fighting a war with a deadly virus should not mean extensive increasing control over society. In a specially prepared open letter, over 300 scientists from 26 countries warn of unprecedented surveillance of society through coronavirus applications that affect human freedom (Greis et al., 2020). The question then arises, is it compatible with democratic principles that are so loud
in Western countries? Perhaps the pandemic has influenced the redefinition of the concepts of democracy, freedom, and civil rights. And today a new order is being shaped, where permanent surveillance will become the norm and a person fearing any liability will agree to further restrictions on his freedom? War is peace, but what concessions should man agree to achieve that peace? Where is the harmony between the pre-modern values of surveillance and post-modern ones?

**Freedom vs. Slavery in Post-pandemic Society**

In the age of pandemic caused by the SARS-CoV-2 virus, social isolation was the method that was used to overcome the threat. From every side, a person heard the postulate “Stay at home”. Jonathan Hellewell, along with other researchers, claimed that the so-called “population blockade” will have negative effects (Hellewell, 2020: 253). In the previous part of the article, the impact on the economy was mentioned, because everyday governments of countries count financial losses caused by social isolation. There is no doubt that the result of this state of affairs will be the global economic crisis. In the United States, the biggest recession since the crisis of the early 1930s has been rumored for some time. Today, the American people are plunged not only in the fight against the deadly virus but also in the fight for their own rights to a normal existence. This is done through mass protests against the restriction of the freedom of Americans who, as a result of a pandemic, had to stay in their homes. People in more than 20 states came out on the streets with banners “Open America now!”. In the face of the threat of virus infection, will the state authorities take steps to weaken the restrictions? It can be presumed that rather “not” because, in the United States, there is the highest number of people infected and the highest mortality caused by SARS-CoV-2 virus. So, what social consequences will it have?

So if slavery, metaphorically identified with isolation, should contribute to the increase of people’s freedom, then the situation looks quite the opposite. In this context, it is worth looking at ideas from some countries regarding the introduction of “immunity passports” issued to people who have overcome infection with coronavirus (Coleman, et al. 2020). The consequence of such actions will certainly be social division, on those who are allowed to lead a normal life and those who will be forced to remain in isolation for an indefinite period of time, because such an indicator will be either to cope with the disease or to take appropriate medicines whose invention is burdened with a longer time perspective. Therefore, biological and social inequality will be normalized, which will lead to economic and social stratification. Similarly to the situation mentioned above in the Carolinum Junior High School, where students are also separated due to surrendering or failing to be tested for the presence of SARS-CoV-2 virus in the body.

Going in this direction can be reduced to the claim that the so-called world panopticon. To refer to this context belongs to the project of the perfect prison of Jeremy Bentham, where there is one supervisor who is invisible to the rest of the prisoners. Still, in fear of the consequences of control, each of them follows the rules. Today’s pandemic situation allows us to state that we live in an identical panopticon. It is undoubtedly the internet world, or the so-called world 2.0. All of our activities have been moved to the Network, and therefore the chance to exercise control over us has undoubtedly increased. Each click on the keyboard button can be monitored by the relevant state services. That is why every man, like in panopticon, rather tries to follow the rules, because it is unknown at what moment our actions will be controlled. No
one wants to be responsible for acts on which the state imposes certain restrictions. From this comes the straightforward conclusion that the pandemic was and, in this case, effectively used to limit social freedom. Man nowadays expresses his approval for self-isolation and with it the restriction of his own freedom not only for fear of virus, but above all for fear of responsibility. A pandemic in this context is merely a mechanism that drives social hysteria. So, to achieve freedom, i.e., to overcome the fight against SARS-CoV-2 virus, and to return to normalcy, society is in captivity, or in other words, social isolation. So again, the Orwellian metaphor finds application in today’s reality.

**Ignorance is Strength:**

**From Orwellian Senses to Current Pandemic Ones**

What could the Orwellian metaphorical phrase “ignorance is strength” mean during a pandemic? However, before this question is answered, it is worth recalling the inclusive nature of the concept of freedom. It includes, among others, aspects of morality and ethics of decision making. Being free does not mean acting with free will, because this definition is redefined today. Free will today is limited by the scope of the rights and obligations that society imposes on society.

Nevertheless, society should be able to influence this scope of freedom, and there should be so-called social approval. Traditionally, people get rid of the ability to make decisions for the representatives of their choice, thus allowing a small group of people to decide on living conditions for several years to come (Svyrydenko & Możgin, 2019: 91-92). It is a mechanism that most people around the world have got used to today. However, in crisis moments, restriction of freedom by introducing special regulations takes on a new meaning. In this context, axiological issues undoubtedly play an essential role, because the basic problem is the level to which one can interfere in the sphere of social freedoms. So, returning to the question, which means the statement that ignorance is a force, it is worth implementing in its semantic sphere also those mentioned above ethical and moral aspects.

Ignorance is also deciding what is better and what to give up. The problem related to this was particularly noticeable in Italy when in the absence of adequate material security, tough decisions were made, which in the context of our considerations, we can refer to the issue of moral freedom. What to do? Who to save first? For anyone in such a situation, it would be a huge problem. They are resulting not only from purely pragmatic reasons but above all moral and ethical.

Generally speaking, the sphere of medicine has been thoroughly redefined today. Nowadays, individual states, interfering in the private sphere of their citizens, strive to ensure their security. Nevertheless, under cover of this concern lies an unlimited range of control. Michel Foucault described this type of action on the part of the state as biopower (biopouvoir). The goal of biopower is to control people’s lives (Foucault, 2014: 23-25). It is interesting, however, that in times of crisis, this control goes to a different level and concerns not individuals, but the collective body, which is the global community. This is the way of thinking that we are dealing with today because man becomes the object of a potential threat. Today, following this logic, we go beyond the dimension of ethics and morality, pursuing the goal of overcoming the SARS-CoV-2 virus.

In his works, Michel Foucault clearly shows how the health care system has been redefined and a today is an effective tool for controlling and monitoring the public worldwide (all the countries do it today staying on the humanistic positions, but these practices create the
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by Wiktor Możgin

challenges of redefining the social architecture worldwide). The French philosopher believes that the sphere of medicine has evolved into social medicine, at the core of which is the technology of the social body. In a capitalist society, the human body is only a biopolitical reality, and medicine is only a biopolitical strategy. It follows that the medical sphere is nothing more than a mechanism by which power exercises control over man (Foucault & Deleuze, 1977: 207-211). In this context, one fundamental question arises, whether will ever ordinary man have a chance to free himself from this permanent control? Observing the modern world in which the nomadic and consumerist way of life overwhelmed the majority of society, one can certainly answer in the negative. This is primarily due to the belief that the human body, which is the material sphere of man, is more important today than the axiological sphere, i.e., the one based on values, morality, and ethics.

Thus, to say that ignorance is a force that reduces this narrative into two related aspects. The first is that society, fearing the deadly virus, is becoming more selfish, often caring for its particular interests. It can be presumed that this is a consequence of a specific strategy based on materialistic assumptions, devoid of ethics, and morality. In turn, the second aspect concerns the mechanisms used in some developed countries, that instrumentalize the pandemic situation and, by implementing the biopolitics assumptions, strive to control society.

Conclusions

The post-pandemic world, referring in this context to the post-modern world, will undoubtedly be different. First of all, due to the issue of freedom so widely discussed in this article, each of us will voluntarily be able to renounce to ensure our national security. It follows from this that over time, those restrictions that are supposed to provide us with protection and which limit our freedom will become the norm and will enter the ordinary life, such as restrictions related to passing control at airports after September 11, 2001. Today, none of us are thinking about protesting against airport restrictions associated with giving control procedures. It will be the same in the post coronavirus world when the relevant services measure our body temperature before entering the airport terminal or onboard an aircraft.

However, when talking about body temperature or pressure, one can go a step further and say that in a post-pandemic world not only these physiological features of our body will be controlled, but it can be extended to our emotions, which are also a biological phenomenon of our body. The SARS-CoV-2 pandemic nowadays is an excuse to increase this control. It is no longer a difficult task to imagine a situation when human political views will be judged by the click of a button on the TV remote control. Nevertheless, this control over human emotions will be a much more effective mechanism in this context. All this boils down again to Michel Foucault’s rhetoric regarding biopolitics.

From the considerations presented in this article, there is also a conclusion that in the post-pandemic world, there is unlikely to be a redefinition of media discourse. This is due to the fact that in 21st century, man is overwhelmed by media terror because virtually every news channel presents materials on the SARS-CoV-2 virus (Aven et al. 2020). However, it is worth noting that this narrative is often devoid of practical comments based on scientific conclusions. Today, it is still unknown what virus pathogen attacks the human body, and the more it is unknown how to fight it. It is a paradox that, despite a large amount of information about coronavirus, a person does not receive the necessary tool in the form of an answer to a seemingly simple question, what should I do next? How should I proceed?
The final conclusion of this article is the fact that we will certainly be imposed and then legalized new standards and obligations, which will initially constitute a restriction on our freedom. It then will become so common that no one will pay attention to their application. Thus, another crisis and subsequent regulations imposed on people will become the norm in everyday life. For those in power in some countries, it will be another chance to increase their control over society. Therefore, it is worth analyzing a pandemic not only from the perspective of statistics of the number of cases but above all, considering it in terms of rational effects regarding the sphere of ethics, morality, and freedom. However, in this matter, the basic question is whether a post-modern man is ready to take up this challenge? At the current stage of reflection on the effects of a pandemic, this question is rather rhetorical. Nevertheless, the situation referred to in this article arises, referring to the words of Alain Finkielkraut, from the weakness of man and his fear of being responsible for his actions (Bielecki, et al., 2020). Therefore, at this stage, one thing remains certain because the paradigm of the post-modern world will certainly change radically due to the impact of the pandemic caused by the SARS-CoV-2 virus.

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Construction of Law-based Government in the Context of Counteraction to COVID-19

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With the deepened construction of law-based government in China, China-specific socialist legal systems have been constantly improved. Among these systems, the legal system on public health security is an important part of the construction. In the context of preventing and controlling COVID-19, Chinese emergency response measures for public health security have played crucial roles. They created the most important legal framework for China to effectively prevent and control COVID-19, protect the life and health of its citizens, and guarantee the resumption of work and production. Nevertheless, the fight against coronavirus disease has caused many problems, including the need to legally give the government more specific powers in the event of serious public health emergencies, how to get the government to get legal powers and to carry out preventive work promptly, how the Government should better protect fundamental rights citizens in critical situations to prevent and control epidemics, and how to ensure that the local government operates in accordance with the law in preventing and controlling COVID-19. This article analyzes the legal standardization of legal issues that arise in the context of the prevention and control of COVID-19 by the Chinese government in terms of building a legal government Discuss ways to improve the construction of a legal government in the country context of counteraction COVID-19.

Keywords: law-based government, counteraction to COVID-19, public health security, government power

Received: February 21, 2020; accepted: March 24, 2020

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Summary of COVID-19 Prevention, Control, and Law-based Government

Concept of Law-based Government

Law-based government is opposed to the “man-ruled” in specific contexts of China. Over thousands of years of Chinese history, the emperors ruled their states with their scholar-bureaucrats. However, former empires and dynasties formulated their respective laws according to the needs of social governance in their times. Hence, a unique tradition developed for ruling by men in spite of the law. At present, the Chinese government adopts the centralized government system, so it is quite necessary to regulate government power with law and construct the law-based government.

Also, law-based government is seldom mentioned in Western countries, because in modern Western countries, the government mostly originates from legal authorization, and law come into being prior to the government. Therefore, people living under Western cultural backgrounds generally consider that the governments are naturally constructed in accordance with the law and restricted by law. The governments must exercise their power pursuant to law, in order to protect, safeguard and expand citizens’ rights.

Concerning the law-based government, Aristotle, who is a western ancient Greek scholar, thinks that the law-based government means existing law is sound that people can generally abide by and enforce the law (Aristotle, 2013). As an ancient Greek scholar, Cicero opposes ruling by men and considers that no one shall enjoy this privilege under the ruling of the law-based government (Zhang, 2008). British scholar Locke considers that a law-based government ought to establish restricted, responsible and decentralized principles. All powers shall be exercised in accordance with announced law. Besides, everyone is equal in front of law, and violators of law must be punished by law. French scholar Montesquieu thinks that an ideal law-based government shall separate executive, legislative and judicial powers. At the same time, Rousseau considers that a law-based government shall be constructed based on social contracts (Rousseau, 2004). Even though there are divergent opinions regarding the law-based government in the academic circle and the definition of law-based government hasn’t been unified, it is beyond doubt that the law-based government has emerged as specified by constitutions and law. The government’s exercising of public power must be restricted and supervised by law (Bazaluk & Balinchenko, 2020). Citizens’ rights are protected and relieved by law. Meanwhile, law shall be continuously improved in combination with productivity and the situation of social development.”

Relationship between Epidemic and the Construction of Law-based Government

Epidemic prevention and control are closely connected with the construction of law-based government. During epidemic prevention and control, the construction of law-based government is an important part. Counteraction to epidemic, in essence, refers to the government’s emergent ruling by law. For such prevention and control, constitutions and pertinent law authorize the government to take exceptional law to stabilize social order under special circumstances, standardize and restrict some of the citizens’ rights and behaviors to protect more important rights of citizens like their lives, in order that the country and the society can gradually return to the normal track of ruling by law. In the course of epidemic prevention and control, namely emergent ruling by law, particularly evident features include centralization and expansion of national power as well as restriction and abatement of civil rights.
For the construction of law-based government, what matters most is that the government’s exercising of power must be authorized, standardized, restricted and supervised by law. Meanwhile, relief and guarantees shall be offered for civil rights. However, it will be extremely hard for the government to effectively deal with emergencies to effectively control the epidemic, provided that no effort is made to centralize or expand the government’s power and restrict citizens’ rights. As a consequence, social disorders, social chaos, greater losses of civil rights, and more legal issues. Therefore, the key point consists in the scope and degree to which the government’s power is centralized and expanded within the law, and to which citizens’ rights are restricted and weakened during epidemic prevention and control. The purpose is to make the government’s exercising of power for epidemic prevention cause minimal damages to citizens, thus best preventing and controlling the epidemic. Some cases in the context of counteraction to COVID-19 suggest that the government’s exercising of their expanded power, especially the local government’s acts might beyond the legal requirements for COVID-19 prevention and control in some fields have brought some unnecessary obstacles to the construction of law-based government and caused some legal issues. It is quite necessary to further improve the legal systems for the above construction in consideration of the legal issues (Huang, 2015).

**Legal Issues Emerging in Constructing the Law-based Government in Epidemic Prevention and Control**

**Lack of Emergency Law**

Since the outbreak of COVID-19 in the world, several Western countries, led by the United States, has declared their state of emergency. The emergency state system is a prevalent practice in most modern countries. The Emergency Act was promulgated in 1955 in France; the National Emergencies Act was promulgated in 1976 in the United States; the Federal Emergency Act was promulgated in 2001 in Russia. In promulgating unified emergency acts, the Western countries formulated special laws specific to particular emergencies based on scientific classification. Special laws and regulations have been formulated in response to public health events, natural disasters, emergencies, states of emergencies and terrorist attacks, and so on. Besides, they are often revised according to the actual situation.

In China, legal authorities that state organs at varying levels enjoy in case of any emergencies are specified in the Chinese Constitution. Still, epidemic prevention and control from the perspective of systems and architectures are not defined by law. Besides, the law regarding emergency responses to unexpected epidemics and diseases approved by the Standing Committee of the National People’s Congress are relatively scattered. Although the Emergency Headquarters for joint prevention and control (hereinafter referred to as HQs) have been granted certain legal rights, including the rights to isolate infected cases and lockdown affected areas in the process of COVID-19 prevention and control by the Emergency Response Law of the People’s Republic of China, Regulations on Public Health Emergency and Law of the People’s Republic of China on the Prevention and Treatment of Infectious Diseases, Concerning if the HQs can authorize local governments and local autonomous organizations the rights to restrict citizens’ personal freedom with compulsive measures, the Organic Law of the Villagers Committees of the People’s Republic of China and the Organic Law of the Urban Residents Committees of the People’s Republic of China stipulates that local autonomous organizations don’t have such legal rights. According to Article 8 of the Legislation Law, only the National People’s Congress and the Standing Committee have the right to formulate
laws to specify mandatory measures for restricting personal freedom. The State Council and corresponding HQs for joint epidemic prevention and control are not authorized to restrict citizens’ personal freedom with compulsory measures.

According to Clause 3, Article 10 of the Administrative Compulsory Law of the People’s Republic of China, “Administrative compulsory measures mustn’t be specified in regulatory documents other than law and regulations.” Some administration regulations, including Article 33 of the Detailed Implementation Rules on Health Management in Public Areas and administrative measures taken by some local governments for epidemic prevention and control such as compulsory isolation and restriction of personal freedom, are not definitely permitted by law. However, in reality, it is essential to expand these organizations’ power to prevent and control the epidemic effectively. Since the stage of emergency is specified in the Constitution, under a state of emergency, the law still has to clarify the legal rights of related anti-epidemic organizations.

Also, the subjects, components, statutory procedures, legal responsibilities, and legal authorities of the HQs for joint prevention and control at varying levels aren’t clearly defined in any law either. In legal systems, the Emergency Response Law of the People’s Republic of China is a mere legal regulation on emergency response plans to various emergencies. It does not grant temporary rights to some organizations and local governments which do not have related rights in any major public health emergencies to protect most citizens’ rights under the state of an emergency or clarifies the definite boundaries for expanding government power under the stage of an emergency. Thus, existing legal systems on public emergency responses can’t constitute a complete legal system on emergency responses, in order to take administrative measures beyond legal authorities for better epidemic prevention and control. Likewise, in view that laws are formulated for the purpose of protecting citizens’ rights, China shall also endow the governments with more power than they usually have to prevent and control the epidemic.


Some Local Governments’ Deviation from the Principle of Proportionality in Law Enforcement

The principle of proportionality in administrative law should be respected in order to minimize the damage caused by government powers to prevent and control epidemics. This implies that administrative subjects shall consider the realization of administrative objectives and protection of administrative counterparts’ rights and interests in conducting administrative
behaviors. If the realization of administrative goals might impose adverse impacts upon administrative counterparts’ rights and interests, such adverse impacts shall be minimized and limited at an appropriate proportion.

The principle of proportionality is not clearly provided in Chinese law. The State Council specifies the principles of rationality and proportionality in the Opinions on Strengthening the Building of a Government Ruled by Law (Document No.33 [2010] of the State Council) (Research Center, 2014). Whether administrative behaviors are in line with the principle of proportionality is an important legal criterion for reviewing administrative justices. In particular, under the circumstances of an emergency ruling by law like epidemic prevention and control, restrictions on citizens’ freedom and rights such as city lockdown, neighborhood lockdown, expropriation, requisition, and traffic regulation shall conform to the principle of proportionality. Take the “expropriation event in Dali” in the context of counteraction to COVID-19, for example. Dali Health Bureau expropriated approximately 300,000 masks bought by Chongqing and Huangshi municipal governments from Myanmar with the excuse of responding to the emergency (COVID-19). This event aroused great controversies about administrative law. Administrative power shall be exercised in accordance with “the principle of proportionality.” There shall be an appropriate, requisite, balanced, and definite proportion between the goals of administrative measures and means for attaining such goals. It is evident that Dali Health Bureau ignored the proportion between the administrative measures for expropriating masks and the nationwide COVID-19 prevention. Its practice is unfavorable for coordinating COVID-19 prevention and control all over China. Meanwhile, it is not in line with the principle of proportionality in administrative law.

Articles 6 and 9 of the People’s Republic of China Law on the Prevention and Treatment of Infectious Diseases, as well as Articles 4 and 6 of the Public Health Emergency Regulation, provide governments with legal authority to take specific measures to prevent and combat epidemics. However, they do not have a clear indication of government bodies, relevant legal duties or legal procedures. Instead, they only generally provide that emergency HQs shall deal with emergencies and isolate sources of infection. Such soft clauses of law, on the one hand, are favorable for the governments to take flexible measures under the epidemic situation; on the other hand, they obscure the boundaries of government power. As a result, power is inappropriately employed, and some behaviors even go beyond the reasonable limits of prevention and control. There are lots of cases on similar administrative acts conducted beyond the reasonable limits in the context of counteraction to COVID-19. For instance, some local governments locked down places like food markets for epidemic prevention and control, imposing adverse impacts on people’s daily lives. In some affected areas, hospitals ignored females’ basic physiological needs, excluded sanitary pads from disaster relief materials. Apparently, these practices went beyond the principle of proportionality in administrative law and the reasonable limits necessary for epidemic prevention and control, thereby having negative impacts on administrative counterparts.

**Some Local Governments’ Outdated Ideas on Ruling by Law**

Although both central and local governments established joint prevention and control mechanisms for COVID-19 prevention and control, the execution and implementation of these mechanisms shall be still dependent upon local governments and organizations. However, in preventing and controlling COVID-19, some local governments and organizations took measures beyond legal authorities.
During their prevention of COVID-19, some rural local organizations adopted “hardcore” actions, some of which were unlawful and unreasonable. For example, in some countryside of affected areas, villagers’ committees committed some rude acts, including road and village lockdown. Entries and roads to villages were blocked with stones, stumps, cement blocks, welded iron fences, and sandy soil by excavators. Nevertheless, according to Article 43 of the Law of the People’s Republic of China on the Prevention and Treatment of Infectious Diseases, “In case of the outbreak or epidemic of class-A and class-B infectious diseases, regional people’s governments above the prefecture-level can declare administrative areas under their jurisdiction as affected areas in part or whole once they report to the higher-level people’s governments for approval. The State Council can confirm and declare affected areas across provinces, autonomous areas, and municipalities directly under the central government”. Local people’s governments above the prefecture-level can adopt emergency measures stipulated in Article 42 of this law, and perform health quarantine inspection on personnel, materials, and means of transport going into and out of affected areas. People’s governments of provinces, autonomous areas and municipalities directly under the central government can decide to lock down places of their administrative areas affected by class-A infectious disease.

Nevertheless, decisions regarding whether to block big or medium-sized affected areas, affected areas across provinces, autonomous areas or municipalities directly under the central government, or lockdown affected areas which will cause interruption of traffic arteries or the State Council shall make borders. The lockdown lifting of affected areas shall be determined and announced by the original authorities, which have made corresponding decisions.” Any law or regulations do not permit the measures taken by villagers’ committees. Being unlawful, they violate the Fire Protection Law of the People’s Republic of China, Road Traffic Safety Law of the People’s Republic of China, and Criminal Law of the People’s Republic of China. This fully reveals local governments’ and local organizations’ lack of ideas on governance and ruling by law. Besides, some prefecture-level municipal governments’ administrative behaviors were unlawful and unreasonable during epidemic prevention. For example, some local residents’ committee released notices and required residents to dispose of their pets independently, or else the pets would be compulsorily killed. Neither local governments issued any order for killing pets, nor any evidences proved that pets were “affected” species. However, local staff killed residents’ pets. Besides, local governments arbitrarily set up checkpoints at entrances of neighborhoods, townships, towns, and villages to check citizens’ certificates like ID cards. Nonetheless, according to Article 13 of the Law of the People’s Republic of China on Resident Identity Cards, people’s police shall be the subjects checking resident identity cards. However, property management personnel of neighborhoods and local ordinary people do not have the power.

In preventing and controlling COVID-19, some local governments’ ruling in chaos reflected the harms of local governments’ old-fashioned ideas on ruling by law to the construction of law-based government.

Suggestions for Improving the Construction of Law-based Government during Epidemic Prevention and Control

Improving Legal Systems for Public Health Emergency Responses

As mentioned above, China still faces many legal issues in establishing legal systems for responding to major public health emergencies, and the most outstanding legal issue is China’s
lack of an emergency law. There are legal provisions regarding the state of emergency in the Constitution of the People’s Republic of China. In fact, many legal issues emerged under the SARS epidemic situation in 2002 when legislation authorities realized that there was a lack of legal supports for responding to similar emergencies, plenty of measures were connected with legal issues, curfew measures were inadequate, and China should formulate an emergency law. Hence, the “curfew” under three non-recurrent legal states in Article 26 of the amendment to the 2004 constitution was replaced by the “state of emergency,” and the emergency law was drafted, and phrases of relevant legal provisions were revised. However, the draft was not approved, so there is no special emergency law in response to emergencies in China.

The nullification of this draft put the state of emergency specified in many laws and regulations (including the Constitution of the People’s Republic of China and Security Administration Punishment Law) in an awkward situation. It caused disorderliness of legal terms and even legal systems. Also, there are provisions regarding nationwide and local mobilization. As a consequence, “emergency responses” and “emergency administration” appear to be more disorderly. Under the background of comprehensively deepening reforms, a consensus has been reached to legally regulate government power. This is reflected from the list of government powers released by the central government and construction of service-oriented government. Therefore, from the structure of legislation systems, only if the Emergency Law is formulated to clarify that the state of emergency is an abnormal state opposite to the normal state for the purpose of legally regulating many administrative measures adopted by the governments for epidemic prevention and control can it become possible to construct complete emergency management systems, mobilization systems, and more scientific legal systems for the construction of law-based government. The emergency system is a prevalent practice in most modern countries. By formulating the Emergency Law, an emergency can be identified as abnormal state opposite to the normal state to legally regulate numerous administrative measures taken by the governments for epidemic prevention and control, in order that epidemic can be better prevented and controlled with administrative measures beyond normal legal authorities. In particular, the state of emergency has been specified in the Chinese Constitution and pertinent law, whereas no emergency law is available for regulating emergencies. As a result, factual legal concepts and language logics are disorderly; systems are incomplete. To prevent and control COVID-19, cities, residential quarters, and village communities were blocked in China on a large-scale basis. Besides, people’s travel, gathering, association, and traffic were restricted and controlled. Materials were distributed and produced all over China. Medical personnel were urgently transferred on a nationwide basis. Lots of enterprises suspended production, and many suspected cases were isolated for observation.

In fact, China entered a state of emergency at that time. Some people think that once the first-level significant public health emergency response is activated in provinces and cities, it means that the country has entered the state of emergency. Hence, it is unnecessary to additionally legislate a separate law. In fact, from the perspective of law, the two circumstances are completely different. Major public health emergency response is activated based on the National Public Health Emergency Response Plan, which is drafted on the basis of the Law of the People’s Republic of China on the Prevention and Treatment of Infectious Diseases. However, this law is mainly about the major measures for preventing and controlling infectious diseases. Instead, it does not grant the governments related to administrative rights. Once a country claims the state of emergency, normally, civil rights protected by some law will be restricted, and the governments’ related rights will be expanded for epidemic prevention
and control. Meanwhile, government power can be restricted to prevent governments from abusing their power due to inappropriate power expansion, in order to protect some of the citizens’ fundamental rights and strengthen the governments’ ruling by law under the state of emergency.

Therefore, from the perspective of legislation, efforts shall be speeded up to formulate an emergency law to clearly define legal connotation and extension of this law, in order that administrative organs can correctly distinguish emergencies from states of emergency. Clarify legal procedures and scope of power exercised by administrative organs, what emergency measures can be adopted, holders of rights, legal responsibilities, supervision, and relief under the state of emergency. The first section shall be general provisions. It shall mainly introduce the concept and basic principle of the state of emergency. The second section shall be about monitoring and early warning. It primarily specifies government authorities in charge of monitoring and early warning under the state of emergency and normal circumstances as well as connections of specific jobs, rights, and legal responsibilities. Section 3 describes authorities under the state of emergency, especially the effectiveness of other law under the state of emergency, and restrictions of citizens’ fundamental rights. The fourth section shall be about legal responsibilities, while the fifth section shall introduce power supervision and relief under the state of emergency. Section 6 shall be about supplementary provisions. Secondly, revise outdated clauses of existing emergency law and regulations, including the Emergency Response Law of the People’s Republic of China, Law of the People’s Republic of China on the Prevention and Treatment of Infectious Diseases and Regulations on Public Health Emergency. Unify legal terms, anti-epidemic standards, and legal authorities: update virus classification and coordinate other law with the emergency law. Thirdly, appropriately cope with the relationships between event-based legislation and phased legislation; strengthen the formulation of comprehensive law and regulations. In particular, emergency-related law shall be linked with normal law, including the Administrative Compulsory Law, Administrative Procedural Law, Regulations on the Disclosure of Government Information, Administrative Expropriation Law, and Law on State Compensation. Add clauses of the emergency law to normal law, and appropriately handle the relationships between emergency-related law and emergency response plans, in order that legal systems can be more systematic, complete and coordinated.

Construction of an Emergency Support Mechanism for Citizens’ Fundamental Rights

First of all, construct an emergency support mechanism for citizens’ fundamental rights. Add content on the authorities for restricting citizens’ fundamental rights, relief approaches, and relief mechanisms under the state of emergency to Section 3 of the aforementioned emergency law. Secondly, revise related legal provisions of the existing legal emergency system. Classify states of emergency and corresponding legal authorities. Thirdly, build special governmental and judicial authorities for protecting rights under emergencies. Guarantee diversity and smoothness of relief approaches with new mobile and network communication technologies online and offline.

Epidemic prevention and control, which is for safeguarding public health security, involves public interests, whereas private interests are concerned in protecting citizens’ fundamental rights. According to the modern spirit and principle of the rule of law, when epidemic prevention and control conflict with private interests, public interests shall be more important than private interests, and thus the latter will be restricted and even reduced.
However, individuals’ fundamental rights shall not be infinitely reduced. There shall be an appropriate boundary and balance between both of them, which is in line with the spirit of ruling by law. In particular, relief approaches available for protecting citizens’ fundamental rights under existing law might be impacted by the epidemic during prevention and control, thus failing to play their roles. For instance, how shall administrative counterparts harmed by administrative measures for epidemic prevention and control application for administrative reviews or file administrative lawsuits against the administrative behaviors infringing upon their rights and interests during epidemic prevention and control? Notably, in affected areas, roads and neighborhoods were blocked, while citizens’ freedom and movement were restricted. Impacted by COVID-19, administrative review organizations and courts couldn’t carry out work. Under this circumstance, how to protect fundamental legitimate rights and interests of citizens by law, especially when many citizens’ fundamental rights were infringed upon during epidemic prevention and control, as mentioned above? All these are fairly important legal issues. President Xi Jinping has mentioned several times that internet plus governance is an important reform orientation for the construction of law-based government. In consideration of above special circumstances of epidemic prevention and control under which citizens’ don’t enjoy fundamental rights, while such rights are protected by law, including the Constitution of the People’s Republic of China and Law of the People’s Republic of China on the Prevention and Treatment of Infectious Diseases, online platforms for rapid administrative reviews and courts’ online lawsuit acceptance are recommended to be built to realize internet plus governance. Compared with traditional offline methods for protecting citizens’ fundamental rights, an online emergency mechanism for protection of such rights is more convenient, rapid, efficient, and more adaptable to special epidemic circumstances. Furthermore, this mechanism is favorable for constructing a unified joint defense, control, and command mechanism for governments at varying levels. This not only facilitates governments’ administration by law at varying levels under the epidemic situation, but also increases judicial efficiency and reduces harms of illegitimate power expansion to citizens’ fundamental rights, thus making it helpful for the construction of law-based government.

**Constructing a Coordinated Public Health Emergency Response Mechanism for Governments at Varying Levels**

A coordinated public health emergency response mechanism is needed for governments at different levels. The key is to prevent governments from separating administrative bodies in a state of emergency, and to avoid conflicts in case of emergency. It is inappropriate to bring overall optimal effects into play with the minimum legal costs. For instance, COVID-19 wasn’t promptly reported to the central government owing to the mechanism for reporting to higher authorities level by level as specified by the Law of the People’s Republic of China on the Prevention and Treatment of Infectious Diseases. Hence, the following suggestions are given: Firstly, in legislating the aforementioned emergency law, the emergency commands under the state of emergency shall be further coordinated, integrated, and clarified. Besides, revise and sort out outdated legal articles to make them adaptable to social development. Secondly, establish special organizations and a complete emergency coordination mechanism. Rights, responsibilities, and legal status of the Emergency Management Office, the State Council, are suggested to be expanded. Establish corresponding affiliates to local governments at varying levels, making them become special standing emergency command organizations. Thirdly, make emergency management flat with advanced technologies such as the internet, mobile
communications, and cloud data. Break limits of time and space-dependent upon strengths of new technologies to make emergency information public and connected, in order that local governments can directly report to the central government. In this manner, the emergency management of governments at varying levels can be coordinated.

Since the outbreak of COVID-19, governments at varying levels promulgated policies for epidemic prevention and control in succession. Till now, the domestic epidemic has been effectively controlled. Of course, some legal issues have emerged in the process of COVID-19 prevention and control. The issues on legal policy supervision and coordination of governments at varying levels are especially prominent. Although joint prevention and control mechanisms were established for governments at varying levels from central to local governments, policies were still not coordinated, and there was a lack of legal supervision. The administrative measures released by some local governments for COVID-19 prevention and control were not in line with the law. For instance, some local governments arbitrarily blocked roads and cut off traffic without obtaining legal authorization or going through statutory procedures. This should be ascribed to the incompleteness of pertinent laws and regulations as well as some local governments’ lack of legal ideas. In particular, no emergency law is available in China. In the face of the massive, contagious, and severe COVID-19, the governments at varying levels took administrative measures based on different laws and regulations, which appeared to be scattered, disorderly and unsystematic. Notably, some of the laws and regulations were promulgated more than ten years ago, and never revised over the years. Thus, they no longer suit the actual situation of epidemic prevention and control, changing national conditions of China and fast-growing society as well as tremendous changes to traffic networks and regional population flow, and so on. They are even no longer adaptable to the strong destructive power of viruses arising from virus mutations and variations such as periodical, contagious, and drug-resistant viruses infections.

On the contrary, related foreign law has been revised frequently. For example, regulations on disaster prevention dominated by the Federal Emergency Management Agency of the United States have been revised for more than 100 times over the past 100 years. Over 20 years from its enactment in 1999 to 2019, Russian Federal Law on Public Health and Epidemic Prevention has been revised for 41 times, and twice per year on average. If the revision of law and regulations does not keep up with social development, the law and regulations will become outdated.

Above all, it is necessary to constantly improve the construction of the legal system on public health emergencies, subdivide related law and regulations, approve the emergency law as early as possible, clarify rights and responsibilities of legal anti-epidemic subjects, particular law and regulations, so as to promote the construction of law-based government.

Conclusions

This paper focuses on preliminary research on legal issues related to epidemic prevention, control, and construction of law-based government. It roughly analyzes legal issues regarding legislation, government law enforcement, supervision, and relief in law and regulations pertinent to epidemic prevention and control. Besides, an attempt is made to put forward countermeasures for improving the law. Legal systems, law, and provisions on Chinese major public health emergencies aren’t specific, detailed, or complete. As a consequence, some legal issues have emerged in the context of counteraction to COVID-19. Based on former
research, this paper summarizes and sorts out the content and legal issues concerning epidemic prevention and construction of law-based government. Besides, legal cases regarding the construction of law-based government in the context of counteraction to COVID-19 have been collected, analyzed, and studied with related legal knowledge.

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Paradigms of the Nations Classification in European and Soviet Marxism

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For the first time in the post-Soviet period, in a separate publication, prerequisites, key ideas, theoretical, methodological, ideological and political paradigms of nationalities by world and European “classics of Marxism” (Friedrich Engels, Austro-Marxist Otto Bauer, Joseph Stalin and Vladimir Lenin, etc.) are analyzed and revealed in reliance on the principle of historicism and methods of systematic, comparative, discursive and content analysis in political, philosophical and ideological aspects. Comparative research of the interpretations of the main types of nations by the ancestors of Marxism and their theoretical models, and also ideologemes, which were created in Soviet Marxism in the second half of the twentieth century, was carried out.

The material of the article is particularly important for a relevant understanding of the specifics and direction of the development of philosophical and socio-political studies in the USSR and Ukraine in the second half of the 1960s, the second half of the 1980s, and for the scientific understanding of the paradigmatic, analytical and ideological prescriptions of the Marxist-Leninist theory of the nation and the communist meta narration in their confrontation with Western concepts. In the present circumstances, the results of such an analysis are essential for the creation of a correct assessment of the theoretical platform and ideological attitudes of that period Soviet authority in the sphere of national and cultural, national-state and socialist building, as well as its struggle with “bourgeois nationalism.”

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Keywords: socio-political studies, USSR and Ukraine, differentiation of nations, Friedrich Engels, Austro-Marxism of Otto Bauer, Stalin’s classification of nations, Marxist-Leninist historical and economic theory of the nation, scientific communism

Received: March 6, 2020; accepted: April 21, 2020

Introduction

It should be noted that the social sciences, especially in the socialist countries and specifically in the Soviet Union, actively carried out ideological functions in the geopolitical situation of the second half of the twentieth century. Using the cliché of that era, they were at the forefront of the ideological struggle between the two political systems and ideological doctrines — Socialist, Soviet, Marxist-Leninist, communist, internationalist, on the one hand, and capitalist (imperialist), anti-communist, anti-Soviet and bourgeois-nationalist, on the other.

Because of this geopolitical and ideological confrontation, one of the key challenges of the theory of the nation for Soviet experts in the field of the theory of the nation (especially in the situation of obvious ethnocultural commonality of the population of some alternative socio-political systems and states, first of all, the GDR and the GFR, the DPRK and the Republic of Korea (South Korea); the activation of national liberation movements in different regions of the world; international recognition of such a politically extraordinary phenomenon as “countries of socialist orientation,” with their national or nationalist-oriented leadership and ruling parties, etc.), was the problem of interpreting the relationship of the national liberation struggle of peoples and the struggle for social liberation of the exploited classes, i.e., socialism.

Initially, the only way to solve the problems of the interconnection between national and social liberation was the democratic, proletarian and social revolution, the abolition of capitalist economic and political relations. So, the following model was used: “to the national through social liberation.” Nevertheless, Marxists of different countries and of different historical periods were not unanimous about the specific way of implementing the general scheme. Different social democratic and communist leaders preferred (including the theoretical justification, ideological, propagandist, and organizational support, etc.) one of the two versions.

The first version, on which Karl Marx and Friedrich Engels insisted (in work, called The Principles of Communism of 1846, he directly stated that the proletarian/socialist revolution must occur in all capitalist countries simultaneously), later the Trotskyists with their idea of a “permanent revolution” (even in the mid-twentieth century). Relied on a postulate which read as follows, “Since the position of the workers of all countries is the same, since their interests are the same, and their enemies are the same, they must fight together, and they must oppose the fraternal union of all nations to the bourgeoisie union of all nations” (Engels, 1955: 373). Thus, the solution of the issue of national freedom, independence or statehood of each individual nation, and even the very legitimacy of its struggle for liberation, was made entirely dependent by the founders of Marxism (an exception was made only for Poland

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1 For example, Pierre Frank (1905-1984), who was one of the leaders and theorists of the Trotskyist movement of the second half of the twentieth century, a member of the secretariat of the Fourth International (to 1979), a member of the leadership of the international Revolutionary Communist League organization (from 1968 to 1984), explicitly stated that the question of national independence does not constitute any significant part of the theory of the permanent revolution (cited by 984, pp. 56).
and Ireland) and by many of their followers on the tasks and prospects of the international labour movement, on the success of its victory over the power of the international bourgeoisie. Within the framework of such a political approach and ideologeme, many national liberation movements of peoples in Europe were often criticized by Marxists, who considered them to be a hindrance in the revolutionary struggle of the proletariat, and a distraction from the main goal in politics.

The second, which was a historically later version, and was actively developed primarily by the Bolsheviks, especially by Vladimir Lenin since August 1915 (an article headed “On the Slogan of the United States of Europe”), presupposed a social revolution within a separate national state (the unitary or federal state was not important). Nevertheless, even without it, the first step and a huge impetus for the development of the working-class movement was the unconditional right of peoples to self-determination, i.e., the national liberation struggle that could lead to the attainment by a nation of state independence.

On the other hand, the dialectics of Lenin’s political thinking was that he believed the right of nations to self-determination and the “freedom of their separation” to be not an end in itself, but a means in the struggle for socialism, as well as a prerequisite and impetus to an alliance of nations in a future regional or world socialist state. Briefly, the argument here is that, firstly, he claims that “any democratic demand (including self-determination) for conscious workers is subject to the highest interests of socialism” (Lenin, 1979: 108). Secondly, “We won’t,” he stressed, “a free connection, and therefore we must recognize the freedom of separation (without freedom of separation, a connection cannot be free)” (Lenin, 1974b: 379). Therefore, “we” (RSDLP (b)) demand the freedom of self-determination, i.e., independence, i.e., freedom of separation of oppressed nations, not because we have dreamed of economic fragmentation or the ideal of small states, but on the contrary, because we want large states and rapprochement, even a merger of nations, but on a genuinely democratic, genuinely internationalist base, impossible without the freedom of separation. As Marx in 1869 demanded the separation of Ireland not for dividing, but for further free Union of Ireland with England, not “out of a sense of fairness to Ireland,” but for the interest of the revolutionary struggle of the English proletariat, so we consider the refusal of the socialists in Russia from the demand of freedom of self-determination of nations, in a sense indicated by us, a direct threat to democracy, internationalism and socialism” (Lenin, 1973a: 68). Thirdly, remaining a supporter of the idea of the world proletarian revolution (which can begin at the first stage in several most developed capitalist countries), and also taking into account the realities of imperialism at the beginning of the twentieth century, the models the process and interaction of its driving forces. “The social revolution,” he argues, “cannot happen otherwise than in the form of an era connecting the civil war of the proletariat with the bourgeoisie in the advanced countries and a number of democratic and revolutionary, including national liberation movements in undeveloped, hindward and oppressed nations” (Lenin, 1979: 112). Ideally, the social liberation of the exploited masses and the national liberation of oppressed peoples should result in a unique and global political alliance, namely, the “World Federal Soviet Republic” (Lenin, 1974: 47).

Friedrich Engels’s Political and Philosophical Differentiation of Nations

In the context of the above-described matter, the problem of the typology of nations arose in the Marxist (socialist and communist) movement, which in the course of the complex and
controversial historical process of the second half of the nineteenth and the first half of the twentieth century, acquired several dimensions or aspects.

Undoubtedly, in the twentieth century for Marxism-Leninism, the model of social-class differentiation of national communities was already prior. The division of nations into “capitalist” and “socialist.”

However, in the middle of the nineteenth century, for the founders of the communist doctrine, such a typology had not been of interest yet. Moreover, one should take into account the fact that a clear theoretical vision of the historical destinies of nations after the overthrow of the capitalist system, which was presented by the founders of the communist doctrine as a clear result of the socialist revolution on a global, at least on the European scale, was not formed. In addition, separate and isolated judgments of the authors of the Communist Party Manifesto, where for the first time it was stated that “Workers have no fatherland,” do not allow to fully scientifically analyze their point of view on this issue.

Another critical point in the analysis of the ideas about nations of the founders of Marxism (that, by the way, in the German political, philosophical and linguistic tradition used the term “nation” very freely), mainly by Engels, in the publication “Why Does the Working Class Care about Poland?” (1866), was the fact that he (not without the influence of Karl Marx) expressed some ideas and strategic proposals for solving the “national question,” which from any socialist or communist positions cannot be called democratic. In fact, the typology of nations, (conceptually similar to the discriminatory version proposed by the liberal J. Stuart Mill), was declared by one of the founders of the communist doctrine and the apostle of the principle of “proletarian internationalism and equality of all nations,” according to which all ethnonational communities were divided (supposedly from the principles of “European democracy” and the interests of the “working class”) into two types. The first is “large and viable European nations having European importance” and a long political history. According to the logic of the theoretical modeling of Engels, they would also have an unconditional “right to a separate independent existence” in the future, i.e. own national statehood. Engels highlighted such privileged, or according to his words, “The large and well-defined historical nations of Europe,” as “Italy, Poland, Germany, Hungary, France, Spain, England, Scandinavia, that have not ever been divided and have not been under foreign domination.” He also added Russia to this list, but already “as the owner of an enormous amount of stolen property (nations and ethnic groups included into the empire. — Authors), which it would have to give back on the payback day.”

The second type, according to Engels, is a considerable number of “historically unviable nations.” He characterized them either as “remnants of peoples” deprived of “vital energy” for their own cultural and political development or as such peoples that became “peripheral parts” of “big nations.” These ethnonational “peripheries,” the founder of the communist doctrine believed, “joined the national life of some other peoples and no longer want to join their main stem.” Engels also added to such historically unpromising politically national formations a “multitude of small nationalities inhabiting South-Eastern Europe.” According to his estimates, they did not have European historical and political significance, the democratic right to “political independence” and, therefore, they could not be given their own statehood. For this reason, their further destiny was either to assimilate with the great European nations or to become their peculiar ethnocultural “decoration.” The creator of communist ideology as a doctrine of universal liberty and equality offered his recipe for solving the national question in Europe, “In the end, there is a great benefit in the fact that various nations that have been formed politically in most cases contain some foreign elements that create a link with their
neighbours and introduce diversity into the too monotonous homogeneity of the national character” (Engels, 1960: 160-161).

Being far from the ideals of democracy and internationalism, the understanding of Frederick Engels of the principles of solving the national question and of the “liberation” of oppressed peoples, even in civilized Europe, and respectively, the division of nations into historically “viable” and “not viable,” was generally tried not to mention in the publications of the Soviet Marxists.

Moreover, “In 1896, the London Congress of the Second International proclaimed the general democratic demand for self-determination of nations,” and in Russia, “on the insistence” of Vladimir Lenin, “the principle of self-determination of nations was included in the RSDLP Program in 1903” (Kaltakhchian, 1983: 222).

Meanwhile, at the beginning of the twentieth century, especially shortly before the First World War, the working-class movement of many European countries, as well as numerous socialist and pro-communist parties in Europe and Russia, with the idea and the general democratic political demand for “freedom of national self-determination,” formed a strong and many-sided opposition. “Referring to the progressiveness of large, multinational states,” Suren Kaltakhchian, for example, noted, “Right opportunists called for their preservation under any circumstances, and therefore did not support national liberation movements.” “The left” opportunists claimed that this right was supposedly impracticable under capitalism, and it was not necessary under socialism” (Kaltakhchian, 1983: 222). At the same time, both “the right” and “the left” opportunists, and even some nationalist parties (in particular, the Bund party in Russia) promoted the project of “cultural ethnic autonomy” as the only correct and effective way of solving the national question, i.e., the elimination of national inequality and discrimination in multinational states, the liberation of all national minorities from cultural and political oppression (even from “everyday nationalism and chauvinism”) on the part of the national majority, its economically and politically ruling class.

Also, the Austro-Marxists and the theory of the nation and the project of national autonomy, which, at first glance, seemed to be politically and ideologically harmless, gave rise not only to misperceptions about the essence of the Marxist interpretation of objective logic, stages, forms and driving forces (classes, nations) of world history but created a confrontational ground for intra-party and cross-party disputes (even within the social-democratic movement of one country). They motivated and stimulated endless discussions among the theorists and ideologists of Marxism at the beginning of the twentieth century: on the subject of the strategy and tactics of “ways and means of solving the national question” (for example, in the Russian and Austro-Hungarian empires); “on the attitude to the imperialist war” (chauvinistic support of their national government/state “until its final victory” or, on the contrary, international

2 In connection with such a clearly undemocratic position of Engels, the leadership of the Soviet propaganda system, in one of the notes to his work, trenched on the sacred — to break all-party canons and to publish in the mildest form, but still, a few critical remarks, “The views of Engels on the historical fate of small peoples, his judgments that they, as a rule, are not capable of independent national existence and inevitably must be assimilated in the course of historical development by larger and more viable nations, were inaccurate”. The reason for this is that Engels did not properly take into account one of the “tendencies” “pertained to capitalism” — the struggle of small nations against national oppression for their independence, their desire to create their own statehood. As history has shown, many small nations, and above all the Slavic peoples that were formerly part of the Austrian Empire, not only discovered the ability of independent national development but participated in the creation of a new social and socialist system” (Engels, 1960: 666).
proletarian class solidarity “for the defeat of their government in the war”; on how to create the international unity of the workers of all countries for the victory of the world socialist revolution. No less sharp disputes flared up between the “Marxists” of Europe and Russia (which were especially actively triggered by the Trotskyists and not only in the USSR) on the subject of the possibility of a victory of the revolution, thus, building socialism already “in one single country.” In the USSR, in the 1920s and early 1930s, the problems of the theory and practice of national politics and nation-state building (institutional, economic, cultural, etc.) were added to this complex of irreconcilable discussions.

**Otto Bauer’s Typology of National Communities**

So, getting back to the theory of the nation of many-sided international Marxism, it should be reminded that the program of “cultural ethnic autonomy” was developed by Austrian Marxists. This political project of “national liberation” was directly based on the axioms of the model of national and nationality, which was proved by the legal expert, Karl Renner and the influential political thinker and activist, Otto Bauer. In addition, the ideas of the latter were of particular importance in the context of the revolutionary struggle for the social liberation of the exploited masses of the working people (i.e., the elimination of capitalism) and ideas of how to understand the future of nations under socialism.

According to Otto Bauer, nations (he believed the German nation to be an ideal model of genesis) are communities of people that appear not so much in the era of the emergence of capitalism, as Karl Marx and Friedrich Engels did, but exist throughout the history of humankind. They are both a class and classless (starting from the primitive communal system or, according to Bauer, “genus communism”) society phenomenon. Moreover, Otto Bauer argued that in a society divided into classes, the “commonality of culture” “embraces only the ruling class,” whereas “the broad masses, on whose labour this class feeds, are outside this commonality” (Bauer, 1909: 51). These masses “do not constitute nations, since their origin no longer sews them with sufficiently strong threads; do not yet constitute, since the emerging community of upbringing is still not influencing them” (Bauer, 1909: 140). As a result, according to the logic of the primordial interpretation (read, for example, Vilkov, 2014: 6-74) and contrary to the theory of Karl Marx and Friedrich Engels, their Austrian “follower,” who even publicly declared himself a “Marxist,” posited, “Three different stages in the development of a nation correspond to the three stages of human society development — the era of genus communism, the modern class society and the future socialist society” (Bauer, 1909: 139).

Otto Bauer, in addition to the revision of the initial postulates of the socio-philosophical doctrine of Marxism and its historical and materialistic conception of the formation and development of nations, also made a substitution and confusion of the meanings and sense of their primary, systemic concepts. “A nation of class society, divided into members and non-members of this nation,” he declared, having deprived the Marxist concepts of “communism,” “socialism,” and “nation” of their specific theoretical and ideological content and connection to the socio-historical era, “is a product of the decomposition of the communist nation of the past and a piece of material for the formation of a socialist nation of the future” (Bauer, 1909: 141). And with regard to the essence of “socialism,” the social nature of “socialist nations” and their main tendency of development, he presented an absolutely anti-Marxist, especially from the point of view of Soviet Marxism, formula — “Involvement of the whole people
in a national cultural community, the acquisition by a nation of its complete identity (not an independent politico-territorial, i.e. not a sovereign national and state entity (even as a part of a federation), but only an extraterritorial cultural, national autonomy in the “state of nationalities” is meant. — Authors), the increasing spiritual differentiation of nations, *that is what socialism means*” (Bower, 1909: 111).

In general, the assessments of the nature and tendencies of the development of socialist nations made by Otto Bauer, which in fact were declared to be the final type of national formations that are the most comprehensive in world history, turned out to be theoretically, politically and ideologically non-Marxist. Furthermore, they were much less anti-Marxist-Leninist.

The substantiation of the fact that there would be no rapprochement between nations under socialism, offered by the ideologue of Austro-Marxism, was of particular political and ideological significance in the context of the ideas of the Otto Bauer’s concept of the nation and his project of “cultural national autonomy” as the only supposedly true for socialists (social democrats, communists) final way to solve the “national question” during the transition from capitalism to socialism, and then and under the socialist system. Ethnicity in them (primarily “national character,” which, according to Otto Bauer, ensures the reproduction of “common cultural values”) is more primary, more fundamental, and stronger than any social-class factor. Therefore, he explained that even after the socialist transformations, after the elimination of the political and legal prerequisites of national inequality and oppression, after the establishment of democratic and internationalist values in the political system, there would inevitably be no active interethnic rapprochement (spiritual, cultural, political) and much less not the origin of the process of “merging of nations,” as it was presented to the theorists and ideologists of European Marxism (later to Lenin and his followers in the USSR), but something completely opposite. “Nations,” the Austrian Marxist declared categorically, offering his vision of the prospects for their development in the global post-capitalist system, “will once again be sharply differentiated in a socialist society, and a nation will then be the totality of all those people who enjoy national education and will develop under the influence of national destiny” (Bauer, 1909: 140).

Of course, Otto Bauer devoted the main theoretical and ideological attention to the ways of resolving the national question in the bourgeois multinational states, and precisely in Austria-Hungary. He did not fundamentally consider and predicted the objective historical and political logic of socialist nation-state building, either “in a single country” or “on a global scale.” Moreover, he did not model the future of nations during the transition to a communist society. Thus, unlike Vladimir Lenin, Joseph Stalin, or Karl Kautsky, and after Soviet Marxists, he did not even seek to explain the prerequisites, incentives and conditions for the spiritual and cultural rapprochement of nations in the socialist and, in the long run, communist reality.

On the other hand, at the beginning of the twentieth century, the “doctrine of Austro-Marxism” posed a real threat to the revolutionary struggle for power. First of all, it opposed one of the main mobilization slogans of the Russian social democracy — “On the Right of Nations to Self-determination.” Therefore, in the publications of their leaders, in the party press, in propaganda and agitation work with the multinational proletarian masses, they constantly and sharply criticized the Austro-Marxist theory of the nation as bourgeois-nationalist, opportunist, and revisionist. Whenever possible, they tried to prove the mistakenness and political harmfulness of the strategy of the project of ethnic, cultural autonomy in the struggle to overthrow the autocracy in Russia and destroy the capitalist system in it, which inevitably
causes national oppression and discrimination. In short, the Russian Bolsheviks said that, firstly, the ideas and goals of such a project, divided the working class of different nations, and secondly, did not encourage the numerous national liberation movements in the Russian empire to fight together against the existing system, because they were deprived of their “ideal” — the opportunity to get their own national state. And thirdly, they created a false theoretical picture of national building and development of national cultures under socialism.

But in the end, another “irony of history” was that the uncompromising and longstanding struggle of the RSDLP (b) against Austro-Marxism and its followers (including its followers in Russia) became the main cause of its ideological and political collapse. In this case, the decisive role was played not by subjective (personalities, ideas, organizations, etc.), but by objective historical factors, the causal relationships of the world-historical process itself, the logic of global and regional political events of the second decade of the twentieth century. Its essence was that after the proletarian revolution in Russia in November 1917, after the end of the First World War in 1918 and after the collapse of the four empires, including the Austro-Hungarian one, Austro-Marxism, as a theory of the nation and its project of “cultural national autonomy,” lost all ideological and political significance and influence.

Instead, in 1917 and 1918, a political and legal model and ideologeme, called “The Right of Nations to Self-determination”, acquired significance (state self-determination). It was proclaimed and began to be practically realized by the Bolsheviks, who gained political power in the vast territory of multinational Russia. To some extent, similar ideas in the same historical period were declared (January 8, 1918, 14 points in the appeal to the US Congress) and then partially realized by the American President Woodrow Wilson. It was achieved with the help of European politicians during the redrawing of borders in Europe and the Ottoman Empire on the basis of the principle of the “legal personality of nations,” i.e., according to the model of classical national states.

Meanwhile, the dialectics of history is that, since the 60s of the last century, the theoretical construction of national genesis and national community, similar to the one offered by Bauer, had again begun to gain popularity in the scientific and political circles of Europe. And, accordingly, it demanded a critical reaction from Marxist-Leninists.

In particular, the representative of the West German historical studies, Werner Konze, on the basis of “mixing nationality (ethnic, ethnocultural. — Authors) and nation,” absolutization of the “ethnic side of a nation,” downplayed “the importance of the decisive economic, social, political and spiritual content of a nation, which was associated with a capitalist or socialist society.” Thus, “despite all the historical facts and laws, he “reanimated the concept of the so-called “single stream,” i.e., the reproduction of “permanence of the German nation within the framework of three socio-economic formations” (feudalism, capitalism, socialism). Therefore, it was clear that as a result of such an ethnicist and primordial theoretical modelling, Werner Konze, who (as well as the CIA) hardly had a gift of foresight or strategic forecasting (especially because of the collapse of the USSR and the East European socialist economic, military and political bloc (the CMEA and the Warsaw Pact organization), the unification of the GDR and the FRG), actually proposed a historical foundation for combining “two qualitatively different historical types of nations” — “the socialist one and the capitalist German” (Kozing, 1978: 174, 176).

Certainly, for Soviet and German (GDR) politicians, party ideologues and, respectively, the scientific community of social scientists of the pre-perestroika period, a similar (Werner Konze) theoretical construction (even as a mythologeme or ideologeme) was completely
unacceptable, and for the mass consciousness of citizens of the socialist countries, it was found absolutely inadmissible.

Therefore, at that time, within the framework of the Marxist-Leninist theoretical approach (primarily historical materialism and scientific communism) and the official ideology, statements could only be made on the subject of competition or confrontation between bourgeois nations and national states with each other or with the rest non-capitalist world. And, on the contrary, they could be made about the objective, historically conditioned, and historically inevitable tendency of the rapprochement of socialist nations and strengthening the commonwealth of their state formations.

Joseph Stalin’s Classification of Nations

It should be admitted that in terms of the history of the development of theoretical ideas about the division of nations into bourgeois and socialist, and about the dialectics of the process of flourishing and bringing nations closer under socialism, Soviet Marxist-Leninists (like scientists in socialist countries), in the second half of the twentieth century, formally made reference to the Lenin’s ideas and work. At the same time, they carefully avoided the fact that fundamentally and systematically these phenomena and processes were interpreted not by Vladimir Lenin, who was the first head of the Soviet state and the ruling party, but by the second head, i.e., Joseph Stalin (the article “The National Question and Leninism. The Answer to the Comrades Meshkov, Kovalchuk and Others” 1929).

Moreover, by the 1980s, with the active participation of specialists from the socialist countries, a whole interdisciplinary, but independent research direction, had been formed. Its representatives had intensively been working on a conception (including many different applied aspects, problems, questions), the official name of which was The Theory of the Socialist Nation. The number of those who dealt with its theme, as well as the number and nature of publications devoted to certain issues of this theory, goes into infinity. Scientific analysis of this whole complex of information is practically impossible. But it is not needed, because the essence of the approach, which is the indissoluble unity of several basic theoretical and ideological postulates and was called The Theory of Socialist Nation, can fully be displayed and ideologically evaluated by the work of several Soviet “science of nation” authors.

The monograph “Marxist-Leninist Theory of the Nation and Socialist Practice” (1985), by leading Ukrainian researchers Froim Gorovskiy and Yuri Rymarenko, is the most optimal and demonstrative. The essence of the metanarrative of “socialist nation” is revealed by them in the form of a thesis. Firstly, this is the definition of the theoretical model itself, which is formulated in the traditions of the Soviet Marxist-Leninist social and philosophical scholasticism and the strategic prescripts of the communist doctrine. Its definition reads: “The theory of a socialist nation is a scientifically based and practice-proven teaching about laws, concepts and categories that adequately reflect the process of formation, development and mutual enrichment of nations under socialism, its improvement and gradual development into communism, as well as the dialectics of the establishment and complete unity of nations and their merging in the future into an internationally united humanity.” Secondly, in general, and global structural terms, “The Theory of the Socialist Nation is an integral part of the Marxist-Leninist teaching with its theory of the socialist revolution, the building of a socialist and communist society.” And “in present circumstance” (the second half of the 20th century), this theory “fits organically into the concept of developed, mature socialism” Thirdly, the authors note that, although
“differentiation of the theory of the socialist nation from the general theory of the nation as an independent object” is “conditional,” but “it is still legitimate.” Fourthly, as a concept, which has its own object of study, this theory has its own structure. Its “most important components are the doctrine of the laws on the formation of a new type of nations in the process of the socialist reorganization of society, on the trends of their development in the socialist era, on the development of socialist nations into the nations of communist society, the doctrine of international communities, the ways and conditions of the establishment of complete unity of nations and their subsequent merging.” Fifthly, “The Theory of the Socialist Nation in all its aspects is creatively developed by the Communist Party of the Soviet Union,” The experience of the USSR on “socialist national development” is “summarized in party documents” (in all its structural, republican levels), “constitutions of the Union and autonomous republics”, “in the works of Soviet party and state representatives, social scientists, practical workers of the ideological front.” “Parties of the friendly Marxist-Leninist countries and Marxist scholars of socialist countries contributed a lot to this experience.” Sixthly, that is not an axiom, and therefore allows historical verification and can be scientifically challenged. “V. I. Lenin is the founder of the theory of a socialist nation. In 1916, for the first time in Marxist literature, he used the concept of a “socialist nation” in work called The Results of the Discussion on Self-Determination. Both in this and in other works V. Lenin reveals the essence of socialist nations, the unity of economic life which is based on public property, deep social cohesion as a result of the elimination of exploitative classes, social firmness with a variety of forms of national cultures” (Gorovskiy & Rymarenko, 1985: 99-101). At the same time, to confirm the special contribution of Lenin in the creation of the Theory of Socialist Nation, Froim Gorovskiy and Yuri Rimarenko give paginal references to only four of his works from 1916-1920, which were devoted to completely different national problems.

Meanwhile, according to our estimates, the “theory of the socialist nation” is absent in the publications of Lenin, and he (with the exception of the mentioned above “Results of the Discussion on Self-Determination,” where he uses the term/phrase “big advanced socialist nations”) does not even use this concept.

In his numerous works and published speeches, the leader of the Russian Social Democrats is not talking about socialist nations, but about nations in the conditions of a particular form of socialist statehood. And, as a rule, in a hypothetical prospect, Lenin is interested in the possibility and the need to ensure for all national formations, especially the “long oppressed nations,” equality and restoration of historical justice. This, he believed, was possible only in one extremely democratic way, by granting each of the nations complete “freedom of self-determination,” i.e., the sovereign right to choose the institutional form of its independence. Thus, the “self-determination experience” of a nation can be limited to the creation of autonomy within the framework of a state which has long been deprived of rights, dependent and oppressed. Such “experience” can (on request of workers) become a process of “state-building,” the building of “one’s own” state. All this, the head of the RSDLP (b) claimed, could further lead to the complete elimination of national inequalities and nationalist sentiments, to the formation of interethnic peace and solidarity and, ultimately, as we moved towards communism, would ensure the “rapprochement and merge of nations.” Here, in particular, is one of the representative (albeit utopian) statements of Lenin, in which many of his key ideas are concentrated on a wide range of national problems, “By rebuilding capitalism into socialism, the proletariat creates a possibility of the complete elimination of the national oppression; this opportunity will become a reality “only,” “only”! with full implementation
of democracy in all areas, up to the definition of the borders of a state in accordance with the “sympathies” of the population, up to the complete freedom of separation. On this basis, consequently, almost absolute elimination of the slightest national friction, the slightest national mistrust will develop, an accelerated convergence and merging of nations will be created, which will end with the withering away of the state” (Lenin, 1977: 22). But it is still far from the “withering away of the state,” i.e., building of a communist society. Therefore, Lenin proposes a federation as a transitional ideal political system and form of government. He says, “Federation is a transitional form to the full unity of the working people of different nations” (Lenin, 1974a: 164). It should be noted that this was implemented during the state transformation of post-revolutionary Russia in the RSFSR (politically and legally the process of transforming Russia in the RSFSR began with the victory of the revolution on November 7, 1917, and ended on July 19, 1918, when the Constitution of the Russian Socialist Federal Soviet Republic came into force) and, partially, during the creation of the USSR.

As an additional argument to the above, it should be stated that even in a small article of 1915, called “On the Slogan of the United States of Europe,” Lenin claimed, “The United States of the World (not Europe) is the state form of unification and freedom of nations that we associate with socialism until the complete victory of communism leads to the final disappearance of any state, including the democratic one” (Lenin, 1977a: 354). In the first Constitution of the Soviet Union, adopted in the final version by the II Congress of Soviets of the Soviet Union on January 31, 1924, the principles of which had become the embodiment of Lenin’s ideas, contrary to Stalin’s centralist position (he insisted that the republics should enter the Union as autonomy, not as sovereign states), the USSR was created as a structure that would be continuously widened by new socialist republics and would include new socialist nations and nation-states. It was unequivocally written in the Constitution that “access to the Union is open to all socialist Soviet republics, both the existing and those emerging in the future” and a “new union state” (i.e. the USSR) “would serve as a true stronghold against world capitalism and a new decisive step towards the unification of workers of all countries in the World Socialist Soviet Republic (highlighted by the author)” (The Basic Law (Constitution)...).

At the same time, Stalin’s article “The National Question and Leninism. The Answer to the Comrades Meshkov, Kovalchuk and Others” (1929) it was this work, where he clearly theoretically stated that “two types of nations” are “known to our history.” One of them is the “bourgeois nations,” “the fate of such nations is connected with the fate of capitalism.” “With the fall of capitalism,” “such nations” “must leave the stage” of history (Stalin, 1952: 340, 338). “Other nations are new Soviet nations.” “Such nations should be classified as socialist nations. These new nations emerged and developed on the basis of the old, bourgeois nations as a result of the elimination of capitalism through their fundamental transformation in the spirit of socialism “that occurred” after the liquidation of the bourgeoisie and its nationalist parties, after the establishment of the Soviet system.” At the same time, “the national cultures of our new Soviet nations are socialist cultures in their content” (Stalin, 1952: 339, 354).

Moreover, Stalin, condemning Karl Kautsky for his apology of the “assimilatory “work” of the Germans in the Czech Republic,” as a result of which “the Czechs are almost Germanized” and “as a nation, have no future,” and criticizing his opponents for not understanding the essence of national development in one case, precisely, “in the period of the victory of socialism on a global scale,” and in the other, “in one country,” thus explaining the Leninist idea about the socialist prerequisites of “rapprochement and merging of nations” and the disappearance of linguistic differences between them, specifically noted that “the period of the victory of
socialism in one country does not provide the conditions necessary for the merger of nations and national languages, but, on the contrary, this period creates a favorable environment for the revival and prosperity of nations that were previously oppressed by tsarist imperialism and now freed by the Soviet revolution from the national oppression” (Stalin, 1952: 345). Offering his own interpretation of Lenin’s theoretical assumptions, which became fundamental for the post-Stalin period in the development of the Soviet interpretation of the “Marxist-Leninist conception of the nation and national relations” (this is one of the most common names in the Soviet literature of the “historical and economic theory”), he noted that Lenin, firstly, refers “the disappearance of national differences and the merge of nations, not to the period of the victory of socialism in one country, but exclusively to the period of the dictatorship of the proletariat on a global scale, in other words, to the period when socialism gained its victory in all countries when the foundations of the world socialist economy would already be laid.” Secondly, Stalin emphasized that “an attempt to designate the process of disappearance of national differences to the period of the victory of socialism in one country, in our country, Lenin qualifies as an “absurd dream” (Stalin, 1952: 346). On the basis of these messages, Stalin made the following theoretical conclusion and an unambiguous political and ideological directive, “It would be wrong to think that the destruction of national differences and the death of national languages will occur immediately after the defeat of world imperialism at one blow, decreeing from above, so to speak. Trying to merge nations by decreeing from above, by enforcement, would mean playing into the imperialists’ hands, ruining the cause of liberation of nations, and burying the cause of organizing cooperation and brotherhood of nations. Such a policy would be tantamount to the policy of assimilation”. However, this policy “is excluded from the arsenal of Marxism-Leninism, as an anti-national policy, counter-revolutionary, as a harmful policy” (Stalin, 1952: 347).

On the basis of a specific historical and social-class understanding of the essence of nations, Stalin also offered strategic recommendations for the conduct of the Soviet national policy in the sphere of intellectual culture. “... It is a mistake to think,” he noted, “that the first stage of the period of the world dictatorship of the proletariat will be the beginning of the disappearance of nations and national languages, the beginning of the existence of a single common language. On the contrary, the first stage, during which national oppression will be completely eliminated, will be a stage of growth and prosperity of the previously oppressed nations and national languages, a stage of states’ rise, a stage of liquidation of mutual national distrust, a stage of establishing and strengthening international relations between nations”. And now, at the “next stage,” Stalin emphasized, “as the single world socialist economy develops, instead of the world capitalist economy and “when the world socialist economic system is sufficiently strengthened, and socialism enters the life of the people, when nations are convinced in the practice of the advantages of a common language over national languages, then national differences and languages will begin to disappear, giving way to a common world language” (Stalin, 1952: 348-349).

In the context of the previously mentioned information, it should be additionally noted that at the end of the 20s of the twentieth century, Stalin, as a political realist, was well aware that “it was still far from the implementation of the dictatorship of the proletariat on a world scale, and especially from the victory of socialism in all countries” (Stalin, 1952: 353). Therefore, in his works and practical solutions he proposed only specific measures for the rapid development of national cultures and languages (creation of schools, press, theatres, cinemas, etc., in the mother language), and also insisted on eliminating in the USSR the
inequality of national representation (calling it “nationalization” or formation “in terms of “ethnicity”) in “all management apparatus, from party and trade union to state and economic ones,” which presupposed preferences when appointing members of the national majority in the structures of power and administration. First of all, in the republics of the Soviet Union (Stalin, 1952: 355). In general, at that time, he was not engaged in projecting, fantasizing about how the process of a comprehensive and intensive “development, rapprochement and merge of nations” would take place during the building of communism.

The Soviet Marxist-Leninists did it for him in the “era of stagnation.” The best example is a passage from the Philosophical Encyclopedic Dictionary (1983). “Erasing national differences,” it claimed, not without pathos, “is a longer process than erasing of class differences. A complete merge of nations will occur in mature communism as a result of their further development and gradual rapprochement in all spheres of life. The Communists are not supporters of eternalizing national differences. They support an objective, progressive process of comprehensive rapprochement of nations, creating the prerequisites for their future merge on the basis of complete voluntariness and democracy. “Basing on the Marxist-Leninist theory, one can foresee that the complete victory of communism throughout the world will create conditions for the merge of nations and all people will belong to the classless and non-national humanity that has a single economy and a single, and diverse communist culture” (Philosophical Encyclopedic Dictionary, 1983: 418).

The Concepts of “Capitalist” and “Socialist” Nation in the Discourse of Soviet Marxism in the second half of the 20th century

In general theoretical, political and ideological terms, the Soviet Marxist-Leninist approach and semantic emphasis on the fact that the essence of the national community and its culture is not determined by ethnic factors but by social, and nations as social phenomena are completely dependent on socio-economic and socio-political factors, on the type of socio-economic system (formation) and the political system, was also dominant in the scientific literature of the Soviet period. But such definitions were more suitable not for a social or political and philosophical analysis of the national genesis and the essence of nations, but for a newly created branch which was administratively introduced in the USSR (later in other socialist countries) in social-political researches, and a new obligatory scientific discipline — scientific communism. Its ideological basis was the ideology-driven postulates of the Marxist theory of society, which were the basis for the “historical and economic,” or, in the typical cliché of the time, “a genuinely scientific theory of the nation created by K. Marx and F. Engels and developed by V. I. Lenin.” And within the framework of such an ideology-driven discursive practice and narrative, more appropriate were the interpretations of the phenomenon of the nation as, for example, in the definition proposed in the collective work, called Communism and the Nation (1985). A nation, the authors emphasized, “is a historical form of a community of people of the capitalist era (the capitalist type of nations) and socialist era (the socialist type of nations), characterized by a stable commonality of economic life, language, territory, and national character, manifested in the characteristics of its culture and way of life. In their social nature, capitalist and socialist nations are fundamentally different from each other” (Communism and Nations, 1985: 17).

There was a unity of opinions in the interpretations of Soviet social scientists of that period, both in relation to the name “socialist nations” and in understanding their essence,
attributive features that represented a symbiosis of the abstract characteristics of the features of the socialist society itself and the standard Marxist-Leninist concept of the nation. A classic example of the definition can be taken from the textbook on scientific communism. Since in the times of the Soviet Union, educational and scientific reference books (dictionaries, encyclopedias) played the role of an officially approved theoretical and ideological standard of interpretation of any political and social phenomenon or process. Here is one of the examples of such a Soviet Marxist-Leninist classics. “A socialist nation is a new socialist community of people that has grown out of the nation or nationality in the process of eliminating capitalism and the victory of socialism, which preserved certain ethnic features, although it received a qualitatively new development, the political, socio-economic and spiritual life of which was completely changed on socialist and international principles.

The formation of socialist nations is the greatest achievement of socialism.

The socialist nation consists of friendly classes — the workers and the cooperative peasantry, as well as the working intelligentsia. Socialist nations are characterized by a commonality of economic life, goals and interests, unity of worldview and international solidarity.

The economic basis of equality, prosperity and rapprochement of nations is the public property of the production means, the socialist economic system” (Fedoseiev et al., 1981: 308).

Almost the same situation was with the interpretation of what the “capitalist nations” represent. And here the same standard formational and social-class Marxist theoretical and ideological approach dominated, with the obligatory mentioning of the fact that ethnic succession is preserved between nations at the stage of capitalism and socialism since any nation “has ethnic elements.”

But at the same time, while characterizing the significant differences between capitalist and national socialist communities, Marxist researchers emphasized in their works that socialist nations are necessarily characterized by unity (economic and social interests, political and legal status in the social structure of society, spiritual culture, the system of basic values, ideologies, etc.). Furthermore, vice versa, the main feature of each of the capitalist nations is the presence of “two nations” within each of them (Glezerman, 1975: 118-119).

Although, it should be noted that the very concept of “two nations” in each nation under capitalism in Soviet Marxism did not receive any theoretical development in the second half of the twentieth century. As a rule, researchers limited themselves to quoting and commenting on one judgment of Friedrich Engels and one postulation of Vladimir Lenin. Friedrich Engels of these was from the early work of the founder of the communist doctrine: “The Situation of the Working Class in England” (written as early as 1844–1845), where he argued that “...it does not come as a surprise that the English working-class over time became a completely different nation than the English bourgeoisie. The bourgeoisie has more in common with all other nations than with the workers who live near it. Workers speak a different dialect, have different ideas and thoughts, different morals and moral principles, different religions and politics than the bourgeoisie. These are two completely different nations, which are just as different from each other as if they belong to different races ...” (Engels, 1955: 356).

The Lenin’s axiom, which Soviet researchers used very often and in various contexts, was formulated in Critical Notes on the National Question (1913). It read: “There are two nations in every modern nation ... There are two national cultures in each national culture. There is a Great Russian culture of Purishkeviches, Guchkovs and Struves, but there is also a Great Russian culture characterized by the names of Chernyshevsky and Plekhanov. There are the same two cultures in Ukraine, as in Germany, France, England, the Jews, etc.” (Lenin, 1973: 129).
It should be emphasized that the narrative and logic of the new Soviet theoretical and communist ideological attitudes in interpreting the ratio of “ethnic,” “ethnicity,” “national,” “social,” “people,” and “nation” (first of all, the division of nations into capitalist and socialist) as well as the wording of strategic prescriptions for the democratic national policy and state socialist construction was identical with the ideas of the academician Alfred Kozing from the GDR. He, saying that he agrees “with the point of view” of “nationality being an ethnic characteristic of the nation,” expressed by the philosopher Suren Kaltakhchan, who was considered to be one of the leading experts in the “nation theory” in the USSR, and revealing his understanding of the phenomenon and the concept of “nationality” (“national affiliation,” “identity”), using the example of the German Alsatiens and Lothingians, who became an integral part of the French nation, emphasized that it is, in one case, an “objective characteristic.” Unless, of course, “we are talking about national identity in the sense of belonging to a nation as a complex social organism that includes ... of course ethnic identity” and “does not depend on how people determine their affiliation” (national, ethnic).

In the other case, “nationality affiliation/identity” is “only ethnicity belonging to one or another group of population with common ethnic features” (Kozing, 1978: 164-165, 173). And it is in this socio-historical dimension that “ethnic characteristic,” ethnic similarity/community, and “national identity,” firstly, “passes from the feudal nationality to the capitalist nation in the process of historical development” (Kozing, 1978: 172-173). Secondly, it is then inherited from the feudal and bourgeois past by socialist nations. In general, the “nationality,” as a combination of only ethnic features (including identity which is based on them), claimed the German academic, might be the same, but nations as objective historical communities (even with one ethnic/national identity) are often different. For example, “the German socialist nation in the GDR” and “the German capitalist nation in the FRG” (Kozing, 1978: 75-177).

Against the background of uniformity, theoretical and ideological agreement between the Soviet-era Marxist-Leninists, the question of what notion could be used to designate nations that were formed during the development of society from feudalism to capitalism, and existed within the bourgeois economic and political system became critical. Should they be called “bourgeois” (like Stalin did), or “capitalist,” or use these concepts as synonyms?

In the early 1980s, Suren Kaltakhchian, a leading Soviet expert in the field of national problems, spoke most sharply on this issue with specific arguments, taking into account the assessments made in 1969 at the International Meeting of Communist and Workers Parties and the specifics of the ideological struggle with the West during the cold war, with criticism of the concept of “bourgeois nation” in the monograph called “Marxist-Leninist theory of the nation and modernity” (1983). He stressed that, firstly, “in recent years,” the concept of “militant nationalism” has appeared abroad, whose adherents “insistently propagate the idea of the inevitability of conflicts between “bourgeois nations” and “proletarian nations.” Thus, this concept is “directed against the socialism of the working people of different nations, against proletarian internationalism.” Secondly, he notes, “In terms of the time when the bourgeoisie, losing its role of the hegemon of a nation, no longer determines its image (especially spiritual) as a whole is not historical, and therefore the use of the term “bourgeois nation” is incorrect. He creates a distorted understanding of a nation.” Thirdly, such a concept as the “bourgeois nation” “leaves a lot of ambiguity” and “gives rise to various kinds of speculations.” “If the term “bourgeois nation,” stresses Suren Kaltakhchian, “means the nation of bourgeois society, this will be true, and we will get an opportunity to study the “two nations” in each nation. If the “bourgeois nation” is understood as the bourgeoisness of the whole nation, then this
will already be wrong. “In general, the concept of the “bourgeois nation” does not help in the fight against anti-scientific and reactionary concepts. It makes it difficult to ascertain the relationship between national and class communities in an antagonistic society, as well as an understanding of the specifics of socialist nations.” As a result, the theoretical verdict of Suren Kaltakhchian holds, “The term “bourgeois nation” should be used only when it is clear from the context that this refers to the genesis of a nation, its connection with capitalist productive relations. In other cases (for example, to characterize the spiritual appearance of a nation), its use is theoretically unjustified and is now practically used by reactionaries” (Kaltakhchian, 1983: 214-217).

Meanwhile, subjecting the concept of “bourgeois nations” to a detailed, concrete historical analysis and negative ideological evaluation and stating that “V.I. Lenin” used the term “capitalist nation” most often (Kaltakhchian, 1983: 215), Suren Kaltakhchian in his monograph did not answer the question of whether it is expedient to use the concept of “capitalist nations” instead of the notion of “bourgeois nations.” Despite the persistent trend, i.e., unlike most Marxists of the Soviet period (in the USSR or other socialist countries), he avoided using the monosyllabic concepts of “bourgeois” and “capitalist” nations. Instead, in his works, he preferred a semantic construction of “nations and nationalities of capitalist society.”

In the work of the academician of the Academy of Sciences of the GDR, Alfred Kozing, along with the joint opinion, in the context of the paradigm ideas of the Soviet Marxists about the relationship between the social and ethnic, the most generally understood as a “form of the national community,” as a “concrete form of its social content” or “social essence” and that a nation, as a historical form of the community of people differs mainly from other large and historical stable forms of communities (social groups) — ethnic groups, nationalities, classes, social strata, castes, ethnic-confessional groups, etc., a rather non-standard social-political-philosophical idea for the Soviet Marxism-Leninism was expressed (published in the USSR in 1978). Actively quoting Vladimir Lenin, like all Marxists, he, but in his own way interpreted Lenin’s axiom, “Nations are an inevitable product and an inevitable form of the bourgeois era of social development” (Lenin, 1977b: 93), and argued that they (nations) are not just a form of community (collectivity, or a large social group) of people of a certain, post-feudal period of history, but something more. He stressed, “In both socio-economic formations — the capitalist and socialist, nations is first and foremost a natural form of the development of society.” “A nation is a form of development of social existence that continues to exist even after the liquidation of capitalism and plays an important role in the historical development of society” (Kozing, 1978: 120, 124).

On the assumption of such a general sociological message that equates “community” and “society,” but without taking into account the fact that nations are not the only “social product” of social development processes even under capitalism, the German scientist made quite radical theoretical and political (because he did not take into account the institutional aspect of national reality, that is, the forms of state structure existing in the world and the nature of globalization processes) conclusions. He stated that a “bourgeois society naturally develops in a national form,” and a “socialist nation” is “a form of development of a socialist society” (Kozing, 1978: 121, 125).

However, such a theoretical novelty remained almost unnoticed among Soviet social scientists and did not affect the process of modernization done by them of the historical and economic, Marxist-Leninist theory of the nation.
Conclusions

It should be stressed that the nearly two hundred years genesis of the Marxist theory of society, its structure and historical development, the conceptual ideas of its founders and supporters about the origin, essence, and typology of national communities is a complex and controversial conglomerate of theoretical, political and ideological models.

Within the theory of the nation of Marxism, several stages and paradigms, as the most philosophically grounded and ideologically influential, which are associated with the activities of many political parties and movements, and since the 20s of the twentieth century some state institutions (power, ideological, scientific, educational), may be highlighted. Historically, as well as from the point of view of influencing the programs and activities of social democratic and communist organizations and the fundamental political processes in different countries of the world in the period of the 1840s — 1980s, the following can be distinguished: the system of political and philosophical ideas about a nation and the ways their liberation by Karl Marx and Friedrich Engels; the theory of the nation and the project of the cultural ethnic autonomy of Austro-Marxism (mainly the works of Otto Bauer and Karl Renner); “The Russian Marxist theory of the nation” (the way Stalin called it. — Authors), which was called the Marxist-Leninist theory of the nation and was not only “the further development of Vladimir Lenin’s ideas of the founders of Marxism”, but also, in its evolution (conceptual and ideological), was provided by the entire scientific community of social scientists in the USSR and other socialist countries in the second half of the last century.

Such paradigms were not purely scientific in their essence and purpose. Therefore, many influential Western scholars, for example, Anthony Smith, say that Marxism (including Soviet Marxism-Leninism) has never had its own theory. From the theoretical and methodological position of scientism, such an assessment is legitimate. However, all Marxists did not strain after pure science. They assessed their own views as “ideological science and scientific ideology.” Thus, their interpretations of the phenomenon of the national community were components of more general teachings (philosophical, political, sociological), and in addition, they included valuable and ideological prescripts, as well as political recommendations for solving various social and national problems. The ideological core in Marxism was the problem of finding a solution to the dual issue — the social liberation of classes exploited under capitalism and the liberation of the oppressed nations in the bourgeois political and legal system. Alternatively, in other categories building an effective model and ideologeme that would ensure, firstly, the victory of the proletarian/socialist revolution (i.e., liquidation of the capitalist system, laying the foundations of socialist society), secondly, the maximum success of the national liberation struggle of peoples, the exercise of their right to self-determination.

Depending on the Answer to this question, each of the above paradigms suggested their own projects and created a typology of national communities. In addition to the generally accepted for Marxism division of nations into “oppressed” and “oppressive” (sometimes called “imperialistic”), the understanding of the nature and future of “capitalist” and “socialist” nations by the representatives of different theoretical and ideological approaches in Marxism from the 1840th — 1980th was not consistent. Discussions and disputes were sharp, conflict and continuous. In practical terms, many of their ideas were realized only by the creators and supporters of the theoretical model of the nation and the draft resolution of the national question, which was called Marxist-Leninist. However, in practice, its victory and world-wide historic success proved to be temporary.
After the collapse of the socialist USSR, as well as the radical change in the political and economic systems in the former socialist countries, the reorganization of the foundations of statehood in them, based on the principles of Western democracy and the restoration of capitalism (for which Western economists offered an ideologically neutral euphemism “market economy”), and the Marxist-Leninist theory of the nation with its basic version of their typology (i.e. “capitalist” and “socialist” dichotomies), have lost their scientific value.

References


The Criminal Law Regulation of the Behavior of Fabricating and Deliberately Disseminating False Information of Epidemic

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As of January 2020, the outbreak of the COVID-19 epidemic began that affected China and the whole world. Contrary to the efforts of people from all walks of life to contain the epidemic, illegal activities, even crimes, that interfere with the prevention and containment of the virus frequently occur, among which, making and maliciously spreading misinformation related to the epidemic is very common, which action, obstructs the efforts of virus prevention and containment as well as results in a substantial harm to the social stability and public order. The state authorities concerned, encountered by such challenge, have made efforts to crack down upon this kind of act. However, as in criminalization of such acts, it remains disputed in theory and difficult in identification in practice, determination of such a crime of making and maliciously spreading epidemic-related misinformation remains unsatisfactory in effect. This thesis conducts an analysis and puts forward proposals on the questions that arise in the criminalization of such act by the Criminal Law, which may be broken into three parts: firstly, it analyzes the justifiableness of criminalization of making and maliciously spreading epidemic-related misinformation from the perspective of jurisprudence; secondly, it offers after analysis and comparison principles that should be followed in the criminalization of such act; and thirdly, it reviews the issues of categorization, legal basis thereof and crime determination and exculpations under Article 291.1.1, Article 291.1.2 and Article 293 of the Criminal Law, and offers proposals on criminal law application.

Keywords: COVID-19, epidemic misinformation, criminal law, deliberately disseminating false information, fabricating false information

Received: February 25, 2020; accepted: March 20, 2020
Introduction

As from the beginning of this year until now, the information related to the COVID-19 epidemic has become the center of attention of the society (Ma, 2020; Saxena, 2020). This epidemic not only threatens the lives and health of people, but also seriously jeopardizes the normal order of the whole nation and the society. In sore need of epidemic prevention and control, a majority of provinces nationwide have exercised a stringent public control, which makes cell phones and the Internet the important methods for communication with the outside world. People become aware of updates on the epidemic prevention and control and express their personal opinions through Internet media. In connection with such information communication, there appear numerous cases of spreading of misinformation related to the epidemic on the Internet. By entering the keyword of “epidemic-related misinformation” on Baidu and Google and other search engines, more than tens of thousands of results came up. Certain kinds of acts of making or maliciously spreading epidemic-related misinformation, given their serious damage to the society, has an attribute of substantial social harm and hence is a violation of criminal law. Regulation of such crimes is not only prevention and a battle against epidemic but also a testing ground for the governance capability and the rule of law degree of the nation (Tan, 2020). The competent national authorities have mounted severe attacks on the act of making or maliciously spreading of epidemic-related misinformation in an attempt to maintain the stability of the nation and the public order (Bazaluk & Balinchenko, 2020; Svyrydenko & Stovpets, 2020). Then, resolution of such questions becomes urgent, among other things, why the criminalization is justifiable, how disputes on the determination of such crime are solved.

Justifiableness Analysis of Criminalization of Making or Maliciously Spreading Epidemic-related Misinformation

The act has social harms

The element of social harm, as a “central nervous system” of the criminal law, is the defining attribute of a crime. No activities are deemed a crime if without any social harm. However, will any act that has a social harm be a crime necessarily? The answer is no. The proviso provision of Article 13 of the Criminal Law provides that, any offense, though having a social harm, it is apparently not serious, will not be deemed a crime, which clause is an exculpation clause in the Criminal Law on those offenses that have the element of “social harm” but is apparently not serious. The questions then arise as to how the social harm shall be evaluated, and how the severity of social harms shall be determined. These questions, in essence, are strongly subjective, and people applying laws may find it very difficult to evaluate whether an act amounts to a crime in judicial practice due to a lack of a clearly delineated standard of determination.

Determination of the element of “social harm” in the act of making or maliciously spreading epidemic-related misinformation committed during the epidemic prevention and control shall be made in a historical and holistic manner, and in the way of “perceiving essence by looking through the appearances.” Firstly, the element of social harm is constantly evolving, and the standard of evaluating social injury may vary, depending on the time period, social conditions. During an epidemic, the society is volatile, and the public is more sensitive, people are nervously tense, and making or maliciously spreading misinformation contrary to
the public order and epidemic prevention and control during such time period will have more recipients, more serious impact and social harm as opposed to in normal times. Secondly, the determination of social harms is multi-factored. Hence evaluation of such an act shall be conducted in a holistic manner by considering both subjective and objective elements of the actor in a comprehensive way. Acts are the results of the actor’s motives, and evaluation shall not only include evaluation of under what kind of subjective mind the actor is conducted but also consideration of the tangible and intangible harms resulted from such resulting harm, especially the intangible harm to the social order and people’s psychological well-being resulting from such epidemic-related information. Thirdly, on its face, making or maliciously spreading epidemic misinformation is only a dissemination of misinformation. Still, in essence, the motive behind this act is not only to catch people’s eye, but may also be intended to disrupt the public order and cause social panic, benefitting themselves. In summary, it’s safe to conclude that the act of making or maliciously spreading epidemic-related misinformation has social harms and hence possesses the essential attribute of a crime.

The Act of Making or Maliciously Spreading Epidemic-related Misinformation is a Criminal Offense

“Criminal offense” is a legal attribute of a crime, and only those acts that violate a criminal law may be deemed a crime. Possession of a nature of criminal offense literally means that the actor’s act violates the provision of the Criminal Law and, therefore, shall be subject to a negative treatment by the Criminal Law. “No conviction without law, no punishment without law,” a Greek expression of law, discloses the underlying attribute of the principle of “legality” on conviction and punishment. Possession of a social harm does not in and of itself determines whether such act is a crime or not, and only when such act also breaks a criminal law, shall such act become one punishable by the Criminal Law, and only when may we determine that such act is a crime. Therefore, the “legality” principle is relatively more objective and reasonable in the determination of a crime.

The crime of making or maliciously spreading epidemic-related misinformation are mainly linked to the crime of “making, maliciously spreading terrorist misinformation” under Article 291.1.1, the crime of “making, maliciously spreading misinformation” under Article 291.1.2, and the crime of “defiance and affray” under Article 293 of the Criminal Law. How to specifically apply the name will be elaborated in the latter part of this article. If the act of making or maliciously spreading epidemic-related misinformation meets the constitutive elements of any of those crimes referenced above, then it is an act prohibited by the Criminal Law, and is a criminal offense. Currently, a majority of cases that arose relating to the making and maliciously spreading epidemic misinformation possess the constitutive elements of a certain crime mentioned above and is a criminal offense.

The Act of Making or Maliciously Spreading Epidemic-related Misinformation Possesses the Attribute of Culpability

Culpability is an essential attribute of a crime, which is more properly termed as “criminal culpability.” As a consequence of the law, criminal liability is different from other results at law. It is widely known that any crime that has serious social harms violates the provisions of the Criminal Law and harms certain legal interests protected by the Criminal Law. Hence it shall be subject to the most severe kind of punishment, i.e., criminal penalties. Proper perception of criminal culpability shall be made by first perceiving the difference between the proviso
of Article 13 of the Criminal Law and Article 37 of the Criminal Law, which is, in general
terms, that acts that are not criminally penalized shall be divided into acts “not ought to be
penalized” and those “not needed to be penalized.” For instance, in evaluating whether any act
of making or maliciously spreading epidemic-related misinformation possesses the element of
“criminal culpability”, if the act is “minor in offense degree and of minor harm, the actor may
be exempted from criminal penalty.” That act shall fall under the category of acts “culpable
but not required to be penalized,” and hence one may not deem such action as not a crime.
Article 13 of the Criminal Law is positively exculpatory in effect, however, in evaluating an
act of making or maliciously spreading epidemic-related misinformation, one is required to
conduct an objective review of both the subjective and objective factors on the act, and may
not exculpate such act arbitrarily by reliance on the proviso of Article 13.
In conclusion, the act of making or maliciously spreading epidemic-related misinformation
possesses the three attributes of a crime. Hence the criminalization of such act is justifiable.

**Principles on Criminalization of Making or Maliciously Spreading
Epidemic-related Misinformation**

Speech freedom is a right granted by the Constitution to each citizen. At the same time of
protecting such right, laws also regulate and places constraints on the speech-related crimes.
During the epidemic, people are more tended to pay attention to epidemic-related information.
Fake epidemic-related information not only misleads people and hence adversely affects
their lives, it more importantly, seriously disrupts the public order and obstructs the epidemic
prevention and control by the nation. Therefore, it is proper that the Criminal Law criminalizes
the act of making or maliciously spreading epidemic-related misinformation, however,
cautiously and reasonably, but this criminalization shall not go excessively or too broadly
in the application of the Criminal Law. This author is the opinion that, in doing so, the three
principles on criminalization shall be observed, namely, principles of modesty, “consistency
between subjective and objective facts,” and “consistency between crime and penalty.”

_The principle of modesty of criminal law application shall be adhered to_

The criminal penalty is a necessary evil without other choices. Proper criminal law
application will create benefits for the society and individuals; verse visa. We shall be alert to
especially the expansion and abuse of criminal law application, and shall be cautious that only
when there is no other alternative may we apply the “necessary evil” (Chen, 2013: 189). The
criminal law, as a safeguard of other laws, possesses the attributes of the broadness of coverage
and severity in punishment, etc. The criminal law shall possess a character of “modesty”
and shall not be applied unless it is necessary, and arbitrary expansion of the coverage of its
application shall not be tolerated in any event. “Criminal law is like a double-edged sword,
when applied improperly, will inflict damage to both the nation and individuals.” There shall
be no exception in the criminalization of the act of making or maliciously spreading epidemic-
related misinformation. Not all untrue epidemic-related information disseminated during an
epidemic has serious social harms or shall be subject to the regulation of criminal law. To
those acts that are minor in degree of defense and of minor harms and hence solvable by use of
other kinds of law, criminal law shall not arbitrarily be applied. Otherwise, it not only will not
be reductive to the maintenance of public order and social stability but also will intensify the
panic of people and result in chaos in the society during the epidemic.
The Principle of “Consistency between Subjective and Objective Facts” shall be Adhered to

In determining the existence of a crime of making or maliciously spreading epidemic-related misinformation, one shall adhere to the principle of “consistency between subjective and objective facts.” If the objective element of the crime is present for an act, one shall also stress the finding of an “intention to act” for the subjective element. For the result of a subjective intent, the awareness and will of the actor shall be primarily considered. Namely, the evaluation shall be conducted on whether the act of making or maliciously spreading misinformation conducted by the actor is controlled by the self-awareness and will of the actor. Further, one shall also conduct a holistic analysis, namely, subjective and objective analysis of the actor’s cognizance, education, purpose, environment etc. Take a rural woman that does not possess the ability to tell true epidemic information from a fake one as an example, if she merely intentionally spreads the epidemic information without checking it, which is later confirmed as untrue, that women shall not be deemed to have committed such a crime. The subjective intent evaluation here mainly includes a finding of whether the actor is “aware of” the false information and its harms that result from his/her dissemination, as well as of whether the actor is positive or negative on the harmful effect. In sum, in criminalizing the act of making or maliciously spreading epidemic-related misinformation, the principle of “consistency between subjective and objective facts” shall be adhered to, and “conviction merely in reliance of objective facts” shall be prohibited.

The Principle of “Consistency between Crime, Liability and Punishment” shall be Adhered to

Capitalist enlightenment thinkers and jurists in the 17th and 18th centuries are the first to proffer the principle of consistency between crime, liability, and punishment. According to Montesquieu, “criminal penalties shall be in different degrees, and severity of penalties shall be determined according to the seriousness of offenses” (Montesquieu, 1958:140). Beccaria pointed out in his treatise, On Crimes and Punishments, that “the more harm a crime does to the public interest, the stronger the power that prompts people to commit crimes, the means to deter crimes shall be more powerful. Therefore penalties shall be in alignment with crimes (Beccaria, 1993: 63). Finding a perfect balance point between crimes and punishments has been a lofty goal for people engaged in criminal law application having such a faith. This principle, when applied in practice, maybe summarized into one sentence, namely, “appropriate punishments according to the degree of crimes.” During the epidemic, the State has made numerous efforts for the maintenance of the public order. However, in the evaluation of any act of making or maliciously spreading epidemic-related misinformation, the principle of consistency between crime, liability and punishment shall be observed. One shall not assign a more serious crime to such activities in the conviction or impose a more serious punishment or impose a punishment at a more serious level by yielding to certain needs in a special time. Conviction and sentencing of the act of making or maliciously spreading epidemic-related misinformation shall be based on an evaluation by considering all objective and subjective facts. Indeed, there may be an exception where the act in itself has exceeded the normal limits in conviction and sentencing. Therefore the act shall be subject to a more severe crime and punishments, however in principle and in general the regulation of such act shall be in compliance with the principle of consistency between crime, liability and punishment.
Application of Criminal Law for the Act of Fabricating and Intentionally Disseminating False Information about an Epidemic

According to the above legal thinking, the act of fabricating and intentionally disseminating false information about an epidemic must be the object of the perspective of criminal law, and shall follow certain principles in the process of being governed by criminal law. On February 6, 2020, the Supreme People’s Court, the Supreme People’s Procuratorate, the Ministry of Public Security and the Ministry of Justice jointly issued the Opinions on Punishment of Crimes against the Prevention and Control of Pneumonia Infected by COVID-19 according to Law (hereinafter referred to as the “Opinions on Punishment of Pneumonia Prevention and Control Crimes”), clearly stipulating that “Whoever fabricates false information on the epidemic, disseminates the same on information networks or other media, or knowingly disseminates false information on information networks or other media and thus seriously disturbs social order, shall be convicted of the crime of fabricating or intentionally disseminating false information.” However, in judicial practice, the relevant provisions of the Criminal Law and the judicial interpretations related to it should not be completely abandoned because of the introduction of this provision of the Opinions. In the author’s opinion, in addition to the crime of fabricating and intentionally disseminating false information about an epidemic as set forth in Article 291.1.2, the crime of fabricating and intentionally disseminating false terrorist information as set forth in Article 291.1.1, and the crime of picking quarrels and provoking troubles in Article 293 should also be the objects of the research on criminal laws and regulations.

Choice of Crimes and Legal Basis

1. Crime of fabricating and intentionally disseminating false information. The added Article 291.1.2 of the 2015 Amendment (IX) of the Criminal Law stipulates the crime of fabricating and intentionally disseminating false information. Prior to this, the fabrication and dissemination of false information related to an epidemic was not regulated by a provision in the Criminal Law. At the beginning of this year, during the epidemic prevention and control, the Supreme People’s Court, the Supreme People’s Procuratorate, the Ministry of Public Security and the Ministry of Justice jointly issued the Opinions on Punishment of Pneumonia Prevention and Control Crimes, giving a clear guidance to the regulation of general fabrication and intentional dissemination of false information about the epidemic. But we should distinguish from the guidance behind its original intention of promulgation, among the three crimes, the statutory punishment of the crime of fabricating and intentionally disseminating false information about an epidemic is the mildest. In the critical period of the national fight against the epidemic, people are in a relatively closed social space, and the special period, special environment, and special psychology cause people to relatively easily use the network and media to disseminate false information of the epidemic situation. In such a case, even if some epidemic rumors have certain social harm, we should comprehensively consider the application of the less legal punishment for the crime of fabricating and intentionally disseminating false information; and the promulgation of such guidance by the competent authorities reflects the principle of modesty of criminal law.

2. Crime of fabricating and intentionally disseminating false terrorist information. Article 291.1.1 of the Criminal Law provides for the crime of fabricating and intentionally disseminating false terrorist information, and its application should be subject to careful considerations given the above circumstances. At the same time, in the process of promoting the social atmosphere of fighting against the epidemic, the relevant judicial organs should be prudent in exercising punishment, and the public should also be active in following social norms and the law.
disseminating false terrorist information. This provision does not mention any information about an epidemic, but, according to Article 10 of the Interpretation of Certain Questions Concerning the Specific Application of Law in Criminal Cases Involving Obstruction of Prevention and Control of Emergent Infectious Diseases and Other Disasters (hereinafter referred to as the “2003 Interpretation”) promulgated by the Supreme People’s Court and the Supreme People’s Procuratorate in 2003⁴ and Article 6 of the Interpretation of Certain Questions Concerning the Application of Law in the Trial of Criminal Cases Concerning the Fabrication and Intentional Dissemination of False Terrorist Information (hereinafter referred to as the “2013 Interpretation”) promulgated by the Supreme People’s Court in 2013⁵, it is also necessary to consider whether the crime can be applied when regulating the act of fabricating and intentionally disseminating false information about an epidemic. The crime of fabricating and intentionally disseminating false terrorist information in Article 291.1.1 is different from the crime of fabricating and intentionally disseminating false information in Article 291.1.2 only in the word “terrorist.” According to the contents of the above two judicial interpretations, it is not difficult to see that the 2013 Interpretation clearly explains false information about such as major epidemic as false terrorist information, while the crime of fabricating and intentionally disseminating false information is only aimed at a general epidemic. From this difference, the application of the law for the two crimes can be judged by the severity of false information about the epidemic, for example, the act with a serious threat to public security and likely to cause social panic or public security crisis, or with severe social harm, is conviced of the crime of fabricating and intentionally disseminating false terrorist information according to Article 291.1.1 of the Criminal Law. At the same time comparing the legal punishment of the two crimes, the crime of fabricating and intentionally disseminating false terrorist information is slightly heavier than the crime of fabricating and intentionally disseminating false information in Article 291.1.2, which is also in line with the principle of the adaptation of crime, duty and punishment.

3. Crime of picking quarrels and provoking troubles. Article 293 of the Criminal Law provides for the crime of picking quarrels and provoking troubles. This article does not deal with the content of false information, let alone the provisions on false information about an epidemic. Why do we need to discuss this crime in the course of studying the application of criminal law to the act of fabricating and intentionally disseminating false information about the epidemic? The reason lies in Article 5 of the Interpretation of a Number of Issues Concerning the Application of Law on Handling Criminal Cases of Defaming, etc. with Network (hereinafter referred to as “the Interpretation of Network Defamation”) promulgated by the Supreme People’s Court and the Supreme People’s Procuratorate in 2013⁶. The

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⁴ Article 10 of the 2003 Interpretation stipulates that: “Whoever fabricates terrorist information related to disasters such as outbreak of infectious diseases, or knowingly disseminates such terrorist information in order to seriously disrupt public order shall be convicted and punished for the crime of fabricating or intentionally disseminating false terrorist information.”

⁵ Article 6 of the 2013 Interpretation stipulates that: “False terrorist information refers to the untrue information about the occurrence of explosion threat, biochemical threat, radiation threat, aircraft hijacking threat, major disaster, major epidemic and other serious public security incidents, which may cause social panic or public security crisis.”

⁶ Article 5 of the Interpretation of Network Defamation stipulates that “Whoever fabricates false information, or knowingly fabricates false information, disseminates or organizes personnel to disseminate the same via information network, or makes troubles, causing serious public disorder, shall be convicted and punished with the crime of picking quarrels and provoking troubles.”
fabrication and dissemination of false information about an epidemic should also be covered by the Interpretation of Network Defamation. The Interpretation of Network Defamation regard the act of fabricating false information and disseminate the same on the network as the crime of picking quarrels and provoking troubles, the “false information” in Article 291.1.2 of the Criminal Law refers to all false information about danger, epidemic, disaster and warning, etc., the two articles have a certain relationship of concurrence of articles of law. According to the principle of higher-level law preferred than lower-level law and the principle of a legally prescribed punishment for a specified crime, the author believes that the crime of fabricating and intentionally disseminating false information is applicable for the false information about an epidemic. Except that, the crime of picking quarrels and provoking troubles should be applied for any other false network information.

Controversy over the Determination of Crime and Non-crime

1. Understanding of “dissemination via network media.” Article 291.1.2 of the Criminal Law, the objective aspect of the crime of fabricating and intentionally disseminating false information is “disseminating information via information networks or other media.” The components of this crime require that the perpetrator intentionally disseminates false information on the information network platform or other media. For example, the perpetrator fabricates the false information on an epidemic and does not disseminate it via any network, but intentionally disseminates the same in the public gathering place in real life, causing public panic and severe social harm. So can the dissemination via non-network media be the basis of the crime? The author believes that the answer is no. The dissemination of the information network platform or other media is an objective aspect of the crime. Still, it cannot be considered that the network media in this crime is unique and exclusive because of fabricating and intentionally disseminating false information about the epidemic via network media. Imagine, if the dissemination of false information orally, with leaflets or in any other way, its social harm from that place is not less severe than that via network media. According to the principle of the adaptation of crime, duty, and punishment of the Criminal Law, whether to disseminate false information via network media cannot become the standard to determine such crime.

2. Understanding of “seriously disrupting public social order.” When determining the act of fabricating or intentionally disseminating false information about an epidemic as the crime of picking quarrels and provoking troubles or the crime of fabricating or intentionally disseminating false information, we will have an issue, which is the understanding of “seriously disturbing public order.” Although there are subtle and literal differences between the two crimes on the stipulation of “seriously disturbing the public order,” they have the same regulating purpose in criminal law for the prevention and control of false information about an epidemic. Both belong to the crime of fabricating or intentionally disseminating false information or the crime of fabricating or intentionally disseminating false terrorist information as stipulated in Article 291 of the Criminal Law, and, should also have the same meaning in the perspective of systematic interpretation as “seriously disturbing public order”. There are six criteria to determine “seriously disturbing the social order” for the crime of fabricating or intentionally disseminating false terrorist information in the 2013 Interpretation. In the author’s opinion, for the determination of the crime of the picking quarrels and provoking troubles or the crime of fabricating or intentionally disseminating false information or the crime of fabricating or
intentionally disseminating false terrorist information, the definition of “seriously disturbing public order” can be determined by reference to the six criteria of “seriously disturbing public order” as set forth in the 2013 Interpretation.

3. Understanding of “fabricating false information.” During the epidemic period, it is an inevitable choice to regulate the act of fabricating and intentionally disseminating false information on an epidemic in order to maintain social stability. However, the excessive application of criminal law should be avoided in practice. If the information with only fiction is regarded as fabricated information, the information with exaggerated false elements is recognized as false information, the modesty of criminal law will be violated. In daily life, people expressing their emotional views, merchants in the process of selling goods, more or less, may have the elements of fiction and exaggeration, so such cases can be regarded as a crime determined according to the Criminal Law? The author thinks that, in determining whether the act of fabricating or intentionally disseminating false information about an epidemic is a crime, a criterion must be abided by: if the information exists objectively, not out of thin air, and the doer has processed the information in the process of dissemination, then the doer cannot be regarded as “fabricating information,” nor can the information disseminated be regarded as “false information.”

Conclusions

The epidemic from the beginning of 2020 has affected everyone’s heart. China and all circles of society actively take action in the prevention and control of the epidemic in order to maintain the stability of public social order. For the law as an important tool to adjust the social relations, it is necessary to maintain the principle of law itself in the control of crimes related to the epidemic, rationally treat the act of fabricating and intentionally disseminating false information on the epidemic, and correctly apply the law for the regulation of such acts. This Paper demonstrates the rationality of the crime of fabricating and intentionally disseminating false information on the epidemic from the angle of legal theory. On the basis of this, the principles that should be followed in the process of regulating the acts are put forward to apply the criminal law properly in practice. In a special period, the law should take on a special mission, but it should not try to break through the limitation of the law because society is in a special period. The rational and objective view of the fabrication and dissemination of false information on the epidemic and the accurate application of the law is the proper and effective ways for law to maintain public social order and safeguard the fairness and justice of law during the epidemic period.

References


Cultural Pluralism on the Example of National Minorities in the United States of America

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In today’s world, issues of cultural pluralism form an essential part of political discussion. Directions are set for the implementation of individual activities, aimed at correcting and coordinating activities in the field of multiculturalism. There is no doubt today that the United States of America has faced a migration challenge that they had to implement in the conditions of American reality. Therefore, this article addresses the issue of cultural pluralism, taking into account every aspect of this complex concept. The author considers this issue from the perspective of historical, sociological, and cultural studies. The interdisciplinary approach is necessary because of the multi-faceted nature of the issue. This case could be heuristic for Ukrainian researchers because the Ukrainian state, aspiring to the integration with Western democratic structures, the question of cultural pluralism is crucial.

Keywords: cultural pluralism, democratic state, migration processes, multiculturalism, social stratification, American migration policy.

Received: May 9, 2020; accepted: May 28, 2020.

Introduction. What is cultural pluralism?

Nowadays, the term “pluralism” can be encountered more and more often. It appears in scientific and journalistic literature, in discussions between people with different worldviews, in the aspirations of people of “good will” to cooperate in various areas of life and activity (Piwowarski, 1980: 23-28). Cultural pluralism is primarily due to the mixing of races, and thus to the dual ethnic-national identity.

It seems important that sociologists search for and explain specific social and cultural phenomena that occur with particular intensity in highly developed societies. They also represent one of the leading tendencies of these societies. These phenomena are characterized not only by simple multiplicity or diversity, e.g. of ethnic groups, cultures, religions, ideologies but...
also by a specific situation that can be described as a situation of competition and competition between autonomous entities of social life in terms of basic goals, values and aspirations for a specific common functioning area. This means that developed societies are not “obliged” to adhere to a uniform system of values, beliefs, symbols, and behavioral patterns. Their high awareness of their sense of national identity means that in highly developed countries, the distinctness of individual units in the country is so clearly marked. Hence, pluralism can be talked about wherever there is no monopoly and hegemony of some systems over others. This approach is an important aspect of the implementation of the social policy of each country. In this context, Ukraine is no exception, because for the Ukrainian state, aspiring to the integration with Western democratic structures, the issue of cultural pluralism is significant, especially the analysis of this phenomenon from the perspective of the United States, which is considered a model of democracy in the western world.

One of the types of pluralism is cultural pluralism, which in social life is understood as the functioning of the state or other organization when various groups have the right to express their interests, in particular, to participate in exercising power. Pluralism implies respect for social and cultural diversity and recognition of equal views. Cultural pluralism concerns the conscious effort of minority groups to maintain their ethnicity. A minority simultaneously works to gain political and economic influence in a dominant society. It is a category of the permanent existence of several cultural categories in society, combined with acceptance by the majority group and equality of minority groups. Cultural contact is the result of the communication and meeting of at least two people or groups with different cultural characteristics (Paleczny, 2002: 87-89; 142-146).

Another example of pluralism that democratic countries encounter daily is political pluralism, which assumes that this is one of the principles of the functioning of parliamentary party systems, consisting in the existence of two or more political parties representing different programs and orientations, struggling to gain power in the state (Chmaj, 1999: 49-51). It means the freedom of functioning of many organizations in the country, which is essential in the case of many cultural organizations of minority groups in a given state.

The principle of political pluralism is derived from the idea of individual freedom and equality of all citizens in a sovereign and diverse democratic society. In the system of pluralistic democracy, society is perceived as a whole composed of individuals and social groups that pursue their interests. Society is strongly diversified in political and economic terms — it is therefore pluralistically built. Units to achieve common goals organize themselves to form political, ideological, and cultural organizations of a voluntary nature. The principle of political pluralism applies only to parties legally operating, accepting the basic principles of the constitution, as contained in the constitution of that state (Chmaj & Marszałek-Kawa, 2004: 87-91; 201-203).

The attitude of the United States towards national minorities and migration movements

The experiences of multicultural, multi-faith, and diverse in terms of racial, ethnic structure of post-immigration societies have led to the creation of a new model of integration that could not take shape if it were not for the phenomenon of emigration (Paleczny, 2002: 34-37). Therefore, speaking about cultural pluralism in the United States, migration issues, and the US attitude towards host national minorities are essential issues.
American society is a conglomerate of people of various ethnic and racial backgrounds, with different denominations, cultures, with different economic status, etc. (Kymlicka, 1999: 42-44). The United States currently has the largest immigrant community (i.e., foreign-born people) in the world, with almost 47 million (14.5% of the US population). This fact means that 1/5 of all immigrants in the world live in America. The number of immigrants in the USA has increased more than four times in the last half-century. Demographers predict a further increase in the share of the foreign-stock category (second generation, i.e., those whose at least one parent was born outside the United States) and foreign-born (people living in the United States but born abroad) in the US population to 18% of the total population in 2065. Over the next 50 years, immigration will be a significant factor in the demographic development of the state. Pew Research Center experts predict that the population of the US in 2065 will increase by 117 million and reach 441 million, with 88% of this increase being immigrants and their children.

In demographic research concerning the United States, special attention was paid to migration because it is a migration that is largely based on the development of American society. From a historical point of view, it consists almost exclusively of immigrants and their descendants. Therefore, the phenomenon of migration to the USA and the attitude of the American government towards the host is important from the economic, economic or cultural development of this country while maintaining the cultural separateness of individual ethnic groups. Thus the United States is a good example where cultural pluralism is visible and respecting the individuality of individual citizens from all over the world. Numerous waves of immigrants to the United States caused that the US over the centuries has been “forced” to introduce certain limits on the admission of immigrants and to introduce a law regulating the arrival of newcomers from other parts of the world. However, no legal regulation introduced by the US government assumed the renunciation of its roots.

The immense size that immigration has taken in the United States in the last decades of the nineteenth century has caused concern over its social and economic consequences for the country. It has introduced the first restrictions on migrants. Despite the huge influx of people, the new laws were not aimed at reducing the size of immigration, but rather for a long time directed against the very nature of the phenomenon. Prostitutes and persons previously convicted of criminal offenses were subject to the first entry ban. Under pressure from trade union pressure, Congress then passed a prohibition on contracting workers to work in the United States, despite the existence of an earlier legal act encouraging such activities.

Immigration and nationality resolutions of 1965 abolished the existing system of limits grouping potential immigrants by their country of origin. In return, a ceiling of 170,000 was set for the entire eastern hemisphere immigrants per year, with the limit for a single state of 20,000. Migration visas were issued on a first-come-first-served basis, in accordance with the seven-point system of preferences, which gives priority to close relatives of US citizens or foreigners permanently resident in the US, persons with sought after skills and professional qualifications and refugees. For the first time, a limit of 120,000 was set immigrants per year in relation to the countries of the Western Hemisphere (however, until 1976, no system of preferences or restrictions for individual countries was introduced). Finally, in 1978, all differences in the treatment of both hemispheres were eliminated, combining both immigration ceilings and setting a typical limit of 290,000 immigrants a year for the whole world. This law also applies today. The ceiling in question, of course, only applies to immigrants, not tourists. However, none of the ceilings that have been in force since 1965 is an adequate measure of
the size of immigration to the US. The wave of immigration is far higher than it would appear from the set limits, because today, as in the post-war period, immigrant ranks are increasing the number of refugees in the US — regardless of the applicable ceilings.

The constant influx of new immigrants in the 1970s and the inevitable social and economic consequences of this influx triggered a discussion in the US on the goals of immigration law and the country’s immigration policy. That is why Congress set up a Special Committee on Immigration and Refugee Policy, which conducted thorough research on immigration issues. These studies focused on the following questions: How many? Whence? According to what criteria? How? (Bastiani, 1984: 23-32). In December 1979, the Commission presented its recommendations to the President and Congress in the field of immigration policy, and the results of the Commission’s research were published in a detailed report issued in March 1980. The composition of the Commission, which represented a wide range of different ethnic groups in the US, guaranteed that the results of her work would preserve the American traditions of humanitarianism (law) and asylum while maintaining the separateness of individual national minorities. As one member of the board of the Commission said, that in the future, immigration will never be based on rules that take into account racial or national origin, so, everyone has the right to preserve the roots of his ancestors.

As a result of lifting immigration restrictions in 1965, the influx of migrants increased from 300-400 thousand per year to over 1.4 million per year at the turn of the millennium. In recent decades, the inflow has fallen to 700-900 thousand per year, which is associated with a reduction in labor demand in the construction and processing industries, as well as a tightening of immigration policy (Mather, 2012: 81-83). The new influx, which continues to this day, consists of Latinos (mainly Mexicans, Salvadorans, Cubans, Dominicans, and Guatemalans) and Asians (Chinese, Hindus, Filipinos, Vietnamese, and Koreans). Since 2009, the influx of migrants from Asia has exceeded the number of Latinos coming to the US.

By around the middle of this century, white Americans will already make up less than half of the country’s total population but will remain the largest group. American authors describe this state by the expression majority minority status. According to Mark Mather of the Population Reference Bureau in Washington, this will happen as early as 2042 (Mather, 2012: 4-6).

The waves of migration that have taken place in the United States over the decades have significantly shaped today’s multicultural America, in which the concept of cultural pluralism has a special connotation. Post-modern pluralistic societies pursue a multicultural policy based on programs and ideologies for integration, acculturation, and personality assimilation, also supporting the efforts of local communities to maintain their linguistic, religious, ethnic or racial separateness (Paleczny, 2007: 12-14).

The United States of America as an example of cultural pluralism and multiculturalism

In the literature on the subject, there is often an understanding of cultural pluralism as multiplicity, diversity, and multiculturalism. Specific and exceptional features that distinguish complex, heterogeneous multicultural societies from homogeneous, homogeneous nation-states include a variety of processes of mutual adaptation, acculturation, and assimilation originating from various racial, ethnic, and religious groups of people (Paleczny, 2007: 19-22).
The United States is a country with an immigrant pedigree that, due to the standard of living it offers, attracts crowds of visitors from all over the world. Multiculturalism, defined by Fish (1997), manifests itself above all in the ethnic diversity of the inhabitants of modern cities. From a sociological point of view, a significant effect of their growth was the development of ethnic groups cultivating various elements of their own cultures. Hence, many urban centers have been and are to some extent, culturally diverse, and therefore multicultural. This phenomenon is conditioned by both the genesis and the development of each of them. It can be read both from their history and from the sociological portrait of the inhabitants. Therefore, the cultural map of the USA is the result of the historical process of its creation, on the one hand, and the migration movements that direct crowds of people to the borders of the world’s largest cities, as described above.

We read multiculturalism through the prism of cultural and social features of the inhabitants of a given region. Its foundation is — as highlighted in the text — the phenomenon of migration that directs crowds of people with diverse cultural, ethnic, and social baggage into urbanizing spaces. They bring with them different cultural patterns that display clothing, headgear, language, views, religion, behavior, style, and standard of living. Focused on one space, they form a colorful mosaic. Multicultural countries played an important role in the development of their residents’ cultures because they had a structure that took into account their specificity. Looking at multiculturalism using the cultural studies approaches, it can be said that it is the participation of various minorities in a large social group that dominates in a given area (Gęsiak, 2007: 147-151). There are many concepts of multiculturalism. One of them presents multiculturalism as “a set of neighboring cultures that began to penetrate each other. The coexistence of representatives of two or more cultures in one social group is also multiculturalism” (Olczak, 2002: 61-63). Thus, it can be concluded that the phenomenon presented is based on the various people being next to each other and the contribution of some of them to the general culture of the region, their characteristic features that allow them to preserve their identity and cultural separateness (Gęsiak, 2007: 150-152). According to Marian Golka, multiculturalism is the meeting of different cultural groups with different characteristics such as, for example, external appearance, religion, value system, or language (Golka, 2010: 31-34).

Referring to the definitions of multiculturalism and cultural pluralism, it can be seen that these are different types of relations between a large cultural group occurring in a given region, a kind of social unity, and a cultural minority, which is distinguished by specific features that differ from the local culture. Therefore, cultural pluralism is based on the principles of equality and consists of accepting cultural differences of minorities. In a multicultural society, it is important for a community to be created that has the same rights and obligations, but at the same time allows representatives of different cultures to maintain their identity in this society (Gęsiak, 2007: 162).

Based on the above-mentioned concepts, it can be stated that multiculturalism is mainly related to the movement of people, and in particular, to spatial mobility. The oldest manifestations of this mobility are undoubtedly migrations of people, various migrations, and colonization processes (Golka, 2010: 23-28). Multiculturalism, however, causes different behaviors in societies that come into contact with cultural diversity. Often it is a curiosity that causes the minority to be received with respect and openness to their cultural identity. People interested in the outfit or the language of the arriving are looking forward to the opportunity of communing with them.
As Paleczny (2011) writes, multiculturalism takes on different configurations, ways of the mutual ordering of components, which are both people and cultural groups (religious, ethnic-national, racial, linguistic), small and simple cultures (tribal, indigenous, native) and great (national, civilizations), phenomena (subcultures, religious movements, aesthetic currents, philosophical currents) and processes (accommodation, amalgamation, separation, segregation, conflict, acculturation, assimilation), types of identity and ideologies and many other components. Multiculturalism as a plurality and diversity of constituent elements leads to ordering the rules of dependence (inferiority or equivalence, symmetry or asymmetry) between them. Component connection systems, a structural pattern of ordering relationships between them, can be called pluralism (Paleczny, 2011: 39).

According to Smolicz, cultural pluralism assumes that “that each ethnic group will have the opportunity to cultivate their patterns of community life as well as cultural heritage and language, without paying special attention to the issue of facilitating cultural interactions” (Smolicz, 1999: 54-55).

It turns out that in the US, immigrants are not assimilated quickly, maintaining a sense of separateness and cultivating the language and traditions of the country of ancestors for many generations. Relations between the native inhabitants of the United States and the white majority dominated by the processes of civic integration and language and religious acculturation occur more slowly in the sphere of personality and attitudes (Paleczny, 2007: 34-35).

In most large American cities, there are not only black, Chinese, Puerto Rican, and Latin (Barrios) neighborhoods, but, as in Chicago, belonging to individual European nations (Polish, Greek, Czech, Portuguese districts, etc.). This fact means that American society is not a melting pot, but a mosaic in which each group strongly emphasizes its separateness resulting from its origin.

**Conclusion**

By the presence of numerous minorities in the society of the United States, which retain elements of traditional cultures and ties with the countries of their ancestors, while identifying with the American people, we can speak of cultural pluralism in the US. From the point of view of the course of adaptation processes, the specific circumstances of immigration to the United States are essential. Particularly important here are closely related to each other: the nature of the arrival (which is assigned the appropriate category in US immigration statistics: refugees, immigrants, connecting with families or people coming to visit) and who was the sponsor (US government, non-governmental institutions, family, friends, acquaintances, church).

To function efficiently in a new environment, it became necessary to learn about different behavior patterns and at least superficially adapt to them (Halik & Nowicka, 2002: 32-34). Living in the US required immigrants to be “reprogrammed” (referring to the concept of “mental programming” by Geert Hofstede) and to adapt to a different way of organizing everyday life and work. Awareness of this fact and learning how to proceed in new conditions came with time, as the years went by, and they settled in the United States. These processes were complicated, so immigrants were not able to root their habits, culture, and the world they came from, hence their cultural separateness and cultural pluralism visible in the United States.

The United States remains the most attractive target of modern migrants not because they offer social assistance like European countries, but because the much more liberal economy
existing there gives everyone, regardless of their origin, equal opportunities to improve their position in society through economic activities, education or military service, as well as every citizen has the right to preserve their cultural separateness.

Cultural pluralism and the preservation of its separate national identity while being shared (with others, regardless of their origin) works for the benefit of the US in the economic, economic, and social field. The increase in the share of immigrants in the population of the USA is treated as a factor positively influencing the international position of the United States and its economic efficiency. Currently, every fourth modern American has strong relationships with another country or country due to the origin or origin of their parents. The United States now has the largest immigrant community in the world, hence “diversity” in American society while maintaining the unity of the country.

Cultural pluralism can also refer to fair and diverse representation in social media of various cultural and social groups, including ethnic, linguistic, national, and religious minorities. Its existence consists of presenting multiple topics and opinions in the media, socializing the recipients through various forms of participation and access to the media, the ability to choose between different kinds of interaction, and presenting all values, views, and roles with which recipients belonging to different cultural groups can identify and social. The pluralism understood in this way promotes above all diversity focused on the interaction between cultures in a given country or region, exchange of information, intercultural dialogue, mutual learning, and understanding of concepts derived from various environments defined by ethnicity, religion, and language.

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